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**Developing Parliament's Oversight Capacity Through MPs'  
Professional Development**

# **Work in Progress Paper. Draft Only.**

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### **Abstract**

Parliamentary democracies are complex evolving socio-political systems in which the parliament's oversight capacity is a key factor affecting the functioning of the system as a whole. The parliament is the apex institution whereby the community determines the rules and standards applying to individuals, executive government, business, other organisations and relationships within the community and across its borders.

Responsible Government requires the Executive to account to the Parliament for the discharge of Executive responsibilities. The Executive's compliance with rules and standards relies on a culture of compliance, detection of breaches and sanctions for wrong-doing. The prospects of detection and of sanctions if detected facilitate a culture of compliance. A culture of compliance reduces the transaction costs of social exchanges, leaving more resources available to achieve goals of the socio-political systems.

Accordingly, the parliament's functions should include oversight in the form of feedback loops including the collection of information which monitors the Executive's compliance with rules and standards, processes to detect breaches and the capacity for sanctions for breaches. The functions require both institutional and individual capacity.

This paper's concern is the capacity of individual MPs. Its premise is that the capacity of members of a parliament to support and discharge parliament's oversight function affects its oversight capacity. Whilst MPs' motivation (attitude) is relevant, our focus is on their knowledge skills and abilities.

The paper reports on research findings in an international study of formal induction and further development programs in representative countries. Information was collected from members of national parliaments and trainers through surveys and interviews. Although oversight functions are generally accepted as key parliamentary functions, MPs' perceptions of their own functions were less definite. Induction and training for MPs was weak in relation to their oversight responsibilities. The paper concludes with some suggestions for enhancing parliamentary oversight through MPs' capacities.

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# Developing Parliament's Oversight Capacity Through MPs' Professional Development Work in Progress Paper. Draft Only.

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## Democratic Systems of Government

Parliamentary democracies can be understood as complex evolving socio-political systems (Mittleton-Kelly, 2003) in which the parliament's oversight capacity is a key factor affecting the functioning of the system as a whole. Without oversight, there is no accountability. For contemporary democracy to fulfil its promise of responsive rule (Saward, 1998), accountability is essential. Oversight and its distal outcome – public accountability – afford voters the opportunity to assess the performance of the government. The parliament is the apex institution within the governance system through which the community determines the rules and standards applying to individuals, executive government, business, other organisations and relationships within the community and across its borders.

Responsible Government requires the Executive to account to the Parliament for the discharge of Executive responsibilities. The Executive's compliance with rules and standards relies on a culture of compliance, detection of breaches and sanctions for wrong-doing. The prospects of detection and of sanctions if detected facilitate a culture of compliance. A culture of compliance reduces the transaction costs of social exchanges – in this case between the parliament and the executive - leaving more resources available to achieve goals of the socio-political systems.

This is also consistent with the conservation of resources theory (COR; Hobfoll & Lilly, 1993; Halbesleben, Harvey & Bolino, 2009) which is a human resource management framework that explains how resources operate in individual and social systems. According to COR, individuals, groups, organisations and institutions strive to attain, retain and protect valuable resources, particularly during times when there are few internal or external threats or demands. For institutions such as parliaments, COR theory suggests that resources contribute to further resource gain and provide a reservoir that can buffer these institutions in hostile circumstances or allow them to refocus these resources to achieve other goals desired by these institutions. Accordingly, the parliament's functions should include oversight in the form of feedback loops including the collection of information which monitors the Executive's compliance with rules and standards, processes to detect breaches and the capacity to sanction the executive for breaches.

These parliamentary functions require both institutional arrangements to enact democratic control and individual capacity in terms of monitoring the decisions, omissions and commissions of powerful actors in the Executive. .

By institutional capacity we refer to the structures, resources and organisational culture required to oversee the Executive. These complement and interact with each other. The structures are largely the constitutional environment, which we call the legal infrastructure, including e.g. Constitution Act 1975 (Vic), statutes (e.g. Audit Act 1994 (Vic)), rules of procedure (or standing orders), resolutions, and rulings by the presiding officer. The resources clearly include physical resources (e.g. buildings and equipment), human resources including support and expert staff with relevant knowledge skills and abilities and budgets for related travel. The third element is the culture affecting the behaviours of the MPs.

The interactions are familiar. The legal infrastructure establishes rules which enable the political actors to perform their functions and places limits on what they do and how they do it. It creates boundaries within which cultures develop. These cultures are dynamic, adapting and changing according to political circumstances and the styles of influential personalities. Cultures influence how and to what extent: individual non-government MPs and parties press for accountability, rely on newsworthy media "grabs"; ministers respond or stonewall; and, government-party backbenchers become mere foot-soldiers, within the constraints of the legal infrastructure. The independence practiced by independent officers of the parliament, such as the Auditor General must give effect the legislated independence.

Likewise, the resources determine the capacity of parliament's committees and independent officers to give effect to their oversight roles.

The legal infrastructure, resources and culture are each inter-dependent, key elements of the parliamentary subsystem within the system of government.

The individual capacity of each MP (i.e. member of parliament, senator, legislator, etc.) is a key human resource required by the parliament as a fundamental part of its institutional capacity. The capacity of individual MP is this paper's central concern. Its premise is that the capacity of members of a parliament to support and discharge parliament's oversight function affects its oversight capacity. We are supported in that approach by the literature on human resource development and management. Whilst that literature is largely derived from study of management in business and the public service, we have found it to be useful to adapt to improving our understanding of MPs' knowledge, skills, attitudes and abilities and how they learn those. Whilst MPs' motivations (attitudes) are relevant, our focus is on their knowledge skills and abilities.

For our purposes here, many oversight functions occur through parliamentary committees. The capacity of those committees to perform these functions is largely contingent on the knowledge, skills and abilities of individual committee members. Whilst we recognise that, as with the parliament an institution, the legal infrastructure and culture are important, this paper concentrates on the human resources which, we argue, are crucial to oversight.

## Research

This paper adds to research findings reported in Coghill, Holland, Kinyondo, Lewis, & Steinack (2012) from an international study of formal induction and further development programs for MPs in representative countries. In relation to the parliamentary function most relevant to the conference theme, scrutiny, the authors reported that oversight was perceived by interviewees as:

... generally synonymous with scrutiny. It 'involves monitoring executive activities for efficiency, probity, and fidelity' (Johnson & Nakamura, 1999, p. 4). The variations between parliaments largely relate to the description of the function rather than rejecting it as an expected function.

In terms of 'Scrutiny', 'oversight', 'parliamentary control' or 'holding the government to account', the individual labels differed. This function was generally understood as a core one, but one where clarity of language is important as it means different things to different parliamentarians and parliamentary staff. One respondent expressed it this way:

'One of the things that they tend to do is to, very often they will just decide that they're going to be a very good representative, and they become a kind of ombudsperson for the constituency and they help them navigate the various bureaucracies at various levels, and so forth. And in that sense, they play a good kind of social worker role. But they're not really doing anything in terms of holding the government to account. Because that's a whole other exercise. And one I think that really frankly the parliament does rather badly.' (CA 5, para 21) (Coghill, Holland, Kinyondo, Lewis, & Steinack, 2012, p. 64)

## Findings

Although oversight functions are generally accepted as key functions of the parliament as an institution, the perceptions by MPs' of their own functions was less definite. Representation was highly rated but bifurcated i.e. compromised on the one hand of acting as a trustee in deliberating and voting on legislation and on the other hand taking up constituency grievances. Legislating was also recognised an obvious major role but scrutiny or oversight less so.

Overall, induction and training for MPs was highly variable between parliamentary chambers in relation to their oversight responsibilities. In some, such as Ethiopia, MPs were highly conscious of induction and training having emphasised scrutiny.

In contrast however, despite the extensive induction program available to the very large number of new MPs elected to the House of Commons in 2010, one interviewee, when asked about scrutiny, said:

Again, I think that's all done very informally. I think that'd be a case of learning on the job in this parliament. The best example there would be the select committee system, which for scrutiny, you

could if you wished to go and seek guidance on how does a select committee work and there are, for example, various bits of written information about that. In fact, there's a compulsory element there because you have to sign a certain piece that says, "I have understood the rules of select committees". But again, once you've had that little bit of information, you just go and suck it and see and make sure you seek out experienced role models for that (UK interviewee 550048).

Of the Australian MPs newly elected in 2010, all first term MPs participated in the House of Representatives induction program of one and a half days, but any training in scrutiny or oversight made little impression. It was not mentioned as an area that was included. Poor recall of training is notorious, so this finding does not necessarily indicate that no [such](#) training was offered. That is all the more so as the induction was in a period of high political tension. The lack of mention is indicative of it not being a major area of interest. However, the Department of the House of Representatives seemed to suggest that it would have had only superficial reference.

In the case of committee roles, induction is often handled at the level of each committee and at a more relaxed pace, allowing it to be more effective.

More detailed findings from a wider range of parliaments will be provided in the final version of this paper. The findings support the argument that, firstly many MPs are ill-equipped at election to meet the parliament's human resource needs and secondly, parliaments generally perform poorly in supporting MPs to learn and develop the knowledge, skills and abilities needed by the parliament itself.

That is a separate issue from the qualities they may wish or need to develop to advance their personal careers.

Much of the knowledge, skills and abilities needed for oversight by the parliament are not ones that the executive would wish to encourage. It is a rare government that seeks vigorous scrutiny by opposition MPs! However, committees in particular have the potential to contribute to good governance and even help government to address more difficult complex problems.

That makes it all the more important that the parliament assert its separation from the executive and take a lead in developing and offering more effective induction and professional development programs. In the immediate circumstance, the long gap between the election and the commencement of Sittings creates the opportunity for a more comprehensive induction program.

A more adequate program could include several elements which bear on the oversight function. This does need to include some basics. For example, earlier research by Indra found a remarkable ignorance of the Auditor-General's role and relationship to parliament (Indra, 2005).

Whilst parliamentary privilege does not directly relate to oversight, it does offer MPs to raise matters without the risk of litigation. According, this positive aspect, complementing briefing on the obligations to use privilege responsibly, should form part of induction. Education in the responsible use of parliamentary privilege can assist in exercising oversight functions whilst also educating about behaviour that could lead to a charge of misconduct in public office.

Fundamental to an MP's parliamentary role is to recognise the legal principle that she or he is obliged to act in best interests of the jurisdiction, not a personal interest, not the interests of business associates, mates or family and not party ahead of parliament or state.

Along with that, the concept of a fiduciary duty owed to members of the community and the responsibility to discharge a public trust should also be foundational. In Australia, these are not justiciable, but in USA a number of state courts have recently upheld Atmospheric Trust Litigation, ruling that those state governors and legislators are obliged to protect the atmosphere from pollution (The Children's Trust, 2013).

That experience in USA has some parallel in Iceland, where the Court of Impeachment convicted a former Prime Minister for negligence whilst in office (Neate, 2012).

Whilst the last two examples do not relate directly to the parliament's role, they do illustrate the complexity of the system of government affecting oversight and within that, the roles of parliament and its MPs.

Complementing and underlying these considerations is the necessity for ethical competence throughout the membership of any parliament. The failure of even a small proportion of MPs to behave ethically can jeopardise the integrity, reputation and legitimacy of the institution. However, parliaments are strongly divided on whether or not they should help MPs develop competence in applying their values to identifying and resolving ethical dilemmas. We argue that is it a legitimate role of parliament and one that it should take up in defence of the interests of the institution and the system of government more generally.

## Conclusion

We conclude with some suggestions for enhancing parliamentary oversight through MPs' capacities.

Firstly, we argue that substantial induction and professional development programs for MPs are a legitimate and necessary role of the parliamentary institution if it is to exercise its oversight responsibilities effectively. Continuing profession education of this type is now common-place if not a standard condition of professional practice in many occupations of lesser responsibility. The MPs role is not so unique that it should avoid these standards. Furthermore, participation in such programs would help develop and strengthen a culture favourable to improved performance of oversight and other parliamentary functions.

Secondly, such programs should be offered by the parliament or under its authority.

Thirdly, the political parties should, as a condition of parliamentary party membership, require new and re-elected MPs to participate in continuing adult education programs orientated to enhancing the parliament's oversight and other functions.

The evidence of our research suggests that such induction and professional development to strengthen parliamentary oversight is both highly desirable and overdue.

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