AN EXAMINATION OF THE ROLE OF PARLIAMENT IN EXECUTING IT'S LEGISLATIVE MANDATE IN UGANDA

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DECLARATION

I **Nsamba Akandonda Hakim** declare that this research report is my original work. It has not been submitted to any other University or higher institution for any award and where it is indebted to work of others.

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APPROVAL

I hereby certify that this work entitled **"Examining the role of parliament in executing its legislative mandate in Uganda"** has been submitted with my approval for examination as University supervision.

Signature ..... Date: 27/06/2019

WANYAMA EDRINE

UNIVERSITY SUPERVISOR

DEDICATION

In loving memory of my late father Muhamood Nsamba

ACKNOWLEDGEMENT

I thank the almighty God for the wonderful life he has given to me.

I wish to extend my appreciation to Wife Kubakurungi Sharon, my son Rukikaire Castro, daughters Usurah, Remie and Nisha. Thank you for standing my obusy schedules and supporting me through this academic journey.

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LIST OF LEGISLATION

National Legislation

Constitution of the Republic of Uganda, 1995

The Acts of Parliament Act Cap 2

Parliament (Powers and Privileges) Act Cap 258

Parliamentary Election Act 2005 as amended

Parliamentary Pensions Act, 2007

Administration of Parliament Act, Cap 257

Appropriations Act, 2009

Rules of Procedure of the Parliament of Uganda

Public Finance and Accountability Act, 2003 (Repealed)

Public Finance and Management Act, 2015

The Budget Act

The Administration of Parliament Act

National Bills

Inspectorate of Government Bill (2001)

Public Procurement and Disposal of Public Assets Bill (2002)

Occupational Safety and Health Bill (2005)

Persons with Disabilities Bill (2005)

International Legislation

Treaty for the Establishment of the East African Community

Protocol to the Treaty establishing the African Economic Community Relating to the Establishment of the Pan African Parliament

Protocol to the Constitutive Act of the African Union relating to the Pan African Parliament

The Maastricht Treaty OF Europe

Abuja Treaty Establishing the African Economic Community

Other Legislation

Constitutions of Portugal

Constitutions of Spain

Constitutions of USA

Constitutions of Germany

Constitutions of France

Constitutions of Canada

Constitution of Russian 1993

LIST OF ACRONYMS

API	Africa Parliamentary Index
AG	Auditor General
APNAC	African Parliamentarians Network against Corruption
APSP	African Parliamentary Strengthening Program
BFP	Budget Framework Paper
CSO	Civil Society Organization
DLG	District Local Government
MoFPED	Ministry of Finance, Planning and Economic Development
MTEF	Mid-Term Expenditure Framework
MP	Member of Parliament
NRA	National Resistance Army
NRC	National Resistance Council
NRM	National Resistance Movement
PAC	Public Accounts Committee
PC	Parliamentary Centre
PDCO	Parliamentary Development Committee
VFMA	Value for Money Audit

Table of Contents

DECLARATION i

APPROVAL ii

DEDICATION iii

ACKNOWLEDGEMENT iv

LIST OF LEGISLATION v

National Legislation v

National Bills v

International Legislation v

Other Legislation vi

LIST OF ACRONYMS vii

ABSTRACT xii

CHAPTER ONE 13

INTRODUCTION AND BACKGROUND 13

1.1 Introduction 13

1.2 Background of the study 13

1.3 Parliaments' Legislative, Oversight and Representative 14

1.4 Statement of the Problem 16

1.6 Primary objective 16

1.7 Specific objectives 17

1.8 Research questions 17

1.9 Hypothesis 17

1.10 Literature Review 17

1.10.1 Parliaments in Developing Countries 17

1.10.2 Parliamentarians Performance 18

1.10.3 Parliaments and Formal Political Systems 20

1.10.4 Parliaments and the Socio-Cultural Environment 20

1.11 Methodology 21

1.11.1 Research design 21

1.11.2 Study population 22

1.11.3 Selection of Respondents 22

1.12 Data collection methods 22

1.12.1 Questionnaire Method 23
1.12.2 Interview Method 23
1.12.3 Documentation Review Method 23
1.13 Data Processing and Analysis 24
1.13.1 Qualitative data 24
1.14 Scope of the study 24
1.15 Gender consideration 24
1.16 Ethical consideration 25
1.17 Limitations and Solutions to the Study 25
CHAPTER TWO 27
THE CONCEPTUAL FRAMEWORK ON THE ROLE OF PARLIAMENT VISA A VIS OTHER ARMS OF GOVERNMENT 27
2.1 Introduction 27
2.2 Law-Making and the Principle of Separation of Powers 27
2.3 Law-Making of the Executive Bodies 28
2.4 Law-Making and Democracy 32
2.5 Referendum and the Legislative Body 34
2.6 Law-Making in a 'Rule-of-Law' State 36
2.7 Law-Making in a Social State 36
2.8 A Model of Parliamentary Power 37
2.8.1 Rubber Stamp Legislatures 37
2.8.2 Arena Legislatures 37
2.8.3 Transformative Legislatures 38
2.8.4 Emerging Legislatures 38
2.9 Parliamentary versus Judicial Supremacy 39
2.9.1 Theoretical Framework 39
2.9.2 The Formalistic Approach 40
2.9.3 The New Paradigm Approach 41
2.9.4 The Neo-Institutional Approach 45
2.9.5 The Rational Choice Approach 46
2.9.6 The Game Theory 48
2.9.7 The Principal-Agent Theory 52

2.9.8 The Agenda Setting Approach 55
2.9.10 The Historical Approach 58
CHAPTER THREE 60
THE LEGISLATIVE BENCHMARKS 60
1.1 Introduction 60
1.2 Transformation of the Pan-African Parliament 60
1.3 Lessons from the European parliament 62
1.4 European Parliament Legislative Powers 62
1.5 The East African Legislative Assembly 63
1.6 Probable paths to Pan African Parliament transformation 66
1.7 Conclusion 67
CHAPTER FOUR 68
ROLE OF THE PARLIAMENT OF THE UGANDA IN THE LEGISLATIVE PROCESS 68
4.1 Introduction 68
4.2 Parliament of Uganda: a Historical Overview 68
4.3 Legislation 69
4.4 Legal Framework on the Exercise of Legislative Powers 70
4.5 Legislative Function in Uganda: Legal Mandate 71
4.6 Financial Function of Parliament 73
4.7 Budget Review and Hearing 73
4.8 Oversight Function 75
4.8.1 Public Accounts Committee (PAC) 78
4.8.2 Audit 78
4.9 Legislative Process in Parliament 80
4.9.1 First reading of the Bill 81
4.9.2 Second reading of the Bill 82
4.9.3 Third reading of the Bill 82
4.10 Key Challenges and to the Functioning of the Parliament 83
4.10.1 Parliamentary Commission in Uganda 83
4.10.2 Factors influencing the Legislatures Function 86
4.10.3 Parliamentary Technical Capacity 88
4.10.4 Politics, Democracy and Parliament 89

4.10.5 Parliaments, Presidents and Multi-Party Politics 90
4.10.6 The Nuts And Bolts of Parliamentary Administration 92
4.10.7 Parliament in A Multi-Party System 93
4.10.8 Liberal Democracy and Parliamentary Independence 94
4.11 Parliaments and Governance 94
4.11.1 Parliaments and National Governance Systems 95
4.11.2 Institutional Capacity 96
4.11.3 Parliaments and Formal Political Systems 96
4.11.4 Parliaments and the Social and Cultural Environment 97
4.11.5 Parliaments and Development Partners 98
CHAPTER FIVE 100
CONCLUSION AND RECOMMENDATIONS 100
5.1 Introduction 100
5.2 Summary of Findings 100
5.3 Conclusion 100
5.4 Recommendations 101
BIBLIOGRAPHY 104
ANNEX III 110
APPENDIX: A QUESTIONNAIRE FOR RESPONDENT 110

ABSTRACT

This study examines the "role of parliament in executing its legislative mandate in Uganda". The study was guided by the following objectives: to examine the role of parliament in the legislative process; to analyze the legislative benchmarks from other African regional parliaments; to identify key recommendations for effective functioning of Ugandan parliament. Respondents exposed the role of parliament in executing the legislative mandate in Uganda. The results showed that parliament has significantly played the role of law making, oversight and the financial function.

Data was collected from a sample of 90 respondents using self-administered questionnaires and was later analyzed. The findings revealed that parliament has a positive role in executing the legislative mandate in Uganda hence had a positive and significant relationship in legislative mandate.

The study concludes that majority of the respondents agreed that parliament contributes significantly towards executing the legislative mandate in Uganda. Furthermore the findings show that the parliament of Uganda has learnt a lot from the Pan African Parliament, EALA and European Parliament. Additionally the findings show that the parliament of Uganda is faced with challenges affecting its effective functioning which include political system, electoral system, formal parliament powers, good will and political space, parliamentary technical capacity, democracy, multi-party politics, socio-cultural environment and the influence of development partners.

CHAPTER ONE

INTRODUCTION AND BACKGROUND

1.1 Introduction

The study examines the role of parliament in executing of the legislative mandate in Uganda. This chapter presents the background of the study, statement of problem, purpose of the study, the research objectives, research questions, research hypotheses, literature review, Methodology, scope of the study, gender consideration, ethical consideration and limitation of the study.

1.2 Background of the study

According to Sanders (2006) the Era of Democracy Since the turn of the century, many more countries in sub-Saharan Africa have behaved as democracies and their legislatures and legislators have consequently become more relevant to any careful analyses of African politics. Legislatures have begun to make a difference. So have the individual representatives who sit in those chambers. They have begun more effectively than hitherto to represent the persons who elected them and the national interest that is meant to drive them individually and their parties collectively.

Eberlei and Henn (2003) mentioned that the major change in the political salience of parliaments reflects not so much better parliamentarians (although that is indeed a factor) as it does the gradual democratization of Africa, the maturation of political decision-making, and the rise of an African middle class that expects much more of its legislators and legislatures (Rotberg, 2013).

Accompanying these changes, plus a regression to the mean of global democratic norms, has been an acceptance in many legislatures that their key function is to constrain the arbitrary or capricious acts of the executive on behalf of the citizens whom parliamentarians are meant to represent. "Oversight," Barkan writes, "is essential to any democracy because it ensures both the

vertical accountability of rulers to the ruled as well as the horizontal accountability of all other government agencies to the one branch – the legislature – whose primary function is to represent the citizens." (Barkan, 2008, 125-126; Barkan, 2009, 1)

Damgaard (2007) argued that the acceptance of such a responsibility is new in many legislatures, having previously been honored as an objective only in the breach. Now legislators in at least a number of (not all) African countries affirm that their goal is to serve their people and their nations, not necessarily the executive branches of their countries. They still mostly need to serve their parties, however, and in the proportionally-elected legislatures (as opposed to those whose members are elected by a first-past-the-post method) to serve especially the party executive (or head of state) that allots them places on a closed electoral list and thus determines their actions and votes in parliament. Obviously, oversight of the executive is less easy to arrange in the parliaments using the proportional representation (PR) system, particularly where the PR electoral mechanism is part of a presidential, or a mixed-presidential, not a pure, Westminster- or pre-Napoleonic-derived parliamentary system. Parliaments, in tandem with the executive, also set policy. In the best of times and in the more democratic of systems they give direction to governments, curb the independence of cabinet ministers, jointly make the big decisions of national political life in cooperation with the executive through legislation, help to prepare and to approve budgets and expenditures, and act as fully as possible as tribunes of the public that elected their members (Matson and Strom, 1996).

1.3 Parliaments' Legislative, Oversight and Representative

Parliaments and parliamentarians play a variety of roles (Corre, 2004; Johnson, 2005). Their primary roles are those of legislation, oversight and representation. Legislation is about passing the laws which constitute a country's legal framework. Oversight is about keeping an eye on the activities of the executive, and – on behalf of citizens – holding the executive to account. A particularly important element of oversight concerns the budget; checking that spending decisions are in line with national priorities. Representation is about collecting, aggregating and expressing the concerns, opinions and preferences of citizen-voters. Parliaments also provide an arena for dialogue in which citizens' disparate and varied interests can be discussed.

Good governance requires state capability, accountability and responsiveness (DFID, 2006; Moore and Teskey, 2006). State capability concerns the ability of the state to formulate and implement policies that are effective in reducing poverty. Accountability concerns the relationships between those who make decisions and those on whose behalf such decisions are made (or, more broadly, those who feel the impact of those decisions).

Sanchez (2009) The Oversight Function African rulers have traditionally – like the undisputed paramount chiefs that they thought they were – welcomed little oversight. But in the last decade or so, legislatures in sub- Saharan Africa have begun to provide at least a modicum of this important separation-of-powers function. As in any Westminster-type parliament, legislators and legislatures can exercise critical and determinative oversight by: 1) Interrogating the executive (heads of state or heads of government, cabinet ministers, and officials), compelling them to explain themselves and to justify their actions in order to achieve the twin objectives of enhancing accountability and transparency of governance. 2) Using their inherent approval power to grant appointments to executive ranks and to sanction executive personnel actions, and to assent to, delay, or improve executive-introduced legislation. 3) Exercising the power of the purse, to obligate or appropriate the funds without which no executive branch can function. Through the use of that power, legislatures can maintain citizen oversight of governmental activities and, if required, constrain and limit the executive. The audit function is also included here, providing opportunities to examine the use and abuse of public monies, but always after the fact (Cuenca, 2009).

These three oversight roles are traditional, evolving along with the gradual devolution of state power from a monarch (now the Westphalian state) to those who provided the funds, first the nobles and now the mass of voting humanity. How those roles are being exercised in today's Africa, how the effectiveness of such oversight can best be measured, and how the development of effectiveness can be assisted and strengthened from the outside are inquiries that drive the core of this examination of African legislative effectiveness. (See also Barkan, 2009, 7.)

Parliament as a law making body performs several essential functions including that of making laws, scrutinizing and passing the budget, conducting oversight on the activities of the government and representing citizens. As a law making body, Parliament is tasked with examining legislation and passing it after scrutiny and debate. This note presents an analysis of the role of Parliament as a law making body, and ways to strengthen the same.

1.4 Statement of the Problem

Parliament as a Law Making Body performs several essential functions including that of making laws, scrutinizing and passing the budget, conducting oversight on the activities of the government and representing citizens its tasked with examining legislation and passing it after scrutiny and debate and has a responsibility according to any separation of powers norm to check the executive branch's ideas and action (Ottawa, 2013).Despite all these functions, the parliament of Uganda which draws its powers (both legislative and representation) from the 1995 Constitution continues to grapple with the challenge of ensuring effective execution of its legislative mandate. The assessment carried out by API (2012) showed that the Uganda National Assembly had not satisfactory performed well on both legislative and financial functions. There seems to be a number of factors that affect the functioning of the National Assembly like interference from executive, corruption, lack of institutional capacity, lack of political will, inefficient electoral system, lack of parliamentary independence and weak leadership codes have all weakened parliament's capacity to make laws and government oversight. Therefore the study will deserve different recommendations on how to make the parliament of Uganda effective in the legislation process. A failed understanding of the role of parliament leaves the citizens, specifically those represented in a dilemma as to the duties and obligations owed to them and what their responsibility to the existing laws are. This accordingly gives rise to the need to explore the role of parliament in the law making process and how this role needs to be more effective to the people's satisfaction. To the contrary, where the role is not clear, bad laws are the unfortunate result that affect peoples rights.

1.6 Primary objective

To examine the role of parliament in executing its legislative mandate in Uganda

1.7 Specific objectives

1. To examine the conceptual framework on the role of parliament in relation to other arms of government
2. To analyze the legislative benchmarks for Uganda's Parliament from other African regional parliaments
3. To examine the role of the Parliament of Uganda in the legislative process
4. To identify challenges and key recommendations for effective functioning of Uganda's Parliament

1.8 Research questions

1. What is the conceptual framework on the role of parliament in relation to other arms of government?
2. What are the legislative benchmarks for Uganda's Parliament from other African regional parliaments
3. What is the role of the Parliament of Uganda in the legislative process?
4. What are the key recommendations for effective functioning of Ugandan parliament?

1.9 Hypothesis

The parliament does not effectively perform its legislative mandate as it is usually subjected to external pressure

1.10 Literature Review

1.10.1 Parliaments in Developing Countries

There have been few systematic efforts to assess and compare parliamentary performance and the contribution of parliaments to delivering good governance. But the evidence suggests that whereas parliaments could make an important contribution to good governance, in practice, in most developing countries – and, it might be added, in many developed countries – parliaments are ineffective. Rather than enhancing state capability, accountability and responsiveness, they are little more than "rubber-stamp" legislatures (Johnson, 2005), approving the executive's plans and doing little to deliver good governance or poverty reduction.

In its African Governance Report for 2005, the United Nations Economic Commission for Africa (UNECA) found that: "In terms of enacting laws, debating national issues, checking the activities of the government and in general promoting the welfare of the people, these duties and obligations are rarely performed with efficiency and effectiveness in many African parliaments" (UNECA, 2005, p.127). This finding echoes that of Eberlei and Henn, whose research documented the limited involvement of African parliaments in PRSP processes (Eberlei and Henn, 2003) and is confirmed by UNECA's recent findings about the involvement of African parliaments in the budget process (UNECA, 2006).

1.10.2 Parliamentarians Performance

There are a variety of reasons – both structural and individual – for poor parliamentary performance in developing countries (Barkan et al, 2004; Wang, 2005). Eberlei and Henn suggest that "The position of parliament vis-à-vis the executive is traditionally weak in the PRS countries of Sub-Saharan Africa. While the constitutions give them legislative, oversight and budgetary powers, the parliaments exercise these only to a limited extent, if at all. This is rooted in political systems that tend to strengthen the executive, a generally weak democratic culture, and very limited capacity in terms of members and institutional resources" (Eberlei and Henn, 2003, p.9).

As a recent survey of the contribution of African parliaments to democracy put it: "Questions about the effectiveness of capacity building in African parliaments remain largely unanswered because we do not yet have comprehensive and comparative measures of the institutional capacity and performance of parliaments on the continent" (Nijzink et al, 2006, p.5). Neither are there well-established criteria for conceptualizing and measuring legislative effectiveness (Nijzink et al, 2006 p.4).

Assessing parliamentary performance is a challenge; assessing the impact of parliamentary strengthening and attributing cause is even more of a challenge (Schulz, 2004). But they are challenges which must be faced. Regrettably, little effort has been made, either to evaluate the impact of parliamentary strengthening work, or to devise frameworks for assessing

parliamentary effectiveness. DFID's own framework Country Governance Analysis currently lacks an indicator relating directly to parliamentary performance. The following organizations have made some progress towards developing frameworks for assessing parliamentary performance.

The Africa Governance Monitoring and Advocacy Project (AFRIMAP) has developed a questionnaire on political participation, sections 68-82 of which relate to the role of parliaments.The African Legislatures Project is embarking on a cross-national comparison of African Legislatures, which will include the development of a methodology for assessing parliamentary performance. The Canadian Parliamentary Centre has developed a simple template for assessing parliamentary performance in the budget process and is working with IFES to develop a framework for conducting "state of the parliament" country reports.DFID's publication "Helping parliaments and legislative assemblies to work for the poor" includes a helpful checklist for assessing parliaments.International Institute for Democracy and Electoral Assistance (International-IDEA) has developed a tool for assessing the state of democracy, section 7 of which is particularly relevant to parliaments.

USAID is leading the way in terms of trying to develop ways of assessing parliamentary performance. Progress is slow, but USAID's Handbook of democracy and governance programme indicators, especially pp.198-214, includes indicators relating to "more effective, independent and representative legislatures" as part of a wider section on "more transparent and accountable government institutions". USAID's Handbook on Legislative Strengthening also provides an assessment framework and questions on page 15 and in appendix A.

Parliaments themselves often lack the institutional capacity to perform their roles effectively (UNECA, 2005, pp.201-2). Parliamentary rules and procedures may be poorly developed, parliamentary committees may be weak or non-existent (Burnell, 2002; Rahman, 2005) and there may be more basic infrastructural problems. Such problems may include inadequate or non-existent accommodation, a lack of access to information, information technology, and library facilities, a lack of parliamentary staff to assist in the administration of parliamentary affairs and in particular in carrying out the research which is needed for parliaments to hold the

of parliament in executing the legislative mandate in Uganda at a given point in time. Cross-sectional study was used because it emphasizes detailed contextual analysis of a limited number of events or conditions and their relationships at a single point in time.

1.11.2 Study population

Population refers to the universe of units from which the sample is to be selected (Bell, 1995). In this study, the study population is 50 respondents who include MPs of parliament, parliament staff, members of CSO, LC III councilors, and members of civil society and non-governmental organisations. The above population elements were focused on because they have enough knowledge regarding the role of parliament in executing the legislative mandate in Uganda.

1.11.3 Selection of Respondents

The objective of selecting respondents was to produce an index based on self-appraisal. In this regard therefore, the primary respondents were a cross-section of the members of parliament and parliamentary staff. It is imperative to note that the budget-making process as well as oversight role is undertaken by various parliamentary committees. For this reason, it was important to have representation from a cross section of these committees. Nonetheless, it ought to be noted that it was difficult to draw a representative sample of MPs from different committees. It was proven to be more useful to rely on a single committee like the Budget as well as other committees such as the Estimates Committee, Finance Committee or Committee on the National Economy. Parliamentary staff supporting the committees, particularly the Finance and Budget Committees were sampled and invited to take part in the assessment. In effect it was required that then minimum number for this assessment must be 25 including at least 15 MPs and 10 staff drawn from the Budget Office and supporting departments such as the Research Department.

1.12 Data collection methods

Data for this study was derived from both primary and secondary sources. To investigate the variables of the study exhaustively, the researcher used a combination of data collection methods by way of methodological triangulation. For the purposes of this study Primary data was

obtained using two methods: the questionnaire survey method and key informant interviews. Secondary data was obtained by means of document reviews.

1.12.1 Questionnaire Method

A questionnaire containing structured questions was designed and shared with the respondents either by face to face or via email. The method was applied on CBOs and NGOs participants since they are required to provide concise information for structured questions. The researcher chose this method because questionnaires enable the researcher to reach a large number of respondents in a relatively short time as indicated by Amin (2005).

1.12.2 Interview Method

The researcher used face to face interaction to exchange views with the key informants who include MPs and parliament staff (Amin, 2005). This method provided the researcher with more detailed information about the study questions and the chance to probe the respondents in cases of ambiguous responses (Mugenda & Mugenda 1999). This method is preferred for these respondents because the researcher intended to capture in-depth, accurate and sensitive information which could not be obtained using the questionnaire method (Mugenda and Mugenda, 2003)

1.12.3 Documentation Review Method

The study involved the review of both internal and external documents so as to obtain information related to the research area. The documents were studied and reviewed in relation to the set objectives of the study and the documents including journals, articles, internal and external reports, budgets and work plans will be visited Sekaran (2003). This method enabled the researcher to get information that would be difficult to get through other methods and trends of about the subject matter over time. It is also relatively cheap because the documents are easily accessible and already located in the workplace, libraries and internet.

1.13 Data Processing and Analysis

Data processing involved two sub processes, namely; editing and coding. This was done to ensure that the collected data would derive logical meaning. Data analysis was important as it guided analysis for the required descriptive statistics. It involved careful scrutiny of completed questionnaire and schedules. Both field and central editions were carried out.

1.13.1 Qualitative data

The study employed both thematic and content analysis techniques to analyze the qualitative data. This is because it enables the researcher to observe patterns or speech like what the respondents talk about (Berg 1989). Nueman (1997) asserts that content analysis enables the researcher to gather and analyze data in the context of text. Therefore, discrete bit of information was assigned into categories using themes as coding units (Lewin1979, Breakwell, Hammond & Fife-Schaw, 1995). Important thematic areas such direct quotations will be extracted and reported in line with study variable verbatim.

1.14 Scope of the study

The study was carried out in Kampala district and focused on the following institutions which included the Parliament of Uganda, Civil Society Organizations, LC III divisions and CSOs and NGOs. Furthermore the Content scope focused on the role of parliament as an independent variable while executing of legislative mandate was the dependent variable. Lastly the study reviewed the role of parliament in executing the legislative mandate in Uganda for a period of 3 years (2015-2018).

1.15 Gender consideration

Gender consideration is paramount for every study, therefore the researcher, observed that across all groups; the number of both male and female was 50: 50 percent. This reflected that women are equally involved in leadership and politics as men in Uganda.

1.16 Ethical consideration

Ethical consideration is paramount for every study. Ethical issues apply to all research approaches and to every stage of research that is, in the identification of the research problem, data collection, data analysis and interpretation, and lastly in the writing and dissemination of the research (Creswell, 2009). Ethical issues involve matters of access, confidentiality and anonymity of the participants, the participants' consent as well as legal issues like intellectual ownership, confidentiality, privacy, access and acceptance and deception (Johnson & Christensen, 2008). Since this study concerns sensitive issues on the role of parliament in executing the legislative mandate in Uganda, the following ethical considerations were adhered to. This research took into consideration a number of ethical considerations namely; all materials in this research, their sources have been provided with acknowledgements of the different authors. Permission was obtained from relevant authorities before the researcher can conduct interviews with groups from the respective respondents. Throughout the research, the researcher sought informed consent from the respondents for the interviews before administering the tools. The researcher also observed the principles of confidentiality, Justice, beneficence throughout the research process. Lastly, the researcher ran his work through an originality check called "*Turn it in*" to avoid cases of plagiarism.

1.17 Limitations and Solutions to the Study

In undertaking this study, there was a number of limitations; Fear of victimization that limited the research work. Some respondents from the organizations were afraid to provide factual information on the basis that information provided could be used against them. The researcher assured the respondents that the information they provided was held confidentially and information was to be used for academic purpose only. Respondents were uncomfortable sharing information with the researcher based on rank differences, that is, the researcher being of a senior rank in the management than the respondents and the evident chain of command in communication between junior and senior officers within the organization. The study was observing ethical considerations such as respecting respondent's right to participate or not. No names or identification numbers was included in any of in any of the research instruments and

therefore no chances of linking any information to particular respondents. This was important in as far as it influenced respondents in providing true, factual and adequate information.

CHAPTER TWO

THE CONCEPTUAL FRAMEWORK ON THE ROLE OF PARLIAMENT VISA A VIS OTHER ARMS OF GOVERNMENT

2.1 Introduction

In a nutshell, parliament is a popularly elected, representative political assembly that ensures responsiveness and accountability of government to citizens by performing two vital political functions: first, by conducting free and open political debate regarding government legislation, spending and implementation of policies; second, by representing citizens and groups in their dealings with government.

2.2 Law-Making and the Principle of Separation of Powers

The principle of the separation of powers recognized by modern constitutional states determines the mechanism of the law-making and the place of the legislative bodies in it. The principle divides the state powers into three branches - the legislative, executive and judicial powers. The legislative power is vested in the legislative bodies. This principle singles out the representative bodies and empowers them to adopt laws. The place of a legislative body in the law-making process depends from the character of the principle of separation of powers recognized in a country. The principle of the separation of power has specific features in countries. It may have firm form or flexible form.

The firm form is typical for the USA. Analyzing the practice of that time then 'fathers – founders' of the American constitution found that a legislative body had dominated position in the republics and it was necessary to limit it powers and balanced its activity as a governmental body on behalf of people could establish a tyranny. The Congress was examined as a possible threat of a democracy, as a possible tyranny.

According to this model the main task of the representative body is to adopt laws. The system of the governmental bodies is organized so that the main task of the Congress is to make laws. At the same time each governmental branch has powers to balance other one. The President may

recommend to the Congress to adopt legislative measures and control the law-enforcement, has the right of veto. For balancing the legislative body should be divided in two chambers. The division of the legislative body was a mean against possible tyranny. The legislative body has balanced structure, was able to reflect social changes (as the House of Representatives is elected every two year, while senate – 6 years (1/3 are reelected every 2 years), secured stability and continuity.

This position has been realized in the Constitution of the USA. In the result the Congress has been able to keep strong positions in the law-making process. It is separated from the executive power and the last has to find different (as a rule political) channels for contacts with the Congress in the law-making process. In the countries in which the principle of the separation of powers was recognized in more flexible forms (in countries of parliamentary Europe) the legislative body has been not able to keep the leading position in the law-making process. The executive body is not separated from the legislative one as the members of the Government may be the members as a rule of the lower chamber of the legislative body. In the result the legislative activity of the parliaments has become under control of the Government. The last one has a chance to coordinate the law-making through the members of the political fraction in the legislative body.

Legislators – representatives of the people – have a responsibility according to any separation of powers norm to check the executive branch's ideas and action. A legislature's collective power of taxation and the purse – its preeminent power to fund monarchs and their successor governments – should give any contemporary parliament the ability, even the responsibility, to make sure that a state spends money well and wisely, that it delivers good and appropriate policy, and that it steers the nation admirably and surely (Ottawa, 2013).

2.3 Law-Making of the Executive Bodies

If the powers are divided between the governmental bodies and the legislative power is vested in the legislative bodies the question is whether the executive bodies may adopt laws. In principle many scholars from different countries agree that the law-making of the executive bodies contradicts to the principle of the separation of powers. But with the increasing of the law-

making of the executive bodies in practice the scholars more and more began to justify this process. The acts of the executive bodies are adopted in a quick and informal manner and that pragmatic reason becomes important for modern complex and constantly changing society.

Many Constitutions permit parliaments to delegate the legislative powers to the executive bodies (first of all to the Government). The Constitutions demand that the authorization laws shall be definite, define the duration of the authorization (the Constitutions of Portugal, Spain). The conception of delegation powers is recognized in many countries. In Great Britain according to the principle of the parliamentary sovereignty all legislative powers are concentrated in the parliament. The executive bodies may adopt laws only on the basis of the powers delegated by the parliament. The problem is that it is very difficult to find a board between the legislation and delegated acts. Parliament may delegate powers on any question as well as adopt act on any question. In the result the acts of Parliament may be full of details while principal questions may be regulated by the executive bodies. Such practice is known for the USA where the Congress also delegates the powers to the executive bodies. In contrast to the British Parliament the powers of the Congress are limited by the Constitution.

The delegated legislation is considered as subordinate legislation as it must correspond to the laws of parliament; the terms are interpreted the same as the terms of the act according to which the powers were delegated; the abolition of the Act of parliament leads to abolish of all delegated Acts adopted according to its provisions. The legislative bodies control the delegated legislation. There are different forms of control. The British Parliament may exercise the previous and posterior control. For that purpose it organized the Committed for control over delegated legislation which previously examined these acts from the point of view of correspondence to parliamentary legislation. The committee decides to present or not an Act to the chamber. The delegated act may be adopted by the method of the negative or positive resolution. A chamber may examine a statutory act during 40 days. If there is no question it comes into force. In Great Britain in 1986 the number of pages of statute book – 2.847 while pages of statutory instruments – 7.219.13

The courts realize the posterior control. Examining concrete case the court may check the correspondence of a delegated Act to the Act according to which it was made. In the result the

court may announce an act ultra vires – adopted over the powers delegated by the parliament to the executive body. The conception of delegated legislation of the executive bodies has been adopted in other common law countries.

It is recognized in the USA. The control over delegated legislation in the USA was called the legislative veto. It was born in 1932. According to it every chamber was able during 60 days to find invalid any act of the president adopted according to the delegated powers. The resolution of a chamber needs not a confirmation by the president. The legislative veto had been very popular during almost a half of the century but at the beginning of the 80-s the Supreme Court found unconstitutional laws included the legislative veto. Legislative veto was found as contrary to the principle of the division of powers.

The countries of Roman-German traditions consider that the executive bodies have law-making powers as the legislative body. But these acts must correspond to the acts of parliament. Sometimes the division of powers between the legislative and executive bodies is not established and the acts have the same force as acts of parliament (Bogdanovskaia, 1999). The Government may also ask the Parliament to authorize it for a limited period regulates through ordinances measures that normally fall within the domain of law (Bogdanovskaia, 1999). In Latvia the Government may adopt acts between the sessions of the Seim but they must be approved in three days from the beginning of the session; otherwise these acts are nullified (art.81 of the Constitution) (Bogdanovskaia, 1999). The Constitution of the Portugal (art.168) enumerates the legislative powers, which may be delegated to the government. In Italy the Government may not issue decree having the force of the ordinary laws without delegated powers (Bogdanovskaia, 1999). When in cases necessity and urgency the Government issues on its own responsibility provisional measures having the force of law, it must on the same day submit them for conversion onto law to the Chambers which even if they have been dissolved are expressly summoned for that purpose and must meet within five days (Bogdanovskaia, 1999). The decrees lose effect as of the date of issue if they are not converted into law within sixty days of their publication.

In Germany the federal President may at the request of the federal Government and with the consent of the Bundesrat declare a state of legislative emergency with respect to a bill if the Bundestag rejects the bill although the federal Government has declared it to be urgent. If the Bundestag rejects the bill it shall be deemed to have become a law to the extent that the Bundesrat consents to it. The state of the legislative emergency continues during six months.

The French Constitution defines the domain of laws and separates it from executive regulation (art.34). The French Constitution 1958 divides powers between the legislative and executive bodies. It is the result of the strengthening of the executive power, which is character feature of this Constitution. The Constitution establishes the subject regulated by the parliamentary acts and subjects about which the legislative body adopts only frameworks. The subjects of legislation which are not in the sphere of the law-making has 'reglamentary' character. The Government has the right to stop the examination of a bill because according to its opinion such a bill has a character of a 'reglamentary' and is within the powers of the executive power (in practice the Council of Ministers did not use this right). The Government may change an act adopted by the parliament but which according to the Government is within his powers by a decree but with consent of the Constitutional Council. So the Constitutional council checks the division between the powers of the legislative body and the executive body in the sphere of law-making which according to the constitution has double character – legislative and 'reglamentary'.

The delegated acts are adopted on the basis of the acts of the parliament; i.e. parliament by means of a law takes decision to delegate concrete powers for some time. The acts are called ordinances. They are adopted by the Council of Ministers with the conclusion of the Council of the State and signed by the President. The ordinances are confirmed by the parliament. The term during which the Council of Ministers must present an ordinance to the parliament is established by the parliament. If the Council of Ministers does not present an ordinance in time it is nullified. If the parliament confirms the ordinance it becomes a law and the Council of the State cannot control it while it is possible to appeal to the Constitutional council.

The specialists from different countries consider that the strengthening of the lawmaking by the executive bodies is an attempt to escape long parliamentary procedures during which the content of the law may be changed. But the legislative bodies may influence on the legislative process and to make in quicker. At the same time the parliamentary procedures are open for public and under control of the public opinion. In present it is possible to conclude the increase of the law-making of the executive bodies. Such practice as a rule has legal character as the modern Constitutions adopted in the second half of the century permit as a rule the delegation of legislation. The lawmaking of the executive bodies changes traditional role of the legislative bodies. But still they have a chance to control the process of delegation and the delegated acts. But effectiveness of the control depends from the form of the government. In the parliamentary countries the Government may influence on the legislative body for delegating of the legislative powers and in fact determines the result of the control. In the presidential republics delegation more depends from the decision of the legislative body.

2.4 Law-Making and Democracy

The constitutional states are considered as democratic (Bogdanovskaia, 1999). The democracy is based on the principle of the people's sovereignty. It means that the source of the state authority is people. People as social entity form the governmental authority and determine the content of the activity of the governmental bodies, consequently the content of lawmaking and the activity of the legislative bodies. State decision must be legitimate, supported by people. The legislative body as representative body to a greater degree corresponds to the demands of the democracy. The representative bodies fulfill this task as step by step through different procedures different political forces come to an agreement as the state must functioning in the interest of all people. It creates conditions for expressing of opinion. Individuals may unit in associations, political parties for collective expression of opinions.

Expressing the will of people democratic government first of all express the opinions of citizens of a state - individuals who have political and legal links with the state. Citizens have political rights which are necessary for participation in the government. Though this rule is changing as step by step foreigners receive rights to take part in the government but as a rule on the local

level. The democratic government secures the correlation of individual and collective interests, interest of the majority and minority. This democratic position is especially important for the beginning of the law-making, when an idea of law is expressed in the conception and previous version of a project. The law-making process may be initiated by an individual. The democracy means that an individual consciously takes decision concerning the state power. For that purpose an individual must have enough information, be able to analyze it and express opinion. Individuals (or group of individuals) need to pass a long way for defense of their bills. As a rule they have to appeal to the governmental body with suggestion to adopt an act. In democratic society people may use mass media, hold meetings, and use other forms of the expression and explaining their idea. In practice this is a long way and results may be not achieved. Such actions may have effect on the level of the local government. On the level of the state people initiative may have results if a group of people have the right of the legislative initiative and thus a prepared act may be introduced into the parliament.

Another example if a group of people may require to hold a referendum as a referendum is a form of the direct democracy and an act may be adopted on referendum. Political parties and lobbies. As a rule the political parties initiate the bills. Political parties play the most important role in the law-making process. They elaborate laws while they are not in power, thus the law-making process begins out of the state. The legislative plans are necessary for transformation of political tasks into regulative system of law. The political party working in the state mechanism (for example in the
Government, in the Parliament) influences on the state law-making process. Another groups which are not so numerous in membership but numerous in numbers and may be very influence – lobby or interesting groups or pressure groups. They reflect more particular interests but nevertheless they influence on the law-making process.

They may be private corporations (for example, cigarette lobby is considered one of the strong), small groups struggle for their interests. Many aspects of the activity of lobby are hidden for public but nevertheless several states adopted acts for regulation of the activity of lobby and control over its activity (Canada and the USA). In fact it depends from the social structure of the society, of the social groups, how they recognize their interests, able to express them in law.

Governmental bodies as initiators of law-making. The governmental bodies (Government, head of a state, committees, ministries, courts and legislative bodies) may initiate a bill. In such a case the result depends from the relations of the governmental bodies, i.e. from the form of the government.

2.5 Referendum and the Legislative Body

The principle of people sovereignty permits people to take part in the government through the government or directly (Bogdanovskaia, 1999). So the law-making may be realized by the legislative representative bodies or by people directly by referendum. It is necessary to note that referendum may be held by the decision of the governmental body and its procedure is regulated by the legislative body. The countries demonstrate different practice. The legislative body and referendum – two forms of the adoption of laws in the result of the direct democracy and representative democracy. As a rule referendum is held only for the adoption of the most principal for the society acts (divorce in Italy, rights of women in Sweden). The states demonstrate different models of combination of these two forms.

Referendum may be held before the adoption of the act by the legislative body or after. In such a matter the referendum plays a role of ratification of an act adopted by the legislative body. For example, in Italy (art.138 of the Constitution) the referendum on the review of the Constitution, constitutional laws may be held by the demand of 1/5 of members of any chamber of the parliament or 500.000 electors or 5 district councils during three months (there are limitations on this provision if an act is adopted by 2/3 of the members of each chamber). 500000 of electors or 5 district councils may demand to hold referendum for repeal of an act (in whole or in part) except an acts of taxes, budget, amnesty, powers on ratification of international treaties. An act adopted by the parliament detailed this constitutional provision and gave it limited interpretation.

Referendum on repealing of an act cannot be held during a year after dissolution of a chamber, during 6 months after elections. A suggestion for a referendum may be introduced only from January 1 till September 30. In Italy several referendum were held (for repealing of an act on

divorcee, on financing of the political parties, act on the support of public order, on life imprisonment, on free keeping of arms, on abortion) and all acts were kept in force. Such referendum may be held for adoption of an act prepared by the executive power or group of electors. The Constitutional court of Italy may decline a referendum if it finds it contradicted to the Constitution. The Constitutional court stands for cooperation of the representative and direct democracy.

Referendum was very popular in France during the government of De Gaulle. In France the Constitution permits to the President to hold referendums and thus to go around of the parliament. De Gaulle connected the results of referendum with support of his person. In the result the referendum had the character of the plebistsit. The other presidents in general did not support this practice and some of them suggest changing the corresponding article of the Constitution. Referendum may be held in the countries with the different political regimes. Well known referendum in totalitarian Spain, Italy, and Chilly. They were held in the political conditions when the representative bodies had no powers. At the same time the referendum may be progressive. In European countries referendum of the basic law – the constitutions – helped to pass to the democratic government (referendum in Greece in 1973 and 1974).

Referendum as law-making mechanism differed from the legislative body in many aspects. Though in referendum all electors may take part in the law-making process they are able to say only "yes" or "no". They are not able to influence on the text of a bill, to change different provisions. They have to agree with the whole text or reject it. An initiator may be a state. The legislative body has a chance to analyze a bill as from the point of view of general conception as detail provisions and in the result to change the text. Referendum may be consultative for the legislative body, may be final and the act have the same force as the act of the legislative body, act may change an act of the legislature. As a rule on referendum adopts the Basic Law- the Constitution or it is amended or revised. For example, in Italy a referendum was held for decision of the question of divorce. The act adopted on the referendum may have more legal force than acts adopted by the legislative bodies. For example in France the Constitutional Council announced that it had no powers to check constitutionality of an act adopted on referendum.

2.6 Law-Making in a 'Rule-of-Law' State

The conception of 'rule-of law' state has different versions – 'Rechtstaat,' 'Etat de droit' and 'rule of law'. But all versions have the same aim – to bind the governmental activity by a law. Law prevents governmental activity from arbitrary actions. At the same time it is possible to establish legal control over government actions and decisions. This principle is important for establishing of the law-making process. It must be based on legal backgrounds. The term "law" in this aspect may understand in general sense as "natural law". This general conception determines the content of the lawmaking process. For example, "rule-of-law" state is based on human rights and freedoms. In Russian Constitution 1993 the Human Rights are considered of superior value, determine the content of the decisions and actions of the state bodies and have direct force. All these provisions influence on the law-making.

The principle of the "rule-of- law" state determines the activity of the governmental bodies for securing of the human rights, justice. Individual must be quarantined in relations with the state. This principal position determines the content of the legislation. All social groups take part in the law-making process must take into account this position otherwise acts adopted in the results of their activity may be nullified by constitutional review bodies. The "rule-of-law" state means also due process of the decision-making. The law determines the law-making process free from arbitrary activity of individuals and social groups. The law is quarantine of stability. Law determines continuity in the development and the law-making process is realized in these frameworks.

2.7 Law-Making in a Social State

The conception of the social state adopted by the modern constitutional states reflects a changing role of a state which interferes in the affairs of the society. Modern state must secure different social interest, secure the social equality, and establish social insurance. As a rule the social undefended groups (invalid, old people or children) are not able to defend themselves and need additional help of the state. The conception of the social state adopted as constitutional principle

make the lawmaking process to be oriented not only on the active social and political groups but on social groups which need aid as unable to defend their interests.

2.8 A Model of Parliamentary Power

2.8.1 Rubber Stamp Legislatures

It is possible to think of parliamentary power as moving along a continuum from little independence and power to very influential and active legislatures. The simplest of legislatures are called rubber stamp legislatures. These bodies simply endorse decisions made elsewhere in the political system, usually by parties and/ or the executive branch. They are often associated with communist or totalitarian nations, where decisions are made by a leader or vanguard party, and in which the parliament is expected to simply endorse their decisions. Because demands on them are few, rubber stamp legislatures need little internal structure or expert staff and should not need long legislative sessions. The Duma of the former Soviet Union and the Mexican Congress during the decades of PRI dominance could be considered rubber stamp legislatures. "Rubber stamp" generally connotes non-democratic, but it could also describe bodies such as the American US Electoral College, whose delegates are expected to vote according to the dictates of those who sent them, and not according to personal opinion. Rubber stamp legislatures are the least expensive to operate.

2.8.2 Arena Legislatures

Moving right on the arrow of parliamentary power and independence, we come next to arena legislatures. Arena legislatures are more powerful than rubber stamp legislatures, and are places of real discussion, speech, and debate. Policy initiates still come from outside the legislature, generally from executives or political parties. In arena legislatures, differences in society are articulated and government actions and plans are evaluated from different perspectives, but they tend not to initiate or dramatically reshape policy proposals. Arena legislature information needs are greater than those of rubber stamp legislatures: they need sufficient internal capacity to organize debate; a committee system adequate for channeling the business of the house; and capacity to analyze proposals in order to comment on them critically, and to some degree, refine

them. A useful analogy for an arena legislature is a thermometer. As thermometers take accurate readings of the temperature around them but do not change the temperature, so arena legislatures accurately reflect the "political temperature" with regard to the issues before them.

2.8.3 Transformative Legislatures

Moving right again we come to the least common type of legislatures, transformative legislatures. Transformative legislatures not only represent diverse societal interests, but they shape budgets and policies. Transformative legislatures can be likened to a thermostat. As thermostats change the room temperature by activating heat or air conditioning, transformative legislatures change policies and budgets proposed by government, and even initiate policies of their own. Not surprisingly, transformative legislatures are the most expensive. They have highly complex internal structures (including strong committee systems), great information needs, and depend heavily on highly trained professional staff. The US Congress is probably the best example of a transformative legislature.

2.8.4 Emerging Legislatures

And finally, a fourth legislative type, which is not part of the continuum described earlier in the paper, is called an emerging legislature. Emerging legislatures are in the process of change from one type to another. Worldwide several legislatures are exercising greater influence over government policies and could be classified as emerging legislatures. Expanding their powers usually requires major legislative changes, among them amending rules and procedures, building stronger committees, expanding professional staff, developing improved information systems, and others. Mexico's Congress and Kenya's and Uganda's Parliaments could be classified as emerging legislatures. In recent years both Mexico and Uganda established professional budget offices, helping those parliaments play a more assertive role in the budget process. All three legislatures expanded professional staff, and Kenya and Uganda have made their administration independent of the executive. Kenya and Uganda staff members are no longer civil service; they serve at the pleasure of parliament's leadership. The parliaments also now set their own budgets.

2.9 Parliamentary versus Judicial Supremacy

2.9.1 Theoretical Framework

The issue of parliamentary versus judicial supremacy has been a subject of heated scholarly debate over the last few years. It has exercised the minds of legislators, jurists, politicians and non-professionals as well through-out the world. The supporters of absolute independence of judiciary argue that in the absence of an impartial, independent and sovereign judiciary, democracy cannot succeed. In contrast to this view, supporters of parliamentary supremacy pursue the concept that judicial supremacy which is expressed in the form of judicial review, is incompatible with a democratic government because the importance of majority rule lags behind by the few unelected judges who are not directly accountable to people.

The formalist approach is based mainly on legal considerations of the legislative process. Once the executive became the decision taker of the political system this type of analysis evolved toward a theory of "the decline of parliament." As Norton (1990: 2) explains it corresponds to a restrictive paradigm established since at least the seventh century based on the principle that the main task of a parliament is that of "law making" or "law giving". This task is central for the development of the works on separation of powers of Locke and Montesquieu in which the identification of a law-making body, the legislature, distinct from the body for executing the laws, the executive, was central.

Taking the analysis of P. Norton made at the end of the 80s in this work we will consider, first, two main developments in the study of parliaments produced up to the end of the twenty century. One is the traditional formalistic approach; the other is what Norton called the new multifunctional paradigm. The formalistic one is now included under the umbrella of the new institutionalism as a partial element of analysis. The new paradigm has influenced a lot of studies on parliaments made during the 80s and 90s, and even nowadays has something to say to understand the functionality of parliaments, Finally there is a new development in the study of parliaments that began at the end of the twenty century as a consequence of the rational choice revolution in political science based mainly in what is called new institutionalism.

2.9.2 The Formalistic Approach

The formalist approach is based mainly on legal considerations of the legislative process. Once the executive became the decision taker of the political system this type of analysis evolved toward a theory of "the decline of parliament". As Norton (1990: 2) explains it corresponds to a restrictive paradigm established since at least the seventh century based on the principle that the main task of a parliament is that of "law making" or "law giving". This task is central for the development of the works on separation of powers of Locke and Montesquieu in which the identification of a law-making body, the legislature, distinct from the body for executing the laws, the executive, was central. A second principle that is linked to the first one and produced in the XIX century is that the best legislature is the one composed of men of independence, both in thought and means. It means that they can deliberate free of vested interests and the restrictive demands of an uninformed mass.

Lord Bryce after the First World War elaborated the theory of "the decline of the Legislatures". It was in fact a general perspective of an entire generation of observers (Norton 1990:2). From the liberal perspective of Lord Bryce the nineteen century was considered as a period of golden age of Parliament but, with mass democracy and the development and growth of parties, the Parliament entered in a spiral of decline. According to Bryce power was passing to executives and to electorate and the political parties was the conduits for this shift of power. The point of view of that analysis was centered on the decisional function of parliaments, in its capacity of decision making of public policy. In the twentieth century public policy has increasingly been initiated and formulated, - and in effect, made- usually by the executive. The relevance of the executive in the policy making has increased due to the consequences of two world wars, the economical crisis and the development of the welfare State. During the twenty century the executive was in charge of a numerous amount of new activities that increased its power. What happened is that the executive has not reduced the power of parliament as in zero sum game process; on the contrary the parliament has increased its activity although not at the same pace of the executive. It is also true that not all the cases are similar, for example the US Congress increased its power at the same pace as the executive. There has not been decline of the US

Congress that is nowadays acknowledge to be one of most powerful legislative bodies in the world (Wheare, 1981:224, Patterson and Copelan, 1994:3).

The concept of decline remained current in the 1970s (Wheare, 1981). Under the formalistic approach now in the hands of constitutionalists the study of legislatures remained on executive-legislative relations and in particular on the impact of the legislative procedures on policy making by the executive. A particular focus of interest is the legislative capacity of the executive, in fact part of the legislative activity is now in the hands of the executive via legislative delegation or law- decrees. From the political science perspective nowadays formalistic considerations should be integrated in a bigger analytical perspective that is the new institutionalism.

2.9.3 The New Paradigm Approach

In the 80s a new paradigm emerged in the study of parliaments explained by P. Norton (1992). Its roots are manly functionalist and pays attention to the different functions that a parliament can accomplish. With the new paradigm there was also developed a structural study of parliaments, in particular the study of parliamentary groups, committees and the different patterns of bicameralism.

In spite of the apparently decline of parliaments the new paradigm found that in fact we are living in the "age of parliaments" in the late twenty century since new parliaments abound in the aftermath of the collapse of the authoritarian regimes in communist regimes and the military rules in Latin America and Asia. In addition there were created a number of new regional parliaments in federalized systems. Now we are living in a world of remarkable reestablishment, reinvention and transformation of parliaments around the globe. In addition the new paradigm found that parliaments are subject to exogenous political forces- organized interest groups- that foster a substantial institutional change, making MPs more participative in public policy-making. As a consequence parliaments are stronger nowadays than ever before. Its institutional robustness develops from changes in the external world of parliaments, in the growing interest

group infrastructure, in the cementing of linkages between the representatives and the represented and in the weakening of the executives (Patterson and Copelan, 1994:11).

Consequently in the 80s and 90s there was a significant increase in the quantity and quality of works on parliaments that widen the study of legislatures beyond that of their observable impact on the making of public policy (Norton 1990: 3). The result has been a paradigm change that sees legislatures as more than mono-functional bodies. It is considered that legislatures variously fulfill significant regime-support functions. Study of theses functions has moved the focus away from that of the relations of legislative to executive to that of legislature to the citizenry.

Some studies extended understanding of the functions of legislatures beyond that of policy-making, in particular on the relationship of the legislature to the political community (legitimation). In this way it is remarkable in particular the analysis of Mezey. Packenham's work has been especially valuable for identifying the multifunctional role of the legislatures (Norton: 1990a:12). He identified eleven functions of parliaments, including the "safety valve" and "tension release" functions. This classification permits to compare among parliaments and also understand the evolution of a single parliament. This classification has provided students of parliaments with essential hypothesis for the analysis of parliaments during th90s and the change of the century (Olson and Norton, 1996; Norton, 1998).

In the new paradigm the executive-legislative relations remains relevant and writings on the topic have been extensive. In particular the work of A. King has been very influential. It identifies different patterns or modes of executive-legislative relations in parliamentary systems: the inter-party mode in majoritarian governments, the interparty mode in coalition governments and the opposition mode and the non-party mode in all kind of parliamentary governments. This approach is based on the idea of party government that is crucial to the theory and practice of modern liberal democracy both in parliamentary and presidential systems. The party government implies that all major governmental decisions must be taken by people chosen in elections conducted along party lines, that policy must be taken within the governing party when there is a mono-color government, or by negotiation among parties when there is coalition, and that the

highest officials like ministers and the prime minister must be selected within their parties and responsible to people trough their parties (Blondel and Cota, 1996:2).

The partiness of government also implies that when a single party obtains a majority of seats a parliamentary system is very hierarchical and generates a "fusion of powers", that was described by Bagehot in the nineteen century. In that case the leader of the majority concentrates the power and the cabinet gains autonomy over the backbenchers. The fusion of executive and legislative is extended to a fusion of party and executive (Manuel SANCHEZ DE DIOS, 2014). Lijphart calls it "the Westminster model" based on executive dominance (Lijphart, 2000:23). In the absence of a majority a parliamentary executive may be held by a coalition that jointly controls the assembly majority, in which case the cabinet survives as long as this majority remains together. Alternatively, a minority government may form, in which case the cabinet remains in place as long as the opposition does not combine forces against it. These non-majoritarian variants of parliamentary government are transactional in terms of the relation of parties to one another, because a bargain between two or more parties is necessary for a government to originate and survive in office (Shugart 2006: 354).

A presidential system is a variant of democratic government. According to Lijphart the main distinction between parliamentary and presidential systems is no based on relations executive-legislative since they both work in a similar way (Lijphart,2000: 126). However what can be considered relevant is how constituent interests are translated through the electoral process, since both branches of government have distinct delegations from voters and are elected separately. In the case that the two branches share identical preferences, what means that are controlled by the same party or coalition, there is a total presidential dominance. The system would resemble a hierarchy with no inter-branch transactions. However in the case of divergence of preferences between the branches, what means different parties in control of every branch, a divided government is established that only can function on the basis inter-branch bargain. The reason for inter-branch transactions in presidential systems lies in the need of the president to accomplish any agenda. In some cases like the Latin American countries the presidents bargain over the formation of cabinets in order to develop a more stable inter-branch relationship (Shugart, 2008:355).

Since the political parties are at the core of the political process in any liberal democracy, parties can be considered as the pivotal actors with respect to decision- making and policy-making. As a consequence they are the lynchpin of the day-to-day practice of parliamentary democracy. Parliamentary parties in or out of government are the necessary instruments of parliamentary business and a stabilizing force within parliament (Heidar and Koole. 2000:1). In functional terms parliamentary party groups can be considered from five different points of view. First the degrees to which parties act cohesively to enact party policies; second the organization of government in both formation of governments and policy-making; third in relation to system functions such as legitimacy, base for governments and efficiency in decision taking; four, public scrutiny; and five, relations with extra parliamentary organization.

Heidar and Koole (2000) argued that committee system became a structural characteristic of institutional development of parliaments and has a functional nature. Committees are microcosms of the larger assembly and are mainly vehicles of specialization. It is one of the features of internal legislative organization that has received the most scholarly attention (Strom, 1996:65). They have different functions: economies of operation because division of labor throughout them, gains from trade since it is a locus for negotiations, information acquisition because of their specialization and partisan coordination since they are he extension of party power(Mattson and Strom: 1996:250).

Committees are very relevant in particular in the case of presence of multiple parties in a parliamentary democracy with coalition or minority governments. Since each party has an interest in monitoring the government, it results in a legislative committee system that gives backbenchers a notably great role in scrutinizing and amending government bills. The two most important functions of legislative committees are the making of decision with regard to legislation and oversight executive actions in such a way that it affects what is done (or not done). In the Nordic countries for example committees are very important instruments for members of opposition parties in influencing and controlling the government (Damgaard: 1997: 100)

Finally another relevant topic developed according to the new functional paradigm is related to the patterns of bicameralism. One work very relevant in that field was the one of Mastias and Grangé related to Western Europe in 1987 that has a systematic study of the senates. In that work it is paid attention to the representative nature of the senates that is territorial in most of the cases, in particular in federal or decentralized states, and the main function usually as a chamber for a second reading of laws. More elaborated is the analysis of Lijphart (2000) that distinguishes between strong and weak bicameralism depending on they have the same party structure (congruent/incongruent) and the same legislative power (symmetric/ asymmetric).

2.9.4 The Neo-Institutional Approach

At the end of the twentieth century there was a change in the analytical study of parliamentary government based on two main new perspectives. One is the neo-institutional approach that considers institutions as determinant of the decision making process. The second is the rational choice approach that takes into account mainly the dynamics of parliamentary actors both individual and collective. Finally both of them conflate into the rational choice institutionalism. However there are two schools on new institutionalism: the rational institutionalism and the historical institutionalism. New institutionalism is different from the formalist approach though both take institutions as the main object of study. Institutionalization has been a main topic of the political development of the 70s due to the rediscovery of the relevance of state structure and its political autonomy from civil society.

Huntington (1990) formulated a seminal work to evaluate political institutionalization identifying adaptability, complexity, autonomy and coherence as the main characteristics. As an example of the influence of this analysis in the study of parliaments is the work edited by Copeland and Patterson in 1997. They explained clearly the nature of parliaments: they are institutions that institutionalize democracies. According to them a highly institutionalized legislature exhibits autonomy, formality, uniformity and organizational complexity study of parliaments is the work edited by Copeland and Patterson in 1997. They explained clearly the nature of parliaments: they are institutions that institutionalize democracies. According to them a highly institutionalized legislature exhibits autonomy, formality, uniformity and organizational complexity.

Now it is difficult to understand legislature and other government structures without taken into account their institutional characteristics. Neo-institutionalism implies a commitment to institutional rules and explanations of political behavior. It also presumes that institutions themselves can be explained in terms of goal oriented human behavior (Strom 1996:77). More than that as we will see below today there is a need for improved understanding of the process that translate political action into institutional change, and better knowledge of how an existing institutional order impacts the dynamics of change and what other factors can be decisive (March and Olsen, 2008:16).

2.9.5 The Rational Choice Approach

According to Strom (1996:52) the new institutionalism in rational choice analysis emerged as a reaction to the poverty of prevailing conceptions and the lack of analytical explanations to account for institutions in a rigorous, plausible and systematic way that would allow us to understand their impact on legislative decision making. The rational choice approach considers institutions like the parliament as the outcome of individual`s actions since political agents are considered to behave rationally, but at the same time this approach considers that institutions affect what people (actors) do. There are two type of analysis that rational choice makes about institutions being the main topics: rules of the game and institutional equilibrium.

On the one side institutions are considered the rules of the game: they determine what actors can or cannot do and the consequences of various possible actions. In fact in rational choice institutions are studied in a context structured as a game form -as we will see below. Under this point of view what is the most important perspective is to see how agents affect institutions. In other words the object under consideration is the rational behavior of actors. More precisely, as the rule of the game an institution is considered a script that names the actors, their respective behavioral repertoires (or strategies), the sequence in which the actors choose from them, the information they possess when they make their selections, and the outcome resulting from the combination of actors choices (Shepsle ,2008:24)

On the other side institutions can be considered as equilibrium, they are the outcomes of the interactions between actors determined by their preferences. Institutions are simply equilibrium ways of doing things, the way in in which the players want to play. The object under consideration in this case is equilibrium analysis. They introduce coordination around the actor's arrangements. From the rational choice point of view institutions affect agent expectations, reducing uncertainty when taking decisions. Institutions structure the system in which actors behave, open up some possibilities and foreclose others.

According to Eriksson (2011:155) they affect the real payoffs of different actions and reduce the uncertainty about the outcomes of these actions. Not only institutions exist as equilibrium outcomes of agent´s strategies, they are also a stable pattern of strategies; in the case of parliaments they are formal patterns that help actors to define their strategic behavior. To produce equilibrium institutions are deliberate creations and the result of cooperation as expressed in the prisoner's dilemma. They serve the interest of the actors. From this point of view institutions like parliament have a functional nature, they are deliberately created by actors because it is in their interest: they organize the decision making process. On the one side parliaments as such shape the equilibrium among political actors, on the other side parliaments formally produces institutions (laws) that reflect particular equilibrium situations.

From the rational choice point of view there is also a theory of institutional change. Institutions are stable structures because are the result of an equilibrium and nobody has the incentives to change them, given the distribution of preferences and power. But in fact they are stable so long as the equilibrium between individual strategies holds; more than that the institutions tends to be more stable, the more the relevant actors benefit for it. Institutional change is the result of an equilibrium crisis that produces a new distribution of power among actors. After elections a parliament reflects the new equilibrium and, if it is the case, permits the change of the status quo. However institutional change can be considered as nonstop process. In fact the analysis of institutional stability and change from the rational choice perspective has another different theoretical point of view. It distinguishes between two moments: the situation before a particular institution has been created that is different from the situation once it exists. In addition, as we saw before, once an institution has been formed it becomes part of the background that specifies

available options and their consequences (Eriksson, 2011:159). As a consequence institutional equilibrium is always unstable and Institutional stability or change can be explained by different conditions. One is transition costs of change that might be very high, other is learning effects and a third one is adaptive expectations. It is obvious that with repetition actors learn how and institution can be handled and adapts their actions to it in ways that help make expectations about the institutional functions come true.

In relation to the study of parliaments an interesting distinction of the rational choice is among structured and unstructured institutions (Shepsle 2008:27). Structured institutions like parliaments are formalized while unstructured are amorphous and implicit like coordination activity, cooperative arrangements and collective action. Parliamentary conventions are an example of unstructured institutions. The main part of rational choice institutionalism is related to structured institutions.

According to Shepsle (2008:28) among the topics considered by structured institutionalism that shapes the whole process of democratic preference aggregation we can find five features. First electoral systems or the way actors are elected but it takes also into account that politicians behavior is determined by the fact they are elected. Second, policy outcomes that derive from the process of selection of politicians, or in other terms, it should be considered that policy is made by office-oriented politicians in order to win elections. Third, politician behavioral repertories (strategies) that are delineated by institutional rules and processes, for example in the legislation game the procedure is always precisely defined. In addition the policy outcomes are clearly implied by the configuration of rules. Four payoffs may be inferred from objective functions of politicians that can be oriented toward policies or offices. Finally, there is the electorate preferences in terms of agency problems (see below).

2.9.6 The Game Theory

Game theory is formally a branch of mathematics developed to deal with conflict of interest in social sciences. In particular it has been very relevant in political science since it studies strategic situations. As a matter of fact one usually finds formal models in political science reviews. It is a part of rational choice theory that focuses particularly on the strategic aspects of decision making. A game is a situation involving two or more actors (players) in which the interest of the

players are interconnected or interdependent. Underlying the entire structure of game theory is the key assumption that players in a game are rational or utility maximizes. Rationality simply means that a player in an interactive situation will act to bring about the most preferred of the possible outcomes, given the constraints that other players are also acting in the same way. The basis of the analysis is the classical choice theory, more precisely the preferences of the actors transformed by the utility theory.

The heart of contemporary "formal political theory" is non-cooperative game theory. The basic analysis is of normal form games with complete information sustained under the typical solution of Nash equilibrium. A more elaborate analysis refers to normal form models in which agents are uncertain about the payoffs associated with different strategy combinations. It is a game of incomplete information. More than that, there are dynamic, multistage games with or without complete information for players. There are also repeated games as object of study. A relevant part of game theory is the process of bargaining (McCarty and Meirovitz, 2007)

A game in a normal form in which agents have complete information assumes that all elements of the game -players, strategies and payoffs- are known to all players. In every game it is assumed that there is individual rationality in term of preferences that can be ordered, in addition the preferences are complete and transitive. Completeness refers to the fact that an individual can compare any two alternatives with each other. Transitivity refers to the fact that confronted with three options, if a person happens to prefer X to Y and Y to Z , then the person also prefers X to Z. A game model as also a solution related to the fact that can be made conjectures about the possible outcomes when the game is played by rational actors. One well known solution concept is Nash equilibrium. It refers to a play in which none of the individuals can secure a more preferred outcome if the others stick to their strategies. A game under normal form has consequently a characteristic situation consisting in, first, a set of individuals; second, a set of strategies available to each individual; third, a procedure that assigns an outcome to each possible combination of individual strategies; and finally the individual preferences regarding a set of possible outcomes (van Hees, 1997). From the institutional perspective games are played taking into consideration three dimensions. One is the institutional structure that establish constrains within which actors act and interact. Those constrains are related to individuals (who

can be an actor), their strategies (what can and cannot be done) and their preferences. Another is the procedural dimension that refers to mechanisms which systematically transform the actions taken by individuals into particular results. They link individual strategies with outcomes. Structural and procedural aspects of institutions are described by the game (weather in normal or extensive form). Finally, the third dimension is the behavioral related to the way players act. It is captured by the solution part of the game (Van Hees, 1997).

Game theory is a reductionist approach in institutional analysis (Van Hees, 1997). In this way it helps to model the various dimensions of institutions in a coherent and systematic way. It helps to understand how decisions are taken in an institutional context considering the way players act. Game theory provides a tool for endogenous treatment of institutions. What is the most relevant aspect form game theory is that it presupposes that agents act according to their preferences, maximizing its utility. Then game theory helps to understand in a specific way how agents act in strategic situations under the base of their preferences. It explains what rational strategies are for every agent who knows that other agents are trying to maximize their utility. It finally gives the equilibrium situation in which any of the agents can increase its utility modifying unilaterally his strategy. In sum the game theory permits, first, identify relevant players, second their preferences, third the information players have, four the strategies they can play, and finally the equilibrium that results in by a combination of strategies.(Sanchez-Cuenca: 2009,10).

Parliamentary activity can be studied under the game theory. Both the legislative process and the scrutiny process can be considered as games. In fact every parliamentary procedure can be studied as a game since there is competition among different actors such as MPs, parliamentary parties and even among formal institutions such executive vs. legislative, the plenary vs. the committees. One field in which the game analysis has been highly developed is related to parliamentary coalitions. In the game theoretic tradition coalition formation has been one of the dominant analytical frameworks based in the bargaining process. It is also at the core of the party government theory. The ability of political actors to form successful coalitions is essential to representative democracy. In fact political parties are in themselves political coalitions of individual politicians who run for election under the same label. There are different types of coalitions. The most studied are government coalitions in parliamentary systems based on

parties, because they are related to the control of the executive power. Those coalitions have two strategic facets for actors, one is office seeking, the other is police seeking. Coalition formation in presidential systems is also very relevant, in that case the analysis refers to legislative coalitions centered in supporting legislation, and they are mainly oriented to policy seeking.

Coalitions can be made on one issue or bill at a time or can be much more durable or comprehensive. To formalize a stable coalition is a survival strategy since it enables politicians to influence government decisions, earn trust of non-governmental actors, and maintain good long-term relations with voters while paying relatively low transactions costs (Strom and Nyblade, 2007: 785). Coalition formation is mainly explained by the bargaining theory that is one of the topics central to game theory. The classic theory of bargaining is the W. Riker´s theory of political coalitions that applies the utility principle of von Neumann and Morgenstern to political situations. Riker´s analysis centered in the size aspect of coalitions and predicted that coalitions tend to the form of "minimal winning coalitions". Based on cooperative game theory, Riker modeled the formation of coalitions in a zero-sum bargaining game, in which participants divide and share something valuable to each of them, and will form a coalition as large as they believe will ensure winning and no larger. According to this viewpoint undersized coalitions will be vulnerable and oversized coalitions have the problem that their members will find payoffs too thin.

However the real world is different from what predicted Riker, for example it is very common to see in Europe oversized coalitions and minority governments. Axelrod and De Swaan gave policy a central role in the study of coalition bargaining to form a government. In their analysis policy coherence is the attribute that actors attempt to maximize. As a result of this analysis the general behavioral assumption in the bargaining process is that ideological connected coalitions will have lower conflict of interest and are easier to form. These theories incorporate policy preferences over policy matters in modeling the bargaining game of coalitions and ideology and party program became part of the bargaining process evaluation.

Since policy and ideology are considered central to form a coalition the analysis finally rests upon the spatial bargaining logic of Downs that emphasizes the advantages of centrally located

preferences in un-dimensional or multidimensional policy spaces. Consequently the spatial analysis explains that coalitions tend to form around the median party, as for example the 80% of government coalitions formed in Europe between 1945-1980. The extreme parties never are part of a coalition and in the case there are extreme parties in a coalition, it is very instable.

These models emphasize how both relative size and central policy preferences enhance parties bargaining power. In practice a large, centrally located party with many potential coalition partners may be in a position to form a government on its own because, in non-majority situations, the greater the bargaining power of the dominant player in coalition the smaller the government is likely to be. The concentration of bargaining power in one party makes minority government more likely to minimal wining coalitions and even more so relative to surplus coalition governments (Strom and Nyblade, 2007:790).

A very relevant topic of coalition formation is related to the multidimensional nature of policies. Multidimensionality with a multiparty system or in legislatures with low party cohesion drives to circular vote and chaos. However it is possible to predict coalitions in multidimensional situations. In this case the structured inducted equilibrium plays a relevant role. For example, in case of legislative coalitions, the committees system inducts equilibrium by introducing policy specialization. Specialization means that each committee deals with only one single dimension (Laver and Schofield, 1991: 127). It is also the case with bicameralism.

2.9.7 The Principal-Agent Theory

The agency theory makes possible to formulate hypothesis about the structural way democracy works and in particular about parliamentary democracy. Agency process is based on delegation and accountability. The delegation of power goes from a principal to his agent; the responsibility goes from the agent to his principal as a logical consequence of the delegation. Agency theory considers that both principals and agents act rationally on the information available to them. In this scheme principals face information scarcities and information is critical to know what agents are doing with the delegated power. Another characteristic is that in the agency relation the principal´s preferences are privileged (Strom 2003:60)

The principal-agent theory is based on economic theory of choice and behavior. It assumes that actors are interest- maximizing and opportunistic (Braun and Gilardi, 2006:4). Rarely is a completely harmony between the principal and its agent, only it is usual between the executive and its single party majority in a parliamentary government. Most of the time there is conflict of interest between the two actors, for example between the cabinet and the opposition. An immediate implication of the conflict of interests is that the agent will systematically try to maximize his own interest instead of that of the principal. Another important assumption of the agency structure is that information is asymmetrically distributed between the two actors, typically being in favor of the agent. As a result of the conflict the delegation can produce agency problems. Agency loos occurs when agents are not perfect and take action different from what principals would have done if they have done the job themselves (Lupia 2003:35). In sum, agency loos is a consequence of divergences between principals and agents as well as asymmetric information.

Agency problems under incomplete information may take the form of hidden information or hidden action. These cause two main problems for the principal: one is adverse selection, the other is moral hazard. Adverse selection occurs whenever the principal selects the wrong agent because has not the appropriate skills or preferences. Moral hazard occurs when the agent once selected have incentives and opportunity to take action contrary to the principal´s interests and cannot be perfectly monitored by the principal. These problems could only be avoided if the agreement of the principal and the agent could be fixed in perfect, complete contract. However a contract of this kind is not possible since contingencies that have not been planned inevitably arise. The principal´s problem is then to prevent the agent from shirking.

Adverse selection is in the core of the study of political representation. To select the good agents is the primary democratic challenge. Moral hazard is dependent on significant parameters of delegation such as the discretion of politicians, the spoils under their control or the strength/weakness of oversight mechanisms (Strom 2003:88). Delegation process usually has different stages depending on the model of democracy. In parliamentary democracy there is a chain of delegation of four stages, one is from voters to parliamentarian's, another from

parliamentarians to the cabinet and its chief executive, another from the cabinet to the ministers and, finally, from the cabinet members to the civil servants. In a presidential system there is a first and basic delegation from voters to the congressmen and from the voters to the chief executive. There is a second delegation from the president to the ministers or state secretaries and a third form them to the civil servants.

To counteract the dangers of agency loss the chain of delegation needs to be coupled with political accountability mechanisms by which politicians can be checked and if necessary removed. Accountability implies that principals can control agents, it means that they have the right to demand information to agents and a capacity to impose sanctions. There are four institutional mechanisms that permit principals to control their agents. One is the contract design, another is screening and selecting mechanisms of agents the third is monitoring and reporting requirements and the four institutional checks. The former two are ex ante mechanisms for containing agency losses and permit the principal to learn about the agent before she acts and look for the best agent. The other two are ex post mechanisms of control that permits the principals to learn about agent's action after the fact.

By means of contract design there is an agreement by which it is established shared interests between principals and agent. When the agent offers a contract like a legislative program reveals things about himself that help the principal to limit the extent of agency loss. By means of the screening mechanism the principal sort out good agents from bad ones and it usually implies a process of competition between potential candidates that helps the principal to choose her agent more effectively. By means of the selection mechanism the agent demonstrates his suitability. In parliamentary terms the selection of agents goes beyond legislative recruitment. It also includes "candidate selection" that is in fact the most important stage in the general recruitment process, usually developed within particular parties (Hazan, 2002:109).

Electing parliamentarians depend on electoral institutions that are complex and subject to manipulation or engineering. The ex post mechanisms of control are based on three ways to gain information about agent´s action: direct monitoring, attending what the agent says about his activities and attending a third party testimony about agent actions (Lupia, 2003:49).

2.9.8 The Agenda Setting Approach

Agenda setting constitutes one of the most significant contributions of rational choice institutionalism to the study of legislatures. It is a theory for the analysis of legislatures linked to the public choice revolution. It is a key issue in understanding the structure of legislature power that considers legislative institutions as means of the agenda formation with policy consequences. In its main premises legislative agenda setting is linked to understanding preference aggregation problems referred to the ways in which a group preference can be inferred from the preferences of individuals, such as legislators. While a person can have complete and transitive preferences over a set of alternative outcomes, the same cannot be true with respect to groups such as legislators, as explained by the well-known Condorcet paradox. The paradox tells that a voting cycle can occur with as few as three players and three alternatives. In a voting cycle a position A can be preferred to another B that can be preferred to anothern C that at the same time can be preferred to position A. The likelihood of collective preference cycles increases with the number of players and the number of ordered outcomes (Strom 1996:56). Given the cyclical nature of voting systems they can be subject to strategy and a self-interested agenda setter can manipulate the voting process as to put his own preferences in a better position.

That is why in the US Congress legislative parties specialize in controlling the agenda rather than in controlling the votes. Parties seek first to determine what is voted and second pressure on determining how their members' votes are cast. In terms of Cox and McCubbins (2004) the legislative agenda is cartelized by members of the majority that want to monopolize it. The way to cartelize it is by controlling agenda setting powers that are delegated to committee chairs, the speakers or chamber presidents and the legislative rules. Agenda setting powers means any special ability to determine which bill should be considered on the floor and under what procedures. By forming a procedural cartel the senior officers can exercise a "positive agenda power" that is the ability to ensure that bills reach a final passage vote on the floor, even though these bills ultimately may not pass, or "negative agenda power" referred to the ability to prevent bills from reaching a final passage vote on the floor. In addition to cartel the agenda it is considered that legislating in the US entails overcoming an array of cooperation and coordination

setting that are defined by procedure rules such as who settles the order of the day in the plenary, the rights of permanent legislative committees that can be exercised independently of the plenary, the determination of committee members, the majority´s influence on the president of the parliament, the powers of second chambers to veto legislation, the restrictions' on private member's initiative and amendments, the power of whips to monitor their backbenchers behavior, and the voting procedures.

Another perspective is the one of Tsebelis and Rash (2011) that distinguishes among three dimensions of the agenda setting phenomenon in comparative terms. One is the institutional dimension that plays a very large role. Constitutional and parliamentary rules and time constrains (as explained by Doering, 1995) influence the ability of different branches of government to constrain the legislature´s activity, in particular the government prerogatives in setting the timetable of the plenary. Even though the legislative procedures are very similar in different parliaments the outcomes of agenda setting in practice vary widely depending on the ability of the representative of the government to influence legislative outcomes.

A second dimension is the partisan and cohesion of parliamentary actors. In a legislature where a simple and cohesive majority exists minorities have their hands tied, however the situation is different when minority governments face non-cohesive majorities. Agenda setting differs across these two broad scenarios. The final factor is the positional dimension of agenda control. Positional influences come from the location and strength of potential veto holders, as well as the position on the political spectrum of the agenda setters. An agenda´s setter positional opportunities grow if he is one of the veto players necessary to change the status quo policy or/and has a central place in the political space of the agenda setters. In the interaction of parliament and government the three dimensions can substitute each other. Partisan and positional agenda setting powers compensate for low levels of governmental agenda setting powers on the institutional level. More precisely, countries like UK and France usually have both partisan and Institutional advantages attributed to government However in countries like Denmark and Norway governments are usually weak institutionally. In these countries the government is dependent in being located in the center of the political landscape to get its program adopted.

2.9.10 The Historical Approach

Rational choice is considered a historical though it is studied history contingent strategies when repeated games are considered (Sheepsle 2008, 32). However this perspective has nothing to do with the premises of historical institutionalism. Historical institutionalism is one of the bases of new institutionalism. It´s main center of interest is the historical development of institutions mainly their origins, development and relationship to policy and behavior rather than the functions (Thelen 1999:382). In other words it studies construction, maintenance and adaptation of institutions (Sanders, 2006:42). Historical institutionalism wants to know the long-term viability of institutions and their broad consequence. Talking about parliamentary democracy institutionalization can be viewed then as a historical process whereby parliaments become functioning institutions with a distinctive positioning within the political system. The notion of path dependence is central to historical institutionalism. It is centered in finding the crucial founding moments of institutions and the branching points of their transformation. In addition to these topics it is also oriented towards identifying the positive feedback of the institutionalization process that reinforces path dependence patterns. In sum from that point of view it is relevant the study of origin of institutions and their evolution.

Historical institutionalism is also interested in the process of institutional reform at the same time that pays attention to political stability. Both are sides of the same coin (Thelen 1999:399). As explained by Sanders (2006:44) it can be considered agency in both the path establishment and the pressures for institutional change. Particular institutional configurations depend on particular mechanisms of reproduction that sustain them (positive feedback), when they are altered there is an institutional change. More than that it can be said that there are vested interests in particular institutions and those interests are what sustains these institutions over time. It means that at the end institutional changes are better explained throughout a power-distributive approach. This way one can consider that institutions are specifically intended to distribute resources to particular kinds of actors and not to others, especially when institutions mobilize significant and highly valuable resources (Mahony and Thelen, 2010:8).

Institutions once created reflect the power of one group (or coalition) relative to another and often reinforce power disparities. As a result dominant actors are able to design institutions that closely correspond to their well–defined institutional preferences. For those who are disadvantaged by prevailing institutions there are two exits, one is adapting until conditions shift, the other is pursuit goals different from the institutions designers. But not always it is the case and sometimes institutions reflect a conflict among groups or the result of ambiguous compromises among actors. Where institutions represent compromises or relatively durable though still contested settlements based on specific coalitional dynamics, they are always vulnerable to shift. In consequence shift in institutions reflect the balance of power.

From the viewpoint of institutionalization one can say that even though parliaments are institutionalized organizations they must adapt to change. Depending on its function a parliament should adapt to a change of its missions or to change to be able to fulfill its mission more effectively (Copelan and Patterson, 1997: 153). Parties are core actors in any democracy because they determine how parliament work is conducted. In parliamentary democracies there is an intimate connection between the parliamentary basis and party composition of governments on the one hand and activity in parliament on the other. The rules, procedures and norms of parliamentary work are the most conspicuous places were parliamentary changes can be observed. But not only internal reforms are sometimes needed but also external reforms referred for example to the structure of a party system, or referred to the process of decentralization or a formation of multi-governance system in which delegate legislative power.

Historical institutionalism helps to elaborate hypothesis about particular forms of institutionalization of democratic government, the role parliaments play in a system and the process of adaptation and reform. By considering the path dependence of a legislature one can identify the founding moments, the crisis and moments of change. It also helps to consider agency by evaluating particular distribution of power through out institutional arrangements such as the relation executive-legislative.

CHAPTER THREE

THE LEGISLATIVE BENCHMARKS

1.1 Introduction

This chapter looks at the different international and regional parliaments including the European Parliament, Pan African Parliament and East African Legislative Assembly. It aims at picking best lessons for possible application to Uganda

1.2 Transformation of the Pan-African Parliament

In Africa, perceptions of parliaments and their capacity to further democracy are generally far from positive. Parliaments are commonly seen to be ineffective, powerless, useless, often redundant, or just talk-shops. the history of African parliaments, from the early years of independence to the post-independence period, is one riddled with institutional weaknesses and limited decision-making roles in the face of strong executives. But since the resumption of multiparty elections in many countries and the inculcation of democratic values across the continent, there has been a revival of belief in parliaments as potential agents of democratic change. The pan-African parliament (pap) was created in 2001 to promote popular participation and representation of African peoples in decision-making, good governance, oversight, accountability and transparency. Its creation was possibly a result of renewed confidence in the ability of parliaments to uphold good political governance and, as the representative structure within the continental governance system; it is against this belief that the pap must be appraised.

Accordingly, article 3 of the pap protocol outlines some of the key objectives for which the pap is responsible. These objectives are, inter alia, to promote human rights, democracy, peace and security; to facilitate cooperation and development on the continent; to strengthen continental solidarity and build a common destiny among Africa's peoples; to encourage good governance, transparency and accountability in member states. Equally important is the objective of 'familiarizing the peoples of Africa with the objectives and policies aimed at integrating the African continent within the framework of the African union'. These objectives theoretically

combine to place the pap at the centre of key processes relating to the emerging political, governance and economic architecture of the African continent

However, many challenges remain. it has been noted that, because of its lack of legislative powers and its weak decision-making role within the au governance architecture, maybe also because of its location in South Africa, the pap remains less effective than it could be and occupies a marginal position in the policy-making process of the continent because of its lack of legislative powers and its weak decision-making role within the au governance architecture, the pap remains less effective than it could be article 2 (3) of the pap protocol, signed in 2001, envisions the transformation of the parliament into a legislative body. The protocol clearly stipulates that it is the 'ultimate aim' for the pap 'to evolve' into a legislative body, with members elected by universal suffrage. The wording used is instructive, as it indicates an aim to which to aspire, rather than providing a definite objective to be achieved within a specific timeframe. Instead, the protocol provides that the first step towards this vision remains with member states of the AU, which are charged with amending the pap protocol.

Article 25 (1) regarding such a conference should be read to include an assessment of the pap as an institution, particularly to evaluate its work, its effectiveness, and whether it has acquitted itself well enough during its first term to warrant increased power. Currently the pap has only advisory and consultative functions. this means that its 'decisions', principally its resolutions and recommendations, are merely advisory to the au and structures mandated to make policy decisions on behalf of the continent. The problem with this is that the consultative and advisory functions are not mandatory; the au policy-making institutions are not obliged to consult with the pap or seek its input in the decision-making processes. Indeed, recommendations and opinions, by their very nature, have no binding force.

Articles 6 (f) (iv) and 14 (2) of the Abuja treaty, which also envision universal suffrage for the election of members and call for the powers of the new body to be clearly defined. In terms of article 25 of the pap protocol, after the end of its first term, which is likely to be in March 2009, 17 a conference of the state parties to the protocol must be convened to review its operation and effectiveness, with a view to ensuring that the objectives, purpose and vision underlying the

protocol are realized. This means that there will be no automatic transformation of, or granting of legislative powers to, the pap. This means that if the pap is transformed into a legislative body, there will be a need for an executive and a judiciary to complement the pap. for instance, in exercising its functions and powers, as stipulated in article 11, the pap shares its objectives with other critical institutions of the au, and the economic, social and cultural council (ecosocc), as well as various Regional Economic Communities (REC) – among others, the Southern African Development Community (SADC), the East Africa Community (EAC) and the Economic Community of West African States (ECOWAS). RECs are seen as important pillars that can facilitate political and economic integration at the national, regional and sub regional level. What is not clear is how the pap should, or will, share its responsibilities with regional parliaments or assemblies.

1.3 Lessons from the European parliament

The European parliament (EP) provides by far the best example of a comparative supranational legislative body from which the pap could learn and upon which it could model itself. Therefore, in considering the role of parliaments as a whole, it is imperative to look at the evolution of the EP and the critical steps that led to its present position. The EP has two vital characteristics that the pap should ideally develop: it possesses legislative powers and its members are elected by universal suffrage. Furthermore, it plays an important role within the EU governance processes and it has equal weighting with the council of the European Union (the council) with regard to budget and laws. The EP also has the power to approve the appointment of the commission president and, through a vote of censure; it may force the college of commissioners to resign. The EP also participates in EU foreign policy by exercising powers of assent over any international treaty the EU signs.

1.4 European Parliament Legislative Powers

The EP did not gain legislative powers overnight. These were assigned gradually over a period of time. The first time that the EP's powers were enhanced was in 1987 when the single European Act (sea) came into force. the EP then gradually and incrementally gained real legislative powers, first through the Maastricht treaty, which came into force in 1993, and then through the

Amsterdam treaty of 1999. The successive treaties have thrust the role and power of the parliament to the fore and have propelled it to a key role in law-making within the EU.

The EP presently shares legislative power equally with council of the EU, particularly in the areas of budget and law making. When considering the future of the pap against the EP, it is critical to look at these powers and to reflect how they have transformed the role and position of the EP within the EU governance processes. In this way the EP has progressed from holding little more than consultative powers to wielding significant legislative powers in a wide range of areas (but not in foreign affairs) and has gradually and incrementally gained in importance and relevance within EU governance structures. A number of comparative lessons arise from a study of this development, which any assessment or potential review of the pap and its ultimate transformation would do well to take into account.

Firstly, the pap is still in its embryonic stage. It took the EP approximately 29 years (until 1987) to acquire any significant extra powers. So, while it is self-evident that the pap has not done enough, to demonstrate its readiness to acquire legislative powers, is it realistic and practical to expect that the parliament should be transformed into a full legislative body after only five years? It is possible to argue that, between its establishment and its gaining of legislative powers, the EP focused on building its institutional capacities and strengthening its role. Secondly, the EP's evolution from consultative to legislative power was gradual, taking place from 1958

1.5 The East African Legislative Assembly

There are numerous regional legislative bodies on the continent that are supposed to anchor and facilitate the process of regional integration. Of these regional assemblies, only the East African Legislative Assembly (EALA) stands out as having significant legislative powers. This makes the EALA an important body to review for the purposes of this study. The EALA is a fairly new institution. It was established in 1999 after the signing of the treaty for the establishment of the East African Community, but was inaugurated on 29 November 2001. Indeed, the assembly only started serving its second five year term when its members were sworn in on 5 June 2007.

Members of the EALA are drawn from the five member states of the East African community: Kenya, Tanzania, Uganda, Burundi and Rwanda. It should be noted that soon there will be representatives from South Sudan and other potential members who have indicated interest in joining the EAC such as the Democratic Republic of Congo and Somalia. There are currently 52 members, nine members from each member state and seven ex-officio members. Yet, as in almost all regional legislative institutions, the EALA's members are not elected directly. Rather, their respective national assemblies vote them into their positions, though they are not necessarily from the ranks of those assemblies. Furthermore, there are issues concerning adequate representation. This centres around consideration of factors such as population size and density, which should determine the creation of constituencies and the number of seats each member, holds (as in the EP).

Under the treaty, the EALA is mandated with the legislative function of the East African Community (EAC). Its powers include approving the budget of the EAC, considering annual reports, audit reports and any other reports referred to it by the council of ministers, and discussing all matters related to the EAC, making any recommendation it deems necessary. The EALA exercises oversight over all the work of the EAC, which means wide responsibilities. The assembly has passed numerous pieces of legislation such as the East African legislative assembly (powers and privileges) act, 2004, the East African community customs management act, 2004, and the community emblems act, 2004.

However, ongwenyi (2017) is critical of a number of areas that seem to compromise the assembly's independence, particularly with regard to the principle of separation of powers, as the EALA shares legislative powers with the council of ministers. As with other legislative bodies, the bulk of the EALA's activities are carried out within the committees. These are set up according to the rules of procedure of the EALA. There are presently seven standing committees, which are responsible for specific areas (accounts; house business; regional affairs and conflict resolution; general purpose; agriculture, tourism and natural resources; legal, rules and privileges; and communication, trade and investments). The general responsibilities of the standing committees include examining, discussing and making recommendations on all bills before the assembly, initiating any bills within their respective mandates, assessing and

evaluating the activities of the EAC, and examining EAC's recurrent and capital budget estimates, among other things.

It appears that, by comparison with the pap or even other regional legislative bodies, the EALA has significant powers and far-reaching responsibilities. This makes the EALA an important object for any comparative study intended to show how the pap may attain and exercise legislative powers over critical functional areas. Despite the EALA's legislative powers, however, a number of issues need to be taken into account when considering regional parliamentary assemblies, as they are currently constituted. One is that no regional assembly in Africa is directly elected, but the membership is either elected indirectly or nominated by national legislatures. This makes it difficult for regional assemblies to be independent, and their members are oft en subject to recall by national parliaments.

A second issue relates to the powers allocated to the regional assemblies, including the power to discuss and approve the budget of the regional community, as in the case of the EALA. It has been observed that the power to discuss and approve the budget does not necessarily entitle the legislative body to draw up, initiate or revise the said budget. What happens when the assembly does not approve the budget? The heads of state still retain a right of veto and can approve the budget, despite the EALA's rejection of it. Thus it is possible that, even with such powers, a legislative assembly may potentially become nothing more than a mere rubber stamp for decisions made by executive bodies. Related to this is the concern regarding the institutional capacity of legislative bodies to meaningfully fulfill their role, reflecting the perceptions about the 'institutional weakness and limited decision-making role of these bodies in Africa.'

One of the challenges facing the EALA relates to a lack of clarity about the role and responsibility of the secretariat and the committee of house business. this problem, it has been noted, has had the effect of raising competition and lessons be drawn from the EALA, especially regarding the vesting of legislative powers, which alone do not guarantee an effective parliament. What seems to be critical is the binding force of the decisions of the parliament, its active involvement in decision-making processes, and the need for political will and 'informal' political networks of influence. Many concerns regarding the regional legislative assemblies as

currently constituted in Africa have arisen. it has been asked: whether they can effectively exercise the oversight and control functions at their disposal, to what extent the limited (advisory and consultative) powers most of these assemblies currently possess undermine their position, or perpetually subordinate them to strong executive structures, whether the democratic culture and political will exists in Africa in order for legislative bodies to be granted 'equal power' (amounting to a veto) alongside the executive structures despite these concerns, there are still important lessons from which the pap can draw as it seeks to shape its next term and ultimately move towards transformation.

1.6 Probable paths to Pan African Parliament transformation

It remains highly unlikely that state parties (particularly the heads of state) will consider transforming the pap or grant it significant legislative powers in the absence of a demonstrable state of readiness on the part of the au, the member states themselves, recs, and other entities. They may also be held back by doubts about how well the pap has lived up to its objectives, vision and mandate. Among the issues they may need to consider is whether the pap has developed sufficient technical and institutional capacities to handle the responsibilities that would come with the transformation. This presupposes that many of the leaders have the political will to ensure that transformation takes place, thus a concern may be raised as to whether African leaders have indeed overcome the political culture in which the powerful executive is oft en not subject to oversight by legislative bodies.

The pap faces many challenges, and there are strong reasons why it should not be vested with significant legislative powers in the short and possibly even the medium term. yet the very same factors used to diminish the pap's readiness for legislative power can equally be used to make a credible case for why the pap should in fact be transformed, with more substantial powers, if it is to become an institution that effectively discharges and realizes the objectives, mandate and vision expressed in the pap protocol, the au constitutive act, and the Abuja treaty. Some of the challenges facing the pap, which it needs to address before it can realistically aim at substantive powers and a prominent role, are discussed below. The pap's lack of enforcement powers, in other words, its inability to ensure that its decisions (recommendations and resolutions) are

enforced or binding, is most significant and should be the first area to be addressed. As part of the transformation process, the pap should be vested with mandatory powers, especially if it is granted supervisory and/or assent functions and competencies. The present study has sought to show that where a legislative body's decisions carry legal force, this oft en enhances the role and impact of the institution. the case of the EP, and to a lesser extent that of the EALA, shows how binding decisions can go a long way in strengthening the generally poor position that parliaments oft en occupy in Africa relative to the executive branch. Parliaments are increasingly becoming key actors in facilitating the entrenchment of democracy and its values. They are critical for a number of purposes, among which are the following: to represent the majority of people in decision-making processes; to serve as platforms for debate and engagement; to hold leaders accountable; and to scrutinize policies and decisions. there is a history of skepticism about the effectiveness of legislative assemblies in Africa, but the pap was nonetheless launched as part of an ambitious quest to bring to fruition a vision of the continent as one progressing towards political and economic integration. Its envisaged role is to provide a common platform from which African people could become more involved in discussions and decision-making. In addition, the pap is meant to promote democratic principles and popular participation, and consolidate democracy and good governance.

1.7 Conclusion

Regional parliaments offer good practical experiences for application by national parliaments especially in organization and operations. However, there are challenges when it comes to representation backed by conscience especially for countries where representatives are sent in more favour- like-manner that they can only represent interests of ruling governments. Similarly, there are always challenges when implementation and enforcement of regional laws comes into play and thereby making the work of regional parliaments, sometimes inapt.

CHAPTER FOUR

ROLE OF THE PARLIAMENT OF THE UGANDA IN THE LEGISLATIVE PROCESS

4.1 Introduction

This chapter delves into the role of the Parliament of the Republic of Uganda in as far as execution of its legislative mandate is concerned. It gives an overview of the history of the Parliament and looks into the functional role of the parliament in as far as law making is concerned. Further, this chapter highlights some of the challenges that come along with the legislative processes in Uganda.

4.2 Parliament of Uganda: a Historical Overview

The Parliament of Uganda has undergone a series of changes; from being a colonial outfit linked to the colonial office in London to an independent National Assembly in 1962. Some of the political changes include the suspension of the 1962 constitution and the subsequent military coup of 1971, which suspended the operations of parliament. The overthrow of Idi Amin in 1979 and the subsequent elections of the 1980s saw the restoration of parliament as an arm of government. The political instabilities that bedeviled the country in 1980s and the consequent change of government in 1986 however, changed the way parliament was constituted. For nearly 10 years, parliament was constituted as the National Resistance Council (NRC).

With the promulgation of the new constitution, the Parliament of Uganda was reconstituted after the presidential and parliamentary elections in 1996 under the Four years after independence a political crisis arose in Uganda in the early part of 1966. The events surrounding this crisis culminated in the Uganda Army attacking the palace of the king of Buganda, Fredrick Walugembe-Muteesa II, who also doubled as the president of Uganda. Subsequently in September 1967, Dr. Apollo Milton Obote, the then Prime Minister of Uganda imposed a new constitution (commonly referred to as the pigeonhole constitution) on the nation, and declared himself President without first calling an election. The Parliament under the 1967 Republican Constitution represented the Second Parliament of Uganda. A new wave of political discontent

engulfed the nation especially in Buganda, as well as in the Army. This laid the ground for the 1971 coup by Idi Amin and the subsequent abolition of the constitution and the parliament of Uganda.

When the National Resistance Army/Movement (NRA/M) government seized power in 1986, the thirty eight leading members in the NRA and the NRM formed the membership of the NRC by virtue of service, not elections. The NRC constituted the representative as well as the legislative arm of the new government, applying what was then referred to as broad-based principle of representation where the most senior ministers were appointed from outside the ranks of the NRM. In essence the NRC was constituted of the following: i) 38 Historical Members; ii) 149 County Representatives; iii) 19 City/Municipal Council Representatives; iv) 20 Nominated Members; v) 34 District Women Representatives in the Movement system of government. According to the 1995 Constitution, Article 78(1), parliament was composed of: members directly elected to represent constituencies, a woman representative is directly elected from every district, Representatives of the army, youth, workers, persons with disabilities and other groups as Parliament may determine, elected through constituency colleges; and the Vice-President and Ministers who, if not elected Members of Parliament, shall be ex-officio members without the right to vote on any issue requiring a vote in parliament. The Parliament of Uganda has three types of committees namely Standing, Sessional and Select Committees.

4.3 Legislation

The current structure and mandate of Parliament derives from the 1995 Constitution which provided for a reorganized and more empowered Parliament and enabled parliamentarians to more actively engage in lawmaking and oversight of the Executive. The adoption of a Committee system has enabled more systematic review of bills and policy proposals from the Executive as well as more effective oversight. The Sixth Parliament (1996-2001) adopted several laws, including the Administration of Parliament Act of 1997 that furthered Parliament's development as a separate and independent branch of government. Of similar import for the independence and performance of Parliament itself, in 2000 the Sixth Parliament passed – in the face of prolonged resistance from the Executive – a private member's Budget Bill that gave Parliament significantly enhanced powers to engage in the budget process.

A survey conducted as part of USAID's evaluation of its parliamentary strengthening activities in Uganda – an evaluation that continues to set the benchmark for other Development Partners – found that 73% of respondents felt that the Seventh Parliament was either somewhat or very effective at enacting legislation in the national interest (USAID, 2007, p.8). Survey respondents reported that the two most significant legislative accomplishments of the Seventh Parliament were the Leadership Code Bill of 2001 and the Access to Information Bill of 2005. Other major bills passed by the Seventh Parliament were: the Inspectorate of Government Bill (2001); the Public Procurement and Disposal of Public Assets Bill (2002); the Occupational Safety and Health Bill (2005); the Persons with Disabilities Bill (2005) and, perhaps most significantly, the Constitutional Amendment Bills of 2005 which included provision to remove presidential term limits.

The Bill to remove presidential term limits, notoriously, was passed after MPs were paid $3000 each, supposedly to facilitate consultations in their constituencies (ARPM, 2005, p.62). This episode demonstrated quite clearly the limits of the legislature's and of individual MPs' independence, particularly in a context where the Government insisted that the ways in which Parliamentary strengthening and the Paris principles: Uganda case study MPs cast their votes would be public (USAID, 2005, p.8). The Government has not lost any legislation in the current Eighth Parliament, but has lost a small number of parliamentary motions, including one relating to the appointment of judges. A continuing issue for Uganda is that MPs can simultaneously be Ministers, a practice that is seen as limiting Parliament's independence.

4.4 Legal Framework on the Exercise of Legislative Powers

The Parliament of Uganda is established by article 77 of the 1995 Constitution. The composition of parliaments is listed in article 78 as including: members directly elected to represent constituencies; one woman representative for every district; such numbers of representatives of the army, youth, workers, persons with disabilities and other groups as Parliament may determine; and; the Vice President and Ministers, who, if not already elected members of Parliament, shall be ex officio members of Parliament without the right to vote on any issue requiring a vote in Parliament.

The functions of parliament are provided for by article 79 and among others include: Parliament shall have power to make laws on any matter for the peace, order, development and good governance of Uganda. To this end, no person or body other than Parliament shall have power to make provisions having the force of law in Uganda except under authority conferred by an Act of Parliament. The other function of parliament is to protect the Constitution and promote the democratic governance of Uganda. Further, the exercise of legislative powers is provided for under article 91 of the 1995 Constitution which includes making of bills and passing them for due transmission to the president for assent. It should also be noted that Parliament is barred from passing any law to alter the decision or judgment of any court as between the parties to the decision or judgment. Hence, it is barred from enacting retrospective legislation.

Similarly, according to article 93 of the 1995 Constitution, all laws relating to: taxation or the alteration of taxation otherwise than by reduction; imposition of a charge on the Consolidated Fund or other public fund of Uganda or the alteration of any such charge otherwise than by reduction; payment, issue or withdrawal from the Consolidated Fund or other public fund of Uganda of any monies not charged on that fund or any increase in the amount of that payment, issue or withdrawal; or the composition or remission of any debt due to the Government of Uganda shall not be passed by parliament unless the bill or the motion is introduced on behalf of the Government.

4.5 Legislative Function in Uganda: Legal Mandate

The mandate of the legislature regarding budget-making and oversight, including the Appropriations Act, is clearly anchored in the law. The self-assessment revealed that parliament has power to make laws including those that pertain to the Appropriations Act. They strongly agreed and argued that the law is very clear and therefore parliament has no mandate to impose an extra charge on the consolidated fund within the resource envelope given by the executive. While the above response is a true representation of the assessment made by the participants, it however presents a legal contradiction given that the legislature has powers to enact and amend laws. For instance, according to the 1995 constitution, Article 79 and 156 give the parliament powers to enact laws for the good governance of the state.

With regard to the power to amend the Appropriations Bill, the legislature has power to amend it but the budget ceiling or total appropriation cannot be exceeded. Though it was recommended that this should be maintained, it was also recommended that the executive should respect the pronouncements of the legislature on the budget. This recommendation suggests that there is abuse of the constitutional right of the legislature by the executive this opinion was also shared by the Round One of the API self-assessment. Indeed, the Round One of the API self-assessment recommended that there should be efforts to limit the executive's influence and to uphold the constitution.

In light of the above, MPs and parliamentary staff recommended that it would be imperative to amend Article 154 of the constitution to remove the ceiling on charging the consolidated fund. In view of the mechanisms to track legislation, it was pointed out that although some mechanisms exist for the legislature to track legislations, the mechanisms are not adequate and consistent enough and, therefore, need to be strengthened. Indeed MPs and parliamentary staff do recommend that in a bid to strengthen the tracking system, an online system ought to be established. In addition, they recommended that the parliamentary information centre must also be well stocked with all Acts including amendments for easy access. The self-assessment team believes that this ought to be supported and argued that there are inadequate resources committed to this effort, given its centrality in the process of legislation. This clearly demonstrates the need to improve this area's capacity.

With regard to opportunities for public input into the legislative budget debates, it was established that there exist adequate opportunities for this. They are provided for in the Budget Act. For instance, section 7(4) of the Budget Act states: "In the exercise of their function under this section Committees of Parliament may call a Minister or any person holding a public office and private individuals to submit memoranda or appear before it to give evidence". Nevertheless, the MPs and the staff underscored the need for more time and more public sensitization about the powers of the public to discuss and contribute to issues related to the budget, based on the constitution and the law.

4.6 Financial Function of Parliament

The financial function is one of the major responsibilities of the legislature. In the parliamentary parlance, it is referred to as the legislature's power of the purse; by implication the legislature is the central point of reference in terms of public accountability. For the legislature controls the resources of the State and therefore it holds the responsibility to appropriate such resources. In that regard, members of parliament approve of taxes and also determine how those taxes are expended. It is imperative to note that the financial function of the legislature goes beyond mere allocation.

4.7 Budget Review and Hearing

The assessing team pointed out that there is inadequate time for the legislature to review the budget. According to the 2001 Budget Act, the legislature has at most three months to review the budget. Members of Parliament advised that there is need to increase the time. There is an Appropriations/Budget Committee with the sole mandate of reviewing the budget. This is provided for in section 19 (1) of the 2001 Budget Act. Indeed the Budget Act provides for early submission of budget proposals to Parliament's Appropriations and other sessional committees. This implies that the executive, represented by the Minister of Finance Planning and Economic Development, has a duty to submit its annual estimates to the legislature. In addition, section 6 (1), highlights that each Minister shall prepare and submit to Parliament a policy statement of the relevant ministries on the preliminary estimates submitted by 30th day of June of each calendar year. The participants recommended that the status quo should be maintained.

There are public hearings on the budget by the Budget and other Committees. During these hearings evidence from the executive and the public is taken into account. These hearings are provided for in the 1995 Constitution, the 2001 Budget Act as well as in the Rules of Procedure. The Budget Act for instance gives the committees explicit authority to call ministers, other officials or private individuals to give evidence. Nevertheless, the MPs and parliamentary staff alike noted that the Appropriations Committee and other Committees are inconsistent in holding these public hearings. This observation is in line with the first round assessment where it was

pointed out that such hearings are held when the chairperson and members so decide. In unison, Members of Parliament and staff recommended that there is a need to institutionalize these public hearings. More consistency in committee hearings from the public and the executive will also lead to improved executive and legislative collaboration on the budget issue. In addition, more public hearings will also result in increased chances of public views inclusion in budgetary issues.

With regards to citizens' participation in the Budget Process, it was unanimously pointed out that although some citizens take part, it is not well documented. This revelation discounts the opinion offered by round one assessment. For it had demonstrated that the process is well documented and is an integral part of the communication strategy of the legislature and known to the public. The Constitution and the Budget Act do provide for this. For example the 2001 Budget Act 6(4) stipulates that in exercise of this section, committees of Parliament may call a Minister or any other person holding public office or a private individual to submit memoranda or appear before it to give evidence. While this provision under the Budget Act presents an opportunity for public inclusion in the budget process, the counter evaluation by the CSOs argued that although the process for the participation of citizens in the budget process exists and is well documented, it was not well publicized and therefore not known to the public. Hence, the MPs and staffers believe that there is need to improve and institutionalize this process, suggesting the need for legislative improvements in this area.

In terms of the legislative authority to amend the budget presented by the executive, it was pointed out that the legislature has the authority in law to make amendments to the budget proposals. This authority is embedded in the 1995 Constitution, as well as in section (5)2 of the 2001 Budget Act. This authority is also rooted in the Rules of Procedure. To illustrate this, on May 8th 2012, the legislature rejected the budget proposals for the financial year 2012/2013 as presented by the Minister of Education and Sports. This was based on the grounds that it did not contain some of the previously (2011/2012 budget) agreed upon propositions between the executive and the legislature.

Indeed, the minister had to present a new budget proposal that took into consideration the issues raised by the legislature. This in effect demonstrated that the legislature, is increasingly exercising its key role as defined by the separation of power doctrine. With regard to the power to send back a proposed budget for adjustments, it was noted that the legislature does have the power to do so because this is provided for in the 1995 Constitution. For instance under Article 155, Parliament considers the estimates of revenues and expenditure laid before it by or on the authority of the President, an appropriate committee of Parliament may discuss and review the estimates and make appropriate recommendations to Parliament. Previously the legislature did not exercise this power especially due to "politics of executive power." However, the 2012/2013 budget was not passed until the 25th September 2012 due to failure by the executive to find the required sum for the health sector. This action demonstrates that the legislature is currently exercising its authority as guaranteed by the 1995 Constitution. This indicates an improvement in the legislative oversight capacity.

4.8 Oversight Function

In parliamentary parlance and the realm of budgeting and resource allocation in particular, the oversight function refers to the legislature's power and capacity to carry out monitoring as well as holding the executive accountable. This is especially in relation to spending and includes the process whereby the legislature and executive work together to ensure that laws are operating as designed. Accordingly, parliamentary oversight is of great significance in as far as democracy and good governance is concerned. In the evaluation of this function, the following indicators were examined:

Forum (Windhoek, 2013), says that an ideal parliament holds the executive to account through comprehensive oversight, makes, laws, approves budgets, ratifies international conventions, and resolves conflict through peaceful mechanisms but – in southern Africa – "the executive generally dominates Parliament including even setting its agenda...[and] determining its calendar." Thus there is "decreased parliamentary oversight capacity," with the executive producing most of the bills. So legislatures become reactive institutions, and the separation of

powers principle is severely compromised. Southern African parliaments, SADC says, are "constrained by very powerful executives." (SADC, 2013, 3)

Regarding the budget oversight function of the legislature, it was strongly agreed that this function is performed by all sector related committees and other special committees. The members strongly agreed that parliament has both sessional and standing committees. In addition, there are ad-hoc committees, which are set up, from time to time when need arises. The parliament of Uganda has three accountability committees, which include Public Accounts Committee, Local Government Accounts Committee and the Committee on Statutory Authorities and State Enterprises. While this evaluation demonstrates a clear indicator of the oversight function of parliament, the team recommended that there is need for regular sharing of information between relevant sectors and parliament. This recommendation illuminates a key fault in the overall performance of the committees, hence the need to address it.

With regards to the investigative powers of Oversight Committees, the team strongly agreed that they have powers over budgetary issues/Government spending. They argued that the Rules of Procedure give committees of parliament powers of the high court to summon witnesses, interrogate them and make recommendations for action. In addition, the 2001 Budget Act and the 1995 Constitution also support these powers. The assessment team nonetheless noted that it is important that the recommendations by the Oversight Committees of parliament be made binding on the executive. The legislators were concerned by the fact that in most cases, committee recommendations are not always followed by the executive arm of the state, highlighting the rifts in the doctrine of separation of powers between the executive and the legislature. Hence, like in the previous assessment, legislators recommended that there is need to enact laws that ensure that committee recommendations are enforced by the executive.

In respect to oversight committees exercising sufficient oversight of the expenditures of state-owned enterprises, it was highlighted that although committees can call for special audits or invite officers of respective state-owned enterprises to testify before them, most state-owned enterprises are semi-autonomous and therefore self-accounting. This, the participants highlighted presents a stricture to the oversight role of the legislature on state-owned enterprises. The MPs

interpreted their oversight role on state-owned enterprises as simply carrying out post-mortems. Thus, they recommended that there is need to strengthen the supervisory role of the line ministries under which such state enterprises fall. This recommendation further suggests that since the Auditor General is the principal financial investigator of government funds, then it should also be strengthened to effectively carry out this audit function.

Mechanisms for Oversight Committees to obtain information from the executive: The team somewhat agreed that the mechanisms exist for committees to obtain information from the executive to exercise its oversight function. It was highlighted for instance that the budget framework paper is laid on the table and the ministerial policy statements are availed to parliament. This is facilitated by the existence of enabling laws such as the Budget Act. In addition, the Access to Information Act provides the basis of committees obtaining information from the executive arm of the state. Nonetheless, the participants argued that the executive should respect the recommendations of parliament.

The Oversight Committees do not have adequate powers to request and receive response on actions taken by the executive on recommendations but sometimes receive reports from the executive on actions taken based on the executive's discretion. The self-assessing team agreed that it is true that parliament can summon the executive to give an update on the action taken. They argue that their powers are derived from the Rules of Procedure, the Constitution as well as the Budget Act and the Access to Information Act. While there is agreement on this, members argued that there is need to streamline the existing laws in line with the mandate of parliament and for the amendments of the laws to strengthen these powers. This indicates that there is need to have mechanisms for making follow-up on recommendations of committees.

The Budget Act provides for provision of separate and adequate resources to the oversight committees. This is also highlighted in the Rules of Procedure as well as rules governing the parliamentary commission. Indeed, the team agreed that although oversight committees are adequately resourced to undertake their activities, they recommended that there is need for more funds to be allocated to committees to carry out their work effectively.

4.8.1 Public Accounts Committee (PAC)

According to the above below, the PAC score highly on three indicators. These included the fact that the PAC examines the expenditures of government. In addition, the Public Accounts Committee is chaired by a member who does not belong to the party in government, an indication of political rationality in the demand for public accountability.

The other is that the PAC has power to subpoena witnesses and documents. This implies that PAC has the power to generate evidence in the use of public funds. The PAC was however, scored poorly on its ability to initiate independent investigation into any matter of public interest. This is an area that demands improvement on the side of the PAC although it is linked to inadequate resources.

4.8.2 Audit

The office of the Auditor General (AG) is stipulated under article 163(1) of the Constitution of the Republic of Uganda. The AG is however, appointed by the President although vetted and approved by the legislature. It was agreed nonetheless that the AG is accountable to the legislature as provided for by means of the Audit Act, 2008, the Public Finance and Accountability Act, 2003 and the Local Authorities Act, 1997. This demonstrates a reasonable degree of oversight.

The Auditor General submits all reports to the legislature. This is done as required by law under article 163(4) of the Constitution, and the Audit Act. The legislature receives regular and timely reports from the AG. The MPs and staffers feel that at times there are delays, which creates backlog. It was recommended that the Auditor General's report should be submitted in a timely manner.

The legislature can request the Auditor General to conduct special audits on its behalf. The MPs and parliamentary staff strongly agreed that the legislature can request the Auditor General to conduct a special audit and they are required to oblige. This is provided for in the 1995

Constitution (Article 163 (7)). This area demonstrates a high level of institutional oversight responsibility and authority by the legislature as illustrated by the several legislative audit requests. This is also well documented in the Auditor General's Mission statement, which is; "*To audit and report to parliament and thereby making an effective contribution to improving public accountability and value for money spent*". The most famous of these audit requests is: The Report of The Public Accounts Committee on the Special Audit report of the Auditor General on Commonwealth Heads of Government Meeting 2007, dated 11/05/2010. Although the legislature has undertaken this oversight role, it is clear that the recommendations by the Auditor General rarely get enforced and/or followed. It is also true that most of the recommendations necessitate high-level executive and political action. By implication, the absence of this political and executive goodwill weakens the Auditor General's function as well as the legislative oversight role.

Resources and authority of the Auditor General: On this indicator, the participants somewhat agreed that the Auditor General has adequate resources and legal authority to conduct audits in a timely manner. The 2008 National Audit Act provides the legal authority of the Auditor General. Nonetheless, MPs recommended that the office of the Auditor General must be provided with adequate resources to conduct its activities. Indeed, the MPs strongly pointed out that adequate funding of the Auditor General is very critical as most of the Value for Money Audits (VFMA) as well as the special investigations the Auditor General undertakes demand adequate resources. This position was equally upheld by the CSOs. The CSO's argument lies in the fact that adequate funding would enhance the depth and quality of the Audits. There was consensus that all reports of the Auditor General are submitted to the legislature; this is a requirement provided for in the 1995 Constitution. It was noted however, that there is a challenge because there were reported delays, which accounted for accumulated backlog. It was also noted that because of the semi-autonomous nature of this appointment, the Auditor General cannot be adequately pressured by the legislature. Nonetheless, it was highlighted that the Auditor-General's department had limited resources, which did not match its legal responsibility to conduct audits in a timely manner. It was therefore recommended that there should be timely release of resources as well as adequate staffing to improve on the services of the AG.

The assessment showed that the Uganda National Assembly performed well on both legislative and financial functions. Parliament draws its powers (both legislative and representation) from the 1995 constitution. It was found out that though it has the legal powers to amend the Appropriations Bill, it rarely does. It however recently has shown that given the opportunity it would act; this was when it rejected the Ministry of Education and Sports' budget proposals resulting from the exclusion of previously agreed propositions and also delayed passing the 2012/13 budget until money was provided for the recruitment of health workers. While parliamentary debates and resolutions are recorded in the *Hansard*, there should be a mechanism through which constituents can track the legislations and amendments passed by the house. In evaluating the financial function of parliament, it emerged that the legislature has adequate time to review the budget and also has a budget office in place as provided for by law. Citizens' engagement in the budgetary process is also satisfactory. It was also notable that the legislature has a constitutional role in making the executive accountable but it was observed that the legislature rarely uses such power to send back for adjustment the budget presented by the executive. The presence of a budget office contributed to the high rating of this function and thus Members should work to maintain the office and resource it to recruit and maintain qualified personnel.

The self-assessment showed that representation and Institutional Capacity performed averagely. The Uganda legislature is accessible to the public and has non-partisan media relations, although there is need to develop a framework that would promote citizens' participation during budget reading. There is the need to explore opportunities for public participation in the legislative process. In terms of institutional capacity of parliament, the Parliament of Uganda is able to determine its own budget, which enables the legislature to make rational and independent decisions. Furthermore, a donor-coordination unit, which helps in structuring technical assistance given to parliamentarians, exists.

4.9 Legislative Process in Parliament

The legislative process usually starts with a proposal for a law which is a bill. The bill is then presented before parliament. Usually, there must be determination or formulation of the legislative policy; the creation of the legislative scheme, that is, the conception of the ideas that

are to be expressed; and the drafting of the sentence that expresses the policy or the purpose of the policy proposals. The bill then goes through the necessary processes including the birthing of the idea for the law, drafting of the cabinet memorandum which is usually an expression of the idea for the bill and the later sending of drafting instructions to the draftsperson.[1]

It should be noted that before the bill is presented to parliament for debate, Certificate of Financial Implication must be obtained from the Minister of Finance in line with the Public Finance and Management Act, 2015 and the parliamentary rules of procedure.

4.9.1 First reading of the Bill

Once a Bill has been drafted and gazetted whether it is a private member's Bill or a government Bill, it will be tabled in parliament. The sponsor of the Bill normally a minister in whose ministry the issues of the Bill fall (sponsoring ministry) or an MP sponsoring the Bill in case of a private member's will work with the parliamentary commission to have the Bill on the order paper. The Bill will be tabled for the reading on the date and time specified in the order paper. The Speaker of parliament will call the minister (or MP) in whose names the Bill appears on the order paper for the reading of the Bill. The member shall rise once called and move that the bill be read the first time and no question shall be put at this time. This is the first reading.[2]

The speaker then refers the Bill to the appropriate committee which shall examine the bill in detail and make all such inquiries in relation to it and report to the house within 45 days from the date it is referred. Once the Bill is sent to the committee, the committee has 45 days to consider the Bill and report back to the house. At this stage the committee will gather views from citizens, professions and any person who is interested in giving views on the Bill. Once the committee gathers all the necessary information, it will make a report that will be tabled before parliament during the second reading of the Bill.[3]

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[1] *Understanding the Law Making Process in Uganda: A Simple Guide on Legislative Advocacy", Kampala, 2016.*
[2] Ibid.
[3] Ibid.

4.9.2 Second reading of the Bill

Once the committee is ready with their report on the Bill, the report and the Bill will be tabled to the house. The minister or member proposing the bill shall move that the bill be read a second time and may too speak to the motion. The chairperson of the committee to which the bill was referred to shall move and present the report on the Bill to the house. Resolutions are made on every clause of the Bill, this may take the form of adopting the clause, changing the clause or deleting it altogether. When all the clauses have been put to debate, the clerk shall read the short title of the bill and, the bill shall be taken to have been read the second time.[4]

4.9.3 Third reading of the Bill

This involves the speaker leaving her chair without putting any question and the house shall resolve itself into a committee of the whole house. The proceeding of the whole house is under the chairmanship of the speaker acting as the chairperson of the whole committee of the house.

Changes or amendments to the bill can be made only in this stage. Amendments become a part of a bill if they are accepted by a majority of the members present and voting. The next stage is the third reading. The house shall proceed to the third reading of a bill upon a motion "that the bill be read a third time and do pass". The debate on the third reading of a bill is of a restricted character. It is confined only to arguments either in support of the bill or for its rejection, without referring to its details. The bill shall then pass upon a motion "that the bill entitled..... do pass" After the third reading the Bill shall be passed based on recommendations made by parliament. The bill upon being passed is then sent to the president for assent.[5]

It should be noted that parliament in this law making processes goes through processes some of which demean the exercise of its roles while others at times are viewed as transparent processes. In some cases, the work of parliament is seen to be interfered with especially by the executive arm of government. On the other hand, this law making processes has been observed to be frustrated by the parliament itself through nonattendance and yielding to pressures from other arms of government.

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[4] Ibid.
[5] Ibid.

4.10 Key Challenges and to the Functioning of the Parliament

4.10.1 Parliamentary Commission in Uganda

Parliaments in two neighboring East African nations enacted legislation in the late 1990s establishing their administrative independence and giving them authority over their own budgets. Prior to the change (1997 in Uganda, 1999 in Kenya) parliamentary staff were employed by the public service commissions – not the parliament. The executive, not parliament, set staff levels, and was responsible for hiring, firing, and terms of employment. Staff levels, especially in Uganda, were very low, facilities were inadequate, and the government was ensconced in parliamentary offices. With these legal changes each parliament has become responsible for its own staff and its own budget. The commissions (not the executive), which comprise of the Speaker, cabinet members, backbenchers and oppositions members, are now responsible for parliamentary staffing including salaries, hiring and firing of staff, and overseeing the parliaments' budgets and services. Since enacting these measures, both parliaments have expanded their staff, increased office space and salaries, and established new services and positions. Uganda's 1995 constitution gave the parliament power to censure ministers and approve presidential appointments, and granted committees the authority to introduce legislation. Later reforms initiated by parliament established a permanent budget committee, established a professional budget office to assist MPs in analyzing the proposed executive budget, set limits on what government could borrow without prior parliamentary approval, and required Government to submit a draft executive budget to parliament three months prior to the normal budget submission date.

Parliaments' basic functions are representation, lawmaking, and oversight, and they carry out these functions in unique ways. Representation is a complex process, and traditional concepts of representation in parliaments are giving way to new ones – most commonly, representation based on shared characteristics – such as gender. The roles of legislatures in the lawmaking process vary considerably, as does the openness of the process. Oversight, while a relatively simple concept to understand, proves difficult for many parliaments to practice effectively. A variety of

oversight tools exist, but even legislatures with few formal oversight powers can use their access to the communications media to influence government action.

Parliaments can be classified as rubber stamp, arena, transformative, and emerging, based on their level of independence and power. Rubber stamp legislatures simply endorse decisions made elsewhere in the political system. Arena legislatures are institutions in which the differences in society are articulated and government actions and plans are evaluated from different perspectives, but they tend not to initiate or dramatically reshape policy proposals. Transformative legislatures, the rarest type of legislature, actually change policy – often significantly. As a consequence, they have great information needs and are complex and expensive institutions. The dramatic increase in democratic and Free states over the last thirty years has meant that a significant number of legislatures may now be classified as emerging, as legislatures are attempting to – and to some degree succeeding at – becoming more powerful and independent.

Legislatures in pure separation of powers presidential systems, on the other hand, do not threaten the executive's hold on power when they develop their own policy-proposals. Legislatures may have greater incentives to develop strong committees, and policies made tend to be compromises between the different branches of government.

A second structural factor which impacts on legislative behaviour is the type of electoral system through which representatives are elected. Legislators elected through plurality majority (PM – also called single member district) systems, because they are elected directly by their constituents, have significant incentives to be responsive to those who elect them. Those elected through systems of proportional representation (PR) – party list systems (where voters vote for a party, rather than an individual legislator), have strong incentives to be responsive to leaders of the political party who determine where they will be placed on the list in the next election. Semi-proportional electoral systems mix characteristics of both systems – in some cases mixing both PM and PR legislators in one house and electing members of two different houses in others create a mix of the two different systems. The three other factors influencing the power and independence of a legislature mentioned in Unit 3 were formal political powers, political will/political space, and the technical capacity of the parliament.

A major means of increasing parliamentary effectiveness has been through building internal parliamentary capacity. Most parliamentary strengthening activities have focused on this technical area. Capacity building has included making management and infrastructure improvements, better equipping members and staff, and building new capacities, such as budget offices. And finally, legislatures become more effective when they reach beyond the walls of parliament to take advantage of the expertise available in their nation (Nakamura and Johnson, 2002)

Modern democracies are characterized by shared decision making by the legislative and executive branches. Generally, a country's constitution formally structures this interaction. Practicality, precedent and habit then fill in the gaps to create the political system under which a government operates on a daily basis. Because these circumstances differ considerably in each country, democracies vary widely in how political power is shared and the relative influence each branch of government has over policy formulation.

Parliaments vary in size, in how members are elected, how long they hold office, in their ways of relating to political parties and to constituents, in their relations with executive powers, in their responsibilities in lawmaking and budgeting, in how they oversee executive spending and activities, and in a dozen other ways. But scholars tend to agree that there are three functions common to parliaments in democracies; representation, lawmaking, and oversight. Parliaments represent the diversity of individuals and groups in society; as the supreme lawmaking institution in a nation they make the rules by which society is governed; and they are designed to oversee executive spending and performance. Just how, and how successfully, they carry out these functions varies dramatically, and for a number of reasons. In this section we briefly examine these three functions of parliaments, and later suggest several reasons parliaments perform them in such different manners.

Democratic parliaments are the most transparent and accessible of the three branches of government. Most parliaments open their plenary sessions to the public and to the press, and a growing number al-low citizens to attend committee meetings. South Africa's parliament publishes committee schedules on the Internet, as do several others. Daily news reports cover events in parliament, and an increasing number of parliaments televise their plenary sessions, giving citizens the opportunity to view their parliament in action.

4.10.2 Factors influencing the Legislatures Function

4.10.2.1 Political systems

The degree of separation or unity between the legislative and executive branches is perhaps the major factor in determining legislative strength and independence. Specifically, the cleaner separation between executive and legislative powers in presidential systems encourages presidential legislatures to play more independent lawmaking and oversight roles than their parliamentary counterparts.

In parliamentary systems, the parliamentary majority party or coalition selects the chief executive from among its members. Cabinet members are also named from the parliamentary majority. This unity between the legislature and executive is a disincentive for the legislature to develop a strong committee system or deep policy expertise, which could be used to challenge the executive. A loss of support or vote of no confidence in the government results in both the government and parliament leaving office. Not surprisingly, committees in parliamentary systems tend not to have large professional staffs, and policy-decisions will generally be made within the ruling party or coalition and through government ministries. Overt executive – legislative conflict is not common in parliamentary systems, nor is the parliament likely to exercise aggressive oversight. Divisions within the governing coalition however, will reduce this executive – parliamentary unity.

4.10.2.2 Electoral systems

MPs in every nation must win elections to get into, and to stay, in office. But the system through which they compete will affect the way they relate to constituents, and their independence once in office. MPs elected in single-member districts (also called plurality-majority, or constituency-based), where constituents in a geographic area vote directly for a candidate and the candidate receiving the most votes wins, will likely be more independent and responsive to constituents than MPs elected through proportional representation systems. Especially if electoral districts are fairly small and elections are frequent, MPs are likely to be more beholden and responsive to constituents than to their political parties. Several factors can reduce MPs independence, however, even in single member districts. If political parties are very strong, if candidates need a

party's endorsement to run for office, if they rely on party patronage for positions in parliament, if they are MPs in a parliamentary system, or if they depend on the party for funds to run for office, MP independence will be checked. Parties with several "carrots and sticks" at their disposal are better able to enforce party discipline, even in single member districts. The United States and UK elect legislative members through this system.

4.10.2.3 Formal Parliamentary Powers

A legislature's formal powers, usually defined in its constitution and standing orders (or rules of procedure), are another factor help determine its independence and power. Some parliaments enjoy broad formal powers, allowing members and committees to introduce legislation (even legislation with significant financial impact), to dramatically rework executive taxing and spending plans, and requiring the executive to obtain legislative approval to borrow money. Formal powers in other legislatures are *The Role of Parliament in Government* more circumscribed. For reasons we have noted above, legislatures in presidential systems tend to possess greater formal powers than do legislatures in parliamentary systems. But parliamentary systems have oversight mechanisms not common to presidential systems, specifically, question periods for ministers and public accounts committees which routinely examine how governments use their funds. Many parliaments used those powers to conduct oversight more thoroughly than their presidential counterparts.

4.10.2.4 Political Will and Political Space

Possessing formal powers does not mean that legislatures will use them. In fact, constitutions and standing orders generally grant parliaments more power than they ever use effectively. Two factors which impact on how legislatures use their powers are political will and political space. Political will is the strength of the desire of parliamentary leaders and influential members to exercise or expand the powers of parliament. Power gained in one place is generally lost in another, and because of this, MPs leading efforts to expand the role of parliament may pay political costs inflicted by those who fear losing their power.

Political space refers to the willingness of others in the political environment to cede or to share political power with parliaments. Authoritarian political systems grant legislatures little political

space, while more pluralistic, competitive systems permit more. In parliaments where the party discipline is strong, much of the use of the available political space, and any attempts to expand the political space, is largely determined by the political party's disposition.

4.10.3 Parliamentary Technical Capacity

Finally, a parliament's ability to exercise its representation, lawmaking and oversight functions effectively rests to some degree on its managerial and technical capacity. Listening to citizens and processing their input, seeking and considering expert advice on budgets and policies, drafting technically sound amendments and legislation that accomplishes the desires of their sponsors, requires effective systems and experts to staff and manage those systems. Most parliamentary strengthening efforts being made today focus on building parliamentary capacity – strengthening management, infrastructure, and staffing. Those involved in strengthening their parliaments know that the process puts their institution under tremendous stress. More assertive parliaments need more expert staff to meet their greater information needs, and faster, more effective, and better-coordinated administrative systems. The need for rapid reform is especially challenging for traditional, hierarchal legislatures that rely on long-established traditions and procedures to guide them in what was formerly a methodical and moderate workflow. Legislatures expanding their roles struggle with increased workloads, growing demands by MPs, and new kinds of requests, even as they are attempting to restructure the institution. Change is not easy, and reforming complex institutions like parliaments is especially challenging.

Parliaments' basic functions are representation, lawmaking, and oversight, and they carry out these functions in unique ways. Parliaments can be classified as rubber stamp, arena, transformative, and emerging, based on their level of independence and power. The dramatic increase in democratic and Free states over the last thirty years has meant that a significant number of legislatures may now be classified as emerging, as legislatures attempting to – and to some degree succeeding at – becoming more powerful and independent. How powerful they become depends on several factors, among them their political and electoral system types, their formal powers, the desire of political leaders to exercise power and the willingness of other political actors to allow them to (political will and political space), and their technical capacity. Ways they attempt to make themselves more effective include organizing themselves to modernize their institution through establishing multi-party management boards, expanding their

formal powers, using the powers they already possess more effectively, through building their internal capacity, and through reaching out to society to take advantage of its expertise. In theory, parliaments are one of the key institutions of democracy, playing an important role in terms of legislation, oversight and representation. Regrettably, in many developing countries – as well as in many developed countries – parliaments are weak, ineffective and marginalized.

4.10.4 Politics, Democracy and Parliament

Parliaments do not operate in a vacuum; their functioning and effectiveness is shaped very much by the context – and particularly the political context – of which they are part. The legacy of one or no-party rule and the continuing dominance of the NRM, the Executive and President Museveni – now able to run for the Presidency again in 2011 – continue to shape the functioning and performance of the Ugandan Parliament. The elections of 2006 were the first to be held under the multi-party system for 25 years. It will take some time for the relationship between the new political system and the Parliament to settle and for the 54% of MPs who are first-time MPs to find their feet.

Assessing the performance of the Parliament of Uganda is, as in many other countries, extremely challenging. This is because neither Parliament itself nor its Development Partners have as yet put sufficient effort into establishing frameworks for performance assessment or into collecting data on performance. In terms of legislation it is too early to assess the performance of the Eighth Parliament. The independence of previous parliaments has been compromised, and, on occasion, bought, but there are some grounds for optimism. The Sixth and Seventh Parliaments managed to pass important bills, improving some bills though their participation in the policy process and in some cases managing to pass bills that strengthened Parliament's role and independence from the Executive. Notable examples include the Budget Act of 2001 and the Access to Information Act of 2005.

In practice, parliaments in many developing countries are weak and ineffective and contribute little to good governance and poverty reduction. For instance, the African Governance Report for 2005 found that: "In terms of enacting laws, debating national issues, checking the activities of the government and in general promoting the welfare of the people, these duties and obligations are rarely performed with efficiency and effectiveness" (UNECA, 2005).

There are a number of reasons for the ineffectiveness of parliaments in developing countries. First, parliaments are in a weak position in many political systems, where they are marginalized by the executive and constrained by a constitution which fails to provide for parliamentary independence. Second, parliaments often lack institutional capacity and resources and are dependent on the executive for access to resources. Third, parliaments are often by-passed in the policy process, both by dominant executives and by bilateral and multilateral donors that deal with executive rather than Parliament. Fourth, MPs often lack knowledge, experience, skills and resources. And fifth, voters – as a result of social and cultural norms – are often more concerned that their MPs provide them and their constituencies with school and hospital fees, funeral expenses, roads and electricity, than that they legislate, oversee and represent their interests effectively in Parliament (see Hudson and Wren, 2007).

4.10.5 Parliaments, Presidents and Multi-Party Politics

Uganda's parliamentary history dates back to the establishment by the Imperial British East African Company in 1881 of an administration with responsibilities for taxation and justice. The country's first formal Parliament – the National Assembly, consisting of a mixture of elected and nominated representatives – was established in 1962 after general elections which led to a coalition government. The Second Parliament ran under the Republican Constitution of 1967, lasting until Parliament was put out of action by General Idi Amin's 1971-79 military regime.

The Third Parliament, an Interim Parliament or National Consultative Council, operated until the general elections of 1980 ushered in the Fourth Parliament. The Fourth Parliament was ousted in 1985 by Okello's brief military regime and was then replaced by the National Resistance Council in effect "the Fifth Parliament" – when the NRM and President Museveni took power in 1986.
The National Resistance Council (NRC) was initially made up of 38 Historical Members of the National Resistance Army/Movement, with this number increased to 240 at elections in 1989. Created by the NRC to study and review the Constitution with a view to making proposals for its improvement, the Constitutional Commission presented a draft Constitution in 1993 which was ultimately adopted in October 1995. The Constitution confirmed that Uganda's political system would remain the "Movement" system, in effect a no-party or one-party state. Under the Constitution, both President and Parliament are elected for a period of five years in elections that

are separate but which take place in the same year. Uganda's first direct Presidential elections were held under the new Constitution in May 1996 with parliamentary elections to elect the Sixth Parliament of Uganda, held under the Movement

Parliamentary strengthening and the Paris principles: Uganda case study system, taking place shortly after. The Sixth Parliament consisted of 214 Constituency Representatives, 39 District Women Representatives, 10 Representatives of the Uganda People's Defense Force, 5 Youth Representatives, 5 Representatives of People with Disabilities and 3 Workers' Representatives. While there were no political parties or opposition MPs, some of the elected representatives had clear oppositional tendencies (Bertelsmann Stiftung, 2008). In the Presidential elections, Museveni received 74% of the vote.

A referendum was held in 2000 to determine whether the country should adopt a system of multi-party politics. But with the Movement system of no parties endorsed by more than 90% of those who voted in the referendum, the 2001 elections to the Seventh Parliament were held under the existing system. The number and proportion of District Women Representatives increased reflecting in part the NRM's desire to ensure a broad representation of marginalized groups. In Presidential elections that were marred by violence and irregularities, Museveni won 69% of the vote with Colonel Kizza Besigye, his main rival, receiving 28%.

Over the course of the Seventh Parliament pressure for a transition to multi-party politics increased, with Development Partners playing an important role. The Political Parties and Organizations Act was introduced in 2001 with a much-revised version passed by Parliament in 2003. President Museveni ultimately declared his support for multi-partism, a move that led – via a Parliamentary motion calling for a referendum, and a "yes" vote of validation in the referendum of 2005 – to a Constitutional Amendment establishing a multi-party political system. At the same time, in a compromise that Museveni was content with, the Constitution was amended to remove Presidential term limits.

The Elections of 2006 were the first to be conducted under a multi-party system for 25 years. Opposition parties had little time to prepare for the election and found it difficult to get their

views across to the electorate with the NRM having far greater resources, dominating the media and with Besigye, again the main challenger, imprisoned at various times. Nevertheless, the dominance of Museveni was reduced with the incumbent securing 59% of the vote as opposed to Besigye's 37%. The NRM dominated the parliamentary elections, gaining 214 out of 331 seats, with the Forum for Democratic Change – the main opposition party – gaining just 38 seats.

Regional and ethnic divides continue to play an important role in Ugandan politics. The NRM enjoys strong support in central and western Uganda, but is resented in the North in part as a result of the ongoing conflict between the Government of Uganda and the Lords Resistance Army. The Forum for Democratic Change, established in 2004 as an umbrella grouping for opposition MPs, tends to be more popular in urban areas as well as being strong in the North.

4.10.6 The Nuts And Bolts of Parliamentary Administration

Uganda's Parliament has a single House, the National Assembly, with the Speaker of Parliament elected by Members of Parliament from their own number. Prior to 1996, Parliament worked in plenary, but the rules of procedure of Uganda's Parliament now stipulate that it operate through a number of Standing, Sessional and Ad Hoc Committees. The Budget Committee is exceptionally, established by an Act of Parliament, something which bolsters its independence. The so-called "accountability committees" – the Public Accounts Committee; the Local Government Accounts Committee; the Committee on Statutory Authorities and State Enterprises; and, the Committee on Government Assurances – are amongst the most powerful Committees.

The Parliamentary Commission was established in 1997 by the Administration of Parliament Act. The Commission is chaired by the Speaker with the Leader of Government Business (the Prime Minister), the Leader of the Opposition, a representative of the Ministry of Finance Planning and Economic Development, four elected back-benchers and the Parliamentary Clerk as members.

The Commission is responsible for ensuring that Parliament is able to fulfill effectively its constitutional mandate to be an independent arm of Government. The Parliamentary Commission

has two wings; the political wing and the technical wing or Parliamentary Service. The political wing comprises, in addition to the formal parliamentary committees, various Parliamentary fora or caucuses which are voluntary cross-party groupings focused on particular issues such as the conflict in the North of Uganda, women, the Millennium Development Goals and food security. The Parliamentary Service includes the Legislative Service (Clerks, Legal Counsel, Library and Research Department, Official Report, Parliamentary Budget Office) and the Administrative Service (Finance and Administration, Human Resources, Parliamentary Development Coordination Office, Information and Communication Technology and the Sergeants at Arms). To strengthen the autonomy of Parliament, the 1997 Administration of Parliament Act established the Parliamentary Service as parallel to the public service (APRM, 2007b, p.119).

In terms of its finances however, Parliament remains beholden to the executive. This "severely compromises parliamentary autonomy and leaves Parliament vulnerable to under-funding, to the politically-motivated interruption of funding or to corruption" (AAPPG, 2008, pp.25-6). As the AAPPG report put it – drawing on evidence collected in the Ugandan Parliament as well as others – low levels of funding for Parliament are both a symptom and a cause of Parliament's institutional weakness (AAPPG, 2008, p.30).

4.10.7 Parliament in A Multi-Party System

It is too early to say whether Parliament is more effective in the emerging multi-party system than it was under the no-party Movement system. Commentators look back fondly at the Sixth Parliament as a model of parliamentary independence (APRM, 2007b, p.xxiv), attributing its effectiveness in part to the fact that MPs were not controlled by party whips and to an influx of young, energetic and idealistic MPs. However, despite Parliament being more vocal, the Executive and the President remained very much in control. For instance, while Parliament censured four Ministers in the Sixth Parliament, the President brought them back into office at a later date (APRM, 2007b, p.119; USAID, 2005, p.32). It is also the case that vocal MPs who were considered to be trouble-makers were disciplined and, by the time of the Seventh Parliament, were made to toe the NRM line.

4.10.8 Liberal Democracy and Parliamentary Independence

"Ironically, the main bottlenecks to Parliamentary independence in Uganda relate to the essence of liberal democracy. This form of democracy is associated with political affiliation and this has its rigidities premised on political party discipline. In the case of Uganda, President Museveni is an exceptionally skilled and influential political actor. He has played a key role in restoring Uganda's political and economic stability, which makes him a factor to reckon with. In the 2006 general elections his political party, the NRMO, achieved a sweeping legislative victory of 82%. There is an argument that since the President has called for strict party discipline, and given his influence, his actions are likely to water down the legislative freedom and autonomy that Uganda experienced under the Movement with the Individual Merit principle" (APRM, 2007b, p.122)

Parliaments are an important component of national governance systems. The key functions of parliaments are legislation, oversight and representation. By playing these roles effectively, parliaments can contribute to the elements of effective governance: state capability, accountability and responsiveness.

In practice parliaments in many developing countries are ineffective. The African Governance Report for 2005 found that: "In terms of enacting laws, debating national issues, checking the activities of the government and in general promoting the welfare of the people, these duties and obligations are rarely performed with efficiency and effectiveness in many African parliaments" (UNECA, 2005, p.127).

Parliamentary performance is also shaped by context. Political systems, including electoral rules, constitutions and the nature of political parties may not facilitate strong parliaments, whilst in many countries parliaments can find themselves dominated and marginalized by the executive. The wider social and cultural environment, including citizens' expectations of their representatives, may not foster effective parliaments.

4.11 Parliaments and Governance

Mapping the roles of parliaments onto the elements of good governance (see figure 1), provides some suggestion of the contribution which parliaments might make to the delivery of good governance. Legislation is part of state capability; law-making is an important way in which

capable states formulate and implement policies. Parliamentary oversight can contribute to ensuring that the relationship between the state and its citizens is one which is characterized by accountability. And representation is crucial to responsiveness; there is little chance of political decision-makers being responsive if citizens' views are not effectively transmitted by their political representatives. There is more to good governance than parliamentary representation, legislation and oversight, but in the absence of a parliament which can perform these roles effectively; good governance – and particularly good democratic governance – will be elusive. In sum, parliaments are necessary but not sufficient for effective democratic governance.

4.11.1 Parliaments and National Governance Systems

In a recent attempt to get a handle on governance, to enable its measurement, and to identify the sorts of policies which might improve it, the World Bank has introduced the idea of there being "national governance systems" (World Bank, 2006). These systems are made up of a range of actors, playing different roles, and linked together in accountable relationships. At the apex of the system of accountability is political governance; a country's citizens, leaders and political parties. Parliaments are one of the key "checks and balances institutions", along with supreme audit institutions, ombudsmen, anti-corruption commissions, the judiciary, a free press and democratically accountable local institutions. For the World Bank, checks and balances institutions play three key roles: they establish the rules of the game for political competition; they provide the rules of the game for the broader working of civil society and the operation of the market economy; and, they limit the influence of politicians on the bureaucracy (World Bank, 2006).

This is a useful way of looking at the role of parliaments. It emphasizes the importance of parliaments, but also makes clear that they are one component of a wider governance system – what others have described as an "ecology of governance" (Parliamentary Centre and World Bank Institute, 2002) – which includes the nature of the constitution, electoral systems, political parties, the judiciary, supreme audit institutions, the civil service bureaucracy, the executive, civil society organizations, the media, the private sector and others.

An effective parliament is one which performs its horizontal accountability functions in a manner which is in tune with the wishes of the citizen-voters on whose behalf it acts. It is

through playing this pivotal role that parliaments can contribute to effective and democratic governance. By legislating, they can contribute to state capability. By providing oversight, they can contribute to accountability, which in turn can facilitate learning and improved performance. And by representing citizens, they can contribute to responsiveness. The contribution which parliaments actually make to effective democratic governance depends both on the internal characteristics of the parliament and its members, and on the position of the parliament in wider national (and international) systems of governance.

4.11.2 Institutional Capacity

Parliaments themselves often lack the institutional capacity to perform their roles effectively (UNECA, 2005, pp.201-2). Parliamentary rules and procedures may be poorly developed, parliamentary committees may be weak or non-existent (Burnell, 2002; Rahman, 2005) and there may be more basic infrastructural problems. Such problems may include inadequate or non-existent accommodation, a lack of access to information, information technology, and library facilities, a lack of parliamentary staff to assist in the administration of parliamentary affairs and in particular in carrying out the research which is needed for parliaments to hold the executive to account. Fundamentally, such challenges result from the fact that parliaments receive insufficient funding. Parliaments may also face serious questions about their legitimacy (UNECA, 2005, p.226), and – with funding largely dependent on the executive – are likely to lack the financial resources that they need.

4.11.3 Parliaments and Formal Political Systems

Parliamentary performance is also shaped by the formal political system which a parliament is part of. In some countries, the constitution may fail to establish a clear role and powers for parliaments. And even when this fundamental building block is in place, the reality may be that parliament is very weak compared to the executive. As UNECA put it: "In assessing the role of the legislature in checking and balancing the executive a distinction ought to be made between constitutional prescriptions and political realities" (UNECA, 2005, p.122; see also Democratic Alliance, 2004, p.1).

In many developing countries, particularly in Africa, and most particularly it seems in presidential systems, the executive is overwhelmingly dominant (Gyimah-Boadi, 1998). In such contexts, the legislature is likely to lack the power to hold the executive to account. UNECA's African Governance Report found that only a third of African legislatures were perceived as being largely free from subordination to external agencies in all major areas of legislation, and that more than half were under various degrees of subordination to external agencies in all major areas of legislation (UNECA, 2005, p.7). Namibia, South Africa and Ghana were the least subordinate, with Swaziland, Kenya and Ethiopia ranked as the most subordinate (see figure 3).

4.11.4 Parliaments and the Social and Cultural Environment

Beyond the formal political system, parliamentary performance is shaped too by the social and cultural environment in which parliaments are situated. Put differently, the formal rules of politics may be at odds with the informal realities of social relations and cultural understandings. In many developing countries, the social system is characterized by neo-patrimonialism, a system in which "big men" look after their constituents through providing them with the resources to which their position within the state allows them access (Barkan et al, 2004; Chabal and Daloz, 1999; Lindberg, 2003).

Informal understandings of representation and accountability can be at odds with formal (liberal democratic) notions of accountability and representation, a disjuncture that undermines the ability of parliaments to perform their expected roles, and to promote the public good. More concretely, MPs can find that they are expected to provide school fees, medical bills, roads and financing for their constituents and constituencies, rather than being expected to represent their interests in processes of legislation and oversight. Relatedly, when the state is the primary source of economic power, and politics is about providing resources for constituents, politicians who are not able to access the state's resources and hence are unable to provide for their constituents find themselves without much of a role to play. This can prevent the emergence of effective opposition parties, particularly when it is combined with the practice of floor-crossing, with MPs switching parties to access resources. Parliamentary performance may also suffer because of weak links and a lack of consultation between parliaments and other elements of civil society, the media, the private sector, trade unions and so on.

4.11.5 Parliaments and Development Partners

Development partners including donors such as DFID, share some responsibility for weak parliamentary performance. The focus of donor interventions in support of good governance has tended to be on the executive; an effective state has been equated with an effective executive (Eberlei and Henn, 2003, p.9). Whilst there is clearly value in donors working closely with the executive, an overly-exclusive focus on this branch of government does risk marginalizing parliaments. Electoral systems and political parties are an important part of governance in developing countries and have an impact on parliamentary performance. Their role, and their relationship with parliaments. The ways in which donors, and perhaps particularly the international financial institutions, do their business, have also marginalized parliaments. Whereas civil society participation was encouraged, parliaments were excluded from the PRSP process (Youash, 2003; Mfunwa, 2006, p.15). And – because of a lack of transparency – parliaments have not been able to scrutinize the conditions attached to loans offered by the international financial institutions.

There are some, albeit limited, signs of change in this regard both in terms of donor policy and behaviour (Hatcher, 2006; Hubli and Mandaville, 2004; World Bank, 2003), and in terms of parliaments stepping up to oversee aid relationships. But clearly, donors' parliamentary strengthening work would be more effective if in their dealings with developing countries, donors and the international financial institutions ensured that parliamentary sovereignty – the will of the people's (more or less) democratically-elected representatives – was given due weight. Concretely, parliaments in developing countries would be able to do a better job of scrutinizing the agreements which their governments enter into – on behalf of the country's citizens – with donors, if donors undertook to publish the conditions which are often attached to loans. A lack of transparency undermines accountability and risks further marginalizing parliaments in developing countries.

Transparency will not of course deliver effective parliamentary scrutiny; rather it is a pre-condition. At present, many parliaments are insufficiently aware of the detail of their countries' aid relationships with donors and as a result do not demand an oversight role. And further, many parliaments currently lack the capacity to exercise effective oversight over complex loan

documents. This too is an issue which donors could address; doing so would demonstrate their commitment to making parliaments more effective. This it seems is an area where there is a convergence of interests between parliaments and donors, a potential win-win. Parliaments would like to play a bigger role in the management and oversight of aid, and donors – particularly as they seek to provide more funds through budget support – would like aid to be spent more effectively, something which may be enhanced by parliaments playing a bigger role (Mfunwa, 2006). This is also an area where donor's development and fiduciary concerns converge; that is, strengthening parliamentary engagement in the budget process can improve development effectiveness whilst also mitigating fiduciary risk. Donors should ensure that their aid relationships, including their transparency, facilitate and enable parliamentary accountability and oversight. Otherwise, large inflows of resources may undermine the Personal communication with Carlos Santiso, DFID Financial Accountability and Anti-Corruption Team emergence of domestic accountability. A more radical move could see donors stipulating that a certain percentage of their aid to a partner country, be invested in parliamentary strengthening. This sort of conditionality – in support of democratic accountability – could well be justified and effective, and might, over time, command the support of governments seriously committed to good democratic governan

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter scores the summary of the key findings, give the general conclusion and gives recommendations essential for the proper execution of the legislative mandate of the parliament of the Republic of Uganda.

5.2 Summary of Findings

The study established among others that the parliament of Uganda is based on the essential functionalities of any given parliament in the world. To this end, the study established that the parliamentary roles are based on a number of theories which do not only speak to its functions in individual capacity but also its role in as far as the needs of the citizenry are concerned as well as the governance and oversight structures.

The study has established that regional parliaments especially the European and regional parliaments within Africa such as the Pan African Parliament and the East African Legislative Assembly as well as parliaments from other African Economic Communities such as the Southern African Development Community and the Economic Community of West African States have major and key lessons that Uganda's parliament can pic for replication in Uganda. These lessons once picked can lead to effective legislative processes.

The study further established that Uganda's parliament has a clear legal framework governing its operations in exercising the legislative mandate as well as the oversight function. The study however established that despite the established legal framework, parliament is sometimes ineffective in executing its function due to failure to follow the law and also due to its tendency to yield to the pressures of other arms of government, especially the executive.

5.3 Conclusion

An effective parliament is one which performs its horizontal accountability functions in a manner which is in tune with the wishes of the citizen-voters on whose behalf it acts. It is

through playing this pivotal role that parliaments can contribute to effective and democratic governance. By legislating, they can contribute to state capability. By providing oversight, they can contribute to accountability, which in turn can facilitate learning and improved performance. And by representing citizens, they can contribute to responsiveness. The contribution which parliaments actually make to effective democratic governance depends both on the internal characteristics of the parliament and its members, and on the position of the parliament in wider national (and international) systems of governance. Electoral systems and political parties are an important part of governance in developing countries and have an impact on parliamentary performance. Their role, and their relationship with parliaments, Parliamentary performance may also suffer because of weak links and a lack of consultation between parliaments and other elements of civil society, the media, the private sector, trade unions and so on. In order to improve performance, a parliamentary commission comprise of the Speaker, cabinet members, backbenchers and oppositions members was established responsible for parliamentary staffing including salaries, hiring and firing of staff, and overseeing the parliaments' budgets and services.

5.4 Recommendations

There should be review of disciplinary mechanism, the Constitution conferred power to parliament to review these rules as required. While formal and informal mechanisms for disciplining MPs exist within parliament, including the application of national legislations like the Procurement Act, these have not been as effectively enforced as desired.

There is need for Members of Parliaments and staff to receive in-service training, as regards the human resource capacity, the parliamentarians and parliamentary staff highlighted the issue of inadequate support staff. Members for example, noted that a donor coordination office exists but it is inadequately staffed. They also pointed out that the absence of other logistics such as office space made it difficult to optimize their services. As an interim measure to human resources development, it was observed that MPs and staff required in-service training.

Government should ensure that the legislature is financially independent; it prepares its annual budget and the executive cannot vary it.

Government should ensure that the legislature has adequate logistics including office space to enable it perform its functions.

Members of Parliament should receive adequate and timely constituency development fund that is effectively managed to enable MPs visit their constituencies for consultation with their electorate.

Government should institute a structured system for receiving technical and advisory assistance from external sources.

Government should strengthen human resource of the parliament by availing adequate and highly skilled research and staff support and ensure that the legislature is an equal opportunity employer

There is need to harmonize the executive-legislative relations regarding budgetary allocations. In agreement with this position, the CSOs also observed that since the parliamentarians determine their own resources, they should be in a position to find solutions to the resource issues constraining the legislature. While this is true it has to be done following the existing mandates provided for, under Article 85 of the 1995 Constitution, which highlights the emoluments of the MPs.

The legislature should be open to citizens and the media with a non-partisan media relations facility this mechanism will promote public understanding of its work. The legislature should further provide timely information to the public on the budget and promote citizens' knowledge and understanding of the role of MPs in the budget process.

The legislature should foster sound relationship between parliament, CSOs and other related Institutions and enforce a Leadership Code and the Rules of Procedure required MPs to declare their assets and business interests, it emerged that this is not strictly complied with. Evidence provided demonstrated that it was very hard to enforce rules on declaration of business interests among the legislators. By enforcing the code of conduct will guide the behavior and actions of MPs.

Member of Parliament should maintain high standards of accountability, transparency and responsibility in the conduct of public and parliamentary work.

The legislature should institute efficient and effective mechanisms exist to detect and prevent corrupt practices among MPs and legislative staff and to bring to justice any person engaged in such activities. There are also no mechanisms to prevent or detect MPs and staff engaged in corrupt practices. A body that has the potential for regulating the conduct of MPs is the Privileges Committee which is guided by the Standing Orders of Parliament.

A major means of increasing parliamentary effectiveness has been through building internal parliamentary capacity. Most parliamentary strengthening activities have focused on this technical area. Capacity building has included making management and infrastructure improvements, better equipping members and staff, and building new capacities, such as budget offices. And finally, legislatures become more effective when they reach beyond the walls of parliament to take advantage of the expertise available in their nation

There is the need to implement and uphold legislative recommendations to the executive especially where Legislative Audit Reports have proposed political and judicial actions on the members of the executive. While most of these cases are forwarded to the Inspector General of Government, they are usually characterized by political manipulation. It is recommended that a more impartial arm of the state such as the judiciary ought to handle such cases

Cabinet and the central government should initiate necessary changes in the laws and regulations to ensure that the PAC can undertake independent investigations.

Safeguard of parliamentary independence and autonomy, A legislature's formal powers, usually defined in its constitution and standing orders (or rules of procedure), are another factor help determine its independence and power. Some parliaments enjoy broad formal powers, allowing members and committees to introduce legislation (even legislation with significant financial impact),

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ANNEX III

APPENDIX: A QUESTIONNAIRE FOR RESPONDENT

Dear respondents

I am **Nsamba Hakim** and a student of Kampala International University pursuing a Bachelors of Laws .I am carrying out a study research entitled **"Examining the role of parliament in executing its legislative mandate in Uganda"** You are among the respondents randomly selected to provide information. Please you are requested to respond to the questions by ticking on the appropriate box or write a brief statement where applicable. The information provided will be kept confidential and will only be for academic purposes.

SECTION A: BIO DATA OF THE RESPONDENTS

1. Respondent's highest level of education

Certificate A	Diploma B	Degree C	Post graduate D

2 Time Spent in the organization

a	1 year and below	
b	1-3 years	
c	4-7 years	
d	8-10 year s	
e	Above 11 years	

3. Position held in the organization

No.	Position	Response
1	Top manager level	
2	Middle manager level	
3	Operational level	

SECTION B: CONCEPTUAL FRAMEOWRK OF ROLE OF PARLIAMENT IN LEGISLATIVE PROCESS

Using a Likert scale of 1 – 5 to rate the following alternatives from A – G where 1 = Strongly Disagree (SD), 2= Disagree (D), 3= Not Sure (NS), 4 =Agree (A) and 5 = Strongly Agree (SA)

	Statement	RANKING				
		SD 1	D 2	NS 3	A 4	SA 5
a	I think there are checks and balance between parliament and executive in Uganda					
b	There is separation of power among the three organs of government					
c	The parliament of Uganda is not a rubber stamp parliament					
d	There is rule of law for effective functioning of parliament of Uganda					

e	law-making may be realized by the legislative representative bodies or by people directly by referendum					
f	There are judicial reviews of laws made by parliament					

SECTION C: ROLE OF PARLIAMENT IN LEGISLATIVE PROCESS

Using a Likert scale of 1 – 5 to rate the following alternatives from A – G where 1 = Strongly Disagree (SD), 2= Disagree (D), 3= Not Sure (NS), 4 =Agree (A) and 5 = Strongly Agree (SA)

Tick where appropriate

No	Statement	RANKING				
		SD	D	NS	A	SA
		1	2	3	4	5
a	The parliament of Uganda is independent from other arms of government when making laws					
b	Mandate of Parliament derives from the 1995 Constitution which provides for a reorganized and more empowered Parliament					
c	The financial function is one of the major responsibilities of the legislature					
d	The Oversight Committees do not have adequate powers to request and receive response on actions taken by the executive					
e	The legislature is open to citizens and the media in the law					

making process

SECTION D: FUNCTIONING OF PAN AFRICAN PARLIAMENT, EALA AND EUROPEAN PARLIAMENT

Using a Likert scale of 1 – 5 to rate the following alternatives from A – G where 1 = Strongly Disagree (SD), 2= Disagree (D), 3= Not Sure (NS), 4 =Agree (A) and 5 = Strongly Agree (SA)

Statement **RANKING**

	Performance of PAP and EALA	**SD** 1	**D** 2	**NS** 3	**A** 4	**SA** 5
a	PAP has legislative powers					
b	The PAP is independent in its legislative process					
c	The laws passed by the PAP are effective					
d	The EALA has legislative powers					
e	The EALA is independent in its legislative process					
f	Members of the PAP and EALA are democratically elected					

SECTION E: CHALLENGES AND RECOMMENDATIONS FOR EFFECTIVE FUNCTIONING OF PARLIAMENT OF UGANDA

Using a Likert scale of 1 – 5 to rate the following alternatives from A – G where 1 = Strongly Disagree (SD), 2= Disagree (D), 3= Not Sure (NS), 4 =Agree (A) and 5 = Strongly Agree (SA)

Statement **RANKING**

	Challenges of parliament of Uganda	**SD** 1	**D** 2	**NS** 3	**A** 4	**SA** 5
a	The parliament of Uganda is a rubber stamp					
b	The laws passed by parliament are not effective					
c	The parliament of Uganda is not independent in legislative process					
d	There is interference of executive in legislative process of the parliament					
e	There legislative process in Uganda is slow due to bureaucracy					
f	The speaker of parliament is not independent from the ruling party					

ANNEX III

INTERVIEW GUIDE FRO KEY INFORMANTS ON THE ROLE OF PARLIAMENT IN EXECUTING LEGISLATIVE MANDATE IN UGANDA

Date of the interview.....

Place of the interview .....

Demographic data

Name.....

Gender.....

Age (Optional).....

Occupation.....

Level of education.....

i. **General guide:**

ii. What is a brief history of parliament of Uganda?

iii. What are your views about the current legislative process in Uganda?

iv. What is the legal framework of Parliament of Uganda?

v. Do you think that the parliament of Uganda is effective in executing its legislative mandate?

vi. If yes, what parliament was very effective in the legislation process?

vii. Are there checks and balance among the organs of Government?

viii. Is there separation of power between the legislature and executive in Uganda?

ix. Does the executive interfere with the parliament when executing its legislative mandate?

x. Is the parliament of Uganda a rubber stamp Parliament?

xi. What lessons has the parliament of Uganda learnt from Pan African Parliament, EALA and European parliament?

xii. What are the challenges of parliament of Uganda when executing its legislative mandate?

xiii. What are your recommendations for effective functioning of parliament of Uganda?

xiv. To what extent are heads of government, cabinet ministers, and executive officials interrogated effectively by parliamentary portfolio committees, by specialized

committees such as the Public Accounts committees, at periodic plenary question periods, or snap debates?

xv. Do members of the executive respond fully, partially, not at all orally and in writing? With what frequency?

xvi. Does parliament control these mechanisms directly? Is the opposition fairly represented?