Indicator 1.10 – Relations of parliament

The indicator on relations of parliament outlines the constitutional separation of powers that exists between the legislature and other branches of government, including the executive, judiciary, and subnational governments. The indicator also outlines mechanisms for communication or coordination between the legislature and other branches with regard to parliamentary jurisdictional powers, such as legislative oversight of the executive, judicial appointments, and national-subnational shared resource implementation.

This indicator also reinforces the unique powers of parliament as a central branch of government that is responsible for oversight of the executive delivery of programmes and services, the appointment and confirmation of justices, and the ultimate authority of representing the interests of citizens at the national level.

The assessment of the indicator on relations of parliament covers the following dimensions:

- 1.10.1 Executive
- 1.10.2 Judiciary
- 1.10.3 Subnational parliaments and authorities and local councils and authorities
**Indicator 1.10 – Relations of parliament**

**Dimension 1.10.1 Executive**

Indicator: 1.10 Relations of parliament  
Sub-target: 1 Effective parliament  
Target: 16.6 Effective, accountable and transparent parliament

**About the dimension**

This dimension outlines the nature of the relationship between parliament and the executive, and specifically, the mechanisms for that established relationship. In a democratic system, the executive and legislature have distinct and autonomous roles. As a result of these distinct and autonomous roles, there is considerable scope for tension in the relationship. However, parliament and the executive must maintain a satisfactory working relationship, if the country is to operate effectively. This relationship is built on a mutual understanding of and respect for the respective roles that each play.

One of the key roles of an effective legislature is its capacity to hold the executive to account. It is therefore critical that channels exist to allow parliament to access information, data and officials in order to report on public accounts, services and performance, and ensure the accountability of government expenditure and programmes.

The relationship between the legislative and executive branches requires established scrutiny mechanisms that allow parliament to maintain oversight and accountability of public accounts, services and performance. Such mechanisms may include oversight committees, audit offices, ombudspersons auditors-general, anti-corruption commissions, and information commissioners. These offices should be non-partisan in nature, and may exist physically within parliament or externally. In some governments, executive offices may include dedicated legislative liaisons who are responsible for providing legislative actors with direct access to executive data and information on programmes and accounts. This helps to ensure fluid communication between the two branches at all times, and provides actors in the legislature (either members directly or their caseworkers) with the ability to directly enquire about public programmes and services on behalf of citizens in need (for example, veteran benefits). This is also important to help to maintain the executive-legislative relationship in law-making, such as when the executive proposes new legislation or makes changes to existing laws that the legislature must review. In these cases, it is normal for the executive to have a dedicated legislative liaison who maintains regular communication with members’ offices.

Depending on a nation’s laws, requirements may exist for periodic information-sharing between the executive and legislative branches through these mechanisms. For example, laws may require semi-annual or annual audits to be conducted on all public accounts to ensure the receipt of follow-on funding in the national budget. Other laws may require regular reporting to parliament on the performance of executive agencies, periodic public asset review, tracking and collection, especially during executive transitions. Some countries require semi-annual or bi-annual review of expenditure on national security, defence or international aid and defence assistance, especially if such expenditure constitutes the majority of a nation’s overall budget. It is critical that any laws that exist in this regard require the reports, reviews and audits conducted to be made available to the parliament and the public.

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1 For more details, see Indicator 1.1 Parliamentary autonomy, and Indicator 1.7 Oversight.

On the basis of a global comparative analysis of parliamentary practices and models in parliamentary development, an aspiring goal for parliaments in the domain of executive relations of parliament would encompass the following:

In order to support a clear constitutional basis for the executive-parliament relationship, there are established mechanisms that allow parliamentary checks, oversight, and periodic or fluid communication with (and access to) the executive in order to maintain awareness and the accountability of public expenditure, programmes and services.

National laws establish formal requirements for these mechanisms to report on executive activities, including regular reporting on performance and services, periodic audits, inspector-general reports, ombudsperson reports, and other relevant commission reports.

Although there is tension in the relationship between the executive and parliament, the framework and mechanisms put in place are effective in enabling both the parliament and the executive to perform their respective roles, and for there to be effective sharing of information between the executive and the legislative branches to facilitate their work.

**Assessment**

The dimension is evaluated on the basis of several criteria that should be assessed separately. For each criterion, select one of the six descriptive grades (Non-existent, Poor, Basic, Good, Very good and Excellent) that corresponds best to your parliament, and provide details of the evidence on which the assessment is based.

The evidence for assessment of this dimension might include:

- Constitutional provisions on the establishment of an independent legislative branch
- National laws outlining mechanisms for executive-legislative relations and timetables for reporting, audits and other reviews as applicable
- Established mechanisms under which the legislative-executive relationship exists as outlined under law, and which provide both branches with fluid and consistent access to information and communication with liaisons who can supply direct information on public expenditure, services, and programmes.

If relevant, additional comments or examples that support the assessment (such as references to external national, regional or international surveys and reports) can be provided.

**Assessment criterion No. 1: Constitutional authority**

There is evidence of a constitutional provision that, by defining basic separations of power, including the existence of an independent legislative institution, establishes the framework for the relationship between the executive and the parliament.

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**Evidence for this assessment criterion:**
Assessment criterion No. 2: Legal framework

Within the context of the constitutional relationship between the executive and parliament, there is a legal framework established by national laws that defines a comprehensive approach to the parliament's oversight and scrutiny role in relation to the executive. The framework includes systematic reporting to parliament about the executive's activities and a systematic approach to the review and scrutiny of the activities of the executive.

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Evidence for this assessment criterion:

Assessment criterion No. 3: Established legislative-executive relationship mechanisms

There are established mechanisms that exist under parliament's authority and framework that allow for periodic information-sharing, access and oversight of executive expenditure, programmes, services and performance. These mechanisms may include the following: an ombudsperson; auditors-general; inspectors-general; oversight and accountability committees, commissions and agencies; audit offices; anti-corruption commissions and information commissions; and legislative liaison offices. These offices are non-partisan in nature and exist to enable fluid communication and access to information between the branches, and provide methods for effective parliamentary oversight of executive expenditure, programmes, services and performance. The reports from these offices are publicly available.

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Evidence for this assessment criterion:

Assessment criterion No. 4: Practices in the executive/parliament relationship

There is evidence, through the framework and mechanisms put in place, of a satisfactory working relationship between the executive and parliament, which is based on mutual understanding of and respect for their respective roles, and which is reflected in the capacity of the executive and parliament to perform their roles effectively. There is an effective exchange of information between the executive and legislative branches that facilitates their work.

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Evidence for this assessment criterion:
Indicator 1.10 – Relations of parliament

Recommendations for change
Indicator 1.10 – Relations of parliament

Dimension 1.10.2 Judiciary

Indicator: 1.10 Relations of parliament
Sub-target: 1 Effective parliament
Target: 16.6 Effective, accountable and transparent parliament

About the dimension

This dimension outlines the primary forms of relations between parliament and the judiciary. Due to the political nature of the legislature and the political impartiality of the judicial system, relations between the legislative and judicial branches of government are strictly separated by the constitution or equivalent rules. These relations entail parliament’s responsibility for law-making on one hand and the judiciary’s responsibility for the interpretation and application of law on the other hand. The judiciary and parliaments fulfil their respective but critical roles in a complementary and constructive manner.\(^3\)

It is the responsibility of the parliament to establish clearly defined criteria for judicial appointments, set unambiguous and fair rules on the suspension or removal of judges, establish appropriate security of tenure and guarantees of independence for judges, and allocate adequate budget resources to the judicial system.

In many jurisdictions, the system of checks and balances requires the legislature's consent in confirmation of senior judges (such as supreme court justices, constitutional court justices and federal court judges) and parliament has the power to impeach high-ranking judges for serious crimes or misbehaviour. The relationship between parliament and the judiciary also implies that the interpretation and application of the law is the responsibility of the judiciary and not the legislature.\(^4\) In most legal systems, the judiciary has the mandate to rule on the constitutionality of the laws adopted by the parliament and, in some cases, even abolish them.

Where parliaments have responsibility for confirming and/or impeaching senior justices, they establish clear procedures for confirmation and impeachment, which usually include detailed criteria for selecting candidates, obtaining relevant information (background checks), and rules on holding hearings and making decisions. Procedures for conducting impeachment are prescribed by law.

In addition to these formal relationships between the parliament and the judiciary, the separation of powers also requires mutual respect and restraint with regard to their separate roles. In the case of the parliament, this can be reflected in rules of procedure to restrict adverse comments about judges or reflections in debate on matters before the courts. In the case of the judiciary, it involves a restriction on interference in matters that are solely within the jurisdiction of the parliament.

On the basis of a global comparative analysis of parliamentary practices and models in parliamentary development, an aspiring goal for parliaments in the domain of relations with the judicial branch would encompass the following:

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\(^3\) The Commonwealth, “Commonwealth Principles of the Accountability of and the Relationship Between the Three Branches of Government” (the Commonwealth Secretariat and others, 2004).

There is a clearly defined constitutional framework on the separation of powers between legislative and judicial branches of government. Any relations and interaction between the judiciary and parliament take place strictly in compliance with the constitution and law, and in recognition of mutual respect for their independence.

There is a legal framework established by parliament to set clearly defined criteria for judicial appointments, establish appropriate security of tenure and guarantees of independence for judges, and set unambiguous and fair rules on the suspension or removal of judges. Judges may only be suspended or removed for reasons of incapacity or misbehaviour that renders them unfit to carry out their duties.

Parliament allocates sufficient budgetary resources for the judicial system to operate effectively without any constraints.

Where applicable, a detailed procedure for confirming and impeaching senior justices (including supreme and constitutional court judges) is defined by the constitution or the law. Detailed criteria for selecting candidates and obtaining relevant information (background checks), rules on holding hearings and making decisions, and procedures for conducting impeachment, are prescribed by law. Decisions on appointments or impeachments are made by a majority or supermajority vote of the legislature.

Assessment

The dimension is evaluated on the basis of several criteria that should be assessed separately. For each criterion, select one of the six descriptive grades (Non-existent, Poor, Basic, Good, Very good and Excellent) that corresponds best to your parliament, and provide details of the evidence on which the assessment is based.

The evidence for assessment of this dimension might include:

- Constitutional provisions or equivalent rules on the separation of powers between the legislature and the judiciary, and procedures and practices reflecting mutual regard for their independence
- Constitutional or legal provisions on the setting of clearly defined criteria for judicial appointments, unambiguous and fair rules on the suspension or removal of judges, and independence safeguards
- Budgetary allocations providing sufficient resources to the judiciary in order for it to operate effectively
- A legal framework defining explicit and detailed procedures for the appointment and impeachment of highest court justices
- Reports on judicial confirmations and impeachments issued by parliament

If relevant, additional comments or examples that support the assessment (such as references to external national, regional or international surveys and reports) can be provided.

Assessment criterion No. 1: Constitutional framework

There is a constitutional framework that clearly outlines a separation of powers between the legislature and the judiciary. The nature of the relationship between these two branches of government is defined by constitutional law. Mutual respect and restraint are reflected in the procedures and practices of the parliament and the judiciary.
Assessment Criterion No. 2: Legal framework

There is a legal framework established by parliament to set clearly defined criteria for judicial appointments and to establish appropriate security of tenure and guarantees of independence for judges. The framework also sets unambiguous and fair rules on the suspension or removal of judges, which might be applied only for reasons of incapacity or misbehaviour that renders them unfit to discharge their duties.

Evidence for this assessment criterion:

Assessment Criterion No. 3: Securing resources

There is evidence of sufficient budgetary resources being allocated by the parliament for the judicial system to ensure the effective operation of courts without any constraints.

Evidence for this assessment criterion:

Assessment Criterion No. 4: Confirmation and impeachment of senior judges

This assessment criteria are only relevant to countries where the legislature confirms and/or impeaches senior justices. Parliament’s actions to confirm or impeach senior judges are consistent with its legal framework, and are conducted using clear and transparent procedures. Decisions on the confirmation or impeachment of a judge are made by a majority or supermajority vote of the legislature.

Evidence for this assessment criterion:
Indicator 1.10 – Relations of parliament

Recommendations for change
**Indicator 1.10 – Relations of parliament**

**Dimension 1.10.3 Subnational (state, provincial, regional) parliaments and authorities and local councils and authorities**

Indicator: 1.10 Relations of parliament  
Sub-target: 1 Effective parliament  
Target: 16.6 Effective, accountable and transparent parliament

**About the dimension**

This dimension concerns the relationship between the national parliament and relevant subnational bodies of government (state, local, municipal). It is important to note that, depending on a nation’s constitutional and legal framework, the nature of the relationship between a national parliament and subnational entities may differ significantly. The relationship may be affected by the representational status of the chamber, for example, a chamber made up of members representing individual constituencies will have a different focus to one representing whole states or provinces. As a result of these differences, the relationship in different legislatures can vary considerably and be very nuanced in its variations. This dimension seeks to distil the key relationship issues with subnational authorities that that are generally applicable to national parliaments.

First, there should be clear constitutional and legal provisions of the country that delineate the respective responsibilities and authority of the national and subnational entities. Both the national parliament and subnational authorities should have a clear understanding of their roles and responsibilities, so that they can better determine the nature of their interactions. This delineation of responsibility includes the recognition that the members of a national parliament, as the representatives of their electors, will comment or discuss matters of subnational concern, in order to underscore or elevate key issues to a national level. This does not subvert the proper authority and role of subnational entities in relation to these matters.

Second, as a country relies on successful cooperation among its respective authorities, parliaments should also ensure there are protocols and mechanisms in place for connectivity and information-sharing among authorities. Depending on the variation in the relationship between national parliaments and subnational authorities referred to earlier, there may be a wide variety of ways in which parliaments and MPs can maintain connectivity and information-sharing with subnational governments and authorities. These ways may include:

- Individual MP’s offices may have individual information-sharing channels, such as scheduled check-ins with subnational officials to remain informed of ongoing policy implementation, in addition to opportunities and challenges.
- Parliament may have a communications or policy office that assists it in tracking or sharing information on subnational affairs.
- At the subnational level, officials may use centralized hubs for sharing information with parliament, including through organized associations (such as a governors association or a municipality association).
- There may be a national ministry dedicated to subnational governance affairs to maintain overall connectivity between affairs at the state and local level and the national government. In this instance, the legislature can use this body to maintain communication and connectivity with subnational entities to improve communication on core policy implementation and resource-sharing. This is especially critical in the event of a disaster or crisis in a national MP’s locality (or jurisdiction), where assistance needs to be delivered, or in instances where government programmes and services are needed locally or for the individual constituents of MPs (for example, health care or veterans benefits).
Regardless of the mechanisms that are in place, effective communication, cooperation and connectivity are important.

On the basis of a global comparative analysis of parliamentary practices and models in parliamentary development, an aspiring goal for parliaments in the domain of subnational authorities would encompass the following:

There is a clear delineation in constitutional or legal provisions of the respective roles and responsibilities of the national parliament and subnational authorities. The national parliament has the responsibility to represent all citizens by sharing examples from subnational jurisdictions to amplify the needs and priorities of citizens on a national stage without subverting the proper authority and role of the subnational bodies.

The legislature has established mechanisms and practices to maintain connectivity, communication, cooperation and awareness of subnational affairs. These mechanisms will vary depending on the nature of a national parliament’s relationship with subnational authorities.

Assessment

The dimension is evaluated on the basis of several criteria that should be assessed separately. For each criterion, select one of the six descriptive grades (Non-existent, Poor, Basic, Good, Very good and Excellent) that corresponds best to your parliament, and provide details of the evidence on which the assessment is based.

The evidence for assessment of this dimension might include:

- Provisions on the existence of constitutional authorities
- Legal regulations requiring shared responsibility between national and subnational levels of government
- Information on a centralized parliamentary mechanism for tracking subnational affairs, individual office mechanisms for connectivity, or coordination efforts of the national ministry responsible for subnational affairs (if applicable)

If relevant, additional comments or examples that support the assessment (such as references to external national, regional or international surveys and reports) can be provided.

Assessment criterion No. 1: Clear delineation of authority and responsibilities

There is evidence of constitutional or legal provisions that provide a clear definition of the respective roles and responsibilities of the national parliament and subnational authorities. The national parliament is recognized as having the role of representing all citizens, and sharing examples from subnational jurisdictions to amplify the needs and priorities of citizens on a national stage.
Indicator 1.10 – Relations of parliament

Assessment criterion No. 2: Parliamentary mechanisms for communication and coordination

Parliament itself or individual MPs have established mechanisms and practices for communication between the national and subnational levels of government. Mechanisms and practices will vary according to the defined relationship between the national parliament and subnational entities, but should enable effective communication and cooperation.

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Evidence for this assessment criterion:

Recommendations for change

Indicators for democratic parliaments, based on SDG targets 16.6 and 16.7