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## **Measuring Parliaments: Construction of Indicators of Legislative Oversight**

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### **ST43 - Le Parlement européen, acteur international et institution parlementaire internationale (IPI): exemples et comparaisons avec d'autres IPIs**

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#### **Measuring Parliaments: Construction of Indicators of Legislative Oversight**

**Abstract:** Governmental accountability is an obligation that different levels of government must fulfil nowadays. In order to accomplish this, different levels of government and different powers, not only the Executive, must disclosure information regarding the use of public resources and the goods and services delivered to the people. Although there are several goods that can be easily measured, others cannot. Those provided by the Parliaments lies in that last category. The results delivered by the legislative branch are highly abstract. Brazil's House of Representatives represents the people (representation function), legislates on matters of national interest (legislation function) and audits the use of public resources (oversight function). The studies analysing principal-agent theory on legislative oversight and the use of fire alarms and policy patrol were not able to identify these indicators so far. This study aims to construct objective indicators of legislative performance, when exercising their oversight function. The research is empirical, and was divided in two phases. Initially, to elucidate the main indicators of oversight function performance, interviews were conducted with key bureaucrats from the Brazilian and European Parliaments. In addition, data was gathered in order to measure these indicators and to test their validity. The study is a first step towards a model to measure Parliamentary performance and their effectiveness. Through their results aspects to evaluate oversight function are proposed and must be deepened in the future in order to allow works on comparative research on Parliamentary performance.

#### **Introduction**

Governmental accountability is an obligation that all levels of government must fulfill nowadays. In order to accomplish this, all powers, not only the Executive, in national, state and local level must disclosure information regarding the use of public resources and the goods and services they deliver to their citizens.

The politicians, bureaucrats and the government as a whole are not totally accountable if it is not possible to measure their performance. Although this performance is more easily measured in certain areas, like health (available public hospital beds, amount of people who used hospital care), education (number of students enrolled in the public educational system) or infrastructure (kilometers of roads paved), others are not, especially in the judiciary and legislative branches.

If we take a closer look in the legislative power, it is possible to identify as its main functions: people's representation, executive's oversight and enactment of legislation.

Besides these functions, budget approval is a parliamentary activity that assembles characteristics from all functions, so some consider it as a fourth function.

Even though it is hard to do it, goods and services provided by the Legislative Power should be measured and the processes involving their production should follow efficiency, efficacy and effectiveness principles.

Growing obligations from the government related to accountability have forced the goods and services to be produced and offered through processes that assure a more efficient, effective, and effectual performance. Consequently, performance monitoring is needed to assure that these goals will be met. At the same time that the parliament, in its obligation to supervise the executive branch, should analyze the performance of the public service provided by the executive, the service provided to the people by the parliament should not be excluded from this rule, making necessary to improve parliament and its members. (Cameron, 2004; Bird et al., 2005; Johnson and Talbot, 2007; Donohue and Holland, 2012)

As it could be seen in the recent demonstrations in Brazil, society's growing wish for auditing, accountability and transparency from the government, especially from the legislative branch, shows the matter in hand cannot continue to be dealt with outside the academy.

When analyzing the performance of public sector institutions, it is common to find indicators that measure inputs, in terms of resources used, outputs and effectiveness (Monk, 2009).

According to Moynihan (2006), traditional administration systems would give more emphasis to input control from the State activity, that is, the budget credits received for public spent. This made the managers little worried with the result of State actions, since conformity control was more important and done according to the predicted budget.

Therefore, after administrative reforms in the public sector in the last few years, most of them in conformity with the New Public Administration, some elements that were used only in the private sector were incorporated to the public area, such as outsourcing, total quality management and strategic planning. One of the goals of these reforms was precisely to improve the performance of the public sector by changing the emphasis from input control to results control. (Hood, 1995; Moynihan and Pandey, 2005)

As a first step towards measuring the performance of something, it is necessary to define what performance means. Performance relates to the achievement of results that are expected as an outcome of carrying out certain activities. The outcome must be considered in terms of the objectives, goals and understanding of success of the institution being measured. Hence, one way to measure performance is analyzing the effort made by a project, process, task or organization to achieve a result (Australia, 2004; Brazil, 2009).

Performance can be considered as the action of an institution aiming a result. Thus, result measurement is connected not only with the result of certain institution but also with the processes that lead to such result. (Nichols, 1997; Brazil, 2009).

Therefore, it is necessary to identify a result. Nevertheless, quantify an output is not enough. It is essential to establish indicators able to evaluate in what degree the result

was achieved or not. Besides that, the Legislative Power involves a set of efforts and work that cannot be measured in a single indicator. The solution would be to create a model capable of measure different dimensions of efforts is essential to allow the researcher to analyze if a Parliament performs his activities with efficiency.

Since the function of legislate is the one most associated with the legislative houses, number of bills proposed or passed are often used in researches in order to evaluate parliamentarian performance (Olson, 1974; Frantzich, 1979; Weissert, 1991; Box-Steffensmeier; Grant, 1999; Anderson, Box-Steffensmeier and Sinclair Chapman, 2003; Jeydel and Taylor, 2003; Micozzi, 2013; Volden, Wiseman and Wittmer, 2013).

According to Monk (2009), when evaluating congressional committee performance, we can identify three different approaches: effect of committees on public policy, implementation of committee's recommendations and their effect and the use of quantitative data.

Thus, attempts to measure the Congress subjectively, through voters surveys (McDermott and Jones, 2005; Stein, 2006), legislators, lobbyists and journalists surveys (Weissert, 1991; Miquel and Snyder, 2006), executives from the private sector surveys (Stein, 2006), and surveys with advisors, journalists, and society representatives (Stein, 2006) were made. However, the results of such surveys express only the opinion of the participants and that is not objective enough to measure parliament performance (Miquel and Snyder, 2006).

The effectiveness of legislation and its impact on people's lives cannot be used as an index of parliament's quality because the impact of a law can be affected by factors outside the parliament (Haarhuis and Niemeijer, 2009). In fact, effectiveness of each public policy separately can be measured, as well as the impact of specific legislation for that result. Thus, this study's aim is not to evaluate the effectiveness of public policies affected by parliament's actions, nor the effect that these actions have on general population.

Considering there is not a natural indicator for the results of the parliament actions and, so far, no valid academic indicators, international organizations have started researching ways to measure parliament performance.

National Democratic Institute for International Affairs (NDI), a nonprofit organization which aims to strengthen and expand democracy, developed the first model of parliamentary assessment, created as a set of standards that should be met to determine if the Parliament is adherent to democratic values considered relevant by NDI.

This model helps to point out if a Parliament have the power and if it is able to exercise these powers. It is not sufficient to have the legal rights to do; the parliament must have enough independence to use them. It is also important to highlight that the answers given on a survey done among parliamentarians, theirs advisers and members from the civil society, are subjective and measure a feeling more than actual results achieved by the parliament, so it does not measure efficiency or efficacy.

The Inter-Parliamentary Union (IPU) has created a model to evaluate the way the parliament works. This model measures the performance based on a survey done among parliamentarians, parliamentary staff, political parties, civil society organizations or other interested citizens, academics or researchers in which they should evaluate

different items about the effectiveness of the parliament in a 1 to 5 scale (very low/very poor, low/poor, medium, high/good, very high/very good). It measures 5 basic principles: representativeness, transparency, accessibility, accountability and effectiveness. The evaluation process is based on the definition of best practices for measuring democracy in a parliament and also identifies its weaknesses and strengths, helping in the formulation of an action plan through the issuance of recommendations to the Parliament.

CPA (Commonwealth Parliamentary Association) has published a benchmark for democratic legislatures in 2006. Such benchmark is constituted by several items that identify the qualities a parliament should have. This model includes, for example, auditing immunity and remuneration of parliamentarians, procedures and sessions, organization and competence of committees, and parliamentary advice, among other subjects that affect parliamentary activities. The idea is to set the minimum standard parliaments should aim for. Once selected from that list of items, a scale method (1-5 is suggested, however some questions admit only 1 OR 5 as answer) should be used to complete the analysis.

The Assemblée Parlementaire de la Francophonie (APF) created a benchmark which was largely based on the one developed by the CPA. The differences are mainly related to the differences between the parliamentary institutions of these organizations. In his work, APF deepened the CPA benchmark in the areas related to elections having 117 criteria (30 more than CPA). This model is closer to a guide of good practices to empower the parliaments that apply the APF Criteria.

The European Commission decided to develop his own model to analyze the Parliaments. The work, which started in 2010, had as its main goal the support to Parliaments all over the world. It is developed having the IPU and CPA instruments as a starting point and uses two checklists to complete his work. The first one helps to determinate the existence of a set of minimum conditions necessary to allow a parliamentary development program to be successful. The second is a tool designed to identify the current strengths and weaknesses of parliamentary functions.

Later, in 2012, the European Commission developed a Study on Performance Indicators for EU parliamentary support. The study was important because of a lack of indicators of program effectiveness, through the identifications of positive impacts of support projects on the effectiveness of the parliamentary functions.

The Study divides the performance indicators in seven themes: Legislation, Oversight, Budget, Representation, Administration, Inclusivity, and Institution-building. For each one of these themes, the study outlines parliament activities (outcomes).

The study presents several indicators for each outcome. However, the guide does not present to its user the way the indicator could be used. A parliament where more legislation is drafted is better than the others? This question is not answered by the guide. Besides that, the assessment has to be driven by the parliament itself. This means that these indicators are not meant to be used by scholars.

The NDI, CPA and APF models are actually minimum standards for parliaments to measure their democratic and institutional level. They are not intended to make analysis of their performance between different parliaments. On the other side, the IPU and the

European Commission approach do not try to identify these minimum standards having a different approach.

Almost all the frameworks were developed to be used by parliaments or parliamentarians as a self-assessment leading to improvement and institutional maturation. Besides that, none of them was established to rank different parliaments, which also turns difficult analysis over time. Additionally, none of the models succeed in shaping precisely objective performance indicators that could be used to measure those parliaments.

The existence of a performance management model is not compatible with the lack of measurement. Thus, this measurement should be done using indicators, values and measurement tools that are capable of quantifying efforts and results. According to the indicator model from the National Program for Public Management and de-Bureaucratization (Gespública) a measurement system should allow: “a) generation of indicators in different dimensions of efforts and results with different weight between them (once they represent measurements of distinct importance); and b) the generation of a grade for each indicator (which will require not only to find the value of the indicator at the time of the measurement, but also to compare the value found with a target-value, that could be a target itself or a benchmark) that express a relative measurement (real measurement in relation to an “ideal” measurement).” (BRASIL, 2009, p. 10).

Existing programs that aim the improvement of parliament performance through parliamentary strengthening have not succeed in getting results. (Kinyondo; Pelizzo, 2013) However, the lack of a valid method to analyze the parliament does not allow this type of analysis to be done objectively.

Many researches have tried to analyze parliament performance even though there is no acceptable measurement model. As a result, each research uses different data to analyze effectiveness. Coghill, Donohue and Holland (2008) identify that the lack of criteria for the evaluation of the parliament performance and the lack of the necessary competence for the exercise of the parliamentary activity makes it difficult to create mechanisms that allow the improvement of the work of parliamentarians.

According to Muylle (2003), the analysis of the effectiveness of any public service should take into consideration the quality of the service provided and the quality of the process to produce it. To measure the work of the parliament only by the number of laws elaborated is inadequate because a large number of laws could lead to an excessive regulation of certain issues. Thus, consistency, comprehensibility, transparency, and clarity of a law, for example, are indicators of the quality of the legislation that are independent from the number of approved laws, and could be better indicators of the parliament performance.

Anderson, Box-Steffensmeier and Sinclair-Chapman (2003) have identified a series of factors that influence on the analysis of the legislative success; among them are the parliament rules, political context, and speeches at the Legislative Chamber. These criteria must be considered when performing the analysis. Van Der Meer (2010) identified that one of the factors that affects negatively on parliament performance is corruption and the incompetence from the legislative branch to end it. Number of deliberation in the parliament, including hearings and debates, are pointed out by Lascher Jr (1996) as key factor in the legislative decision-making.

Besides, different types of law should be categorized separately for analysis since the category of the law has an impact on its probability of becoming a law. Researches that use approval index as indicator of efficiency are impacted by it (Adler and Wilkerson, 2005).

Moreover, evaluations based only on one criteria does not capture all the aspects of the public service provided by the parliament, so only a part of the performance is actually measured (Miquel; Snyder, 2006).

Oversight function, although extremely important is often ignored in parliamentary performance studies. According to the European Commission (2012, p. 14) "Parliament's capacity to carry out comprehensive oversight of government action that is the key determinant of how much a parliament contributes to good governance".

Parliaments must detect all the Executive Power' violations on Legislative's goals. These activities are the core of the function of oversight (McCubbins and Schwartz, 1984).

Besides that, studies analyzing principal-agent theory on legislative oversight and the use of fire alarms and policy patrol were not able to identify these indicators so far. This study aims to discuss objective indicators of legislative performance, when exercising their oversight function.

When considering evaluation of the auditing function, the existence of the auditing power is not enough to determine the effectiveness of such evaluation (Pelizzo; Stapenhurst and Olson, 2007).

## **Literature Review**

According to Fiorina (1982), division of work between politicians and bureaucrats increases the government efficiency because the latter generally have an expertise advantage. Besides that, the costs to implement the policy are shared between political and nonpolitical actors. Considering that politicians avoid being accountable for the public policies decisions, it is essential to Legislative to delegate even part of its regulatory activities to Executive.

Although creating an administrative institution authorized to make decisions bounded to its authority allows the Parliament to lower its transaction costs and improve the decision-making process, at the same time it can also difficult democratic accountability (Kassim and Menon, 2003; Hall and Taylor, 1996).

All the delegation models recognize that policy adoption and implementation by bureaucrats results in 'frictions' and 'imperfections'. Although it is considered that bureaucrats always sought to maximize the budget of its agencies, and that politicians face a loss of power, usurped by the bureaucrats, we cannot ignore the hypothesis that in fact the conflict of goals in the public service is higher among voters and politicians than between the latter and the bureaucrats (Fiorina, 1982; Niskanen, 1994).

When delegating its authority over the public policies cycle to the Executive, an agency problem is created by the Congress, because the interests, goals and preferences of congressmen and bureaucrats can diverge. In order to avoid goals conflict, incentives to align their interests must be put into place and elude the problem of asymmetries of

information caused by adverse selection and moral hazard (McCubbins and Schwartz, 1984; Shapiro, 2005).

Agency Theory analyzes the relationships, between participants in a system where ownership and control are assigned to different people and, although they should cooperate with each other, in fact they pursue different goals, causing an agency problem. The individuals in an agency relationship are identified as principal (who delegates the powers) and agent (who performs the work according to a delegation received from the principal (Eisenhardt, 1989; Kiser, 1999).

More precisely, "the heart of the agency theory is the goal conflict inherent when individuals with different preferences engage in cooperative effort and the essential metaphor is that of a contract." (Eisenhardt, 1989 p.63).

In agency theory, the agents are considered opportunistic by nature, so in the absence of controls, they always act on behalf of their own interests, even when they are contrary to principal's interests (Lubatkin et al, 2006).

Regarding the application of agency theory in public administration it is necessary to define who is "principal" and who is "agent". As observed Worsham and Eesner (1997), public policies often find their origin in legislation defining objectives in a comprehensive way and delegating the authority to implement it.

Kiser (1999) identified that the transposition of Agency Theory, like others models used to analyze economic organizations, to the public administration need an adjustment, as institutional frameworks where politicians and bureaucrats work are different from those found in the private business. In addition, the existence of other stakeholders as taxpayers, regulated companies and public policy beneficiaries makes relations in the public sector distant from the principal-agent model (Rose-Ackerman, 1978 apud Kiser, 1999).

The problem of information asymmetry between bureaucracy and political actors was already pointed by Weber. Politicians would have difficulty to monitor the bureaucrats, given their knowledge and the disposal of the information and means necessary to prevent politicians from being informed about their actions, even though the politicians are the ones with the formal authority. The administrative institutions act as agents of Congress since they depend on them for authorizations and appropriations. The information problem is crucial in public sector, influencing the evolution of public policies and the avoidance of past mistakes (McCubbins and Schwartz, 1984; Waterman and Maier, 1998; Kiser, 1999; Miller, 2005).

The use by politicians of more efficient monitoring systems, such as technical assistance, development of information networks and the use of external consultants for evaluation of public policies is due in large part to the recognition of information asymmetry in this relation (Laffin, 1997).

Besides the conflict of objectives, information asymmetry is another serious problem in agency relationships. When the principal does not obtain information about the agent's behavior easily, in order to be informed whether agent's actions are happening as expected, potentially leading the agents to act in their own interests instead of the principal's. Information asymmetry is due to the inability of the principal to qualify the

behavior performed by the agent. Therefore, it is essential that the principal monitor agent's behavior (Eisenhardt, 1989; Lubatkin et al., 2006).

Perpetuation in power is the main motivation to both politicians and bureaucrats. Politicians achieve it through the maintenance of their electoral base and bureaucrats by expanding the feedback received for their work or by running their own agenda, independent of the principal interests (Laffin, 1997; Shapiro, 2005).

According to McCubbins (1985), instability in social institutions causes that even when the bureaucrats and politicians have the same goals, the dynamics of the decision making process leads to decisions far from parliaments' interests.

Besides personal interests, the agency problem in the public sector also occurs when agents' principles are contrary to principal interests. The structure of delegation could incentive this and also increase the likelihood of shirking and slippage. Conversely, political commitments stablished with principal and agent's participation helps to keep their interests aligned especially when there is moral hazard on principal's side (Pollack 1997; Miller, 2005; Shapiro, 2005; Wiseman et al., 2012).

The asymmetry of information in public sector implies that the principal will take great effort to evaluate agent's performance. In this case, improved transparency and direct control can serve as a way to reduce moral hazard and adverse selection risks (Moe, 1984; Wiseman et al, 2011.).

According to Brandt and Svendsen (2013, p. 596) "A transparent political system, for example, would make it possible for a group of voters as principal to assess the efficiency of an agent (a bureaucracy, for instance), and adjust its budget according to performance". Therefore, administrative procedures, sanctions and agents surveillance must be established by the Parliament (Pollack, 1997).

Therefore, the structure of the relationship between parliament and bureaucracy involves the creation of a rewards and sanctions system to enforce agency compliance (McCubbins, 1985).

Despite the information problem, politicians usually do not have enough incentive to engage in oversight activities given their low electoral reward. Actions to increase legislature professionalism usually increase their participation in oversight proving that parliamentarians' interest in control is more important than the agency problems. Patrolling is usually practiced by a specialized oversight unit or by preeminent congressmen. Besides that, usually agencies are observed to work accordingly to Congress's interests despite little direct oversight (Weingast, 1984; Wohlstetter, 1990; Brandsma, 2012; Woods and Baranowski, 2006).

Prior to McCubbins and Schwartz (1984) and Weingast (1984), most researches treated Congress effort to oversee the Executive Power as ineffectual. However, up to then, researches focused solely on active and direct control.

However, the scholars acknowledge two types of oversight: police-patrol and fire alarm. Police patrol is more centralized, active and direct. It is also limited, since it is possible to examine in this extent only a sample of executive actions. The Parliament initiates a process of activities examination to identify if the executive agency deviated from their goals, ensuring positive results for the principal. Hearings, inquiries, written and oral questions to government, audit works, performed by the Congress or by the country's

Superior Audit Institution, are examples of police-patrol procedures (McCubbins and Schwartz, 1984; Lupia and McCubbins, 1994).

Fire alarm is decentralized, less active and put into place through indirect intervention. The parliament establishes rules, procedures, and practices that make it possible to the non-state actors to exercise the control using transparency and accountability mechanisms. When fire alarms are in place, a more consensual process is facilitated because government and non-state actors develop accountability mechanisms to improve policy performance together (McCubbins and Schwartz, 1984; Bovens 2007).

However, in the absence of police patrol and if the principal is not well informed about the policy, the agent could implement the policy further from the politicians' ideals and towards the bureaucrats' interests (Lupia and McCubbins, 1994).

Although the constituents equally do not know about bureaucrats' behaviors, they can nevertheless evaluate if the bureaucrats fail to provide satisfactory public services. When this happens, a fire alarm is sounded and the legislator is prompted to do his oversight job. So, parliamentarians focus in creating and perfecting the decentralized system of control and, intervening only in the cases where concrete violations occurs if these cases are not solved by executive and judiciary branches. In this case, the oversight begins in response to complaints made by potential supporters (McCubbins and Schwartz, 1984).

The cost to perform police patrol or fire alarm are clearly agency costs. According to McCubbins and Schwartz (1984), fire alarm oversight will be preferred every time it is as informative as the police patrol system.

Members of parliament involved in police-patrol spend time doing ineffective work like the examination, detection and remediation of actions that do not violate their goals or harm their constituents. Therefore, the reason for fire alarm preference is the high cost of the police patrol activities to congressmen. When applying fire alarm part or even all of the cost is paid by the citizens and interest groups complaining and by administrative agencies and courts who examine the subject (Lupia and McCubbins, 1994).

Despite its low cost and higher visibility, most researches could not validate the effectiveness of fire alarm control conclusively. Likewise, the diluted character of certain policies can also prevent constituents from pulling the alarm (Bugarin and Vieira, 2008).

Congress cannot rely on fire-alarm when it is not mandatory, since non state actors shouldn't decide when to sound the alarm. If the agency is not following parliaments' interests, but constituents' interests were not violated, the control will fail. Besides that, the constituents can pull fire alarm with the intention to mislead the congressmen, who could not be able to differentiate real and false fire alarms (Williams, 2000; Eaton, 2003).

However, not being able to detect the alarm being pulled can also mean that the agent is acting to achieve Parliament's goals. In this case, the established controls would be effective (Huber and Gordon, 2004).

## **Methodology**

This research is empirical, and two instruments to collect data were used: interviews and document research. The research is qualitative, so that words and their meanings implied could be analyzed to construct the indicators of parliamentary performance (Miles and Huberman, 1994).

Initially, to elucidate the main indicators of oversight function performance, it was necessary to select the activities that a Parliament perform to accomplish its oversight obligation. In order to achieve that, face-to-face interviews were conducted with key bureaucrats in the Brazilian House of Representatives and the European Parliament.

These interviews were carried out as a guided exploration of topics based on parliamentary performance and effectiveness and on resources available and constraints to their action. The answers from previous questions guided the next issues to be discussed. We adopted an intensive interviewing approach given that “intensive interviewing permits an in-depth exploration of a particular topic or experience and, thus, is a useful method for interpretive inquiry” (Charmaz, 2006, p. 25).

After that, we performed a document research to detect extant texts that could be useful to identify parliamentary activities of oversight. The advantage of extant texts relies on their unobtrusive availability, objectivity, independence on research bias and capacity to complement interview methods (Charmaz, 2006).

The chosen documents were the rules of procedures of eight different legislative houses. To choose the parliaments, we used criteria of availability of documents and data about oversight activities in English, Portuguese or French. The selection should allow using data from parliamentary, presidential, national, multinational, unicameral and bicameral countries from different institutional background and different parts of the world.

Therefore, the rules of procedures of the House of Representatives of Brazil and United States, the Republic Assembly of Portugal, the National Assembly of France, the Brazilian, American and the French Senate and the European Parliament were selected.

Additionally, data showing how these Parliaments perform these activities were also analyzed with the intention to validate their use as an indicator. These data were collect in the internet sites of these institutions.

In analyzing, we must to discover the relevant themes and subthemes of the research. This study used grounded theory methods to do that. These methods allows the construction of theories, based on the qualitative data, through the adoption of guidelines to collect and analyze these data (Ryan and Bernard, 2003; Chamaz, 2006).

Therefore, the potential indicators of parliamentary performance would be identified as codes in the research. The codes are able to separate, sort and summarize each piece of data collected, and allow us to compare quotes coded together with the purpose of form the basic units for theory (Corbin and Strauss, 1990; Charmaz, 2006).

A Qualitative Data Analysis Software was used to help in the analysis task. The software is useful to manage the data and to make the qualitative research processes more transparent, credible and replicable (Hwang, 2008).

## **Results and discussions**

The legislative oversight exists to monitor the activities of the Executive Power and to assure that their results are aligned to legislative goals and performed with efficacy and efficiency.

In choosing to carry out oversight through fire alarm or police patrol is a decision based on the analysis of its cost and its potential benefits to the Congressman. That is, if it is probable that his constituents will reward the realization of these activities, then it is possible that the politician invest the resources at his disposal to exercise such control.

However, the result of this oversight is not measured. Thus, although the literature has identified an alternative form of oversight (fire alarm control), it did not identify whether that control has effectiveness.

The different institutional arrangements in each country are a complexity element when constructing an evaluation model. Constitutional, social-economic and political contexts, to name a few, are factors that vary from country to country and must be considered when elaborating such a model.

The first step in this direction is to define the appropriate indicator to perform this measurement. As shown in previous sections, this indicator has not been established for any of the legislative functions, given the difficulties involved.

The interviews confirmed that evaluate parliamentary performance is not an easy task. According to a key bureaucrat in the European Parliament, “It is correct to say that a Parliament is a service provider, but it is not like a gas company”. Nevertheless, interview with another civil servant in the same legislative house pointed “a growing political awareness that it is necessary to do so”.

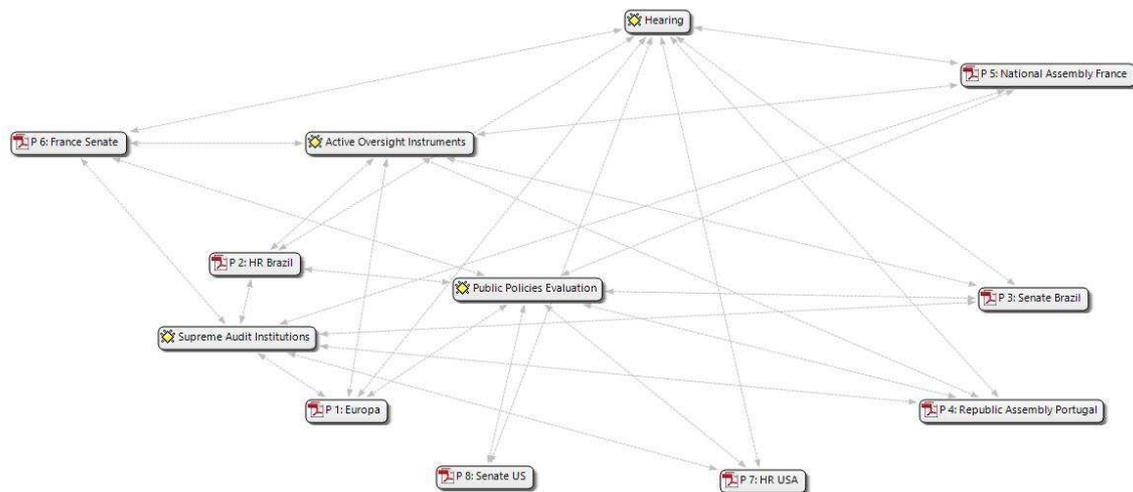
So, how could we measure Parliamentary oversight? The interviews were not enough to clarify this subject. Despite a consultant in the Brazilian House of Representatives identifying “oversight function as the most weak” among the Parliament responsibilities, it was not possible to identify a way to measure this objectively.

Thus, it was necessary to understand how the work is actually done by the parliaments studied in this research. After analyze their rules of procedures, we could identify several oversight activities that are performed by different legislative houses.

Although the tools and instruments varied between the different houses, it is possible to divide these activities in four groups based on their similarity. Therefore, these actions were grouped together according with their similarity. These groups are use of active oversight instruments, follow-up on policy effectiveness, committee hearings and Supreme Audit Institutions reports.

The figure 1 is a network view connecting rules of procedures and the groups of oversight activities. It shows that almost all the parliaments researched perform at least one activity of each of these groups.

Figure 1 – Network view on Rules of Procedures and Oversight activities



Use by the Congress of oral and written questions, interpellations to the Executive Power and missions of inquiry are the most common way of oversight and are identified in the literature as forms of police patrol.

The oral questions, plenary debates and interpellations to government officials are part of the accountability process involving the public policies they are responsible for. To be effective the majority shall not be able to block these instruments, since government parliamentarians would not be eager to participate in this kind of debate. Additionally to those instruments, when it is not possible to make the question directly, it is possible for parliamentarians to question through the use of written questions.

Committees of inquiry are another important instrument for opposition to investigation about certain issues and scandals in the government. This process can lead to indictments and even to an impeachment process.

The Rules of Procedures of the European Parliament has several rules, which fit in this first group, like rules 117 (motions of censure), 130 (written questions) and 198 (committee of inquiry):

Rule 117.1 “A motion of censure on the Commission may be submitted to the President by one tenth of the component Members of Parliament.”

Rule 130.1 “Any Member may put questions for written answer to the President of the European Council, the Council, the Commission or the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy in accordance with criteria laid down in an annex to these Rules of Procedure<sup>18</sup>. The content of questions shall be the sole responsibility of their authors.”

Rule 198.1. “Parliament may, at the request of one quarter of its component Members, set up a committee of inquiry to investigate alleged contraventions of Union law or alleged maladministration in the application of Union law which would appear to be the act of an institution or body of the European Union, of a public administrative body of a Member State, or of persons empowered by Union law to implement that law.”

Another group is the one with activities connected with follow-up on policy effectiveness. Parliaments should monitor the implementation of their vision by the executive branch using reports on policy implementation and Programme effectiveness.

The Rule 146 of the Rules of Procedures of the French National Assembly is an example of this kind of instrument:

On its own initiative or demanded by a permanent committee, the evaluation and public policy control committee perform activities of evaluation on public policies whose scope goes beyond the competence of one standing committee.

The organization of legislative hearings in established committees of the house allow the discussion of themes related to the committee between the parliament, the government, groups of interest and the general population.

The Rule 255 of the Rules of Procedures of the Brazilian House of Representatives is about their capacity to hold committee hearings:

“Each Committee may hold a public hearing meeting with entities of civil society to instruct proposed bills, as well as to address issues of relevant public interest, relating to their area of expertise by their request or from any committee member.”

Finally, parliaments audit the Executive aided by Supreme Audit Institutions. The reports delivered by these institutions provide an important technical assistance to the politicians. The use of this tool also helps to identify the effectiveness of parliamentary oversight.

There are two models of Supreme Audit Institutions, the court of accounts and auditor general. The court of accounts is an independent institution responsible by the governmental audits on government. The Westminster modelled parliaments have in its own structure an auditor general who performs this task and reports to the parliament.

The House of Representatives of the United States of America uses the Inspector General Model. His competence is regulated by the Rule of Procedure II:

(c) Subject to the policy direction and oversight of the Committee on House Administration, the Inspector General shall only: (1) provide audit, investigative, and advisory services to the House and joint entities in a manner consistent with government-wide standards; (2) inform the officers or other officials who are the subject of an audit of the results of that audit and suggesting appropriate curative actions; (3) simultaneously notify the Speaker, the Majority Leader, the Minority Leader, and the chair and ranking minority member of the Committee on House Administration in the case of any financial irregularity discovered in the course of carrying out responsibilities under this clause; (4) simultaneously submit to the Speaker, the Majority Leader, the Minority Leader, and the chair and ranking minority member of the Committee on Appropriations and the Committee on House Administration a report of each audit conducted under this clause; and (5) report to the Committee on Ethics information involving possible violations by a Member, Delegate, Resident Commissioner, officer, or employee of the House of any rule of the House or of any law applicable to the performance of official duties or the discharge of official responsibilities that may require referral to the appropriate Federal or State authorities under clause 3(a)(3) of rule XI.

The table 1 informs how many activities of each group are performed by each parliament.

Table 1 Use of oversight tools by country

	Hearing	Active Oversight Instruments	Public Policy Evaluations	SAI	TOTALS:
European Parliament	2	3	1	1	7
House of Representatives Brazil	6	6	2	4	18
Senate Brazil	6	4	4	3	17
Republic Assembly Portugal	2	8	1	1	12
National Assembly France	4	9	7	1	21
Senate France	1	3	5	1	10
House of Representatives USA	3	0	3	1	7
Senate USA	1	0	5	0	6
TOTALS:	25	33	28	12	98

Passing the next phase, we started to collect quantitative data for each of these groups. However, here the difficulty in establishing effective indicators of parliamentary evaluation was disclosure in quantitative ways.

Four indicators were initially proposed, the number of legislative hearings conducted, questions, interpellations and committee of inquiry performed, Supreme Audit Reports used as a support for oversight process and number of post assessment works on public policies.

However, the quantitative information gathered was not useful to evaluate parliamentarian performance adequately. For example, the committees on Armed Services from the 113<sup>th</sup> Congress of the United States Houses conducted together 428 hearings. The House of Representatives was responsible for 302 hearings and the Senate, 126.

Nonetheless, what does it mean? One could say that given that the House Committee performed much more hearings than the Senate, so it is more efficient. However, it is not that simple.

The hearings should provide opportunities of collaboration between citizens and government. Therefore, although a small number of hearings is an indicator of insufficient work. A higher amount does not adequately measure effectiveness of control.

A better indicator could be quantifying how many hearings resulted in policy modifications due to citizens' participation. Therefore, an indicator of this group would be hearings with changes in policy divided by the total of hearings.

Equally, measure Supreme Audit Institutions support to Congress, is hard too. First of all, it is necessary to identify two directions in the information. There are cases where a

congressman demands information or audits to the Court of Accounts or Inspector General. Besides that, the items raised by the institution based on their own planning should also be quantified.

However, most Parliaments do not publish or track this kind of information. Considering that in proposing a model, we should guarantee that all the variables used in the model to be available.

## **Conclusion**

After the identification of these activities and collect information about their use, it was possible to conclude that, in order to evaluate parliamentary performance on oversight, the Parliament must accomplish certain steps.

First, the Parliament must have the means to perform their activities. So it must have constitutional instruments to control the Executive Power, like those presented in this article.

After that, the legislative house should not only use the available tools, but also use them effectively. So, the data about the instrument's use cannot be directly used. Even if the Parliament uses the tools, that doesn't mean that it performs well.

Although the present research did not manage to identify a model to evaluate the Parliamentary performance, future work must be made to ascertain how the question raised in this paper can be addressed in order to evaluate Parliamentary performance and how to establish not only the quantity but also the quality of the instruments' application.

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