

PROFESSOR NICOLA McEWEN

Parliaments are widely recognized for their representative function and their legislative function. As representative bodies, they reflect the voting preferences of the electorate, provide a forum for constituency representation and provide democratic legitimacy to executive policy-making institutions. As legislatures, they process and pass legislation. But governments tend to dominate the legislative process. Governments have more power to set the legislative agenda, to initiate legislation, sufficient resources to inform and shape the legislative process, and usually the parliamentary majority to achieve their desired outcomes. As a result, the primary role and function of parliaments has become more focused on *oversight*.

Parliamentary oversight refers to the capacity and behaviour of elected members - individually or collectively - to check, question, examine, debate, challenge, influence, change, support, criticise, censure or generally hold to account those in public office. According to a study conducted for the Inter-Parliamentary Union¹, the key functions of parliamentary oversight are:

- to detect and prevent abuse of power by the executive
- to hold the government to account for its priorities and efficiencies in public spending, revenue-raising and the economy
- to ensure government's policy commitments, authorized by parliament, are delivered and achieve their intended outcome
- to improve the transparency of government and enhance public trust in governing institutions

In the Scottish Parliament and elsewhere, parliamentarians have a range of tools to practice legislative oversight, including committee enquiries, witness hearings and evidence, written/oral parliamentary questions, motions, debates and votes. Two factors are key to how effective these tools are: capacity and motivation.

The capacity of parliaments to exercise scrutiny will depend upon broad institutional and structural factors. Some of these relate to the procedures and resources of parliament, including the rules and opportunities for parliamentarians to hold government to account; the experience, skills and expertise of parliamentarians; and the depth, expertise and capacities of the staff available to support parliamentarians.

These are areas that the Commission may consider revision. For example, can the expertise of parliamentarians be improved by focused training, developing specialisms or enhancing access to expertise? Would investment in support staff strengthen parliamentarians' capacity to exercise oversight of government? Is the balance between focused committee enquiries and plenary debate optimal for ensuring effective oversight? Access to information is crucial to effective oversight – are the flows of information from government and other institutions sufficient?

¹ Yamamoto, Hironori, *Tools for parliamentary oversight: A comparative study of 88 national parliaments*, Inter-parliamentary Union, 2007.

The effectiveness of parliamentary oversight is also shaped by factors beyond the control of the Commission. These include the constitutional power of the chambers; the electoral system and its tendency to produce majority or minority governments; the structure and internal discipline of political parties; and the openness, strength and vulnerabilities of ministers. The nature of party competition, the extent to which issues are contested between parties and/or considered politically salient, the relative strength of government and opposition, proximity to an election, public/stakeholder interest, will all shape the motivation and political willingness of parliamentarians to engage in oversight activity.

A recurring theme in Scottish political debate is whether the Scottish Parliament requires a revising chamber. I will refrain from taking a particular view on this issue, though would encourage the Commission to look beyond the UK when evaluating whether two chambers are necessarily better than one in supporting parliament's oversight role.