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# **Administration and Financing of Parliament**

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# THE FINANCING AND ADMINISTRATION OF PARLIAMENT

Report of a CPA Study Group hosted by the Legislature of Zanzibar, Tanzania, from 25 to 29 May 2005

## I. INTRODUCTION

Increasingly Parliaments are turning their attention to the challenge of managing more effectively their administration and financing. With the global expansion of democracy there is a greater expectation placed on Parliaments to deliver on their constitutional commitments.

This has led Parliaments to look more critically at internal governance structures and prevailing relationships with the executive. Many Parliaments are moving towards establishing corporate bodies as a way of better utilizing the resources available while at the same time enhancing their independence from the executive. In cases where such bodies have been established, there is evidence that Parliament is better able to assert its independence and ensure that adequate resources, both financial and otherwise, are made available. This, in turn, enables Parliament to discharge its functions more effectively while also allowing Members to exercise appropriate control over the prioritization of the delivery of services by the parliamentary service.

Many Commonwealth Parliaments are now looking to organizations such as the Commonwealth Parliamentary Association and the World Bank Institute for advice on the establishment of corporate bodies or support in bringing greater efficacy to existing corporate governance arrangements. It was against this background that the CPA, in partnership with the World Bank Institute, organized a Study Group on the Financing and Administration of Parliament.

The objectives of the Study Group were to:

- Identify best practice in corporate management structures across Commonwealth Parliaments,
- Produce recommendations for the establishment of new corporate bodies,

- Examine methods of increasing accountability for the use of public funds and services, and
- Develop the capacity of the CPA to assist Branches with issues of corporate management.

The Study Group meeting was convened in Zanzibar, Tanzania, with the co-operation and assistance of the Zanzibar House of Assembly. Speaker Hon. Pandu Ameer Kificho, MHR, officially opened the Study Group, which brought together Parliamentarians with experience of parliamentary corporate bodies and senior parliamentary staff with responsibility for corporate affairs. The Study Group considered the following themes:

- Ensuring the independence, effectiveness and accountability of Parliament,
- Independent funding for Parliament and financial controls,
- The relationships between the executive, the Speaker, the corporate body, the Clerk/Accounting Officer, and the staff of the Parliament,
- Levels of delegated authority granted by a corporate body to the parliamentary service,
- Human asset management and
- Accountability.

## **2. ENSURING THE INDEPENDENCE, EFFECTIVENESS AND ACCOUNTABILITY OF PARLIAMENT**

Given that one of the key purposes of Parliament is to hold the executive to account, there is a compelling argument that Parliament should be able to discharge its constitutional responsibilities free from government interference. The drive for independence should not be seen as an aggressive action, but a necessary prerequisite to good parliamentary governance. Also operational autonomy should not act as a barrier to the fostering of good relations with the executive, which is essential if legislation and public sector policies are to be fit for purpose.

The Study Group considered a research paper (see Appendix) that provided an overview of governance issues relating to the financing and administration of Parliaments and in particular the levels of independence enjoyed by individual Parliaments internationally.

Independence in a parliamentary context is provided for at three levels: institutional, financial and administrative autonomy. In countries that have written constitutions the principle of parliamentary independence is often institutionalized in these foundation documents. However where no written constitution exists institutional autonomy and the separation of powers can be established as is the case in the U.K. Alternatively parliamentary autonomy can be expressed in legislation that establishes corporate bodies responsible for providing Parliament with the necessary property, staff and services.

Financial control may rest with the Parliament or the executive or there can be a collaborative model where Parliament determines the budget in consultation with the executive. When Parliament does not have financial independence there is always the danger that the executive will be encouraged to exercise undue control over expenditure to the detriment of the parliamentary process.

Administrative autonomy is about self-determination with regard to the nature and level of services to be provided to Parliament. The experience of the U.K. and other Commonwealth countries supports the view that administrative independence and accountability is best achieved through the establishment of parliamentary corporate bodies. This has been reinforced by a number of independent reviews of the effectiveness of governance structures in parliamentary settings. The 1990 Ibbs and 1999 Braithwaite reviews of the U.K. House of Commons Commission reaffirmed the strategic role of the corporate body in providing responsive and accountable parliamentary services. These reviews went further in recommending greater levels of intervention by the corporate body in determining what Parliament requires.

In 1998 the U.K. government, as part of its devolution policy, established corporate bodies in the Scottish Parliament and the Northern Ireland Assembly. More recently a review of the National Assembly for Wales (Richards Commission) has recommended that it should be more independent of the executive with responsibility for financial and administrative matters being vested in a new parliamentary corporate body.

The 1999 Rodgers' review of New Zealand's Parliamentary Service Commission revisited the issues of independence,

proper resources for Members of Parliament and the need for effective accountability. The review led to the enactment of the New Zealand Parliamentary Service Act 2000, which strengthened the role of the parliamentary corporate body.

Study Group participants provided an overview of their own institutional, financial and administrative arrangements that demonstrated the varying degrees of independence that exist for Parliaments throughout the Commonwealth. In Australia the independence of Parliament was strengthened through the Parliamentary Services Act 1999. Prior to 1999 staff of the Parliament were appointed under the Public Services Act. The administration and financing of the Australian Parliament is governed by the Financial Management and Accountability Act 1997, which delegates responsibility to the head of the parliamentary service.

The administration of the Parliament in the Fiji Islands is covered by the Public Service Act and other government financial regulations and practices. All parliamentary staff are civil servants appointed by the Public Service Commission. Since 2001 Parliament has secured its budget through a separate Appropriation Act and the intention is to assert a greater level of independence through the enactment of a Parliamentary Services Act.

The independence of the Parliament in India is enshrined in the constitution which empowers the Parliament to make laws regulating the recruitment and terms and conditions of service for the parliamentary service. The parliamentary budget is voted by Parliament with no sanctions exercised by the executive.

Staff of the Jamaican Parliament are civil servants with the Clerk and Deputy Clerk being statutory appointments. For budgetary purposes Parliament remains part of the mainstream government system requiring the Minister of Finance's approval of the parliamentary vote.

Oversight of the administration of the Parliament of Malawi rests with the Parliamentary Services Commission. Parliament has recently undertaken a strategic review that recommended that the Parliamentary Commission should exercise full authority over its budget and staff appointments with the constitutional status of the Speaker being enhanced.

In Malaysia prior to 1992 there was an independent parliamentary service, but now all staff are part of the wider public service. However Parliament's budget is secured without government interference.

The roles of the Speaker and the Clerk of the Samoan Parliament are provided for in standing orders. The independence of the administration of the Sri Lankan Parliament is established in its constitution. Its Secretary General is a constitutional appointee and can only be removed from office by resolution of Parliament. A Staff Advisory Committee, established in law, advises the Secretary General on policy matters relating to the administration and financing of Parliament.

The staff of the Parliament of Trinidad and Tobago are public servants governed by public service terms and conditions. The Parliament's budget is submitted to the Ministry of Finance for approval.

The Ugandan Parliament enjoys administrative autonomy through the Administration of Parliament Act 1997, which establishes the Parliamentary Commission. Each year the Parliamentary Commission prepares and submits estimates that are laid before Parliament by the President without revision, but which have government recommendations.

The staff of the Zambian Parliament are independent of the wider public service. Currently oversight of the rules governing the administration of the Parliament falls to the Standing Orders Committee.

The Study Group subscribed to the Latimer House Guidelines for the Commonwealth on Parliamentary Supremacy and Judicial Independence and to the Commonwealth (Latimer House) Principles, endorsed at the Heads of Government Meeting in 2003, which provide an agreed ethical framework for managing the relationships between Parliament, the executive and the judiciary. The Principles state that:

Parliamentarians must be able to carry out their legislative and constitutional functions in accordance with the constitution, free from unlawful interference.

At a practical level parliamentary independence and the ability to determine the level of resources required by Parlia-

ment creates new challenges in terms of increased accountability. The establishment of parliamentary corporate bodies is a very effective way of ensuring that Parliament fulfils its role responsibly. The Study Group focused on how Parliaments can ensure the highest levels of accountability, transparency and probity in all of its corporate operations.

### **3. INDEPENDENT FUNDING FOR PARLIAMENT AND FINANCIAL CONTROLS**

The principle that Parliament should have freedom to determine its budget is formally recognized in the Latimer House Guidelines between the three branches of government, which state that:

An all-party committee of Members of Parliament should review and administer Parliament's budget which should not be subject to amendment by the executive.

Many Parliaments are funded on a legislative basis with funding automatically provided each year while others must have their full funding voted each year. A number of Parliaments operate on a combination of the two funding models. According to a 1998 Inter-Parliamentary Union (IPU) study of 46 cases the preparation of the draft budget constitutes a determining phase for gauging the autonomy of a Parliament. The study found that in two thirds of the cases the Assemblies drew up their own budget without government intervention while one third required approval from the Ministry of Finance. The IPU study goes on to state that autonomy does not preclude co-operation with the executive.

Whatever funding model applies, there is an expectation that Parliament will adhere to the highest standards of accountability. In a number of international settings the executive has established financial accounting and reporting standards that are regarded as the gold standard and many Parliaments have adopted these standards for their own financial operations.

There are three stages in the parliamentary annual financial cycle: securing the budget, deploying and monitoring of resources and reporting on/accounting for expenditure. The role of the Speaker, the corporate body and the Clerk is central to good governance. The corporate body sets the strate-



gic priorities, determining the range and standards of services to be provided to Parliament. The Clerk is responsible for the preparation of the estimates, which are then endorsed by the corporate body.

Economies of scale, stages of economic development and organizational structure differences between Legislatures all impact upon patterns of budgetary expenditure. Some Parliaments, for example, support Members' research requirements through funding them (or parties) directly while others include research costs in the overall staffing costs. Newly established Legislatures are likely to have higher capital costs.

The Clerk, as Accounting Officer, is responsible for the deployment of resources paying due regard to the strategic priorities set by the corporate body. It is for the Clerk to put in place financial controls and to report to the corporate body at regular intervals on actual expenditure against the resources appropriated for parliamentary purposes. There is always the danger that Parliament will be criticized for not spending resources that could have been redirected to pay for essential public services. Regular monitoring of expenditure needs to take place so that the corporate body can make informed decisions about the early release of funds to the executive.

Taxpayers are often critical over the use of public funds with Parliaments often being a prime target and, therefore, it is important that Parliaments build in transparency to its financial arrangements. It is probably public opinion that is the real counterweight to the budgetary autonomy of Parliaments. The extent to which parliamentary spending is reported publicly varies particularly in terms of the detailed expenses of Parliamentarians. It is for this reason that many Parliaments ensure that the remuneration package for Parliamentarians is determined by an independent process with public reporting based on the categories of allowances recommended by the independent body.

The Clerk, as the Accounting Officer, is also responsible for the preparation of Parliament's annual accounts, which in most instances are externally audited before being laid before the House. As part of the accounting process the Clerk provides a statement of internal control that gives an assessment of the effectiveness of the Parliament's financial controls.

#### **4. THE RELATIONSHIP BETWEEN THE EXECUTIVE, THE SPEAKER, THE CORPORATE BODY, THE CLERK/ACCOUNTING OFFICER AND THE STAFF OF PARLIAMENT**

Effective oversight of the corporate affairs of Parliament will only be achieved where there is a strong relationship between the Speaker, members of the corporate body and the parliamentary staff. However, Parliament's ability to assert its independence is potentially constrained by the political strength of the executive.

In fact, it has been argued that there has been a substantial shift in power from the legislative to the executive arm of government, and some suggest that in the context of a majority Parliament the cabinet is no longer responsible to the House but that the House seems instead to have become responsible to the cabinet (Van Loon and Whittington). The dynamic in a minority government situation, like the one experienced in Canada in 2005, is quite different.

One of the most effective ways of protecting the Legislature from undue influence by the executive is through the notion of public interest. In most Parliaments, "public interest" has developed as a core value that influences the behaviours of both Parliamentarians and parliamentary staff. There is a need for Parliaments to develop an "esprit de corps" where the Speaker, the corporate body and the parliamentary staff have a shared understanding of the constitutional position of Parliament as espoused in the Commonwealth (Latimer House) Principles.

The neutrality of the Speaker is pivotal in maintaining the integrity of the Parliament. The Speaker presides over all procedural business, in most cases is chair of the corporate body and provides leadership and direction to the parliamentary staff.

The role of the corporate body and its relationship with the parliamentary staff is also critical. The corporate body should act on a collective basis in the best interests of all members of the Legislature and the Parliament and not on a partisan or governmental basis. Even where Members of the corporate body are Members of the governing party they are also Members of Parliament, usually with a strong sense of institutional loyalty to the institution.

The Clerk, as the chief adviser to the Speaker and head of the

parliamentary staff, has a central role in ensuring that the Parliament is adequately served. In some Parliaments the Clerk is appointed by the corporate body but in other instances the appointment is by the cabinet. The key requirement of the Clerk is to act with integrity, professionalism and neutrality and this is best achieved when the Clerk is afforded some form of protected status to prevent undue political pressure.

## **5. DELEGATED AUTHORITY**

It is accepted that the role of a parliamentary corporate body and the levels of delegated authority bestowed on a parliamentary service will vary from institution to institution depending on the prevailing political and administrative structures. However the Study Group agreed that the distinct roles of the corporate body and Clerk provide useful parameters for determining levels of delegated authority.

A parliamentary corporate body is responsible for determining the range and standards of service to be provided, securing a parliamentary budget, providing leadership and direction to the parliamentary service and reporting to Parliament and the public on performance and stewardship. The Clerk, as head of the parliamentary service, leads and manages the parliamentary staff, prepares and signs the annual accounts, ensures that expenditure is well managed, establishes proper financial procedures and provides advice to the corporate body on all corporate and financial matters.

The Study Group was of the view that there is no need to be prescriptive about the levels of delegated authority and that effective delegation will evolve as a matter of course if the following conditions/relationships are in place:

- A corporate body should have a clear understanding of its role in setting strategic priorities and monitoring of progress,
- Given that members of corporate bodies have other political and parliamentary commitments there needs to be a dedicated secretariat to support the corporate body,
- Corporate body meetings and decision making need to be informed by the right agenda and appropriate management information,
- An unambiguous and positive relationship between the Speaker, corporate body and the Clerk built on the princi-

ples of openness, integrity and accountability,

- As Accounting Officer the Clerk should have ultimate financial responsibility for the Legislature,
- Development of a competent parliamentary service that provides assurance to the corporate body that its decisions are fully implemented, and
- Establishment of relevant House committees in special subject areas, e.g. finance, catering, environmental issues.

## **6. HUMAN ASSET MANAGEMENT**

The Study Group recognized the importance of having professional non-partisan staff to support the parliamentary process. Staff employed by Parliamentarians also play an important role in the democratic process, however the Study Group agreed to limit its considerations to staff of the parliamentary service.

Globally the status of parliamentary staff varies: some Parliaments are supported by public servants who have a right of return to the public service while others have career professionals recruited directly by the Parliament. In Canada the majority of staff is recruited without executive involvement with only the very senior officers appointments endorsed by the government.

Best practice recommends that Parliaments should establish an independent parliamentary service recruited on the merit principle. The benefit of such an approach is a cadre of well-qualified, competent and loyal staff experienced in parliamentary procedures. The parliamentary service should include not just procedural specialists but staff with corporate expertise in finance, information communications technology (ICT), human asset management, research and communications. It is also advocated that parliamentary corporate bodies, acting as the employer, should establish terms and conditions for the parliamentary service, based on the needs of the Legislature and not constrained by the public service.

Given the limited opportunity structure within a parliamentary service and the increasingly competitive labour market staff retention will always be a challenge. Parliamentary corporate bodies should ensure that the parliamentary service are properly remunerated and that the terms and conditions

for staff reflect the very best practices in relation to employee well-being, labour relations and continuous professional development.

Recruitment of parliamentary staff should be based on the merit principle; however Parliaments also need to have in place equal opportunities strategies and detailed monitoring arrangements to ensure that the parliamentary service is representative of the diversity of the wider community. Where it is found that certain sections of the community are under represented in the parliamentary service, the corporate body needs to be pro-active in addressing any imbalances.

The ongoing development of the parliamentary service is essential as it is the parliamentary staff who maintain the institution's corporate memory from one mandate to another and provide guidance and support to new and established Parliamentarians.

## **7. ACCOUNTABILITY**

Administrative and financial accountability in a parliamentary setting rests with the corporate body and the Clerk as the Accounting Officer. Accountability is about ensuring that funds are well managed and safeguarded; that assets such as land, buildings and equipment are protected; and that proper financial controls are in place. In administration terms accountability is also about the proper governance of the organization to ensure that the requirements of Parliament are addressed within the financial resources appropriated by Parliament. The corporate body, as the employer of the parliamentary service staff, should ensure that all staff and eligible applicants are not disadvantaged on the basis of gender, marital status, race, colour, nationality, ethnic origin, religion, age or disability. The challenge for a corporate body is to promote responsible governance that balances the unique needs of Parliament, the general legal requirements, e.g. employment law, freedom of information etc, and the need to engage the general public in the democratic process.

The Commonwealth (Latimer House) Principles and the Latimer House Guidelines assert the independence of Parliament, but also place a duty on both Parliament and the executive to maintain high standards of accountability. This seems to

answer the question of whether Parliament should be allowed to self-regulate or be subject to external scrutiny. Given that Parliament has to hold government to account there is a public expectation that Parliament must take the lead in demonstrating the benefits of good governance and accountability.

The Study Group believed that this is best achieved through the development of an effective accountability framework that comprises internal controls and public reporting/external communication. The following are some of the mechanisms which will form the basis of an accountability framework:

- **Internal**

- ◆ Estimates/corporate plans/financial plans
- ◆ Compliance with best practice accounting standards
- ◆ Internal audit reports
- ◆ Corporate audit committee
- ◆ Compliance audits against general legal requirements
- ◆ Customer surveys
- ◆ Equal opportunities policies

- **External**

- ◆ Annual reports
- ◆ Audited accounts
- ◆ External audit reports
- ◆ Information strategy
- ◆ Education programmes
- ◆ Response to oral and written questions
- ◆ Attendance at Public Accounts Committee

## **8. RECOMMENDATIONS**

### **The Independence and Integrity of Parliament**

All Commonwealth Parliaments should implement the Commonwealth Principles on the Accountability of and Relationship Between the Three Branches of Government, especially those relating to the independence of the Legislature.

Parliamentarians must be able to carry out their legislative and constitutional functions in accordance with their constitution, free from unlawful interference.

Parliamentarians should maintain high standards of accountability, transparency and responsibility in the conduct of all public and parliamentary matters.

## **The Governance of Parliament**

Parliaments should, either by legislation or resolution, establish corporate bodies responsible for providing services and funding entitlements for parliamentary purposes and providing for governance of the parliamentary service.

There should be an unambiguous relationship between the Speaker, the corporate body and the head of the parliamentary service.

Members of corporate bodies should act on behalf of all Members of the Legislature and not on a partisan or governmental basis.

The corporate body should determine the range and standards of service to be provided to Parliament, e.g. accommodation, staff, financial and research services.

Corporate bodies should promote responsible governance that balances the unique needs of Parliament with general legal requirements, e.g. employment law, freedom of information and occupational health and safety.

The head of the parliamentary service should be appointed on the basis of merit and have some form of protected status to prevent undue political pressure.

The head of the parliamentary service should be given appropriate levels of delegated authority.

## **Financial Independence and Accountability**

Parliaments should have control of, and authority to set out and secure, their budgetary requirements unconstrained by the executive.

The remuneration package for Parliamentarians should be determined by an independent process.

The corporate body should ensure that an effective accountability framework is in place.

Corporate bodies should ensure regular monitoring of actual expenditure against the amount of money appropriated for parliamentary services.

The corporate body should ensure compliance with generally accepted accounting standards.

The head of the parliamentary service should have ultimate financial responsibility for the Legislature.

### **Parliamentary Service**

Parliaments should be served by a professional staff independent of the public service and dedicated to supporting Parliamentarians in fulfilling their constitutional role.

The corporate body should ensure that the parliamentary service is properly remunerated and that retention strategies are in place.

The statutory terms and conditions for the parliamentary service should be based on the needs of the Legislature and not constrained by those of the public service.

There should be a code of conduct and values for members of the parliamentary service.

The parliamentary service should include not just procedural specialists, but staff with specialized expertise, e.g. finance, ICT, human asset management, research and communications.

Effective recruitment on the basis of merit and equal opportunity strategies should be in place that will ensure that the parliamentary service is representative of the diversity of the wider community.

Corporate bodies should promote an environment that encourages best practices for employee well-being.

### **Public Accountability**

The corporate body should publish an annual report on its work on behalf of the Legislature including information on the audited accounts and budget estimates.

There should be an information strategy detailing how the membership and operations of the Legislature will be communicated to the general public.

Parliaments should develop programmes to promote the general public's understanding of the work of the Legislature



and, in particular, to involve school children in increasing their awareness of citizenship issues.

The corporate body should ensure that the media are given appropriate access to the proceedings of Parliament without compromising the dignity and integrity of the institution.

## 9. SUMMARY

In making the above recommendations the Study Group took account of international best practice and the individual experiences of delegates. Throughout the Study Group meeting participants provided important insights to how the administration and financing of Parliaments can be improved based on very honest and critical analysis of the governance arrangements in their own Parliaments.

The Study Group recognized that individual Parliaments will not be able to implement all of the recommendations, however they would encourage Parliaments throughout the Commonwealth to use the recommendations as a development framework for:

- Establishing greater levels of autonomy,
- Strengthening corporate governance arrangements,
- Developing comprehensive financial controls,
- Enhancing the status of the parliamentary service and
- Increasing public accountability.

The Study Group also asked the CPA and the World Bank Institute to consider the following proposals:

- Host further study groups on corporate governance,
- Provide professional development opportunities for corporate body members,
- Provide support to Parliaments wishing to establish corporate bodies,
- Provide training and development opportunities for Clerks and senior parliamentary staff on corporate management issues, and
- Commission development work on a handbook for members of parliamentary corporate bodies.

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## **APPENDIX: THE ADMINISTRATION AND FINANCING OF PARLIAMENTS – AN OVERVIEW OF CORPORATE GOVERNANCE ISSUES**

Parliamentary corporate bodies typically aim to exercise authority free from executive interference, but in an international setting this is found to occur to varying degrees. No parliamentary corporate body (PCB) operates wholly independently from the executive. The organizational expressions and authorities PCBs enjoy differ greatly from country to country. In practice, the separation of powers is considered aspirational and incapable of complete application<sup>1</sup>, but nonetheless it forms the theoretical basis for the authority of Parliaments to take control of the organization and management of their own affairs.

A study of the corporate management regimes across Parliaments does not easily identify best practices for parliamentary administration. The *de jure* authority of PCBs may indicate little independence of authority, while the *de facto* operations can demonstrate considerable freedom from executive intervention. For example, the authority of the U.K.'s House of Commons Commission to set its budget is subject to executive approval but in practice this right has not been exercised. In reality, each system of parliamentary corporate government reflects local culture, unique histories and need to be understood in the environment in which they operate. Yet, generic areas of concern to the corporate management of Parliaments can be identified.

### **ORGANIZATIONAL AUTHORITY**

The experience of the U.K. (and many Commonwealth countries) establishes a statutory basis to the corporate body charged with the management of Parliament<sup>2</sup>. The key feature of this arrangement is that the “body corporate” is regarded in law as a legal person, separate and distinct from its members. This legal personality can own land and property, sue (and be sued) and enter into contracts.

One of the options open to a Parliament in deciding how to administer services and manage finances is the establishment in law of a “body corporate” as the main supervisory body of the administration. This body is usually responsible for ensur-

ing that the Parliament is provided with the property, staff and services it requires.

Braithwaite in his review of management and services for the U.K. House of Commons Commission<sup>3</sup> also considered other models of governance, and identifies the “Quaestor” model as having much to recommend it. The system is one where individual Members, usually of some seniority, are given executive powers over administration and services. These powers are often exercised in consultation with the Presiding Officer.

Braithwaite notes that the Quaestor personal focus can make political responsibility clearer to fellow Members and officers can work closely with an individual rather than with committees, receiving advice or authority quickly when required. While fewer Members are involved in decision-making, the Quaestor model is open to abuse and may not be appropriate in some political contexts. It is a system more typically found in continental Europe (Belgium, Italy and France) and the Francophone Assemblies of Africa where parliamentary systems are run by bureaux.

Although Braithwaite concludes that, notwithstanding the advantages of the Quaestor system, there are doubts about whether the system could be easily transplanted in Parliaments organized around the Westminster model. This is not exclusively the case however, following the 1990 Ibbs investigation<sup>4</sup> elements of this system were introduced in defining the role of the Chairman of the Finance and Services Committee.

Organizational differences apart, whether defined by specific legislation or established through a written constitutional arrangement or indeed exercised through custom and practice, the organizational authority of Parliaments is “defined in effect by on the one hand non-dependence and non-subordination of Assemblies in relation to the executive, and, on the other, by the possibility of the Assembly freeing itself at least partially from the rules of ordinary law so as to follow instead its own regulations.”<sup>5</sup>

Central to enabling this power is the control and authority to set out and achieve its budgetary requirements. In some countries, the independence of Parliament has a formal recognition by establishing a separate Appropriation Bill

voted on by Members. However, where this is done it can still be difficult to link this formal appearance of independence with actual effective budgetary independence.

Administrative and financial autonomy is a necessary but not sufficient condition for the full exercise of power by a Parliament. It is through the effective exercise of a Parliament's prerogatives that the degree of autonomy is best demonstrated. This emphasizes the need to focus on those matters – beyond the specifics of a PCB's organizational status – that enhance management decision-making in terms of:

- Delivering effective public administration;
- Being responsive to the needs of Parliament and its Members; and
- Providing information to Parliament and the public that ensures transparency in the way public money is spent.

In recent years, several studies and evaluations of PCB efficiency and effectiveness have been conducted and improvements identified. Outlined below are generic issues identified as significant to the autonomy, effectiveness and accountability of parliamentary management.

## **BUDGETARY AUTHORITY**

The authority of Parliaments to draw up their own budgets and achieve funding is an important determinant of gauging autonomy. A 1998 international comparison of some 46 cases identifies two different situations.<sup>6</sup>

In the majority (around two-thirds) of cases, the Parliaments draft the budget without the intervention of the executive arm of government. The parliamentary authorities determine the amount and distribution of expenditure. The study notes, however, that these parliamentary authorities are careful not to present a budget out of line with previous expenditure or contrary to government economic policy; e.g. cognisance is given to austerity measures. This organizational basis is distinct in that such controls are entered into voluntarily.

In around one-third of the Parliaments studied, the parliamentary authority is required to negotiate its budget with the Minister of Finance. Typically this negotiation occurs prior to

committee or Member approval of draft budgets. In some cases; e.g. In Zambia, the Minister of Finance imposes budgetary decisions. By contrast, certain Parliaments state that they enjoy financial autonomy even though the draft budget is submitted for examination to the executive; e.g. the German Bundestag and the U.K.'s House of Commons.

## **BUDGETARY STRUCTURE**

Economies of scale, stages of economic development and organizational structural differences between Legislatures all impact upon patterns of budgetary expenditure. Some Parliaments, for example, support Members' research requirements through funding Members (or parties) directly, while others include research costs among the overall staffing costs. Newly established Legislatures are likely to have higher capital costs.

Coudrec's 1998 study, however, noted that many Parliaments include in their budget the distinction between ordinary expenditure and expenditure on equipment, and the principal terms common to Parliaments were (in decreasing order of importance):

- Remunerations and pensions comprising Members of Parliament on the one hand and the salaries and pensions of staff on the other,
- Administrative expenditure covering services and equipment at the disposal of Members of Parliament,
- Grants to political groups and parties,
- Capital expenditure on equipment and buildings, and
- Other.

## **CORPORATE MANAGEMENT**

As it was argued in a review of the New Zealand Parliamentary Service Act:

It needs to be recognized that there are limits to applying conventional tools for accountability based on cost-efficiency to the work of Members of Parliament since their work is not easily, or perhaps even desirably, defined in terms of outputs, outcomes and performance measures.<sup>7</sup>

Studies of PCB performance identify principles concerning good governance where it is improved when: there is clarity of role and function, and there exist clear lines of accountability and processes that produce desired outcomes for a Parliament – including those of public interest.

The processes and performance of PCBs in this area have been the focus of several reviews in differing Legislatures. The Ibbotson review in 1990 identified significant short-comings in the corporate governance of the U.K.'s House of Commons. His study – prompted by Member dissatisfaction with accommodation – identified several issues that later studies of corporate governance arrangements in other Legislatures have also found.

It is worth summarizing the problems Ibbotson discovered:

- Member dissatisfaction with accommodation due to the House's lack of control over the works programme.
- Lack of clarity about how policy for services is decided, including a lack of clear delineation of responsibilities for policy formulation and delivery.
- Blurred relationships between some management bodies leading to functional shortcomings. A clearer delineation of responsibilities and relationships was recommended – but so too was the provision of professional and financial expertise to support the work of management bodies.
- Mechanisms for communicating Member service requirements were not sufficiently understood.
- Good financial-management and control systems did not exist.
- A lack of confidence in service expenditure meeting Member needs or delivering good value for money.
- Unsatisfactory arrangements for financing and controlling works and accommodation arising from control resting not in the House but with an executive Department. Hence, Members were not clear that their priorities were recognized and achieved.
- The Board of Management was deemed not to be exercising an effective corporate management role. Significant contributory factors were the Board's limited terms of reference which inhibited it from tackling the full range of management issues, and the lack of information available on financial-management matters; and
- Support services were reluctant to take initiatives where

Members' wishes appeared unclear or divided.

The principal recommendations made by Ibbis were:

- The commission to take an active strategic engagement in determining policy for services whenever these entail expenditure; directing their execution and development and controlling their finances.
- The establishment of a Finance Services Committee charged with providing financial and other advice to the commission. Other House committees to be more clearly delineated in their areas of responsibility and charged with representing Members' interests as consumers.
- The introduction of a comprehensive financial-management system requiring reform of the administration department to develop and operate it.
- New terms of reference for the Board of Management that enhance its corporate management role and its responsibility for giving financial advice and support to the Accounting Officer, the Finance and Services Committee and the commission.
- The Clerk's management responsibility for the execution of policy in relation to services to be made clear.
- The appointment of a Director of Finance, a Director of Works and necessary support staff.
- The commission to assume responsibility for all House expenditure – except Member salaries; and
- House expenditure, accounts and performance measures to be regularly examined by the National Audit Office and reviewed by the Public Accounts Committee.

The Ibbis report significantly enhanced the strategic role of the commission and put into practice three factors for good corporate governance – those of clarity of role, the definition of clear lines of responsibility and putting into practice processes reflective of stakeholder concerns.

Reviews of PCBs in different settings and with similar objectives do not always produce the same organizational recommendations. The review of New Zealand's Parliamentary Service Commission in 1999 was also concerned with good governance but made different recommendations vis-à-vis the role of the commission.

The Rodger team review of New Zealand's Parliamentary

Service Commission arose due to a legislative concern – rather than the performance concerns that drove the Ibb’s study. Yet, the Rodger review was similarly concerned with the fundamental considerations that relate to parliamentary corporate governance:

- The principle of independence of decision making from executive government,
- The proper resourcing of Members of Parliament, and
- The need for effective accountability.

Rodger discovered a lack of clarity between the role of Speaker and the function of corporate body (commission). Significantly, Rodger recommended that the Speaker act as “Minister” and the commission to be advisory in areas of:

- Strategic direction for parliamentary services,
- Financial budgets, and
- High-level operational matters.

The commission’s authority (at the time of the Rodger review) gave it statutory functions similar to many PCBs whose responsibilities included:

- Exercise of budgetary control over the parliamentary service,
- Determination of the size, organization and type of services for Members, and
- Supervision of the administration of services.

However, the New Zealand commission was not statutorily accountable for funding provided for parliamentary purposes. Rodger concluded that the commission was constrained in exercising its statutory functions by not having access to relevant information – a not altogether different concern from Ibb’s. Yet, different legislative environments, political contexts and systems arrive at different solutions.

The New Zealand experience suggested a requirement for change, due to the enactment of improved accountability and control mechanisms being established in law (Public Finance Act 1989). This Act established a clear hierarchy of accountabilities that effectively treated the parliamentary service as a government department. The statutory functions of the commission were at variance with these arrangements.



The proposed resolution was to allow the Speaker sole responsibility for budgetary control supported by the General Manager (Chief Executive). Hence, the Speaker was to be vested full legal control as “Responsible Minister”. In arguing for this change, the review team observed:

We believe that the unique position held by the Speaker, as servant of the whole House, and the strong conventions and standing orders that define most of the Speaker’s roles and responsibilities, would ensure that the Speaker would be able to carry out these responsibilities without unnecessary or undesirable challenge from Members.<sup>8</sup>

The review of the New Zealand Parliament also identified commission problems in the areas of membership, performance and accountability for risk. Changes in the electoral system (from first past the post to the mixed member proportional system) had not been reflected in the regulations for commission membership. In addition, the review identified a more generic concern that members of the commission tended to fulfil representative rather than executive roles. Finally, problems with risk management were identified, since the commission’s exercise of budgetary control was constrained by the fact that members in general did not bear the risk of any negative impact their actions may have on expenditure and management.

The Braithwaite review in 1999 of the U.K.’s House of Commons also considers this aspect of risk management and accountability. Braithwaite points to the U.K. local government model where members of local authorities are not only politically responsible to their electorate, they are also legally responsible for their decisions. In certain circumstances, locally elected politicians may be surcharged.

Braithwaite, however, reaches a different conclusion from Rodgers and observes (for the U.K. parliamentary setting) that “accountability would be so diffuse as to be non-existent” and argues that the parliamentary and local government settings are not comparable:

The main business of local authorities is the formulation and execution of policy in major areas such as education, housing, planning, transport etc. Member involvement with these issues relates to the pursuit of policies, normally reflecting

party political concerns and for which they were elected. Typically, these matters engage members in time-consuming activities relating to party political policy concerns.

The organization of House administration that Braithwaite observes does not attract a similar level of Member interest and he notes the low level of attendance in meetings of domestic committees – including their high level of Member turnover. He concludes that local government model of accountability (or “risk exposure” as identified by Rodgers) would be unsustainable, risk a lack of direction and would likely lead to unrepresentative control vested in the hands of a few individuals.

While different recommendations arise in different settings, some themes are more commonly understood, including:

The needs for processes of external review – particularly in the financial resourcing of Members. Of significant concern is the need to respond to increasing public expectations of openness in matters of parliamentary expenditure, and these require understandable, robust, reasonable and appropriate systems of financial management. Where Members have access to a wide range of entitlements put in place to enhance Member effectiveness, public perceptions are all the more likely to be negative when these benefits are determined by Parliamentarians for Parliamentarians.

When the New South Wales Independent Commission Against Corruption investigated parliamentary travel costs, it concluded: “The low priority given to establishing and maintaining accountability mechanisms creates the perception that parliamentary funds and efforts tend not to be directed towards establishing more effective control of parliamentary resources.”<sup>9</sup> While critical, the involvement of this external review facilitates the identification of problems and allows for improvements that can build public confidence.

The involvement of independent external review can set clear jurisdictional boundaries between the corporate body and the setting of salary (and financial support) levels for Members. Such measures are thought to help build the public confidence required for PCB’s to justify their requirement for public monies.

Beyond the involvement of external review mechanisms a common theme emerging from reviews of PCB's has been the need to place budget-management responsibilities with those who in practice spend the money. Recommendations here point to the need to improve funding mechanisms for Members and parties that better reflect the actual responsibilities of chief executive officers in controlling expenditure.

A specific recommendation made by the Rodger review highlighted a widely experienced difficulty of chief executives in the exercise of control over costs associated with employment contracts for staff employed by Members, as well as other costs associated with Member activity. In this significant cost area chief executives can find themselves being accountable for costs not within their area of control.

A recommended resolution to this problem is the shifting of "activity costs" to a different funding basis – that of bulk funding for Members, political parties and/or political groups. As well as placing accountability responsibilities to better reflect spending decisions, bulk funding can: overcome problems of inflexibility (allowing Members flexibility in determining the services available to them); promote accountability; improve transparency; and support Member effectiveness.

## **CONCLUSION**

The administration and financing of Parliaments occur in vastly different settings whereby constitutional, legislative and custom differences make international comparison problematic. Comparisons can be rendered all the more complex due to complications arising from differences in terminology. However, in so far as elements of good practice are being sought, certain common issues emerge – even though responses to similar problems can engender different responses.

Whether defined by written constitution, by legislation or by custom and practice (or combinations of all three), an essential component of effective management for Parliaments is determined by its ability to control the resources it requires to meet the legislative responsibilities of government. The Latimer House Guidelines identify specific requirements:

- Parliament should be serviced by a professional staff independent of the regular public service.
- Adequate resources to government and non-government Backbenchers should be provided to improve parliamentary input and should include provision for:
  - ◆ Training of new Members;
  - ◆ Secretarial, office, library and research facilities; and
  - ◆ Drafting assistance including private Members' Bills.
- An all-party committee of Parliament should review and administer Parliament's budget, which should not be subject to amendment by the executive.

There exists no objective quantification of how well Parliaments meet these standards. A simple compliance count is unlikely to be informative since Parliaments differ more often by degree – though certainly the management of some Parliaments is no more than an extension of executive authority.

When Parliaments are managed through a corporate body or entity, the level of their autonomy relates to:

- The ability to identify and gain the financial resource it requires.
- The independence of staff from external control – particularly from the executive.
- The authority of Parliament to ensure the security of its Members and infrastructure.
- The inclusivity of membership of the corporate body that sets it aside from party politics, and
- The capacity to win public confidence through the involvement of independent assessment, the delivery of ethics compliance and the transparent reporting of progress (including costs) in meeting objectives.

The actual mechanisms for appropriate management of parliamentary resources point to a number of issues:

- Is there a clear delineation of responsibility between agents responsible for policy formation and delivery?
- Does the corporate entity have available the professional support services that it requires to inform decisions?
- Do management entities have discrete non-overlapping authorities?
- Is management delegated so that control is vested with those entities best equipped to make informed decisions?

- Are practices/structures in place that enable the effective communication of Member needs to the PCB?
- Do accounting responsibilities map on to decision-making authorities?
- What is realizable in delivering actual accountability of a PCB for the decisions it makes?

Evaluations of Parliaments' corporate management do not suggest a set of uniform answers. A set of generic issues is more evident. At the most fundamental level, Parliaments need to attain the autonomy required to reflect it as delivering one of the three structural plinths that represent democratic government. However, even when this is achieved, uniform approaches across Legislatures do not emerge.

What is clear is that that the powers, relationships and responsibilities between three entities is crucial – those between the Speaker, the PCB and the chief executive officer. It is these that most influence effective parliamentary control of administration and finance.

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## Footnotes

1. The administrative branch of government not only “executes” laws but also makes them (in the form of delegated legislation). In the UK, the courts not only apply law but also make common law. Parliament not only makes laws but also administers its own internal affairs and enforces rules of conduct on its members.

2. Australia, Australian Capital Territory, Barbados, British Virgin Islands, Cameroon, Canada, Cayman Islands, Cook Islands, Gibraltar, Guernsey, India, Isle of Man, Kenya, Malta, New Zealand, Northern Territory of Australia, Ontario, Quebec, Queensland, Samoa, Seychelles, South Australia, Swaziland, Tasmania, Trinidad & Tobago, Uganda, United Kingdom, Victoria, Welsh Assembly, Zimbabwe (Source CPA).

3. Braithwaite, Michael. *Review of management and services: Report to the House of Commons Commission*. (London, Stationery Office), 1999.

4. Ibbs, Robin. *House of Commons Services: Report to the House of Commons Commission*. (London, Stationery Office), 1990.

5. Couderc, Michel. “The administrative and financial autonomy of parliamentary assemblies”, (Moscow Session of the Association of Secretaries General of Parliaments, Sept. 1998).

6. Coudrec, op cit.

7. Rodger, Stan. *Report of review team on a review of the Parliamentary Service Act to the Parliamentary Service Commission.* (Wellington, New Zealand) 1999, p. 44.

8. Rodger, Stan, op cit., p vii

9. Investigation into Parliamentary and Electorate Travel: Second Report – Analysis of Administrative Systems and Recommendations for Reform, December 1998, discussion on accountability.

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