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STATEMENT OF PURPOSE

The Commonwealth Parliamentary Association (CPA) exists to connect, develop, promote and support Parliamentarians and their staff to identify benchmarks of good governance, and implement the enduring values of the Commonwealth.

Calendar of Forthcoming Events

Confirmed as of 10 August 2018

2018

September

- | | |
|------------------|--|
| 4 to 7 September | 54 th General Meeting of the Society of Clerks-at-the-Table (SoCATT), Toronto, Canada |
| 15 September | International Day of Democracy (IDD) |

October

- | | |
|----------------|--|
| w/c 1 October | CPA Fundamentals Programme (Online), University of Witwatersrand, South Africa |
| w/c 15 October | CPA Fundamentals Programme Small Branches (Residential), McGill University, Canada |

November

- | | |
|-----------------|---|
| 5 to 9 November | CPA International Executive Committee meeting, London, United Kingdom |
| w/c 5 November | CPA Fundamentals Programme Small Branches (Online), McGill University, Canada |
| w/c 19 November | CPA Fundamentals Programme (Residential), University of Witwatersrand, South Africa |

2019

March

- | | |
|----------|--|
| 11 March | Commonwealth Day 2019, CPA Headquarters Secretariat and all CPA Branches |
|----------|--|

The publication of a Calendar of Commonwealth Parliamentary Association (CPA) events is a service intended to foster the exchange of events and activities between Regions and Branches and the encouragement of new ideas and participation. Further information may be obtained from the Branches concerned or the CPA Headquarters Secretariat. Branch Secretaries are requested to send notice of the main CPA events and conferences to hq.sec@cpahq.org in advance of the publication deadline to ensure the Calendar is accurate.

Further information can also be found at www.cpahq.org or by emailing hq.sec@cpahq.org.



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Richmond House, Houses of
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Tel: +44 (0) 20 7799 1460
Email: hq.sec@cpahq.org
www.cpahq.org
Twitter @CPA_Secretariat
Facebook.com/CPAHQ

Mr Akbar Khan
Secretary-General

Mr Jeffrey Hyland
Editor, *The Parliamentarian*
editor@cpahq.org

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- CPA Branch visits to Guyana and Jamaica
- 43rd Regional Conference of the CPA Caribbean, Americas and Atlantic Region in the Cayman Islands
- New Parliament building opening in Grenada
- Updating of the CPA's Benchmarks for Democratic Legislatures
- First CPA India Regional zone meeting in Uttarakhand
- Post-CHOGM workshop focuses on women's economic empowerment
- 56th CPA Canada Regional Conference in Ottawa
- 49th Presiding Officers and Clerks Conference for the CPA Pacific and Australia Regions in New Zealand.

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PROTECTING OUR DEMOCRATIC FREEDOMS IN THE COMMONWEALTH

The Editor's Note

Democratic freedoms can never be taken for granted and we all have a role to play in protecting our democratic rights and liberties. Many of these freedoms are enshrined in laws, treaties, rules and charters – however many of these freedoms are unwritten rules and conventions that have developed over time.

The Commonwealth Charter provides a framework for these democratic freedoms. The Commonwealth Charter expresses the commitment of member states to the development of free and democratic societies and the promotion of peace and prosperity to improve the lives of all peoples of the Commonwealth. The Charter also acknowledges the role of civil society in supporting the goals and values of the Commonwealth.

The Commonwealth Parliamentary Association (CPA) has focused recently on the three Ds – *democracy, development and diversity* – as a means of promoting the values of the Commonwealth, particularly to young people. Our Parliaments and Parliamentarians have a key role to play in the protection of democracy's conventions and in promoting democracy, development and diversity.

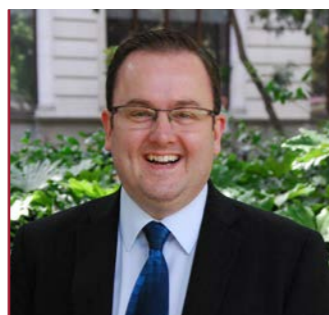
This issue of *The Parliamentarian* reports on a wide range of topics that have affected all nine regions of the Commonwealth Parliamentary Association.

The **Chairperson of the Commonwealth Parliamentary Association (CPA) Executive Committee, Hon. Emilia Monjowa Lifaka, MP** (Cameroon) reflects on Parliamentarians' shared democratic goals as she addresses the 44th Parliamentary Assembly of La Francophonie - *L'Assemblée Parlementaire de la Francophonie* (APF) in Québec, Canada.

Following the recent elections in Malaysia, **Hon. Dr Dato' Noraini Ahmad, MP, Chairperson of the Commonwealth Women Parliamentarians (CWP)** and Member of the Parliament of Malaysia writes about the importance of protecting democracy and equal representation and the hope that the outcomes of the recent election will see more women taking part in politics.

Hon. Angelo Farrugia, MP, Chairperson of the CPA Small Branches (Malta) highlights the role of the Commonwealth and the CPA in promoting the three Ds – *democracy, development and diversity* – and how these aspects combine to underpin the Commonwealth's key values.

The **CPA Secretary-General, Mr Akbar Khan** in his *View* article writes about the important role of the CPA in contributing to the rules-based international order.



Jeffrey Hyland, Editor
The Parliamentarian,
Commonwealth
Parliamentary Association

This issue of *The Parliamentarian* features several news reports about the CPA and Commonwealth activities including: the CPA Post-Election Seminar and CPA Roadshow in Nevis; CPA Branch visits to Guyana and Jamaica; the 43rd Regional Conference of the CPA Caribbean, Americas and Atlantic Region in the Cayman Islands; the first CPA India Regional zone meeting in Uttarakhand; a post-CHOGM workshop focusing on women's economic empowerment; and the 56th CPA Canada Regional Conference in Ottawa. This issue also features a report about the new Parliament building which opened on the Caribbean island of Grenada.

More than a decade on from the launch of the CPA *Recommended Benchmarks for Democratic Legislatures* by the Commonwealth Parliamentary Association

and its partners, a new body of work is being undertaken to revise and update the Parliamentary Benchmarks to reflect the changed landscape in which democracies now operate. The updated CPA Benchmarks will also include measurements for Parliaments to support the implementation of the Sustainable Development Goals (SDGs) and the recommendations contained in the Commonwealth Charter. This issue of *The Parliamentarian* reports on the joint study group convened in June 2018 to undertake a review of the CPA *Recommended Benchmarks for Democratic Legislatures* with representatives from six of the nine CPA Regions – Asia, Australia; British Islands and Mediterranean; Canada; India; Pacific – as well as leading experts in the field of parliamentary strengthening.

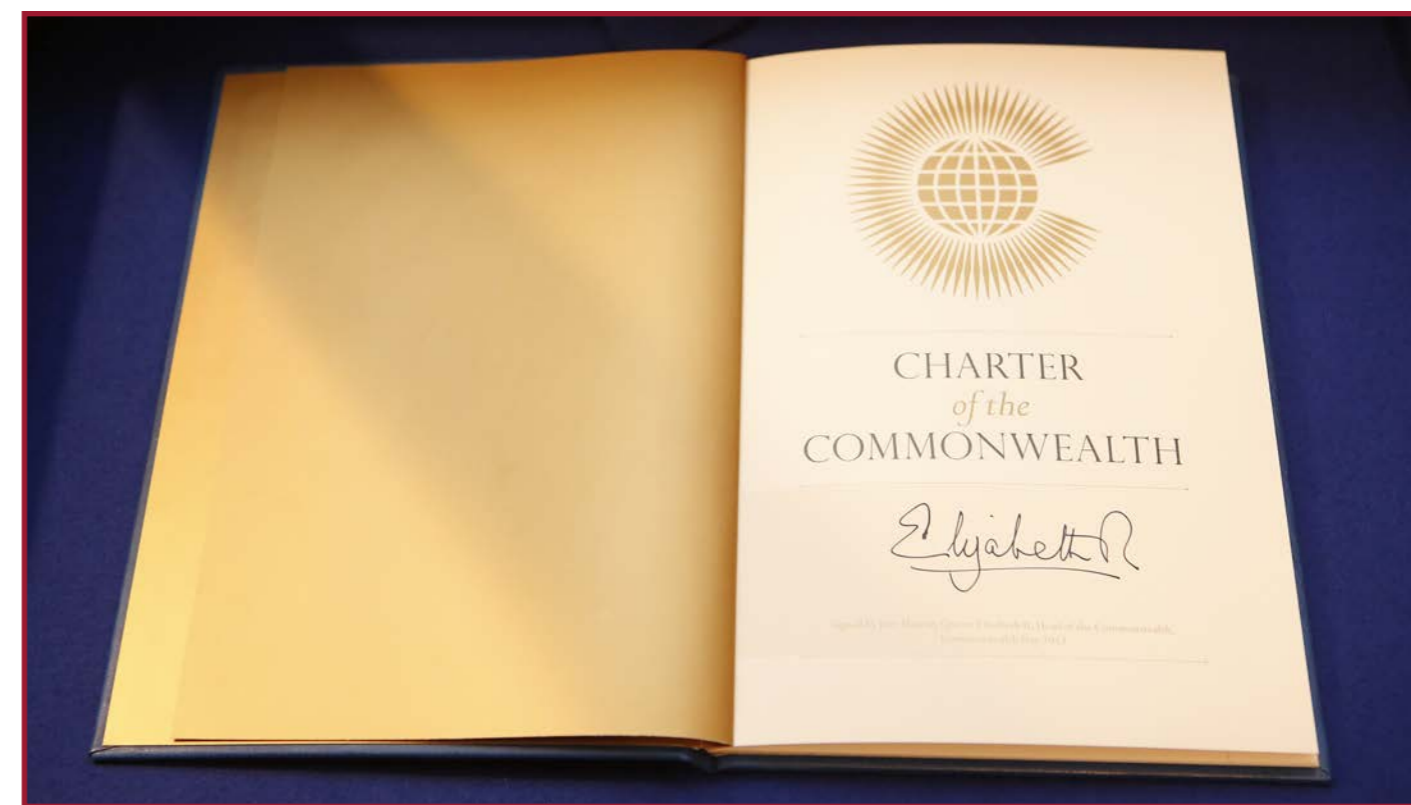
This issue of *The Parliamentarian* features a report of the 49th Presiding Officers and Clerks Conference (POCC) for the CPA Pacific and Australia Regions which took place in Wellington, New Zealand in July 2018. Several of the papers presented by Speakers, Members and Clerks at this conference on the themes of parliamentary development are published in this issue.

Hon. Tony Smith, MP, Speaker of the Australian House of Representatives (Australia Federal) writes about the '*High and exacting demands*' on the Speaker and his reflections on preparing for the role of Chair of a large Parliament.

Tom Duncan, Clerk of the Legislative Assembly for the Australian Capital Territory contrasts this with an article on the role of a Speaker in a small legislature and highlights that it is '*more than just points of order*'.

Hon. Kezia Purick, MLA, Speaker of the Legislative Assembly of the Northern Territory, Australia examines the Speaker's role in dealing with disorderly behaviour in the Chamber.

In his paper presented to delegates at the POCC in Wellington, **Hon.**



John Ajaka, MLC, President of the Legislative Council of the Parliament of New South Wales highlights the significance of the Introduction of the Aboriginal Languages Bill and the sensitive role that the Parliament played.

Hon. Bruce Atkinson, MLC, President of the Legislative Council looks at the role of the Crossbench and the balance of power in the Parliament of Victoria, Australia.

Hon. Joy Burch, MLA, Speaker of the Legislative Assembly for the Australian Capital Territory looks at the representation of women in the Legislative Assembly and states '*you can't be what you can't see*'.

Moving away from the POCC in Wellington, this issue of *The Parliamentarian* features an article by **Hon. Syed Naveed Qamar, MP** (National Assembly of Pakistan) about new legislation introduced in Pakistan to protect Transgender rights inspired by the work of the *Parliamentarians for Global Action* (PGA).

Mr Zafarullah Khan, Executive Director of the Pakistan Institute for Parliamentary Services (PIPS) writes about the historic moment in parliamentary communications in Pakistan with the launch of the *PTV Parliament* channel in Islamabad.

This issue features a report of the parliamentary staff developing their skills to meet the impact of the Fourth Industrial Revolution at the 3rd SoCATT Africa Region Development Seminar in Namibia, with the report provided by **Immanuel Kooper**, Chief Information Officer at the National Council of the Parliament of Namibia.

Alex Christopoulos, Deputy Chief Executive of international children's charity, *Lumos*, highlights the role that Legislators can play in tackling global orphanage trafficking.

V. K. Babu Prakash, Secretary of the Kerala Legislative Assembly (Kerala, India) writes about the legislative procedures on law, rules and delegated legislation in the Parliament of India and in the State of Kerala.

A number of significant anniversaries in the history of women's suffrage and the passing of significant equality legislation have been marked across the Commonwealth this year.

Above: The Commonwealth Charter brings together the values and aspirations which unite the Commonwealth - democracy, human rights and the rule of law - in a single, accessible document. The Charter was signed by Her Majesty Queen Elizabeth II, Head of the Commonwealth and Patron of the Commonwealth Parliamentary Association on Commonwealth Day 2013.

As the Canadian Federal Parliament marks the centenary of women voting in the federal elections in Canada, **Hon. Yasmin Ratansi, MP**, Chairperson of the CPA Canada Federal Branch provides a historical perspective of women's right to vote in Canada and examines the level of women's representation in Canadian Parliaments and Provincial Assemblies today.

The Parliament of the United Kingdom is also celebrating the centenary year for women's vote in 2018 and *The Parliamentarian* reports on the recent presentation of a historic picture of the first woman elected to the UK House of Commons in 1918 from the Parliament of Ireland.

This issue of *The Parliamentarian* also features reports of the Commonwealth Women Parliamentarians (CWP) regional activities in the Caribbean, Americas and Atlantic; Canada; and Africa Regions.

The *Parliamentary Report* and *Third Reading* section in this issue includes parliamentary and legislative news from Canada Federal, British Columbia, Québec, India, New Zealand, Sri Lanka, Australia Federal and the United Kingdom.

We look forward to hearing your feedback and comments on this issue of *The Parliamentarian*, on the issues affecting Parliamentarians across the Commonwealth and to receiving your future contributions to this publication.

Jeffrey Hyland
Editor, *The Parliamentarian*
editor@cpahq.org



SHARED DEMOCRATIC GOALS

View from the CPA Chairperson

The following speech was given by Hon. Emilia Monjowa Lifaka, MP, Chairperson of the Executive Committee and Deputy Speaker of the National Assembly of Cameroon at the 44th Parliamentary Assembly of La Francophonie - L'Assemblée Parlementaire de la Francophonie (APF) in Québec, Canada on 10 July 2018.

I feel really honoured to have been invited in my capacity as the Chairperson of the Executive Committee of the Commonwealth Parliamentary Association (CPA) to attend this 44th Session of the APF General Assembly and address delegates.

On behalf of the entire CPA that I am representing here, I wish to take this opportunity to thank, Honourable Jacques Chagnon, the President of APF, for inviting me to this meeting holding in this beautiful Province of Québec. Your kind invitation to the CPA is an eloquent testimony to the excellent relations existing between our brotherly associations and the wish of the APF to work in collaboration with other inter-parliamentary bodies to ensure the maximum contribution of Parliaments to the advancement of the world.

I therefore bring you warm greetings from the CPA family and our wishes for a very successful conference.

Let me also seize this opportunity to sincerely thank the Canadian authorities for the warm reception accorded me and to praise the authorities of Québec for the excellent logistics put in place for the organisation of this Conference.

“The common denominator among the vast majority of us here gathered is that we are Parliamentarians and by extension the people’s representatives, the voice of the voiceless, the hope of the hopeless, the voice of the weak and of the strong.”



Hon. Emilia Monjowa Lifaka, MP, Chairperson of the CPA Executive Committee and Deputy Speaker of the National Assembly of Cameroon

My presence in this meeting will undoubtedly enable the CPA to observe how the APF conducts its business as well as draw from its rich experience in parliamentary affairs. We are delighted to note that the APF and the CPA pursue similar goals which include the promotion of democracy, human rights and the rule of law as well as the capacity building of Parliamentarians in order to enable them to be more efficient in their role. I perceive the APF and the CPA as excellent avenues for information and experience sharing as well as a platform for the learning of best practices.

The common denominator among the vast majority of us here gathered is that we are Parliamentarians and by extension the people's representatives, the voice of the voiceless, the hope of the hopeless, the voice of the weak and of

the strong. We have the sovereign mandate of the people. With the constant evolution of the world and increasing aspirations for a better life and better living conditions, the populations therefore look up to us as bearers of their hopes and aspirations. We are therefore faced with these challenges which are in line with our traditional role of legislating, voting Bills and exercising oversight over the governments in our respective countries.

We have a verbal contract with our electorates who have placed their trust in us. The public's expectations of what we could and should be doing are very high and any failure to meet these expectations means considerable disappointment from those who gave us their mandate.

Indeed, as one scholar once said: *“those elected to public office are expected to possess indefinable qualities to accomplish an indescribable job.”*

Such are the challenges that we all have and should strive to meet. We need to ensure that governments formulate and implement good and sustainable policies that will better the lot of the people we represent. In order to achieve this, we will need to translate our resolutions into effective actions and push our respective government to move from adopting resolutions to real implementation.

There is no doubt that as Parliamentarians, we have an opportunity, and a constitutional responsibility, to play a significant role in supporting

and monitoring the implementation of the Sustainable Development Goals (SDGs) set by the United Nations.

The Agenda 2030 Declaration acknowledges the essential role of national Parliaments through their enactment of legislation and adoption of budgets that meet the Development Goals, and their role in ensuring accountability for the effective implementation of the commitments. As Members of Parliament we are uniquely positioned to act as an interface between the people and state institutions, and to promote and adopt people-centered policies and legislation to ensure that no one is left behind.

I cannot end my remarks without thanking our respective governments for the efforts made to ease legislation that has brought in more women in the decision-making arena. However, in most of our

jurisdictions, we have not yet attained the 30% Commonwealth quota. My fervent call is that, as we go back we should hold our respective governments to task to do more so that the female Members in Parliament will improve as this will make the world a better place.

The French philosopher and writer Frantz Fanon once said, *“Each generation must, out of relative obscurity, discover its mission and fulfill it or betray it.”*

Ours, my fellow colleagues, is to pave the way for the next generation and I urge that we fulfill it. The CPA is therefore looking up to this conference with a lot of hopes for major recommendations and resolutions. On this note, I wish the APF total success in its deliberations. Long live the excellent relations between the APF and the CPA.

Commonwealth Parliamentary Association Chairperson speaks of the importance of parliamentary democracy as she addresses the 44th Parliamentary Assembly of La Francophonie



Hon. Emilia Monjowa Lifaka, MP, Chairperson of the Commonwealth Parliamentary Association (CPA) and Deputy Speaker of the National Assembly of Cameroon has addressed the delegates attending the 44th Parliamentary Assembly of La Francophonie (L'Assemblée Parlementaire de la Francophonie - APF) and spoken of the work of

by the President of the Québec National Assembly and the President of the APF, Hon. Jacques Chagnon, MLA. Hon. Jacques Chagnon recently attended the CPA International Executive Committee Mid-year meeting in Mauritius on behalf of the CPA Canada Region.

The CPA Chairperson also met the Secretary-General of the Parliamentary Assembly, M. Jacques Krabal, a Member of the French National Assembly, and the Secretary-General of *La Francophonie*, Ms Michaëlle Jean. The APF was created in 1967 in Luxembourg when a number of French-speaking Parliamentarians came together to create an association to represent and promote the French language. This organisation evolved into the Parliamentary Assembly of La Francophonie (APF) which today is made up of 83 members across five continents.

the CPA in promoting parliamentary democracy. The CPA Chairperson also spoke of the increased international cooperation between parliamentary assemblies in tackling global issues for the benefit of their citizens.

The Commonwealth Parliamentary Association has a number of CPA Branches who are also members of the APF including Mauritius, Cameroon, Jersey, Canada Federal, Québec, Manitoba, New Brunswick, Ontario, Nova Scotia, Rwanda and Seychelles with Alberta, British Columbia, Prince Edward Island and Saskatchewan as associate members of the APF.

The Québec National Assembly in Canada hosted the 44th Session of the Parliamentary Assembly of La Francophonie from 5 to 10 July 2018. The CPA Chairperson was welcomed to the session





PROTECTING DEMOCRACY AND EQUAL REPRESENTATION

View from the Commonwealth Women Parliamentarians (CWP) Chairperson

Women in Malaysia have made significant progress in almost all areas since Malaysia's independence in 1957. Their achievements have no doubt been facilitated by inclusive policies and plans of action developed by the government of Malaysia. With a population of approximately 32.05 million, of which 15.49 million are female, the government has been sensitive and responsive to the voices of women.

Promoting equal representation requires a consistent approach to integrating equality and non-discrimination as normative standards across all governmental agendas through legal, policy and programmatic measures where people are placed at the heart of policy development, and no one is left behind. *Article 8(1)* of the Federal Constitution of Malaysia upholds the equality principle that every person shall be equal under the law and have equal protection of the law.

In 2001, *Article 8(2)* of the Federal Constitution has been amended to prohibit gender discrimination. Malaysia has always recognised the dignity of all human beings and consistently supports all initiatives to empower women and girls. The national *Policy on Women* (1989) accords women equal status and rights as enshrined in the Constitution.

“It is hoped that the outcome of the recent election will see more women taking part in politics, top managerial positions, economic decision-making and so on. Good education and a just society for young girls and women to be empowered are some of the parameters towards better economic, social, environment and political development, hence the promotion of continued democracy and equality.”



Hon. Dr Dato' Noraini Ahmad, MP, Chairperson of the Commonwealth Women Parliamentarians (CWP) and Member of the Parliament of Malaysia.

In ensuring the active participation of women in economic, social and political development, the government has been duty-bound to be much more cognizant of its obligations to the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW); the Cairo Programme for Action 1994; the Beijing Platform for Action (BFPA); the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; the Vienna Plan of Action on Human Rights; the Sustainable Development Goals (SDGs); and the Plan of Action on the Advancement of Women. These commitments signify an acceptance of women's empowerment in the national and international policy agenda as advocated by the Commonwealth Women Parliamentarians (CWP).

Nevertheless, women's representation in the Parliament of Malaysia is still amongst the lowest of the ASEAN countries. Since the 13th General Elections in 2013, the proportion of female Cabinet Ministers and Deputy Ministers at the Federal level have increased to 12.3% from 11.4% in the previous Cabinet in 2008. This is mainly due to a reduction in Deputy Minister positions from 38 to 25. The recent 14th General Election marks a growth shift and the start of a multiracial and modern democracy. It witnessed voter turnout of 83.32%¹, just slightly lower than the 84.84%² turnout in the 13th General Election. A total of 12,229,514 voters out of 14,940,624 registered voters cast their vote on 9th May 2018³. Out of the entire electorate, women voters represented 50.4%⁴. In line with the principles of a democratically elected government, Malaysians collectively exercised their rights to vote. This was really astonishing and exemplary. As Malcolm X once said, “[the] Ballot is like a bullet. You don't throw your ballots until you see a target, and if that target is not within your reach, keep your ballot in your pocket.”

In the days following the election, the nation exhibited a strong sense of maturity in adhering to the democratic process, evident by the peaceful transition of power. This historic moment which had impressed the whole world, is a signpost of political maturity amongst Malaysian.

The recent 14th General Election was not only dubbed as the ‘mother of all elections’ but also can be reckoned as a stepping stone for women to shine and reach the highest political leadership position in the future.

For the first time since Malaysia gained its independence, this election saw women's political empowerment at the higher leadership level when Dr Wan Azizah binti Wan Ismail was appointed as the first female Deputy



Image credit: Azam Adiputra/Shutterstock.com

Prime Minister. It also witnessed the appointment of five female Cabinet Ministers and four female Deputy Ministers to complete the line-up of the current Malaysian Cabinet. This appointment model is part of the commitment towards achieving the Commonwealth's 30% gender policy quota and also accords women equality status and rights as enshrined in *Article 8 (2)* of the Federal Constitution.

The characteristics of Malaysian parliamentary democracy were set out in the speech of the Yang di-Pertuan Agong at the establishment of Parliament in 1959. His Majesty Tuanku Abdul Rahman Ibni Almarhum Tuanku Muhammad stated that the first characteristic is that laws must be made by a legislature of persons elected by citizens at regular intervals by means of secret ballot. The second is that the executive authority must answer to the elected legislature. The third is that there must exist in the State what is commonly known as the ‘rule of law’. These principles applied in 1959, still apply today and must continue to be applied for the continued prosperity of this country.

In the efforts to uphold democracy in Malaysia, the Federal Constitution must continue to be upheld as the supreme law of the land. Democracy must be protected as a pathway to ensure that the voices of the people are heard and taken into account by lawmakers. As former Federal Judge Raja Azlan Shah remarked in *Loh Kooi Choon v The Government of Malaysia*, “[t]he people have their remedy at the ballot box.”

The transition of power shows that democratic change has finally come to Malaysia. It is a reminder to all politicians not to take the people for granted. It would be wise for all politicians to acknowledge

the people as the master, and it is the role of the politician to serve the people. Malaysia's 14th General Elections will be remembered by all as a peaceful revolution, which transformed the South East Asian nation's history.

It is hoped that the outcome of the recent election will see more women taking part in politics, top managerial positions, economic decision-making and so on. Good education and a just society for young girls and women to be empowered are some of the parameters towards better economic, social, environment and political development, hence the promotion of continued democracy and equality.

In conclusion, the Commonwealth Women Parliamentarians (CWP) calls all women Parliamentarians to play a special role and portray higher integrity and they must be constructive in their approach in the implementation of democratic values. Women Parliamentarians are now required to have strong procedural knowledge and understanding of parliamentary processes and, as a public representative, they must keep their feet on the ground, stay lucid to the people's needs and defend the rights of their constituents.

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- ¹ <http://www.mstar.com.my/berita/berita-semasa/2018/05/11/jumlah-pengundi/>
- ² <http://www.sinarharian.com.my/politik/spr-84-84-peratus-mengundi-pada-pru13-1.157577>
- ³ <https://www.thestar.com.my/news/nation/2018/05/11/ec-says-voter-turnout-82-percent/>
- ⁴ <http://www.thesundaily.my/news/2018/04/11/more-women-voters-men-ge14>
- ⁵ P. 32, Vol. 1, Issue 2, *Parliamentary Debates Dewan Ra'ayat* <http://www.parlimen.gov.my/files/hindex/pdf/DR-12091959.pdf>



3Ds: DEMOCRACY, DIVERSITY AND DEVELOPMENT IN THE COMMONWEALTH

View from the CPA Small Branches Chairperson

Like other organisations which have their own values, priorities and ambitions, the Commonwealth and the Commonwealth Parliamentary Association equally keep their values at heart. Three terms which encapsulate the sheer core of these organisations, amongst others, are democracy, diversity and development – which are also known as the Three Ds. This article will take us through a journey of these interlinked concepts which make up the Commonwealth and the CPA as we know them today. The concepts are not taken in any form of importance or preferential manner, but how one naturally leads on to the other.

Being a political and cultural organisation of great complexity, the Commonwealth does its work guided by a philosophy based on certain key values and principles. On the one hand, the Commonwealth promotes democracy as a fair method of politics; diversity where a voluntary association of nations being very diverse in nature works conjointly; and some of which are still undergoing development on political and administrative levels. The values that underpin the fundamental political values of the Commonwealth, as defined in the *Harare Commonwealth Declaration* of 1991, namely adherence to human rights and democratic principles are what makes the Commonwealth a vibrant and ever-present organisation.

Democracy

The Commonwealth's strong commitment to deepening the democratic systems in each member state is reflected in the Commonwealth Charter, as applied to all the Commonwealth's Parliaments. These include some of the smallest and some of the biggest in the world. The work to update the CPA Benchmarks needed to reflect this diversity and to incorporate a range of commitments that the international community had made in the past twelve years, particularly in the UN Sustainable Development Goals. The responsibility for addressing improvements in procedures remained with each Parliament. The *Recommended Benchmarks for Democratic Legislatures*, developed by the CPA, have in fact been a useful resource and were updated in the past months to keep abreast of the latest parliamentary developments. The Maltese Parliament has contributed to the revision of the CPA Benchmarks. The amendments included our local Constitutional Court amendments as to the applicable guidelines to witnesses appearing before Parliamentary Committees. These give power to the Committee to summon witnesses which has been curtailed. Another suggestion was the administrative issues our Parliament has been facing since becoming autonomous, such as recruitment within the Parliamentary Service.

Democracy means more than a set of government institutions or



**Hon. Angelo Farrugia,
MP, Chairperson of the
CPA Small Branches and
Speaker of the House of
Representatives of the
Parliament of Malta.**

agencies. It refers to relationships between the state and its citizens, among diverse groups and among individuals. A good inclusive definition of democracy as a way of organising society is provided by John Gastil (1993). He defines democracy in the following terms:

"Democracy connotes wide-ranging liberty, including the freedom to decide one's own course in life and the right to play an equal role in forging a common destiny. Democracy means social and civil equality and a rejection of discrimination and prejudice. Democracy embraces the notion of pluralism and cultural diversity. It welcomes a wide range of perspectives and lifestyles, moving different social groups towards peaceful coexistence or respectful integration. Democracy represents the ideal of a cohesive community of people living and working together and finding fair, non-violent ways to reconcile conflicts. In sum, democracy embodies all three elements of the famous French Revolutionary slogan (liberty, equality, fraternity)." (Gastil, 1993)

Heads of Government identified democracy as a fundamental political value for the Commonwealth in the *Harare Declaration*, recognising 'the inalienable right to participate by means of free and democratic processes in framing the society in which they live.' This means that the Commonwealth is committed to democracy both as a style of government and as a style of decision-making.

However, saying that democracy is a core Commonwealth value does not mean that every member country is or should be governed by the same parliamentary system. The connection is both more subtle and more lasting. As an association, the Commonwealth embraces diversity and firmly rejects discrimination based on race, culture, size or level of development. Where members hold different perspectives on issues, there is agreement to disagree but to continue dialogue, and efforts are made to pursue peaceful reconciliation of disputes.

Critics have suggested that the Commonwealth's support for democracy has been inconsistent, particularly since there have been military governments and one-party states in several Commonwealth countries in Africa, Asia and the South Pacific, during the 1980s. Yet since the *Harare Declaration* of 1991, there has been a dramatic increase in the Commonwealth Secretariat's operational support for democracy, including: assistance for elections and acting as observers during the election period, ensuring free and fair elections, training for election officers and policy-makers; assistance with constitutional and legislative document drafting; providing emissaries to countries facing political crises and the possible breakdown of democracy; and training for lawyers and judges on international human rights law. There has also been an increase in the number of democratic states, and a reduction in military governments among Commonwealth members. For a brief period in 1999, all Commonwealth countries were classified as democracies whilst embracing its diversity.

Diversity

As the nations of the British Empire emerged from colonialism, they developed a unique model of how the peoples of the world can live together after conflict and exploitation. The Commonwealth has slowly put together a supporting framework of social and humanitarian principles that have enabled 53 very different nations to live co-operatively. Almost two billion people live in the Commonwealth, making up nearly one-third of the world's population. They represent many different religions, races, languages and cultures. If this is the reality of the modern Commonwealth, you might ask: 'What brings us together? What values do we share as countries or as individuals?'

Our values are our beliefs about what are the right ways to behave. When we decide to act in the world, if we have clear values we take them into account first. For example, if I consider that a crucial value for me is not to bring any more harm to the environment than I ought to, then I may well decide to cut my consumption of anything that is luxurious and unnecessary. In this regard, as Small Branches, we are planning to organise a Climate Change Conference to further discuss this ever-pressing phenomenon.

If we consider our values to be objective, we believe that our choices should be guided by certain principles, be these humanitarian, civic or religious. Our 'values', then, are our standards or principles, namely the things that we consider to be of real and lasting worth and importance in life, even though we cannot physically touch them or buy and sell them. If we consider our values as personal, we may feel that that they are so important that we defend them at all costs, even against rational argument. Each one of us has these subjective or personal values, but the communities we live in usually have shared values, or shared understandings about important goals and principles of behaviour. These might well overlap with many people's personal values, but equally they might sometimes contradict them.

A society may have some values that contradict those of its neighbouring society, but both may be prepared to abide by a core set of values from which each can benefit. At first glance, in the Commonwealth there would seem to be little to bring such diverse peoples and nations together in a voluntary association. Yet the Commonwealth has grown and flourished. In part, it works because virtually all its members have a shared history, common institutions and a common language – the legacy of past colonial relationships with Britain, ironically the source of considerable conflict in the history of some countries. Thus, the Commonwealth has really pushed, and succeeded towards creating *Unity within Diversity!*

The special strength of the Commonwealth lies in the combination

“The Commonwealth parliamentary community has one other defining characteristic, again one not often found in international activities. In the CPA, the views of all member countries and of all MPs are heard equally. The CPA recognises that effective policies and practices can come from the small, the inexperienced and the underdeveloped as well as from the large, the sophisticated and the rich.”

of the diversity of its members with their shared inheritance in language, culture and the rule of law. The Commonwealth way is to seek consensus through consultation and the sharing of experience. It is uniquely placed to serve as a model and as a catalyst for new forms of friendship and cooperation to all in the spirit of the Charter of the United Nations.

Development

As we know, the CPA has been the voice of parliamentary democracy across the Commonwealth for close to ten decades. Since the turn of the new millennium, however, it has also been speaking out for the right of Parliaments and Parliamentarians to play a more active role in the development of their countries. Parliamentarians now go beyond approving and scrutinizing government development plans. The Association's 180 Parliaments and Legislatures and their 17,000 Members play a more active role in formulating those plans.

The CPA is the forum which enables Commonwealth Parliamentarians to reach beyond their own Houses to contribute in a global setting to the development of the best parliamentary practices and the most effective policies. This is done through effective communication by talking to each other – exchanging information, sharing experiences and debating policies. The CPA is recognised by Commonwealth Heads of Government and intergovernmental agencies as an organization which strengthens good parliamentary governance and contribute tangibly to the development of all Commonwealth people. Indeed, even the smallest participants of the CPA are now represented and given a voice within the Executive Committee through their own Chairperson.

Commonwealth MPs, coming together in the CPA, constitute an invaluable resource. They apply to the resolution of issues the expertise of every profession in society, the experiences of countries of all sizes and stages of development and the diverse practices of national, state, provincial and territorial Parliaments and Legislatures, none of which work exactly alike. They represent all genders, all races and religions, many of the world's cultures and virtually every political, economic and social outlook.

Their contribution does not stop there. By meeting in a Commonwealth setting, Parliamentarians appreciate the value of the wider Commonwealth of Nations. They take back to their own Parliaments and Legislatures – and to their governments – a greater realisation of the advantages of using the Commonwealth as a force for good in the world. Also unusual in the international arena, the Commonwealth is much more than just a collection of governments: it is an alliance of people who reinforce and extend the work of governments by bringing the Commonwealth connection to the grass roots of politics and of every aspect of society.

The Commonwealth parliamentary community has one other defining characteristic, again one not often found in international activities. In the CPA, the views of all member countries and of all MPs are heard equally. The CPA recognises that effective policies and practices can come from the small, the inexperienced and the underdeveloped as well as from the large, the sophisticated and the rich.

In conclusion, it should be noted that the Commonwealth Charter reiterates that the Commonwealth should strengthen and enlarge its networks and is devoted to improving the lives of all peoples of the Commonwealth. This implies that it holds the three Ds closely at heart, together with other core values which enhance the development of the Branches such as human rights, international peace and security, tolerance, respect and understanding, good governance and rule of law, freedom of information, gender and equality, financial scrutiny and parliamentary oversight, to name a few.



THE ROLE OF THE CPA IN CONTRIBUTING TO THE RULES-BASED INTERNATIONAL ORDER

View from the 7th CPA Secretary-General

Background

With the United States commitment to global leadership, which has sustained the liberal international order through good times and bad, looking weaker than ever, there currently exists some major challenges to the rules-based international order established in the post-World War Two period by the United States and the other Western powers. This is especially worrying as the rules-based international order has successfully, over many decades, promoted stability, good governance, the rule of law, open markets, democracy and individual human rights.

These challenges include:

- Economic and political upheavals – demonstrated through a rise in national populism in elections with many turning their backs on the international system and asserting a dominant posture;
- There is a noted decline in United States influence and an ascending role for China causing anxiety in the West while there has also been a geopolitical rise of Russia since the cold war;
- The United States has become, according to some commentators, a *'transactional mercenary superpower'* only protecting those countries which contribute financially to international bodies such as NATO. Many commentators have also suggested that the United States has ignored the lesson that only by investing in the security of its allies abroad will it have security at home;
- A fractured United Nations Security Council – a frequent lack of consensus between the P-3 countries (United States, United Kingdom and France) and a difference of views on nuclear deals and trade tariffs with other countries (especially Russia and China).

So why does this all matter to democracy?

The foundations of a liberal democracy will be put at risk as long as the economies of leading countries remain fragile and political institutions that have been created to bring about good governance through the rules-based international order (such as the WTO and the UN system) are challenged. As the United Nations Secretary-General has stated there has been a shift from a bipolar world after the cold war period to a world order where there are multiple *'centres of power'* – this transition he says *"breeds a great deal of instability as new alliances emerge and then are cast aside."* The consequence of all of this according to the leading *'think tank'* Chatham House is not that liberal democracies will crumble but rather that many liberal democracies will need to co-exist alongside illiberal democracies.

The prospect of an eroded rules-based international order is potentially a



Mr Akbar Khan
Secretary-General of
the Commonwealth
Parliamentary Association

world with no rules which will result in disruption and chaos – in the context of trade, for example, the WTO dispute settlement process has been challenged by the United States. President Trump has refused to appoint any new United States members to the WTO appellate body which adjudicates disputes and so the options when faced with protectionist actions is retaliate or concede leading to a very unpredictable global trading environment.

What are the greatest current threats to democracy?

Institutional Breakdown: At the macro-level, it is vital for democracy and a rules-based international order that there exist functional, effective and accountable state institutions. This is clearly recognised by SDG 16.

When state institutions malfunction and breakdown, this poses a grave threat to democracy and a rules-based system. The key to developing functional and democratic state institutions is good parliamentary governance and so therefore weak and dysfunctional Parliaments result in unstable and limited democracies.

We can see the grave consequences of institutional breakdown for democracy and stability in failed states across the globe. Weak state institutions also fuel corruption and crime, which poses a further threat to democracy. The United Nations Development Programme, for instance, estimates that corruption, bribery, theft and tax evasion, cost developing countries some US \$1.26 trillion per year. Stronger Parliaments and national institutions with increased capacity are critical to combatting corruption and ensuring that it is eradicated from public office.

Executive Overreach: A clear example of institutional breakdown is Executive overreach. A key hallmark of functional and accountable state institutions is a clear separation of powers between the Executive, Legislature and Judiciary and this principle was established in the Commonwealth Latimer House Principles which the Commonwealth Parliamentary Association helped to develop. A serious threat to democracy comes from over-powerful and over-zealous Executives who compromise the separation of powers and interfere unconstitutionally in legislative affairs.

Executive overreach undermines Parliaments' vital democratic duty to hold the Executive to account. An example can be seen in the United States, where President Trump's control of Congress and the Judiciary is undermining Congress' status as the primary arbiter of legislation and poses a grave threat to the checks and balances on the Executive that Congress is constitutionally designed to provide.

Executive overreach can also serve to undermine the independence of the Judiciary; a principle crucial to safeguarding basic human rights and rule of law for citizens. Former Judge of the Supreme Court of India, Justice J Chelameswar, commenting on the Government of India's recent encroachment into judicial affairs by stalling key judicial appointments, opines that every government wants to have some control over the judiciary, and that the *"bonhomie between the judiciary and the government in any state sounds the death knell to democracy."*

This fusion of powers must be resisted if we are to protect fundamental human rights and achieve a rules-based international order.

Unrepresentative Democracy: As well as accountable institutions, SDG 16 calls for *inclusive* institutions. Inclusive institutions and inclusive societies are vital to a healthy and stable democracy. Democracies that exclude women, minority groups and young people run the risk of instability and political upheaval. The number of women Parliamentarians worldwide has increased by only 0.1 percentage point since 2016, from 23.3% to 23.4%. This has to be addressed going forward if we are to achieve true democracy and build inclusive institutions.

Moreover, in the Commonwealth, 60% of its 2.3 billion citizens are under 30. It is crucial that we are engaging with our young people and bringing them into democratic processes. Failure to do so creates apathy and frustration with political processes among the next generation, which has a corrosive effect on democracy.

The threat of digital democracy

One of the greatest threats of our time facing democracy is unregulated and unregistered spending on disinformation campaigns by unidentifiable overseas backers aimed at influencing voters ultimately the outcome at the polls. If left unchallenged it threatens our democracies.

So where does the CPA fit within this discussion supporting a rules-based international order?

As a 106 year-old voluntary Association of over 180 Commonwealth Parliaments and Legislatures, including national, state, provincial and territorial legislatures, the CPA works towards upholding the values and principles of parliamentary democracy and the Commonwealth.

The CPA delivers a number of programmes with our Parliaments and Parliamentarians that are designed to strengthen good governance, embed the rule of law, set democratic benchmarks and enhance parliamentary democracy which supports liberal democracies that foster a rules-based international order.

A functioning Parliament is critical to embedding at the national-level respect and support for the rules-based international order. Parliaments no longer operate purely in a domestic context but are increasingly grappling with issues at the international level – be they migration, climate change, the implementation of the SDGs, countering terrorism, the use of force and government respecting and abiding by their international obligations.

A function of Parliament is holding the Executive to account and acting as a check on any excesses of government. In the context of establishing a rules-based international order, Parliaments are crucial to scrutinising and advising the government on its foreign policy, be that through debate, giving approval to international treaties, ministerial questions or Committee scrutiny.

Many Commonwealth Parliaments have long established Standing Committees on Foreign Affairs and International Development or on Human Rights which help to focus scrutiny on these areas. In the UK Parliament, the House of Lords International Relations Committee, for example, plays a key role in scrutinising the UK Government's foreign

policy. Only last month, the Committee released a report calling on the UK Government to use the United Nations General Assembly in September to champion multilateralism, to push for increased resources for the United Nations and to advocate internal reform to strengthen the organisation and the rules-based international order.

In addition to its role in advising and scrutinising the Executive on international matters, Parliaments, and especially Parliamentary Committees, are vital sources of evidence and data-gathering pertaining to international relations. For instance, the Committees on Arms Export Controls (CAEC) in the UK Parliament have been gathering evidence from organisations and individuals in their attempts to scrutinise UK arms exports, and the UK House of Commons Foreign Affairs Select Committee has recently launched an inquiry considering the legal basis for military intervention for humanitarian purposes (R2P). In both examples, any recommendations to be presented to the Executive will be based on the evidence gathered by the Committees.

Implementing the Sustainable Development Goals

Achieving progress towards the Sustainable Development Goals (SDGs) will be particularly crucial to building a rules-based international system, particularly achieving SDG 16: *"Promoting peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective accountable and inclusive institutions at all levels."*

To achieve accountable and inclusive institutions at all levels, as called for by SDG 16, simply cannot be achieved without strong and innovative parliamentary governance.

Commonwealth Parliaments, in particular, have led the way in making progress towards the SDGs, particularly SDG 16. The Parliament of Fiji has also undertaken some outstanding and internationally recognised work in supporting SDG implementation as a legislature. In October 2017, the Fijian Parliament was one of the first legislatures in the world to carry out a self-assessment into its role in mainstreaming the SDGs into the national development agenda, and incorporating them into its legislative scrutiny, civic education and member capacity-building function. In Pakistan, an SDG Task Force was established to promote debates, engage and increase awareness of MPs on SDGs and to support implementation.

Inter-parliamentary dialogue and support

The sharing of best practice in Executive scrutiny, evidence gathering and implementing the SDGs is also a vital contribution that Parliaments can make to strengthen democracy. Through the many parliamentary networks that exist, Parliamentarians can foster global dialogue on what a rules-based international system should look like and how this can be legislated for in Parliament.

A good example of Parliamentary networks in action can be seen in Commonwealth Election Observation Missions, which draw upon the vast network of experienced Parliamentarians and the CPA networks when producing a Commonwealth Observer Group. Election Observation Missions are critical to ensuring elections meet global standards for the delivery of elections, rule of law in democratic processes, and Parliament is crucial to their delivery.

The CPA have a number of networks and programmes that help to facilitate an ongoing dialogue on particular areas of work including our Commonwealth Women Parliamentarians (CWP) network and our Small Branches Network for smaller jurisdictions.

The CPA has a number of tools and key programmes that help to strengthen democracy including:

- CPA *Recommended Benchmarks for Democratic Legislatures*





– these were first developed in 2006 and aim to strengthen Legislatures in the Commonwealth ensuring baseline standards of good parliamentary governance, strong democratic processes and rule of law. The CPA Benchmarks are currently being updated to reflect SDG Goal 16.

- The *Commonwealth Latimer House Principles* - developed by the CPA in partnership with the legal associations of the Commonwealth and Commonwealth Secretariat, the Latimer House Principles are a set of benchmarks on the separation of powers, and relations between the Executive, Legislature and Judiciary – critical for ensuring accountable and democratic state institutions.
- CPA Post-Election Seminars are usually undertaken at the request of a CPA Branch following an election and the three-day seminar on Parliamentary Practice and Procedure includes experts sharing good practice from other Commonwealth Parliaments and relating these experiences in discussion to the local scene. The seminar is aimed at building capacity of newly elected Members of Parliament to enable them function efficiently and effectively in the performance of their democratic duties.
- CPA Fundamentals Programme on Practice and Procedure - an accredited programme for Commonwealth Parliamentarians on international good practices of parliamentary democracy. The programme is the first of its kind and the main objective of the programme is to strengthen the capacity of Parliamentarians by equipping them with greater depth of knowledge on practice and procedure, increased in-depth knowledge of international good

practices and an accredited qualification from an internationally recognised university that will benefit participants for life during and after Parliament.

Conclusion

In building a rules-based international order, all roads lead to Parliament. It simply cannot be achieved without strong, functioning parliamentary governance. Parliaments are the crucible of all legislation, the guarantors of inclusive, representative democracy and a bulwark against overzealous Executives and attempts to undermine rule of law. Therefore, if we are to achieve a rules-based international order, and realise the vision set out by SDG 16, we must focus on building strong, accountable and effective state institutions, with dynamic and democratic legislatures at their heart.

**Mr Akbar Khan
7th Secretary-General
Commonwealth Parliamentary Association (CPA)**

This article is based on a speech that the CPA Secretary-General gave on 'Strengthening the International Rules-based Order' to the FCO International Leaders Programme 2018 hosted by Wilton Park in the United Kingdom in July 2018. The Secretary-General wishes to recognise the valuable contribution made by Mr Daniel Peacock at the CPA Headquarters Secretariat in undertaking the research for this speech/article.

CPA Secretary-General speaks to aspiring International Leaders on the importance of a rules-based international order

The Commonwealth Parliamentary Association (CPA) Secretary-General, Mr Akbar Khan, spoke recently as a guest contributor to delegates attending the International Leaders Programme, hosted jointly by the United Kingdom's Foreign and Commonwealth Office (FCO) and Wilton Park, an Executive Agency of the FCO. Taking place at Millbank Tower in central London, the theme of this year's programme was 'The UK in 2018: An inward and outward look?'

The FCO International Leaders Programme brings together aspiring young leaders from across the world to engage in intercultural dialogue, participatory roundtable discussions on public and foreign policy and facilitated group activities. The purpose of the Programme is to develop the leadership potential of delegates and gain a firmer understanding of the values that inform public life in the UK, and draws upon the knowledge and experience of expert practitioners to guide and enrich the high-level discussions.

Having been invited as a guest contributor to speak alongside Sir Mark Lyall Grant, former UK permanent representative to the United Nations, the CPA Secretary-General spoke to delegates on the theme: 'Strengthening the rules-based international order'. The session explored the UK's role in contributing to a rules-based international system, how to promote good governance, human rights and state-building and what the main threats to a rules-based international order are currently.

Speaking from his unique perspective as the Secretary-General of the Commonwealth Parliamentary Association, Mr Akbar Khan

said to delegates: "As a 106-year-old voluntary Association of over 180 plus legislatures, national and sub-national, across the Commonwealth, the CPA works towards upholding the values and principles of parliamentary democracy and the Commonwealth. A functioning Parliament is critical to embedding at the national level, respect and support for the rules based international order. Parliaments no longer operate purely in a domestic context but are increasingly grappling with international issues and can play an enormously important role in scrutinising and holding the Executive to account for implementation of its international obligations and in turn reinforce the rules-based international order."

Delegates in attendance included young leaders from Australia, Belarus, Cambodia, Colombia, Cuba, Iraq, Mali, Mongolia, Mozambique, Paraguay, Spain, Syria, Ukraine and Vietnam.



Commonwealth Parliamentary Association (CPA) CPA Photo Gallery



Left: During the CPA Secretary-General's visit to Nevis Island, Mr Akbar Khan held a bilateral meeting with Mrs Marjorie Morton, Acting Deputy Governor-General of St Kitts and Nevis to discuss CPA activities in the CPA Caribbean, Americas and Atlantic Region. To read about the CPA's Post-Election Seminar and CPA Roadshow for young people in Nevis Island turn to page 178.



Left: The CPA British Islands and Mediterranean (BIM) Region held a one-day Annual General Meeting with representatives from Parliaments and Legislatures across the CPA BIM Region at the Parliament of the United Kingdom on 25 June 2018. The AGM included Parliamentarians joining the meeting via Skype and it was followed by a Roundtable discussion on 'Youth Participation in Political Processes' with both Members and youth representatives.



Left and right: The Speaker of the Chamber of Deputies of the Rwanda Parliament, Rt Hon. Mukabalisa Donatille met with a delegation from the Commonwealth Parliamentary Association Africa Region including Hon. Sam Ikon, MP (Nigeria) and Hon. Adams Jagaba, MP and they held exchanges on the role of the CPA Africa Region in legislation at national and regional levels. The visiting CPA Africa Region delegation also met with Members of the CPA Rwanda Branch.

Right: Commonwealth Parliamentary Association Secretary-General Mr Akbar Khan briefed the Commonwealth All Party Parliamentary Group (APPG) at the Parliament of the United Kingdom alongside the UK's Commonwealth Minister, Rt Hon. Lord Tariq Ahmad; the High Commissioner of Papua New Guinea to the UK, Her Excellency Winnie Kiap; Rt Hon. Lord Chidgey, President, Commonwealth Forum; and Annette Prandzioch, Chief Operating Officer of the Royal Commonwealth Society.



Above: The CPA Secretary-General, Mr Akbar Khan visited Twickenham Prep School in South West London to speak at a Commonwealth Assembly in May 2018. The CPA has a programme of outreach that provides opportunities for young people to learn about the political values of the Commonwealth such as diversity, development and parliamentary democracy; to discuss issues of concern about the society in which they live; and to find out about the work of the CPA. The CPA Secretary-General, Mr Akbar Khan and members of the CPA Headquarters Secretariat team attended Headmaster, Mr David Malam's Commonwealth Assembly where the students heard about the Commonwealth and the role of the CPA in promoting diversity, development and democracy. The students at the school had been learning about the Commonwealth for the past few weeks as part of a series of assemblies and the CPA Secretary-General was the latest to contribute his perspective.



Commonwealth Parliamentary Association (CPA)

CPA Photo Gallery



Above: The CPA Headquarters Secretariat hosted an International Expert Committee in London, UK for Members to discuss the future status of the Association attended by Hon. Russell Wortley, MLC (South Australia), Chairperson of the Expert Committee; Rt Hon. Justin B. Muturi, MP, Speaker of the National Assembly (Kenya); Hon. Alexandra Mendes, MP, CPA Vice-Chairperson (Canada); Hon. Dr Roberta Blackman-Woods, MP (UK) along with the CPA Treasurer, Vicki Dunne, MLA (ACT), CPA Secretary-General, Akbar Khan and CPA Headquarters Secretariat staff.



Left: The Chairperson of the CPA Executive Committee, Hon. Emilia Monjowa Lifaka, MP, Deputy Speaker of the National Assembly of Cameroon meets Hon. George

J. Furey, QC, Speaker of the Senate of Canada at the opening of the 56th Commonwealth Parliamentary Association (CPA) Canada Regional Conference, which took place in Ottawa, Canada from 22 to 27 July 2018. Please turn to page 184 for a news report from the regional conference.



Right: The CPA Secretary-General Mr Akbar Khan met with Mr Tahir Hussain, Secretary of the National Assembly of Pakistan to discuss the CPA's work across the Commonwealth and in the CPA Asia Region and parliamentary strengthening opportunities for the National Assembly of Pakistan.



Above: The Chairperson of the Commonwealth Women Parliamentarians (CWP), Hon. Dato' Noraini Ahmad, MP (Malaysia) visited the Commonwealth Parliamentary Association Headquarters Secretariat to be briefed on the ongoing activities of the CPA and CWP and also to meet with the CPA Secretary-General, Mr Akbar Khan and CPA Headquarters Secretariat staff in London, United Kingdom following the recent elections in Malaysia.

Right: The CPA Namibia Branch and the Chairperson of the National Council of Namibia, Hon. Margaret Mensah-Williams hosted the 3rd Society of Clerks-at-the-Table (SoCATT) Africa Region Development Seminar for parliamentary staff from the CPA Africa Region in Windhoek. Please turn to page 216 for a seminar report.



Left: A debate on media censorship in the Commonwealth titled 'Liberty, Freedom and Enfranchisement: Press Censorship and the Commonwealth' was held at the Sam Wanamaker Playhouse at Shakespeare's Globe Theatre in London in association with The Royal Commonwealth Society and the London Press Club. The Commonwealth Parliamentary Association's Director of Operations, Jarvis Matiya spoke on the panel about freedom of speech in the Commonwealth alongside journalists, Yasmin Alibhai-Brown and William Horsley, and actor/campaigner Pia Zammit while the discussion was chaired by Anne McElvoy.



Left: The outgoing Regional Secretary for the Commonwealth Parliamentary Association (CPA) Australia Region, Mr Tom Duncan, Clerk of the Legislative Assembly for the Australian Capital Territory hands over the CPA Australia Region flag to the new Regional Secretary for the CPA Australia Region, Mr Jerome Brown, Director, International and Parliamentary Relations Office, Parliament of Australia following a meeting of the CPA Australia Region Management Committee in the margins of the Presiding Officers and Clerks Conference for the CPA Pacific and Australia Regions in Wellington, New Zealand in July 2018.

Right: The Chairperson of the Commonwealth Parliamentary Association (CPA), Hon. Emilia Monjowa Lifaka, MP, Deputy Speaker of the National Assembly of Cameroon, visited the new CPA Headquarters Secretariat at Richmond House at the Parliament of the United Kingdom in London to meet with the CPA Secretary-General, Mr Akbar Khan and CPA staff to receive briefings on current and future CPA projects and events.



Left: The Secretary General of the Inter-Parliamentary Union (IPU), Martin Chungong visited the Commonwealth Parliamentary Association Headquarters Secretariat in London to meet with the CPA's Director of Operations, Mr Jarvis Matiya and Ms Meenakshi Dhar, Head of the Secretary-General's Office to discuss the IPU and CPA's work in parliamentary strengthening, democracy and gender equality for Parliaments and Legislatures.

Below: The Deputy Speaker of the Western Australia Legislative Assembly, Hon. Lisa Baker, MLA visited the Commonwealth Parliamentary Association Headquarters Secretariat to meet with the CPA's Director of Operations, Mr Jarvis Matiya and Ms Meenakshi Dhar, Head of the Secretary-General's Office to discuss the CPA's work in parliamentary strengthening for state parliaments in the Australia Region and the work of the Commonwealth Women Parliamentarians in gender equality.



Right: The Speaker of the Yukon Legislative Assembly, Hon. Nils Clarke, MLA visited the Commonwealth Parliamentary Association Headquarters Secretariat with his wife, Mrs Janet Clarke to meet with the CPA's Director of Operations, Mr Jarvis Matiya and Ms Meenakshi Dhar, Head of the Secretary-General's Office to discuss the CPA's parliamentary strengthening opportunities and the CPA's work in the Canada Region.



Below: The Commonwealth Parliamentary Association Secretary-General, Mr Akbar Khan said he was delighted to meet again with Hon. Dennitah Ghata, MP from the National Assembly of Kenya at the CPA Headquarters Secretariat to discuss important work on the new Commonwealth Parliamentarians with Disabilities (CPwD) network as the Hon. Member was representing the CPA at the first ever Global Disability Summit in London, United Kingdom. A report about the Global Disability Summit will appear in the next issue of The Parliamentarian.



Commonwealth Parliamentary Association embeds good governance at Post-Election Seminar in Nevis, one of the smallest legislatures in the Commonwealth

The Commonwealth Parliamentary Association (CPA) has helped to strengthen parliamentary practice and procedure with the delivery of a CPA Post-Election Seminar for the recently elected Nevis Island Assembly from 15 to 16 May 2018. The CPA Post-Election Seminar, held in Charlestown, Nevis, was held to enable current and recently elected Parliamentarians to gain a broader understanding of the principles of parliamentary democracy and to strengthen their skillsets.

The eight Member Nevis Island Assembly is one of the smallest legislatures in the CPA's membership of over 180 Commonwealth Parliaments and Legislatures. It is located on a small island with a population of 13,000 people that is an autonomous region within the Federation of Saint Christopher and Nevis. Last year, on 18 December 2017, Nevis Island held transparent, free and fair elections with a 59% voter turnout which demonstrated the island's commitment to the democratic ideals enshrined in the Commonwealth Charter. The CPA is the only Commonwealth body that works to strengthen small Legislatures like the Nevis Island Assembly as well as working with larger national, state, provincial and territorial Legislatures.

The CPA Post-Election Seminar gave Members of the Nevis Island Assembly an excellent opportunity to learn about parliamentary practice and procedure and to gain a better understanding of the parliamentary system and democratic processes in other Commonwealth jurisdictions. The seminar was opened by Hon. Farrel Smithen, President of the Nevis Island Assembly; Her Excellency Mrs Marjorie Morton, Acting Deputy Governor-General of St Kitts and Nevis; Hon. Mark Brantley, MP, Premier of Nevis Island and Minister of Foreign Affairs for St Kitts and Nevis; and the CPA Secretary-General, Mr Akbar Khan.

Hon. Mark Brantley, the Premier of Nevis said: *"The Commonwealth is diverse and democracy among its member states takes different shapes and forms. It is therefore critical that we become inclusive and embrace different cultures, traditions and values as we endeavour to strengthen and promote democracy globally. As we become more inclusive, we must however continue to commit ourselves to the values and tenets that define us – free and fair elections, rule of law, separation of powers, respect, understanding, tolerance, freedom of expression, gender equality, good governance and human rights."*

At the opening of the seminar, the CPA Secretary-General said: *"The CPA is pleased to partner with the Nevis Island Assembly to support the strengthening of democratic governance in one of the smallest legislatures in our Commonwealth western hemisphere. The CPA Post-Election Seminar has demonstrated the CPA's commitment to our Small Branches and to the mutuality of learning among CPA Members. We must always seek opportunities to strengthen Parliament, nurture public trust in the institution and build the capacity of its Parliamentarians through programmes like the CPA Post-Election Seminars."*



The newly elected and current Members of the Nevis Island Assembly were joined at the CPA Post-Election Seminar by Members of the St Kitts and Nevis National Assembly and they heard from experts from across the Commonwealth at the CPA Post-Election Seminar including: Senator Wade Mark (Trinidad and Tobago); Hon. Gail Teixeira, MP, Opposition Chief Whip (Guyana); Mr Nigel Jones, Deputy Clerk of Parliament of Barbados; as well as local Members and officials from St Kitts and Nevis.

During the visit to Nevis Island, the CPA Secretary-General also delivered a CPA Roadshow for young people for 25 students from two local schools, Charlestown Secondary School and Gingerland Secondary School. The Secretary-General was accompanied to the CPA Roadshow by local Members including Hon. Farrel Smithen, President of the Nevis Island Assembly; Hon. Alexis Jeffers, Deputy Premier of Nevis; and Senator Wade Mark from Trinidad and Tobago who spoke to students about their role as Parliamentarians. The students also heard from Nevis Islander, Michelle Slack who attended the 9th Commonwealth Youth Parliament in Jersey earlier this year.

The CPA Roadshows provide an opportunity for young people to learn about the political values of the Commonwealth such as diversity, development and parliamentary democracy; to discuss issues of concern about the society in which they live; and to find out about the work of the CPA.

The CPA Secretary-General also held bilateral meetings with Hon. Anthony Michael Perkins, Speaker of the National Assembly of St Kitts and Nevis and Executive Committee Member for the CPA Caribbean, Americas and Atlantic Region; Mrs Marjorie Morton, Acting Deputy Governor-General; Hon. Hazel Brandy-Williams, Junior Minister for Health; and Hon. Alexis Jeffers, Deputy Premier of Nevis to discuss CPA activities in the region.



CPA POST-ELECTION SEMINARS: If your Parliament or Legislature has recently experienced an election and you would like to organise a CPA Post-Election Seminar for the new and returning Members of the Legislature on parliamentary practice and procedure in Commonwealth Parliaments then please contact the Commonwealth Parliamentary Association (CPA) Headquarters Secretariat for more information. Email hq.sec@cpahq.org or write to the CPA Headquarters Secretariat.

CPA Secretary-General calls for Parliamentarians to work in the best interests of their citizens during bilateral visit to Guyana

The Secretary-General of the Commonwealth Parliamentary Association (CPA), Mr Akbar Khan has completed a bilateral visit to Guyana where he undertook a programme of events with the National Assembly of Guyana and CPA Guyana Branch from 9 to 11 May 2018. The CPA Secretary-General was received by His Excellency Brigadier (Ret'd) David A. Granger, President of the Co-operative Republic of Guyana at State House to discuss the CPA's work in the region.

The CPA Secretary-General was the guest of the Prime Minister and First Vice-President of Guyana, Hon. Moses V. Nagamootoo at the 3rd National Guyana Social Cohesion Day Observance 'celebrating lasting relationships in a diverse society' at the National Cultural Centre in Georgetown. The Guyana Prime Minister made a speech at the event in which he said: *"Our Observance today is under the theme 'Celebrating lasting relationships in a diverse society'. We respected this diversity with prayers representing our religious diversity. We are all here together as Guyanese nationals, with a unique and distinct personality and identity even as we recognize our cultural mix, our religious preferences, our traditions and customs."*

The CPA Secretary-General said: *"I am delighted to attend the Social Cohesion Day celebrating Guyana's diverse society and*

am inspired by the wise remarks of Prime Minister Nagamootoo that only when we appreciate difference can we deepen our respect for each other. Congratulations to Guyana on leading the way!"

The CPA Secretary-General also met with Hon. Dr Barton Scotland, MP, Speaker of the National Assembly of Guyana, Members of the Assembly and the Clerk of the National Assembly at Parliament House as well as meeting with Members of the Government, the Opposition and leading organisations in Guyana including the UNDP and the University of Guyana.



CPA Secretary-General speaks to young people about the importance of Commonwealth political values during first official visit to Jamaica



The CPA Secretary-General, Mr Akbar Khan has spoken of the importance of the Commonwealth's political values and the engagement of young people during his first official visit to Jamaica.

The CPA Secretary-General was speaking to young people at the inaugural CPA Roadshow for young people in Jamaica alongside local Members of Parliament. Minister of State in the Ministry of Culture, Gender, Entertainment and Sport, Hon. Alando Terrelonge urged more young Jamaicans to participate in the country's political process and to become activists for a cause as they can have an impact on the lives of their peers. The Jamaican State Minister spoke to young people at the CPA Roadshow alongside Opposition Senator Damion Crawford, and Deputy Clerk of the Houses of Parliament, Valrie Curtis. The CPA Roadshows for young people provide an opportunity for young people to learn about the political values of the Commonwealth such as diversity, development and parliamentary democracy; to discuss issues of concern about the society in which they live; and to find out about the work of the CPA and the Commonwealth.

During the bilateral visit to Jamaica from 16 to 19 May 2018, the CPA Secretary-General attended a reception hosted by Senator Hon. Thomas Tavares-Finson, President of the Senate and Hon. Parnell Charles, MP, Speaker of the House of Representatives, who are also the joint Presidents of the CPA Jamaica Branch as well

as meeting with Members of the Jamaican Parliament who have participated in recent CPA Programmes.

The CPA Secretary-General attended the launch of the Jamaica Houses of Parliament Design Competition launched by the Prime Minister during his visit to Jamaica. Mr Akbar Khan also held a number of bilateral meetings with key figures in Jamaica at Gordon House including: Hon. Karl Samuda, MP, House Leader to discuss the work of the CPA and Hon. Mr Justice Bryan Sykes, the Chief Justice of Jamaica to discuss the Commonwealth Latimer House Principles.



43rd Regional Conference of the CPA Caribbean, Americas and Atlantic Region in the Cayman Islands discusses the building of small developing states

The Cayman Islands Branch of the Commonwealth Parliamentary Association (CPA) has successfully hosted the 43rd CPA Regional Conference of the Caribbean, Americas and Atlantic (CAA) Region. The CPA Regional Conference took place between 15 and 23 June 2018 in Georgetown, Grand Cayman, and saw over 60 delegates from across the CAA Region – and the wider Commonwealth – attend and participate in the week-long conference.

The theme of the annual CPA CAA Regional Conference was 'Building Small Developing States' and the regional conference focused on the pressing issues facing the region such as de-globalization, climate change and population growth. The regional conference was attended by Speakers, Members of Parliament and guest delegates from across the region. Hon. Dr W. McKeever Bush, Speaker of the Legislative Assembly of the Cayman Islands hosted the regional conference and he was joined at the opening ceremony by His Excellency the Acting Governor, Mr Franz Manderson; the Premier of the Cayman Islands, Hon. Alden McLaughlin, MLA; and the Leader of the Opposition, Hon. Ezzard Miller, MLA.

During their opening speeches, the Caribbean leaders underscored the challenges being faced by small developing states in the region and urged delegates to use the topics selected for discussion to take workable solutions and best practice back to their jurisdictions.

A total of 18 Caribbean nations and territories, including Antigua and Barbuda, Bermuda, the British Virgin Islands, St Kitts and Nevis, Dominica, Guyana, Jamaica, Montserrat, Trinidad and Tobago, St Lucia, and Turks and Caicos were represented at the regional conference. In addition, the regional conference also included guest speakers and observers from Canada, Cuba, the United Kingdom and the Isle of Man.

In a presentation that typified the strength of the CPA's networks of mutual learning, Hon. Juan Watterson, SHK, Speaker of the House of Keys of the Isle of Man, remarked to his Caribbean colleagues: "There is no ultimate nirvana, and nor is success ever assured. We only need to look at our constituency caseload to realise that. But I hope that by outlining our story, and some of the



issues that we have faced and will be facing, that it can lead to an informed debate in your own jurisdictions about how you take your own island nations forward into the bright future we all want for our constituents and nations."

Rt Hon. Sir Lindsay Hoyle, Deputy Speaker of the House of Commons from the UK Parliament also spoke to delegates on the subject of 'Emerging Security Issues for Parliamentarians' and shared best practice learned from the recent terrorist attacks in Manchester and London in the United Kingdom.

The 43rd CPA Regional Conference of the Caribbean, Americas and Atlantic Region saw several other important events take place alongside the main conference including the Annual General Meeting for the Regional Executive Committee, the 11th Regional Conference of the Commonwealth Women Parliamentarians (CWP) – see page 229 – and the 14th Caribbean Regional Youth Parliament Debate.



The 14th Caribbean Regional Youth Parliament, hosted by the CPA Cayman Islands Branch for the first time, saw young people aged 18-29 years (pictured above) from across the region come together to debate and experience parliamentary democracy in action. The Speaker of the Cayman Islands Legislative Assembly, Hon. Dr W. McKeever Bush undertook the role of Presiding Officer of the Regional Youth Parliament and nineteen participants from nine Caribbean jurisdictions took part. The Youth Parliament aims to foster an appreciation and understanding of the rules and procedures of Parliament among the youth of the region and this year's Caribbean Youth Parliament debated the motion: 'Affirmation of the United Kingdom's Decision to Exit the European Union'.

For images of the regional conference visit the CPA Flickr website at: www.cpahq.org/cpahq/flickr or visit the Cayman Islands Legislative Assembly Facebook page.



New Parliament Building opens in Grenada

A new Parliament building has been opened in St George's, Grenada at a ceremony attended by Commonwealth Parliamentarians, Speakers of Parliaments, Prime Ministers, regional leaders, representatives of funding governments and the general public. Grenada's new Parliament building was officially opened on Thursday 21 June 2018 and it follows the destruction of York House - the old Parliament building - by Hurricane Ivan in September 2004.

The new Parliament of Grenada was officially opened with the unveiling of plaques by the Governor-General of Grenada, Her Excellency Dame Cecile La Grenade and the Prime Minister of Grenada, Rt Hon. Dr Keith Mitchell, MP. This was followed by a blessing of the building and a joint sitting of both Houses of the Parliament of Grenada which included the Proclamation by the Acting Clerk of Parliament and brief remarks by the Governor-General. Hon. Michael Pierre, Speaker of the House of Representatives and Senator Hon. Chester Humphrey, President of the Senate also attended the ceremony.

The new Parliament building in Grenada will house the twenty-eight Members of both Houses of Parliament (the Senate and the House of Representatives) plus nearly 200 'stranger' seats for members of the public to view proceedings as well as offices for staff, the Prime Minister and the Presiding Officers. The parliamentary chamber is said to be designed in the shape of a nutmeg pod. The building is the most recent and modern public building in Grenada and it has been admired by many locals and visitors alike. The development is part of a regeneration project for the area of the island which will include tourist attractions.

The new building cost US\$12.2 million and took twenty-five months to complete with the creation of over 200 jobs for individuals during the peak construction. The building has also been designed using the latest climate control technology and with environmental concerns in mind. Representatives from the financial donor countries of the United Arab Emirates (UAE) and Mexico attended the ceremony.

UAE Consul-General, Majid Al Suwaide said: "The new Parliament building is a symbol of the Grenadian people's civic pride and political heritage and the UAE (United Arab Emirates) is honoured to have contributed to its construction." He added that the building is a symbol of the close working

relationship between the UAE and Grenada. The UAE provided US\$4.5 million to assist with the construction.

Mexican Ambassador Oscar Esparaja Vargas, whose Government provided US\$5 million towards the construction of the new Parliament in Grenada, said that his Government was pleased to be associated with reinstating the project of bilateral

cooperation between both countries. "Mexico is committed to accompanying Grenada in its many development efforts as we have proven through many bilateral cooperation projects."

Grenada Prime Minister, Rt Hon. Dr Keith Mitchell thanked the governments who contributed towards the project and said that without their direct help, the building would not have been a reality. "They were true friends in words, and resolute in deed. They honoured their commitment to assist Grenada, and they did so against the backdrop of their own needs. They did so when others, with dated ties, did not, or were unable to, for different reasons. That demonstration of friendship is one we will cherish forever."

The Prime Minister went on to thank regional and international friendly governments whose moral support of Grenada over the years must be recognised. "They know the importance of State buildings in our part of the hemisphere. They know what this means for the consolidation of our democracy and our independence, and they have never failed to lend their voices in advocating for the rebuilding of this important symbolic institution."

Regional leaders who attended the opening ceremony included the Prime Minister of Trinidad and Tobago, Hon. Dr Keith Rowley; the Prime Minister of St Vincent and the Grenadines, Hon. Dr Ralph Gonsalves; the Prime Minister of Saint Lucia, Hon. Allen Chastanet and the Secretary-General of the Caribbean Community (CARICOM), Ambassador Irwin La Rocque.



Parliamentary strengthening partners work to update the CPA's Benchmarks for Democratic Legislatures to assist Parliaments in meeting contemporary challenges

More than a decade on from the launch of the CPA *Recommended Benchmarks for Democratic Legislatures* by the Commonwealth Parliamentary Association (CPA) and its partners*, a new body of work is being undertaken to revise and update the Parliamentary Benchmarks to reflect the changed landscape in which democracies now operate. The updated CPA Benchmarks will also include measurements for Parliaments to support the implementation of the Sustainable Development Goals (SDGs) and the recommendations contained in the Commonwealth Charter.

SDG 16 centres on the peaceful and inclusive societies for sustainable development and the role of effective, accountable and inclusive institutions at all levels. Effective parliaments are one of the principal institutions of any functioning democracy and they are central to the attainment of SDG 16, the development agenda and all of the seventeen Sustainable Development Goals.

The launch of the CPA *Recommended Benchmarks for Democratic Legislatures* in 2006 was a pioneering step to strengthen Parliaments through the promotion of a set of democratic standards for Parliaments across the Commonwealth. Since the inception of the Benchmarks, Commonwealth Parliaments throughout the CPA membership of over 180 legislatures have undertaken self-assessments using the Benchmarks or have incorporated the Benchmarks into their own parliamentary standards. The focus on measuring impact and the need to demonstrate the effectiveness of legislatures is critical at a time of increased scrutiny of Parliaments and of Parliamentarians and the CPA *Recommended Benchmarks for Democratic Legislatures* provide a key tool in assisting parliaments to demonstrate their performance, increase their self-awareness and prioritise areas for development.

A joint study group convened by the Commonwealth Parliamentary Association (CPA) and Westminster Foundation for Democracy (WFD) undertook a review of the CPA *Recommended Benchmarks for Democratic Legislatures* at Wilton Park in the United Kingdom from 18 to 20 June 2018. The study group included representatives from six of the nine CPA Regions – Asia, Australia; British Islands and Mediterranean; Canada; India; Pacific – as well as leading experts in the field of parliamentary strengthening to review the CPA Benchmarks and continue with this seminal work in setting standards for modern Parliaments.

The Secretary-General of the Commonwealth Parliamentary Association, Mr Akbar Khan said: "The pioneering *Recommended Benchmarks for Democratic Legislatures* is one of the CPA's most



important pieces of parliamentary strengthening work and the meeting of experts in the field of parliamentary strengthening



to revise and refresh the CPA Benchmarks is vital as we seek to further strengthen Parliaments and Legislatures in line with the aspirations of the Commonwealth Charter, the SDGs and the changing demands of our citizens."

The Chief Executive of Westminster Foundation for Democracy (WFD), Anthony Smith, CMG said: "Feedback from legislators is clear: the updated CPA Benchmarks constitute an invaluable international reference which can help develop more effective and inclusive democracies. Under the Commonwealth Partnership for Democracy, WFD and its partners are ready to support Commonwealth Parliaments who wish to carry out reviews based on the CPA Benchmarks and SDG 16 indicators."

The updating of the CPA *Recommended Benchmarks for Democratic Legislatures* is part of a wider project, the *Commonwealth Partnership for Democracy (CP4D)*, which is being led by Westminster Foundation for Democracy (WFD) working with partners including the Commonwealth Parliamentary Association (CPA). The *Commonwealth Partnership for Democracy* was launched during the recent 2018 Commonwealth Heads of Government Meeting (CHOGM) in London, UK. Over the next two years, the programme will work with Parliaments in 18 Commonwealth Member States across Sub-Saharan Africa and South-Eastern Asia.

The newly revised CPA Recommended Benchmarks for Democratic Legislatures will be shared with all CPA Branches and Members and published on the CPA website www.cpahq.org.

*The Commonwealth Parliamentary Association (CPA) together with its partners conducted the exercise which drew on and convened its network to result in the publication of the original CPA *Recommended Benchmarks for Democratic Legislatures* in 2006. These benchmarks were the outcome of an original Study Group hosted by the Legislature of Bermuda on behalf of the Commonwealth Parliamentary Association and the World Bank Group with support from the United Nations Development Programme, the European Parliament and the National Democratic Institute for International Affairs. The Benchmarks for Democratic Legislatures have been used extensively in parliamentary strengthening across the Commonwealth since 2006.

CPA India Regional Chairperson and Speaker of the Lok Sabha speaks about women's empowerment at first CPA India Regional zone meeting in Uttarakhand

The CPA India Region comprises the national Parliament of India (Rajya Sabha and Lok Sabha) and thirty-one state and provincial legislatures across India as well as being one of the most populated regions of the Commonwealth. At the 6th biennial CPA India Regional Conference held in Patna, Bihar in February 2018, the CPA India Regional Chairperson and Speaker of the Lok Sabha, India Parliament, Hon. Sumitra Mahajan, MP announced that four new regional zones would be created in the India Region to conduct zonal regional seminars and conferences for legislators to interact with each regularly across the country in between the regional conferences.

The first of the CPA India Regional zone meetings took place in Uttarakhand on 28 May 2018 when the members of the zone-1 regional group met in Dehradun. Representatives of CPA India zone 1 Branches included Bihar, Uttar Pradesh, Jharkhand, Delhi, Odisha, West Bengal, Chhattisgarh and Uttarakhand.

The first CPA India zone 1 group meeting was presided over by the CPA India Regional Chairperson and the Speaker of the Lok Sabha, India Parliament, Hon. Sumitra Mahajan, MP who spoke about women's empowerment in India and asked women to come forward for election to help with the progress of the nation. She also highlighted the role that state legislatures can play in agriculture and industry and that the CPA India zonal meetings would provide



an opportunity to ascertain how the States could connect better with each other and to discuss developmental issues.

Members also discussed the cleaning of rivers, water supplies and the impacts of climate change at the meeting. The Speaker of the Uttarakhand Legislative Assembly, Hon. Premchand Agarwal said that the meeting of the CPA India zone 1 group would give an impetus to its activities and would help in providing momentum to the efforts of state legislatures in their development goals.

Business workshop focuses on Women's Economic Empowerment post-CHOGM

The Secretary-General of the Commonwealth Parliamentary Association (CPA), Mr Akbar Khan has spoken at a workshop at the Commonwealth Secretariat on 'Women's Economic Empowerment after CHOGM: State of play and what next during the UK's term as Chair-in-Office?' on 24 July 2018.

The workshop, organised in partnership with the Commonwealth Businesswomen's Network (CBW), brought together Commonwealth High Commissioners, businesswomen from the public and private sectors, representatives of Commonwealth Accredited Organisations and the Commonwealth Secretariat's Gender Unit.

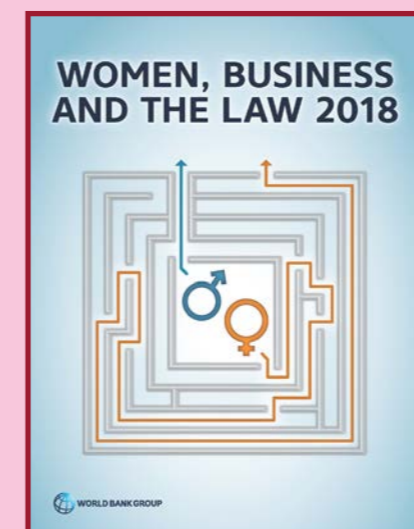
The World Bank Gender Unit's Tazeen Hasan highlighted a new report titled 'World Bank Women, Business and the Law Report 2018' which provides tangible evidence on the barriers facing

women's economic empowerment.

The CPA Secretary-General said: "I congratulate the World Bank Gender Unit on highlighting the barriers to women's economic empowerment – particularly in the Commonwealth. There is important work ahead for male and female Parliamentarians to achieving gender equality."

The CPA Secretary-General spoke at the workshop alongside Arif Zaman, Executive Director, Commonwealth Businesswomen's Network (CBW); Amelia Kinahoi Siamomua, Adviser and Head of Gender, Commonwealth Secretariat; Hon. Anisa Dhanji, International Association of Women Judges and UK Association of Women Judges; Thana Sivasambua, Adviser of Diaspora and Enterprise, Government of Sri Lanka and Chief Operating Officer, CBW; and Amy Agnew, Europe Director, Global Citizen.

To view the report please visit the following link: <http://wbl.worldbank.org/>.



Focus on gender equality in Parliaments and parliamentary strengthening at 56th Commonwealth Parliamentary Association Canada Regional Conference in Ottawa

Commonwealth Parliamentarians from across the Canada Region have renewed their focus on gender equality in Parliaments and a commitment to parliamentary strengthening at the 56th Commonwealth Parliamentary Association (CPA) Canada Regional Conference, which has taken place in Ottawa, Canada from 22 to 27 July 2018. 2018 marks the centenary anniversary of women's right to vote in the Canadian Federal elections.

Following an Indigenous Welcome to the CPA Canada Regional Conference, the conference was opened by Hon. George J. Furey, QC, Speaker of the Senate of Canada who said: *"Canada has remained active as a founding member of the Commonwealth Parliamentary Association. It was great to speak at the 56th Canadian Regional Conference of the CPA and to kick off our important discussions. I enjoyed spending time with Parliamentarians at this annual meeting which brings together delegates from provincial, territorial and federal legislatures across Canada to discuss issues of common interest."*

The CPA Canada Regional Conference host, Hon. Yasmin Ratansi, MP, Chair of the Canadian Federal Branch of the CPA said: *"It was with great pleasure that the Canadian Federal Branch of the CPA hosted the association's 56th Canadian Regional Conference in Ottawa. We were pleased to welcome CPA Chairperson, Hon. Emilia Lifaka to join us. This year's sessions were particularly topical. The guest speakers engaged Parliamentarians in thoughtful and meaningful discussions. The topics ranged from foreign interference in democratic process, women's role as agents of change as well as the important role of the inter-parliamentary associations in helping build better economic, cultural and diplomatic ties. We are privileged that the CPA provides a forum for debate to thrive in a respectful and non-partisan environment."*



The Chairperson of the CPA Executive Committee, Hon. Emilia Monjowa Lifaka, MP, Deputy Speaker of the National Assembly of Cameroon, addressed delegates at the opening of the CPA Canada Regional Conference and said that Parliamentarians must be part of the sustainable development agenda as they can play a vital role in its implementation and updated members on the work of the CPA Headquarters Secretariat. *To read the CPA Chairperson's speech at the CPA Canada Regional Conference please visit www.cpahq.org/cpahq/chairspeeches.*

The CPA Canada Regional Conference was attended by 61 Commonwealth Parliamentarians from the federal, provincial and territorial legislatures of the region as well as sixteen Parliamentary Clerks and many special guests who attended workshop sessions on a wide range of topics including: *Parliament and the #MeToo movement; Foreign Interference in the Democratic Process; Balancing Work and Family Time during the Parliamentary Schedule; Underrepresentation of women in Parliament; Inter-Parliamentary Relations; Balancing Public and Private Life in the Age of Social Media.*

The regional conference delegates also heard from a number of organisations including the Assemblée Parlementaire de la Francophonie (APF); the Samara Centre for Democracy; Concordia University; the Canadian Security Intelligence Service (CSIS); Equal Voice; the Canadian Global Affairs Institute; and the Canada Institute. Hon. Bruce Stanton, Deputy Speaker of the House of Commons, addressed delegates at the closing of the regional conference.

Ahead of the CPA Canada Regional Conference, the Commonwealth Women Parliamentarians (CWP) Canada Region held a regional meeting and workshop sessions introduced by the CWP Canada Regional Chair, Hon. Laura Ross, MLA (Saskatchewan). During the CWP Canada Regional meetings, the CPA Chairperson, Hon. Emilia Monjowa Lifaka, MP together with Hon. Laura Ross, MLA launched the new CWP Canada Regional website at www.cwpcanada.ca. Please see page 229 for a report of the CWP Canada conference.

Images of 56th CPA Canada Regional Conference at: www.cpahq.org/cpahq/flickr.



Commonwealth Parliamentarians from the CPA Pacific and Australia Regions at 49th Presiding Officers and Clerks Conference in Wellington, New Zealand

Over 60 Commonwealth Parliamentarians from the Pacific and Australia Regions of the Commonwealth Parliamentary Association (CPA) have attended the 49th Presiding Officers and Clerks Conference (POCC) at the Parliament of New Zealand in Wellington from 8 to 11 July 2018.

Key topics on the agenda for the delegates included how Parliaments can develop and change; the role of the Speaker; and security and stability. The delegates at the POCC also discussed family-friendly Parliaments and communicating Parliament to the people.

Professor Hon. Margaret Wilson, DCNZM, a former Speaker of the New Zealand House of Representatives, gave the opening address in which she touched on important issues such as how Parliaments adapt to societal change; a renewed demand for ethics, transparency, and openness; and providing the public with an insight into decision-making.

Guest speakers at the conference included former New Zealand Prime Minister and UNDP Administrator, Rt Hon. Helen Clark and Dr Gill Greer, Chief Executive of the National Council of Women NZ. Conference papers revolved around many different themes with presentations delivered a wide range of speakers including Hon. Kate Doust, President of the Western Australia Legislative Council; Hon. Joy Burch, MLA, Speaker of the Legislative Assembly for the Australian Capital Territory; Hon. Poto Williams, MP, Assistant Speaker of the New Zealand Parliament; Hon. Bruce Atkinson, MLC, President of the Victorian Legislative Council; Rt Hon. Ajilon Nasiru, Speaker of the Solomon Islands; David Kusilifu, Deputy Clerk of the Solomon Islands; Hon. Kezia Purick, MLA, Speaker of the Northern Territory Legislative Assembly and Hon. Simon Pentanu, Speaker of the Bougainville House of Representatives.

The annual conference is for Presiding Officers (Speakers) and Clerks from Parliaments from the CPA Pacific and Australia Regions and is hosted by a different Parliament or Legislature each year with the New Zealand Parliament taking up the honour in 2018. The conference also saw the continuation of the successful twinning



programmes for Parliaments in the two Regions with meetings taking place between twinning partners.

Rt Hon. Trevor Mallard, Speaker of the New Zealand House of Representatives said: *"Legislatures around the two Regions differ dramatically in terms of size - but we all face similar challenges in how to ensure Parliaments are family friendly, accountable, open, and diverse in the 21st century. Parliaments cannot run without an efficient team of Clerks and Presiding Officers. This conference provides a valuable opportunity for representatives from around the Pacific to share ideas, impart knowledge, and grow global connections for stronger Parliaments."*

David Wilson, Clerk of the House of Representatives of New Zealand, added: *"The New Zealand Parliament takes great pride in hosting the 2018 conference. We're confident that delegates will leave the conference with an enhanced understanding of how to support the function of democracy in their legislature."*

There was a diverse range of Parliaments and Legislatures represented at the conference, with Presiding Officers and Clerks from Australia (both the Federal Parliament and State Legislatures), New Zealand, the Autonomous Region of Bougainville, the Cook Islands, Kiribati, Micronesia, Niue, Nauru, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu.

A number of papers presented at the 49th Presiding Officers and Clerks Conference (POCC) in New Zealand are published in this issue of *The Parliamentarian*.





'HIGH AND EXACTING DEMANDS' ON THE SPEAKER: PREPARING FOR THE ROLE OF CHAIR



Hon. Tony Smith, MP has served as the Speaker of the Australian House of Representatives since August 2015. First elected as the Federal Member for Casey in Victoria in 2001, he has previously served as a Parliamentary Secretary to Prime Minister John Howard and in a range of Shadow Ministerial and Committee positions. Most recently, he was the Chair of the Joint Standing Committee on Electoral Matters.

What is it we require...? We expect dignity and authority, tempered by urbanity and kindness; firmness to control and persuasiveness to counsel; promptitude of decision and justness of judgment; tact, patience, and firmness; a natural superiority combined with an inbred courtesy, so as to give by his own bearing an example and a model to those over whom he presides; an impartial mind, a tolerant temper, and a reconciling disposition... These are high and exacting demands - Sir William Harcourt, Chancellor of the Exchequer, 1895'

Introduction and overview

This article sets out my perspective on the role of Chair in the Australian House of Representatives, beginning with a glimpse at the characteristics of the 'ideal' Chair and comparing that to my own experience in the Australian House of Representatives. I will take a practical approach, describing the arrangements we have in the House of Representatives to support the work of the House and our subsidiary debating Chamber, the Federation Chamber; outlining professional development opportunities provided to Chairs; and some practical approaches that I have found useful for developing the knowledge and the many and varied skills of an effective Chair.

I certainly don't presume to have all the answers. In fact, I still have some questions of my own about the role. I'm sure that colleagues will have their own perspectives, no doubt informed by their own experiences and the culture and practice of the Parliament in which they operate. And of course, those of us who serve in the Chair will inevitably bring our own personality to the role.

Qualities of the Chair: the ideal and the real

The high bar espoused by Sir William Harcourt regarding the qualities expected of a UK House of Commons Speaker in the late 19th century remains relevant to those occupying the Chair in any Westminster-style Parliament today. The Australian Speakership, which has its roots in Westminster, has evolved in a unique way to be something quite different from its British counterpart. In the UK Parliament, the Speaker is seen to be completely independent in his or her administration of the Chamber and the House, while in Australia the approach has been more to demonstrate impartiality in the Chair.

Matters of personality and character

A level of respect for the authority of a Chair is expected from all Members, but to a large degree, a Chair earns the respect of Members based on his or her performance in the role. Most importantly, a Chair must be perceived to conduct the role impartially. A Chair who interprets the Standing Orders objectively and displays fairness, accuracy and consistency in their decision-making is far more likely to sustain the confidence and goodwill of Members.

While the performance of the Speaker in the Chair receives the greatest attention - perhaps due to the fact that the Speaker presides over Question Time, the most visible portion of House proceedings - the requirement for impartiality in the performance of duties applies equally to those who deputise for the Speaker in the Chair as it does to the Speaker.

There are certain other qualities which are characteristic

of an effective Chair, most of which would be obvious to even the casual observer. Discretion, tolerance and good judgment are all virtues which are frequently called on by a Chair to achieve a balance through the control of debate. A sense of humour, employed carefully, can be a great asset for a Chair to defuse a potentially volatile situation and to encourage in Members a sense of being part of a whole with some common objectives, rather than part of one side or group with the sole objective of advancing that side. A Chair who conducts themselves with a degree of humility and grace is also more likely to gain the respect of Members. These attributes alone, however, are not sufficient to ensure that a Chair performs his or her role to greatest effect. An accomplished Chair also demonstrates a broad range of technical skills. The question then arises as to how a Chair develops and hones these skills and builds competence to improve his or her performance?

Technical skills: scarcity of professional development opportunities and resources

For a role that is so important to the reputation and operation of Parliaments, there is a relative scarcity of professional development opportunities and practical assistance which specifically targets the role of Chairs in Parliaments. Of course, Clerks and other parliamentary support staff provide a range of activities and resources to assist Chairs and forums like the Presiding Officers and Clerks Conference (POCC), provide a unique opportunity for the sharing

of ideas and information across jurisdictions. Yet there is much to be gained from thoughtful preparation for the challenges that the role of Chair brings and there is much to be gained from gathering and working with colleagues at events such as the POCC.

Chairing arrangements in the House and Federation Chamber

The House usually sits for 36 hours from Monday to Thursday each week it meets (usually 17 weeks per year). The Speaker, like all Members, has many responsibilities to attend to outside of the Chamber during a sitting, so it is not practical for me to occupy the Chair continuously while the House is in session. I am supported and assisted by the elected Deputy Speaker and Second Deputy Speaker who act as Speaker in my absence and relieve in the Chair as Deputy Speaker whenever requested to do so. Currently there are a further fourteen Members on the Speaker's panel who may also take the Chair as Deputy Speaker. Members of the Speaker's panel, appointed by warrant, include government and opposition backbench Members. When in the Chair, panel members exercise similar procedural powers and functions to the Speaker.² In practice, the office of the Deputy Speaker organises a roster for Chair duty in consultation with my office. The current composition of the Speaker's panel includes Members with varied chairing and parliamentary experience.

As was the practice with previous Speakers, I take the Chair in the Chamber at particular times each sitting day. These are at the opening of proceedings, during Question Time, and during the adjournment debate at the end of a sitting. I also often attend for significant debates or for example, when the Prime Minister is making a statement to the House. In the current

Australian Federal Parliament, due to the close numbers on the floor of the House, I take the Chair for every division so that members of the Speaker's Panel are not denied the opportunity to exercise a deliberative vote. Since I was elected Speaker, I have exercised the casting vote three times and have had cause to be grateful for the principles that have developed over time (beginning in Westminster), for the exercise of the vote.

At other times, the Chair is occupied by the Deputy or Second Deputy Speaker, or one of the members of the Speaker's panel. So, while it is the Speaker who presides over Question Time each day, there are significant periods at other times during a sitting when somebody other than the Speaker occupies the Speaker's Chair. In the Chair, panel members must interpret and enforce the Standing Orders as if they themselves were Speaker, by responding to Members' points of order and giving rulings on procedure when necessary. This may include, for example, deciding whether remarks made in a speech about another Member are offensive, or whether a Member's speech is relevant to the motion or legislation being debated.

If serious disorder arises when a member of the Speaker's panel is in the Chair, the Speaker or Deputy Speaker will often resume the chair. If this is necessary, it should be done so as not to be perceived as portraying a lack of confidence in colleagues, and at the same time not requiring an inexperienced Chair to endure unnecessary difficulties that may hamper the further development of their professional skills. Ultimately, the primary consideration is the proper conduct of proceedings.

The Deputy Speaker is the Chair of the Federation Chamber of the House of Representatives. The Federation Chamber, or 'second Chamber', is a subsidiary



Chamber that can operate in parallel with the House Chamber to allow two streams of business to be debated concurrently. The Deputy Speaker sets the meeting times of the Federation Chamber, notifies the times to all Members, and takes the Chair when the Federation Chamber meets. The Deputy Speaker has also generally taken the Chair for the adjournment of each meeting of the Federation Chamber.

The Deputy Speaker has the same responsibility for the preservation of order in the Federation Chamber as the Speaker has in the House. The Second Deputy Speaker and members of the Speaker's panel are also rostered to take the chair in the Federation Chamber from time to time.

One of the unintended benefits of the Federation Chamber is that, due to its lower public profile and the relatively restricted nature of its business, it serves as a useful venue for the professional development of newly appointed Members to the Speaker's panel. Inexperienced panel members can practice and refine their chairing skills in the Federation Chamber away from the more visible House Chamber.

Professional development opportunities for Chairs

The Clerk and Deputy Clerk, together with other senior staff of the Department of the House of Representatives, provide significant assistance not only to me in my role as Speaker, but also to the Deputy Speaker and to all those who serve in the Chair. On appointment to the Speaker's panel, each Member is issued with detailed notes which offer guidance on the history of the role and all aspects of House practice and procedure for Chairs. They focus on practical information with respect to roles and duties, the proceedings throughout the sitting week, managing debate, maintaining order and the Chamber environment. The notes have summary pages for the most common Chamber events. The Department also provides additional written resources in a more concise form, from time to time.

Each sitting day, the Speaker and Deputy Speaker meet with the Clerk and the Deputy Clerk to be briefed on the program for the day and to discuss any procedural or other issues. In addition, the Clerks are available at any time to discuss other matters that may be of concern, or to provide detailed written advice.





‘HIGH AND EXACTING DEMANDS’ ON THE SPEAKER: PREPARING FOR THE ROLE OF CHAIR

Each sitting day the House Table Office provides the Chair and Ministers and Members expected to have a formal role in proceedings with template ‘procedures’ setting out the necessary wording and steps for each on all the items expected to be considered in the Chamber and Federation Chamber that day. These procedures are certainly helpful to the Chair and Members but, of course, they cannot possibly cover every situation.

Together with the Deputy Speaker, I take the opportunity to have quite regular meetings with members of the panel to discuss current and anticipated issues. My office also reminds members of the panel regularly, they are welcome to seek additional guidance from the Clerk and Deputy Clerk, in particular. This could be in the form of individual discussion, or written materials, or viewing of Chamber video, for example. Something that we are considering for the future, in particular at the beginning of a Parliament, is a workshop for Panel members, to be guided by me, the Deputy Speaker, and the Clerk.

Practical approaches for developing technical skills and building procedural knowledge

Standing Orders: knowing and applying them

The House itself determines the rules which govern its operations, but it is the Chair who is charged with upholding and interpreting the Standing Orders. The ease with which a Chair assumes and discharges his or her responsibilities is likely to be influenced strongly by how well they know the Standing Orders, particularly those that affect the day-to-day business of the House.

A Chair’s procedural knowledge is likely to be influenced by their length of service in the House, their interest in the subject, and any previous practical experience they may have had in the Chair. Somewhat unusually, I was elected Speaker having not previously served in the Chair. However, I

did bring to the role some fifteen years’ experience as a Member of the House, including many years during which I chaired Parliamentary Committees. This meant that I had foundation skills that I could transfer directly to the role of Speaker. I also had a strong personal commitment to acquiring and applying additional skills and knowledge as effectively as possible.

Rulings are usually given in response to a point of order and knowledge of the Standing Orders enhances the capacity of a Chair to make decisive and immediate judgments when points of order are raised. If a Chair hesitates frequently or is seen to consult the Clerk too often, Members may sense that they have a greater knowledge of the Standing Orders than the Chair, potentially undermining the authority of the Chair.

Sometimes a Chair is called on to make a ruling on a matter not covered by the Standing Orders. The House has built up its own body of precedent derived principally from rulings by previous Speakers and embodied in *House of Representatives Practice*. While it is expected that the Chair will generally act in accordance with practice, this does not preclude him or her from making a ruling which departs from precedent, taking into account new factors or considerations. Needless to say, such departures should occur in a measured way.

Language and expression: exercised without fear or favour

As I stated earlier, Members’ confidence in the impartiality of the Chair is paramount and a Chair must not only act impartially but be seen to do so. The Speaker supervises rather than participates in proceedings. For those Members who might be used to actively participating in the robust and partisan exchanges that can occur from time to time on the floor of the House, the Speaker’s Chair provides a very different perspective. I say this as someone who, prior to election as Speaker, was not immune from the

occasional rebuke for an interjection delivered during proceedings.

Demonstrating impartiality requires the Chair to choose words carefully and ensure that their expression and body language indicate the absence of bias. This can be a challenge for even the most experienced Chair. Each Member is obliged by the Standing Orders to address their remarks *through* the Chair (*Mr Speaker, the Member is...*), rather than ‘you’). Keeping a straight face when a Member makes a genuinely humorous remark at the expense of their political opponent is not always easy. Fortunately, the vast majority of remarks aren’t quite as amusing as the laughter from the backbench might suggest! Of course, if both sides of the Chamber enjoy the joke it is a relief for the Chair to be able to relax their composure. If Members feel aggrieved by what they perceive to be partisan conduct by a Chair, we can rest assured that they will make these views known.

A Chair’s actions in the House are also under public scrutiny and should a Chair be perceived to have performed in a partisan manner, this would likely provoke critical comment. A skillful Chair understands how their language and actions will be perceived not just by Members, but externally. In the current environment where our national institutions and systems are not held in particularly high regard, I believe our responsibilities are heightened in this respect.

There is a need for any person performing the role to finely balance the interests of all Members and sometimes to have a very thick skin. In their party role, a Chair may be used to deferring to senior Members but, once in the Chair, it is inevitable that not every ruling will be well-received by the party.

In terms of expression, a Chair’s ruling should be sufficiently clear and authoritative for Members to accept it, but not so firm so as to suggest officiousness or impatience. After all, every Member has been elected by their constituents and has a right to express their view - within

the rules of the House. Ultimately a Chair’s role involves ensuring that the Standing Orders are abided by and that the dignity of the Parliament is upheld while allowing debate to flow. Striking the right balance can present a challenge, as a former UK House of Commons Speaker noted:

*“Every Speaker knows that his behaviour is under close scrutiny and subject to constant criticism. His hope is that the criticisms will come in equal measure from both sides of the House. If he is too authoritative, he is likely to be called arrogant. If he lets the House discipline itself, or fails to do so himself, he is called weak. He can never do exactly right...”*¹⁸

It is a well-established parliamentary principle that reflections on the Chair, inside or outside the Chamber, are considered highly disorderly.⁴ The conduct of a Chair may not be criticised except on a substantive motion moved with that intent. However, the Standing Orders permit any Member to appeal a ruling of the Chair and history has shown that those deputising for the Speaker in the Chair are not immune from motions of dissent from their rulings. Colleagues from other Commonwealth Parliaments and Legislatures whose Standing Orders don’t allow for motions of dissent from the Speaker’s ruling will be unfamiliar with this particular challenge. This is where humility and detachment can be an important quality in a Chair - by acknowledging and accepting the right of Members to challenge a decision.

Attentiveness, active listening, and assessing the ‘mood’ of the Chamber

In the House, as I suspect is the case in most Parliaments, the Speaker’s Chair provides a vantage point that enables its occupant to gain a unique perspective of the Chamber. The temperament of the Chamber depends to a large extent on the way in which the Chair is able to anticipate and deal with unexpected events. An attentive Chair monitors the environment and listens carefully

to proceedings so as to anticipate any departure from the normal order of business, such as when a Member may be seeking to make a point of order or intervention, or when other issues might be arising.

The Chair is responsible for preserving order to enable business to be conducted properly. The floor of the House can be a lively place. An awareness of the temperaments of individual Members can help a Chair to quickly assess the mood of the Chamber and to act appropriately. In some circumstances, a Chair may intervene to make a ruling without a Member having raised a point of order. An effective Chair assesses the mood of the House and exercises his or her discretion to determine when a rigid application of the Standing Orders is warranted and when it is perhaps better not to intervene and to let debate flow.

There are occasions in the House when political views clash and passions can become inflamed. It is at these times that a Chair is more likely to encounter strongly expressed views and excessive points of order. I have had occasion to remind Members that the Standing Orders do not vary according to the emotion of the House. I advise my colleagues on the Speaker’s panel that they should listen carefully to conflicting viewpoints, but that they should not allow repeated points of order that serve no purpose other than to disrupt the orderly conduct of business. In this regard, a Chair should be prepared to make a ruling on a matter once they feel in a position to do so.

Professional relationships with Clerks-at-the-Table

Effective professional relationships with parliamentary support staff can assist to strengthen a Chair’s skills and effectiveness in the role. In the Chamber and Federation Chamber, there is always a Clerk and Deputy Clerk-at-the-Table on duty. The primary source of procedural advice for occupants of the Chair is

the Clerk. The Clerk of the House is always Clerk-at-the-Table during Question Time, and the Deputy Clerk and members of the departmental Executive are rostered for duty as Clerk at other times. Executive and senior officers also deputise for the Deputy Clerk at the Table.

The Clerk-at-the-Table is available to assist should the Chair have any questions about the item of business currently before the House, other items on the program, or the application of specific Standing Orders. The Clerk-at-the-Table also draws the Chair’s attention to new matters as they arise. A button on the Speaker’s Chair alerts the Clerk that the Chair wishes to speak to him/her.

Some years ago now, the House implemented new technology so that occupants of the Chair can maintain communication with the Clerks-at-the-Table via a software program on their laptops, allowing the exchange of short real-time messages discreetly. This exchange can allow the Chair to focus their attention on what is being said in the Chamber rather than concerning themselves with specific Standing Order references, for example. Of course, there are still occasions when a Chair will wish to call on a Clerk to provide advice or respond to a question orally.

While there is advice and assistance available to the Chair at all times, the ultimate decision on any matter, and responsibility for that decision, rest with the Chair. In my experience, Chairs take this responsibility very seriously.

Preparation prior to taking the Chair each sitting day

In the House, I encourage members of the Speaker’s panel to try to find some time to prepare prior to taking the Chair. Practical steps that a Chair can take include familiarising themselves with the day’s expected business and identifying what stage proceedings have reached. Outside the Chamber, any Member can follow the in-House broadcast of proceedings from their office

in Parliament House or they can monitor the Live Minutes of the House online. I find it is always useful for an incoming Chair to consult briefly with the outgoing Chair and the Clerk.

Maintaining an awareness of political issues each day is also important and, I suspect, a natural habit for most Chairs. This enables a Chair to be aware of heightened sensitivities, to anticipate issues that might arise, know when there might be an interruption to the normal flow of business, or when to caution Members in relation to the sub judice convention, for example.

Opportunities for self-assessment

As all House proceedings are available online, there is an opportunity for occupants of the Chair to review and reflect on their performance - should they wish - to aid their continuous improvement in the role. Where proceedings may not have been conducted in the most desirable manner, reviewing events from the perspective of an observer can assist a Chair to determine what action they might take differently if confronted with a similar situation again. Of course, this can be slightly confronting but it can also be very helpful.

Building professional relationships with colleagues who also serve in the Chair provides a valuable opportunity to seek advice and to share experiences and lessons learnt in the role. Of course, a conference like the POCC is the embodiment of this goal. However, I suggest that the more regular, day-to-day interactions with colleagues are just as important to our professional development. For my own part, I enjoy daily discussions with the Deputy Speaker and regular discussions with members of the panel about issues that arise or can be expected to arise.

Conclusion

I am sure those delegates who have served in the Chair would agree that chairing proceedings of our

Parliaments is a great privilege, but one that comes with significant responsibility and a high degree of scrutiny. Our Chambers are national stages for the contest of ideas and it can be challenging for us as Chairs to ensure they don’t become stages for contests of volume or aggression. The professional skills are demanding but they can be learnt. The personal characteristics such as tolerance, good humour, and detachment are much more difficult to acquire, I believe, but equally important.

Each Parliament has its own characteristics and style of operation which will affect the way a Chair approaches the role. These characteristics and operations will also change over the years, depending on the composition and environment of a House. This will mean that a Chair’s knowledge and approach will also need to evolve. Ultimately the effectiveness of a Chair will also be heavily influenced by his or her personal style and perspective. So, while there can be no single formula for universal success as a Chair, I am sure there are many elements that we have in common and can benefit from sharing.

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References:

- ¹ Debate on the occasion of the retirement of Arthur Peel from the Speakership, *UK House of Commons Debates*, 9 April 1895, vol. 32, cc1 299-308.
- ² One significant difference is that only the Speaker, Deputy Speaker and Second Deputy Speaker have a casting vote in the event of equality of votes on a question before the House; Members of the Speaker’s panel do not have a casting vote.
- ³ Selwyn Lloyd, *Mr Speaker Sir*, London 1976, p. 15.
- ⁴ *House of Representatives Practice*, 6th Edn, p. 198.



MORE THAN JUST POINTS OF ORDER: THE ROLE OF A SPEAKER IN A SMALL LEGISLATURE



Tom Duncan is the Clerk of the Legislative Assembly for the Australian Capital Territory. He was also until recently the CPA Australia Regional Secretary.

*"The Speakership is an ancient and honourable office and an essential feature of the parliamentary system."¹
"The office of Speaker does not demand rare qualities. It demands common qualities in a rare degree."²*

Introduction

While many see the role of the Speaker as a rarefied and cranky prefect whose responsibility is largely confined to the coercion and punishment of wayward Members during rowdy proceedings, there are, of course, many other aspects of the role.

This article discusses the role of the Speaker in a small legislature, using the example of the Legislative Assembly for the Australian Capital Territory³, and how the role has evolved over that time. While many of the matters that I reflect on here will be familiar to those from other Parliaments, there are some that are novel, and others that are unique.

Speakers in the Australian Capital Territory (ACT) Legislative Assembly

The role of the Speaker in the Legislative Assembly is similar to the role of Speakers in most Commonwealth Parliaments. As set out in the *Speaker's Guide*:

In the Chamber, the Speaker presides over the Assembly's proceeding, interprets the rules on the application of the standing orders, and is responsible for maintaining order. The Speaker is in many ways a custodian of the institution of Parliament and plays an important role in defending, strengthening and promoting its legislative, representative and accountability related functions.⁴

Of the seven Speakers elected in the ACT Legislative Assembly since its inception in 1989, three of them have not been government

Members of the Legislative Assembly (MLA). In the First Assembly, an MLA from the No Self Government party was elected as Speaker. In the Seventh Assembly, an ACT Greens MLA was elected Speaker⁵ and, in the Eighth Assembly an opposition MLA was elected Speaker.

In addition, on three occasions the Assembly elected a Speaker who had no prior experience as a Parliamentarian. This occurred in the First, Second and Seventh Assemblies. Two Speakers elected had been Ministers prior to taking the Chair. And two Speakers have served for two terms - one for

the Third and Fourth Assemblies and one for the Fifth and Sixth Assemblies. Three out of the seven Speakers elected were women and two Speakers were elected unopposed.

Speaker presides over Question Time

One of the more prominent tasks performed by the Speaker in Australian Parliaments is presiding over Question Time each sitting day.

Under the ACT Assembly's Standing Orders, Question Time cannot conclude until every non-

TABLE 1: Motions of no confidence and dissent from Speaker's rulings moved.

Assembly	Want of confidence motions	Dissent from Speaker's rulings
First Assembly	-	1 (Asst Speaker) withdrawn 1 passed
Second Assembly	-	-
Third Assembly	1 negatived	1 adjourned 4 negatived
Fourth Assembly	-	1 passed 3 negatived
Fifth Assembly	-	1 negatived
Sixth Assembly	-	4 negatived
Seventh Assembly	1 (Asst Speaker) negatived 1 resolution of confidence	1 (Dep Speaker) negatived 1 (Asst Speaker) withdrawn 5 negatived
Eighth Assembly	-	1 withdrawn
Ninth Assembly	-	1 negatived
Totals	3	25

Assembly	Number of Members named
First Assembly	5
Second Assembly	5
Third Assembly	4
Fourth Assembly	3
Fifth Assembly	1
Sixth Assembly	11
Seventh Assembly	4
Eighth Assembly	2

TABLE 2: Members named and suspended – 1989-2018.

executive Member rising has asked at least one question. Such an exhaustive approach is, of course, only possible in a small Parliament but even with only 17 non-executive Members eligible, that amounts to 51 questions (including supplementary questions) that are asked in any given Question Time period, 36 of which are asked by the Opposition.

As is the case in most other Parliaments, the Leader of the Opposition asks the first question during Question Time. The Minister responding has two minutes to answer and the Member who asked the original question is then entitled to ask a supplementary question, which the Minister also has two minutes to answer. Then another Member can ask a further supplementary, which the Minister has two minutes to answer. This continues until all non-Executive MLAs rising have asked at least one question.

One of the challenges of presiding over the large volume of questions is ensuring the proper application of the relevance rule in relation to supplementary questions. *Standing Order 113B* provides that:
Immediately following the answer to a question, one supplementary question may be asked by the Member who asked the original question: provided that the supplementary question is relevant to the original question or arises out of the answer given, contains no preamble, introduces

no new matter and is put in precise and direct terms. The Speaker may allow one further supplementary question from other non-Executive Members, provided that the questions are relevant to the original question or the answers given.

The Speaker must pay careful attention to the content of each of the original 17 questions and their two supplementaries to ensure that there is a sufficient connection between the two to be in order.

Speaker faces no confidence motions

In the short history of the Assembly there have been only two motions of no confidence moved against the Speaker. Although there is no provision in the Standing Orders for a dissent motion to be moved to a ruling of the Speaker, there is a practice that, on most occasions, leave will be granted for a Member who wishes to challenge a ruling to move a motion of dissent. There have been only two successful

dissent motions moved since 1989 - one overturning a decision of the Chair that the word '*furphy*' was unparliamentary, and another overturning a decision not to allow access to the media to film or record proceedings of the Assembly.

Speaker can 'name and shame'

Unlike many other Australian Legislatures, the Speaker does not have the power to suspend Members for short periods (often called the '*sin bin*'), this power being reserved for the Assembly itself. The Speaker does have the power to '*name*' a Member, and it is the normal practice that, after being named, the Assembly resolves to suspend the named Member for three sitting hours or, if it is the second naming that calendar year, for a sitting day.

As can be seen in Table 2, this power has been used sparingly over the last 29 years, with a total of 35 Members being named and suspended.

Interestingly, over the life of the whole Legislative Assembly, the Assembly that recorded the highest number of Members named by the Speaker was the only Assembly in which a government majority prevailed (the Sixth Assembly). And the Member who was named the most (five times) went on to become a successful Speaker, serving for two terms.

Speaker's Art Advisory Committee selects art for the Assembly

In the Third Assembly, Speaker Roberta McRae inaugurated an Art Advisory Committee, the role of which was to advise the Speaker in relation to the acquisition, display and maintenance of artworks in

the Assembly building.

The Committee is chaired by the Speaker and comprises representatives from government, opposition and crossbench MLAs, as well as three ACT arts community representatives, and staff of the Office of the Legislative Assembly (the Office).

The Committee administers a \$30k budget which it uses to acquire artworks from local artists for display within the building. The Committee is supported by a curatorial adviser who is responsible for providing expert advice to the Committee and the Speaker on the acquisition, storage, maintenance and display of artworks.

During the 2016-17 financial year, the Committee acquired eight artworks. New acquisitions are usually displayed in a prominent public space within the Assembly building for a period of time before being relocated to other parts of the building such as internal hallways and Members' offices.

Speaker controls access to the precincts

Like most Parliaments, the Assembly passed legislation in 2001 (the *Legislative Assembly Precincts Act 2001*) that established the precincts of the Assembly and conferred on the Speaker a number of powers in relation to them. The two precincts are the Assembly building and separate office accommodation for staff of the Office of the Legislative Assembly. Amongst other matters, the Speaker may:

- issue licences for the use of the Assembly precinct (s 7A) (numerous community groups use certain rooms within the building);
- direct that a person who is not a Member is to leave or to not enter the Assembly precincts (s 9(1));
- arrange for the removal or exclusion of a person from the Assembly precincts (s 9(2));
- delegate his or her powers to remove a person to certain senior officers of the Office





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of the Legislative Assembly (s 9(5)); and

- determine fees in relation to the Act (s 11A).

It is a long-standing parliamentary convention that when police officers wish to enter parliamentary precincts for the purposes of interviewing a Member of Parliament or effecting a search warrant, they notify the Presiding Officer. Since 9 November 2006, there has been a Memorandum of Understanding (MOU) in place between the Speaker and the Chief Police Officer for the Australian Capital Territory setting out more detailed arrangements concerning access to the precincts by police officers in the performance of their official duties. This memorandum was recently updated.

Speaker chairs Standing Committee on Administration and Procedure

The Speaker chairs the Standing Committee on Administration and Procedure which is responsible for determining the order of private Members, Assembly and Executive Members business, as well as advising the Speaker on the operation of the Assembly Library, Member's entitlements (including facilities and services) and the

TABLE 3: Bills presented by Speakers relating to administration of the legislature.

Assembly	Bill Name	Act No	Introduced by
Fifth Assembly	Legislative Assembly (Broadcasting) Amendment 2002	A2002-52	Speaker Wayne Berry
	Legislative Assembly Precincts Amendment 2002	A2002-53	Speaker Wayne Berry
Sixth Assembly	Public Sector Management Amendment 2005 (No 2)	A2005-42	Speaker Wayne Berry
	Legislative Assembly Precincts Amendment 2006	A2006-20	Speaker Wayne Berry
	Legislative Assembly (Members' Staff) Amendment 2008	A2008-38	Speaker Wayne Berry
Seventh Assembly	Legislative Assembly (Office of the Legislative Assembly) 2012 ⁸	A2012-26	Speaker Shane Rattenbury

operation of Hansard. It also advises the Speaker on the budget for the Assembly.

In addition, it receives reports of the Assembly's Commissioner of Standards (who reports on possible breaches by Members of the Assembly's Code of Conduct or failures to declare interests) and is required to present reports to the Assembly on the matters raised with the Commissioner. So far, the Committee has had to consider four reports of the Commissioner in connection with alleged breaches of the code.⁶

In the current Assembly to date, the Committee has inquired and reported on the following matters:

- Commissioner for Standards referral process
- Omnibus Bills
- Code of Conduct for All Members of the Legislative Assembly for the Australian Capital Territory - Review
- Review of Continuing Resolution 9 - Senator for the Australian Capital Territory - Procedures for Election
- Models for Estimates Inquiries
- Review of Standing Orders for the Ninth Assembly

At the time of writing this paper, the Committee is considering a comprehensive review of all of the Assembly's 280 standing orders and 19 continuing resolutions, with a view to reporting in August 2018.

It is a requirement under Standing Orders that such a review is undertaken in the third year of each Assembly term. This is an initiative of the New Zealand Parliament which the ACT has replicated.

Speaker chairs meeting of Committee Chairs

Twice a year the Speaker convenes a meeting of Committee Chairs. The purpose of the meeting is to provide an opportunity for Chairs of Assembly Committees to discuss the full range of procedural and administrative matters that arise during the course of Committee inquiries and other Committee business.

The meeting is attended by all Assembly Committee Chairs (there are currently eight Standing and three Select Committees operating) as well as Committee Secretaries. Matters discussed include interaction between Committees and Ministers' offices, resources for the operation of Committees, use of technology, and promotion of Committee work. The meeting provides a useful opportunity for the Speaker to keep abreast of the activities of Committees and to assist them in the important work they undertake.

Speaker appoints Officers of the Assembly

The *Officers of the Assembly Legislation Amendment Act 2013* had the effect

of establishing the Auditor-General, the Ombudsman (currently this role is performed by the Commonwealth Ombudsman but there is scope for the ACT to appoint its own Ombudsman) and the three Electoral Commission members as independent Officers of the Legislative Assembly. In addition, the Government has flagged an intention to introduce legislation to establish an integrity commission and there are indications that any Commissioner/s would also be an Officer of the Assembly.

The Speaker has substantial powers in relation to the Officers of the Legislative Assembly, including:

- appointing the Auditor-General, members of the Electoral Commission and the Electoral Commissioner;⁷
- appointing an acting Auditor-General, acting Clerk and acting Electoral Commissioner;
- suspending and retiring the Auditor-General, the Clerk and the Electoral Commissioner;
- ending the appointment of the Auditor-General, the Clerk and a member of the Electoral Commissioner (subject to certain actions of the Assembly); and
- engaging both a strategic reviewer and an independent auditor of the Auditor-General.

As part of the role in relation to these Officers, the Speaker receives from each of them a declaration of their private interests.

In exercising these functions, the Speaker may receive advice from a number of sources, including the Clerk, the Solicitor-General or a private law firm, the Commissioner for Public Administration, the Ethics and Integrity Adviser and others. This advice is usually co-ordinated through the Office of the Clerk.

In addition, the Speaker appoints both the Ethics and Integrity Adviser and the Commissioner for Standards. These two positions are established though resolutions of the Assembly, with the Adviser providing confidential advice to MLAs on matters of ethics and integrity, and the Commissioner providing advice on possible breaches of the Assembly's Code of Conduct for Members.

Speaker advocates for funding, remuneration and accountability

As part of a set of Budget protocols developed between the Executive and the Legislature, the Speaker and the Clerk appear before the Budget Cabinet each financial year. This gives the Speaker an opportunity to provide the Budget Cabinet with details of the Assembly's budget proposals and to advocate on behalf of the Legislature. Under the provisions of the *Financial Management Act 1996*, where the Executive includes in the Appropriation Bill less than the amount requested by the Speaker, the Treasurer is required to table a statement of reasons as to why the amounts requested were not provided.

Following the tabling of the Office's Appropriation Bill, a Select Committee on budget estimates is formed, and the Speaker, along with the Clerk and senior managers of the Office, appear each year to answer questions. Following the presentation of the Office of the Legislative Assembly's annual report, the Speaker and relevant officers also appear as part of the Standing Committee on Public Accounts' inquiry into annual reports. Both of these Committee processes represent important opportunities for the Speaker and the Office to be accountable to the Assembly for the

expenditure of public funds.

Under the *Remuneration Tribunal Act 1995*, the Remuneration Tribunal for the Territory must inquire into and determine remuneration, allowances and other entitlements to be granted to particular offices set out in the Act every year. These offices include the Speaker, Chief Minister, Ministers and other Members of the Legislative Assembly, and the Clerk of the Legislative Assembly.

As part of its annual review, it has become practice for the Speaker and Clerk to appear before the Tribunal to discuss issues in relation to the matters being reviewed. It is not uncommon for the Speaker to make a submission to the Tribunal to outline issues that have arisen in relation to Members' entitlements.

Speaker presents petitions, introduces legislation and (occasionally) participates in debate

In the UK House of Commons, the Speaker, once elected, leaves party political activities behind and, according to convention, faces future elections uncontested. In contrast, in Australia, Speakers remain party members (or independents) and have to recontest elections if they wish to remain a Member of Parliament.

In the Australian Capital Territory, this means that some activities of a Member continue notwithstanding that the Member may be the Speaker. Although not common, several Speakers have presented petitions to the Assembly, recognising that they are still expected to represent their constituents. Similarly, some occupants of the position have chosen to present legislation, although the majority of Bills have related to the function of the Assembly.

Speaker hosts citizenship functions

In the Sixth Assembly, Speaker Wayne Berry introduced a practice of inviting Canberrans who had recently received Australian citizenship, along with their families, to attend a function at the Legislative Assembly comprising light refreshments, a

tour of the Assembly building and a question and answer session with MLAs and the Speaker.

These events are held up to four times a year and introduce new citizens to the workings of the Legislative Assembly. Last financial year, 183 new citizens participated in these events.

In addition, as part of a wider engagement strategy, the Speaker asks MLAs to nominate community groups within the ACT community who they consider would be interested in coming to the Assembly to learn more about its role and functions. Like the citizenship ceremonies, the Speaker offers light refreshments, a tour of the Assembly building and an opportunity to meet and discuss with all MLAs matters of interest to the community groups.

Speaker appoints legal arbiter

Under *Standing Order 213A*, the Assembly may order documents to be tabled in the Assembly, and where the Executive refuse to provide the document on the basis that they claim a privilege and a Member disputes such a claim, the Speaker is required to appoint an independent legal arbiter who will adjudicate on the competing claims.

Under the Standing Order, the Speaker must appoint a retired Supreme Court, Federal Court or High Court Judge. In this Assembly, the Speaker has appointed two independent legal arbiters. One of the arbiters was a retired Supreme Court Judge from New South Wales (who declined the Executive's claim for privilege), and another was a retired Supreme Court Judge from the Australian Capital Territory (who upheld the Executive's claim of privilege).

Conclusion

While the position of Speaker may be best known for calling the Chamber to order and ejecting disorderly Members, as can be seen from the above, the Speaker performs a myriad of other important roles and functions. And this is in addition to all the activities s/he may do to

represent his or her constituency.

In his book *Gavel to Gavel*, the former Speaker of the New South Wales Legislative Assembly, Kevin Rozzoli AM, also highlights another less heralded role - what he terms a '*pastoral role*'. This is where the Speaker, because of the level of experience and respect often held by the Speaker, is called upon to give confidential advice on personal matters where a Member is in need of objective and experienced advice that the Member may not wish to discuss with their party colleagues.

Former Speaker Kevin Rozzoli (New South Wales) sums up what he attributes to be the characteristics of being a good Speaker. It is: "*...a combination of intelligence, study, authority, compassion, diligence, patience, good humour, the ability to take advice and, above all, an innate sense of humanity, fairness, impartiality and respect for others.*"

This article is based on a paper presented by the author to the 49th Presiding Officers and Clerks Conference (POCC) for the CPA Pacific and Australia Regions in Wellington, New Zealand from 8-13 July 2018.

References:

¹ Norman Wilding and Philip Laundy, *An encyclopaedia of Parliament*, 1958, p540.

² Speaker Lowther quoted in *Betty Boothroyd: The Autobiography*, 2002, Random House, p209.

³ The ACT Assembly has 25 Members, increased in 2016 from 17.

⁴ Legislative Assembly for the ACT, *Speaker's Guide*, 2016, p 9.

⁵ There was a parliamentary agreement between the Greens and the Labor Party, and the Labor Party formed the Government.

⁶ No breaches were found to have occurred.

⁷ Legislation enacted in 2012 created the Clerk of the Legislative Assembly as a statutory officer, and the Speaker also appoints that officer.

⁸ In the Seventh Assembly, the then Speaker presented the Legislative Assembly (Office of the Legislative Assembly) Bill 2012 which provided for the establishment of the Office of the Legislative Assembly and gave greater effect to the separation of powers principle by clarifying the administrative and legislative framework that applies to the support agency of the legislature and to enshrine in law its independence from executive government.



MORE THAN JUST POINTS OF ORDER: THE ROLE OF A SPEAKER IN A SMALL LEGISLATURE



THE CALM AFTER THE STORM: ARE STORM CLOUDS BREWING AGAIN? THE SPEAKER'S ROLE IN DEALING WITH DISORDERLY BEHAVIOUR



Hon. Kezia Purick, MLA is the Speaker of the Legislative Assembly of the Northern Territory, Australia. Previously she was head of the Northern Territory's resource industry group. She was first elected to Parliament in 2008 and re-elected in 2012 when she was also elected as Speaker. Kezia Purick has attended CPA conferences in Kenya, Samoa, New Zealand and Australia and is a former CPA Executive Committee Member for the Australia Region.

As the Northern Territory reaches its mid-term mark, two years after the 2016 election and two years before the 2020 General Election, it is timely to pause and assess how orderly the 13th Assembly is and consider comparisons with the 12th and previous Assemblies to consider which was the most tumultuous in the short and colourful history of the Northern Territory legislature. The 12th Assembly ran from 2012 to 2016 and had what would kindly be referred to as some *big personalities*.

At least six Ministers in the Cabinet (unofficially) actively wanted the role of Chief Minister for themselves with three Ministers serving or attempting to serve in the top job. I won't go into detail here about the bizarre midnight coup of 3 February 2015, just enter that into your favourite search engine for more details.

A revolving door of Cabinet reshuffles (18 in four years) and the sheer number of Deputy Chief Ministers reflected the lack of consistent leadership in Government. This had a significant impact upon the Legislative Assembly.

A Government with initially 16 Members in August 2012 was reduced to a perilous minority of 11 by the time of the 2016 election.

With a new Assembly came renewal. We have not even had a Cabinet reshuffle since the first Ministry was announced after the 2016 election.

The Country Liberals were soundly defeated in 2016 with only two Members being returned to a shrunken Opposition bench and 18 Labor Government Members now occupying the Treasury benches in

the 25 Member Parliament.

This article examines the statistics of the disruption and misbehaviour in a number of Legislative Assemblies of the Northern Territory but particularly the 12th Assembly (2012-2016) in comparison to the first two years of the 13th Assembly and gives some consideration to whether the storm before the calm was an anomaly or whether further storms are brewing.

The Personality of a Parliamentarian

Before I delve specifically into the Northern Territory Assembly, I was amused to recently come across some interesting general character analysis of the constitution of a Member of Parliament from a former Member of the UK House of Commons:

"Nobody without a gambling streak, a taste for uncertainty and a belief in his (sic) own luck would embark upon a Commons career... Men often go into politics to prove something which they feared might be in doubt. 'One day I'll be popular... In short the parliamentary selection process attracts adventurers with more bravado than self-confidence, more 'chutzpah' than emotional security. Then it lands them in what is, for long stretches a spectacularly boring job. Being an MP feeds your vanity and starves your self-respect."

These rather sensational words contained in the introduction to his book *Great Parliamentary Scandals: Four Centuries of Calumny, Smeat and Innuendo*, were published in 1995 by Matthew Parris, a *Times* newspaper columnist and the former Conservative MP who was

the Member for West Derbyshire in the UK House of Commons during the 1980s.

While perhaps not always applicable, it does strike me that these words may have some relevance to what occurs from time to time in our various jurisdictions. And I note Mr Parris said it was about men - perhaps it is particularly relevant for men entering Parliament.

In the Northern Territory, the 13th Assembly commenced with a very calm atmosphere and, until I started putting this article together, there had not even been a single 'warning' to any Member let alone an ejection from the Chamber.

Liar!

All that changed in May 2018 when the first ejection occurred after a Member disregarded my ruling they must withdraw offensive words. Intriguingly, that Member has continued to seek clarification about the ruling in two email communications to me since then.

On 3 May 2018, a Member used the word 'liar' which I ruled out of order. It was directed at the Chief Minister by way of an interjection as follows:

Member: *A point of order, Madam Speaker! Standing Order 110: relevance. You did lie to the people of Alice Springs - a blatant lie.*
Madam Speaker: *Withdraw.*
Member: *I do not withdraw because he has lied.*
Madam Speaker: *Leave the Chamber.*
Member: *More than happy.*

In and of itself this was not particularly notable. Life went

on and I thought no more of it, however in their second email communication to me in the weeks that followed the Member questioned my ruling. Not being satisfied with an earlier response I had given the Member wrote to me on 29 May 2018: *'Just watching Question Time in the Federal Parliament. The Prime Minister just accused Labor lying 5-6 times. Then the Minister for Health did the same. Why is it we can't accuse people of lying in the NT Parliament? When was this decision made and why? If it is acceptable in the Federal Parliament - why is it not acceptable in the NT Parliament?'*

I have since advised the Member again that:

- Offensive words may not be used against any other Member.
- In the Legislative Assembly of Northern Territory *Standing Order 21* applies.
- Standing Order 89* in the Australian Federal House of Representatives is drafted in similar terms.

I advised the Member that it is the practice of the Northern Territory Legislative Assembly and the Australian Federal House of Representatives that Members may only direct a charge against another Member or reflect upon the character or conduct of another Member by way of a substantive motion which requires a vote of the Assembly. I have specifically directed the Member to page 515 of the Australian Federal Parliament *House of Representatives Practice 6th Edition*.

I further advised that my ruling on this matter will prevail unless the Assembly itself determines otherwise. I also consulted the Clerk who examined the House of Representatives *Hansard* from 29 May 2018 and found no instance where the Australian Prime Minister referred to another Member of the House as a 'liar'. The Clerk has advised me that the Prime Minister had referred to Labor electioneering but not to the



Leader of the Opposition or any particular Member of the House.

The Hansard discloses the Prime Minister was referring to a trailer the Labor party had deployed with a sign in the federal seat of Longman and the assertion that the Australian Labor Party was responsible for that sign.

The Prime Minister referred to the contents of the sign and the owners of that sign as telling *"an absolute lie"* (page 29) and he referred to *"the Labor Party's litany of falsehoods"* and *"The Labor Party thinks they can make a lie the truth..."* (page 32).

The Prime Minister's references were to a political party and not to a Member of that party in the Parliament. A cunning fellow who does not fall foul of his Parliament's Standing Orders is our Prime Minister. I also noted that Mr Speaker did not intervene and would not have been expected to. No point of order appears to have been raised.

The comparison between the Australian Federal House of Representatives on 29 May 2018 and the Legislative Assembly of Northern Territory on 3 May 2018 is not comparing like for like. What occurred on 3 May was a clear breach of the rules of debate, misuse of the ability to raise a point

of order, a disorderly interjection, a misuse of the cited Standing Order and the failure to withdraw the offensive words as directed was a failure to comply with a direction to comply with the Standing Orders. The failure to address the (out of order) allegation about the Member through the Chair was also out of order.

Given the canvassing of the ruling since the day, I wonder if perhaps an escalation of acrimony and name calling is on the horizon. What if this is the first shot in a new battle of words that has been in abeyance over the past nearly two years of the 13th Assembly?

A tiny opposition of only two Members has not been the noisiest, and some of the five independents have taken on a distinctly Opposition type role and are relishing the opportunity. How did we get here?

The Assembly in Retrospect

Last year, I used the Legislative Assembly's Research Service for Independent Members (as I am one) to look into matters of disorder on the Northern Territory Assembly.

Elizabeth Creed and Sara Rowe from that Service, put together a very useful briefing paper for me which I have shared with others and have relied on heavily for this article.

Above: The Legislative Assembly of the Northern Territory.

The inspiration for the report I requested was *'That's it, you're out': disorderly conduct in the House of Representatives from 1901 to 2016*: an Australian Parliamentary Library study by Rob Lundie¹ which outlined the basis of the House's authority to deal with disorderly behaviour, and the procedures available to the Speaker to act on such behaviour.

That report analysed the 1,876 instances of disorderly behaviour recorded in their Hansard with a view to identifying patterns over time, the extent and degree of disorderly behaviour, and answering questions such as: which Members have been disciplined and which Parliament has been the most disorderly?

A similar report was developed at my request to provide Members of the Legislative Assembly with procedural information and background on what has been ruled disorderly and the consequences over the life of our Assembly.

While the House of Representatives report had more than 100 years of records to draw on, the Legislative Assembly has just over 40 years with fewer Members participating in the

business of Parliament and, as a consequence, fewer instances of disorder to analyse.

I think most Parliaments and Legislatures in the Australia Region probably have the one hour 'sin bin' available to a Presiding Officer to cool things down which is an inherent power contained in Standing Orders not to be subject to contest or dissent as it is not a ruling *per se*.

The concept of the sin bin one hour exclusion was introduced into the House of Representatives in 1994 after the Standing Orders Committee reported that the process of naming a Member, a vote on a motion – sometimes requiring a division – then suspending a Member was time-consuming and disrupted the flow of business in the House.

In the Northern Territory, it was introduced three years later in November 1997 as *Standing Order 240A* (*Standing Order 49* as of April 2016). Taking into consideration the small size of the Northern Territory Legislative Assembly, *Standing Order 49* and its predecessor *240A* specifies that, during their enforced hour out of the Assembly, the Member may be readmitted to vote in any division, and to be counted in a quorum.

If a Member fails to leave the Assembly immediately after they had been '*sin binned*', the Speaker may of course name the Member with the result being a 24 hour period of suspension in the first instance.

Under the revised Standing Orders adopted in 2016, the period of suspension remained the same for the first occasion at 24 hours, however on the second occasion in a calendar year, the consequence reduced from seven consecutive days to two sitting days. On the third or any subsequent occasion, the rather extreme penalty of 28 consecutive days which applied in earlier Assemblies is reduced to three sitting days, excluding the day of suspension.

In August 2016, the Labor Government came to power in

the Northern Territory with a commitment it would not nominate a Government Member as Speaker. Hence I am back in the Chair.

I won't get into any philosophical arguments about whether my non-party aligned status has anything to do with the calmness of the 13th Assembly so far, particularly given that I was in the Chair for the very turbulent 12th Assembly.

However, interestingly, in the 13th Assembly I have issued a sum total of no warnings. That has been because I have had no need to. Noticing this relative calm led me to examine the research further. The research has thrown up a very interesting trend. As the sitting week draws on, there is substantially more disorder resulting in disciplinary measures on the second and third rather than the first day of each week.

A factor could be that a 24-hour period of withdrawal imposed on a Thursday enables the Member to attend from commencement of business on the following sitting day, as it could be the Tuesday of the following week.

This was a matter of some conjecture in the 12th Assembly when the then Leader of Government Business wanted the Member for Johnston who had been excluded on a Thursday to serve time out of the Assembly the following Tuesday as well. However, the consistent precedent in the Northern Territory is that 24 hours is just that, not 24 hours of a sitting period.

Unsurprisingly perhaps, the research shows that a greater level of disorder occurs during Question Time – 69 of 124 instances – than during any other period. Since 1974, 30 Members have been suspended or ordered to withdraw on a total of 125 occasions.

When considering the number of times a Member has been disciplined, Mr John Bailey (former Member for Wanguri), Deputy Leader of the Opposition in the 6th to the 8th Assemblies was the most penalised Member. Hon. Syd Stirling (former Member for Nhulunbuy)

was disciplined almost as many times, mostly as Opposition Whip in the 7th and 8th Assemblies and then Deputy Leader of the Opposition in the 8th Assembly.

Mr Matt Conlan (former Member for Greateorex) who in the 12th Assembly served as a Deputy Speaker for the final 18 months, was '*sin binned*' by then Speaker Jane Aagaard on nine occasions and once by then Deputy Speaker Lynne Walker during the 11th Assembly. Eight hours out of the Assembly were due to his continuous interjections and two hours for refusing to withdraw offensive words.

As a side note, Mr Conlon almost became Speaker in 2015 when the Government moved a motion which saw me ejected from the Speakership after a division on a vote that I vacate the Chair, but I returned to the role after a secret ballot to elect a new Speaker some 43 minutes later.

Ms Delia Lawrie (former Member for Karama) was also disciplined on ten occasions: once by Speaker, Hon. Jane Aagaard in the 11th Assembly and nine times by either me or the Deputy Speaker during the 12th Assembly when she was Leader of the Opposition.

Most of the offences – nine '*sin binnings*' – occurred during Question Time but continuous interjections during a Ministerial

Statement earned the then Member for Karama a suspension of 24 hours from the Assembly.

The research indicates that since the 7th Assembly, no Member has been suspended (excluding sin binning) for a second time and no Member has ever been suspended for a third time.

The one hour exclusion arrangements have made a significant difference to the management of the Territory Assembly's order as it has been shown to have done in other Parliaments since it came into common usage.

Six Members of the 13th Assembly were disciplined in previous Assemblies and only in May this year was a Member ordered to withdraw for the first time in the 13th Assembly.

In considering the number of times that a Speaker has imposed, or by '*naming*' requested the Assembly impose a disciplinary action, a pattern emerges of more penalties applied in more recent Assemblies.

The dramatic increase from the 8th Assembly corresponds with the introduction of the sin bin – more frequently applied but resulting in less time for a Member to be removed from participation in the business of the Assembly.

In considering the penalties imposed by a Speaker, or the

TABLE 1: Disciplinary action imposed by Presiding Officer* or Assembly (the top six).
*The Speaker may or may not have been presiding at the time.

Assembly	Speaker	Instances
12 th	Kezia Purick	37
10 th 11 th	Jane Aagaard	32
8 th 9 th	Lorraine Braham	14
7 th 8 th	Terry McCarthy	11
6 th	Nick Dondas	6
4 th 5 th	Roger Vale	5
13 th	Kezia Purick	1

Assembly	Speaker	Instances	Instances
7 th 8 th	Terry McCarthy	11	25 days 4 hours
4 th	Roger Steele	1	7 days
6 th	Nick Dondas	6	6 days
4 th 5 th	Roger Vale	5	4 days 10 hours
10 th 11 th	Jane Aagaard	32	3 days 6 hours
12 th 13 th	Kezia Purick	38*	2 days 13 hours

TABLE 2: Total time in penalties imposed by the Assembly or the Chair* (top six).
*On both occasions during the 12th Assembly when Members were ejected for 24 hours, Speaker Hon. Kezia Purick was not presiding to 'name' the Member. A Deputy Speaker (Mr Gary Higgins) was presiding in 2013 and (Mr Matt Conlan) in 2015.

Assembly in the event of a vote after a naming, over recent years compared to previously, a pattern emerges.

The earlier Assemblies were able to impose more severe penalties with the result that offending Members spent considerably more time out of the Chamber. For example, then Speaker, Hon. Roger Steele named a Member when he was in the Chair, as it was the Member's second offence in a calendar year, a suspension of seven days was mandated by any vote of the Assembly.

The outcome of the introduction of the one hour exclusion penalty has coincided with an interesting statistic. While under my Speakership the Presiding Officer is the top ranking excluder, the number of accumulated hours imposed is down at the bottom of the rankings.

The Calamitous 12th Assembly

The most turbulent sitting weeks recorded in the Northern Territory were definitely during the 12th Assembly.

During four separate meeting weeks, disciplinary measures were taken four times each week; in March 2015, five disciplinary measures were taken in one week. Apart from two occasions, these were all orders for the Member to withdraw for one hour. The Member

for Karama and the Member for Johnston received 24 hour penalties for, respectively, continuing to interject and reflecting on the Chair.

The Australia Federal House of Representatives' report on which our research was based used four measures of disorderly behaviour to assess which Parliament had been the most disorderly in recent years:

- the number of disciplinary actions taken
 - the frequency of disciplinary actions taken
 - the concentration of disciplinary actions taken
 - the extent of disciplinary actions taken.
- Applying the same four measures to the Northern Territory Legislative Assembly produces the following results:
- The 12th Assembly recorded 44 instances of disciplinary actions taken with the next closest being 28 actions in the 11th Assembly.
 - Members were disciplined on 26.1% of meeting days in the 12th Assembly with the next closest being 15.6% of meeting days in the 11th Assembly.
 - The 12th Assembly recorded the greatest concentration of disciplinary actions with withdrawals or suspension occurring four times each week over four separate meeting weeks.

- Nine individual Members of the 12th Assembly were disciplined with the next most unruly being the 11th Assembly with seven Members disciplined. On all measures, the 12th Assembly has been most disrupted by disorder.

Several Assemblies operated with very little disorder – the 2nd and 3rd Assemblies recorded no instances of suspension or withdrawal of Members and until May this year neither had the 13th Assembly. It is clear that the 12th Assembly can be awarded the dubious accolade of the most disorderly Assembly in the history of the Northern Territory.

The 13th Assembly

Initially distinguished by cordial relations and a cooperative approach, things have more recently become a little more heated in the Legislative Assembly.

The opening up of almost all of Wednesday to Opposition and Private Members' business is a hallmark of the 13th Assembly's reforms, Question Time on a Wednesday permits no '*Dorothy Dix*'² questions and is immediately followed by up to four hours of Private Member's business each sitting week.

These concessions to allow an Assembly time to consider other business and question the Government more have been well received but will it ever be enough?

While arguably it leads the Opposition and Crossbench to exhaustion of topics in an hour of question time and can be a little repetitive, and it's called Question Time and not Answer Time so sometimes answers may be a little illusive. Remember we have only eight Ministers and a total of six available Members on the Opposition and Crossbench including the two in Opposition.

In 2017, the Opposition decided to boycott the Estimates process altogether leading to a six day festival of '*Dorothy Dixers*' from the Government Estimates Committee Members scrutinising the Ministers.

The boycott was because the Estimates Committee determined that half the time would be spent analysing departmental annual reports in November and the other half of the time (30 hours) would be on the Annual Budget and forward estimates in June. The Opposition argued this cut the opportunity to scrutinise Ministers over the budget by 50%.

This was not well received by the popular press and the boycott was not repeated last month for this years' Estimates.

Other adventures in the 13th Assembly have included the first finding of a Contempt of the Assembly since 1991, but that is a story for another day.

Conclusion

Let's wait and see if the 13th Assembly ramps up, but it appears rather unlikely it will reach the crescendo of the 12th Assembly's 37 ejections.

With a General Election required in August 2020 and approximately 62 sitting days to go based on a calculation of how many days the Assembly sits each year, including an election year, there is plenty of opportunity for this Assembly to match or exceed those 37 ejections of the 12th Assembly, however with 56 sitting days behind us and only one ejection to date so far this Assembly, it appears that unless something amazing happens it will be unlikely we will match that dubious record.

This article is based on a paper presented by the author at the 49th Presiding Officers and Clerks Conference (POCC) for the CPA Pacific and Australia Regions in Wellington, New Zealand from 8-13 July 2018.

References:

- The 2017 report was an updated version of a 2013 report produced by the same author.
- In Australian politics, a Dorothy Dixers is a rehearsed or planted question asked of a government Minister by a backbencher of their own political party during Parliamentary Question Time.



THE INTRODUCTION OF THE ABORIGINAL LANGUAGES BILL IN THE PARLIAMENT OF NEW SOUTH WALES



Hon. John Ajaka, MLC is the President of the Legislative Council of the Parliament of New South Wales and has been a Liberal Party Member of the Council since 2007. He has served as Deputy Leader of the Government in the Legislative Council. Before entering Parliament he served as a Councillor for the City of Rockdale from 2004 until 2008. Previously he operated a legal practice for more than 25 years and served on the board of a number of companies, community and charitable organisations.

Introduction of the Aboriginal Languages Bill 2018

The Aboriginal Languages Bill 2017

On 11 October 2017, the New South Wales (NSW) Minister for Aboriginal Affairs, Hon. Sarah Mitchell, MLC, introduced the Aboriginal Languages Bill into the Legislative Council. Debate on the Bill commenced that day and continued the following week. The Bill received unanimous support in both Houses and, following the making of five amendments, the Bill was agreed to and received assent on 24 October 2017.

The objects of the Bill were:

- to acknowledge the significance of Aboriginal Languages to the culture and identity of Aboriginal people
- to establish an Aboriginal Languages Trust governed solely by Aboriginal people to facilitate and support Aboriginal language activities to reawaken, nurture and grow Aboriginal Languages, and
- to require the development of a strategic plan for the growth and development of Aboriginal Languages.

Unusually, the Bill included a preamble, a particularly powerful preamble, which has both symbolic and practical meaning: *"WHEREAS: (a) The languages of the first peoples of the land comprising New South Wales are an integral part of the world's oldest living culture and connect Aboriginal people to each other and to their land: (b) As a result of past Government decisions Aboriginal languages were*

almost lost, but they were spoken in secret and passed on through Aboriginal families and communities:

(c) Aboriginal people will be reconnected with their culture and heritage by the reawakening, growing and nurturing of Aboriginal languages:

(d) Aboriginal languages are part of the cultural heritage of New South Wales:

(e) It is acknowledged that Aboriginal people are the custodians of Aboriginal languages and have the right to control their growth and nurturing:

The Legislature of New South Wales therefore enacts:"

The significance of the legislation

The contributions during from the Second Reading debate in the Legislative Council give a sense of the significance of the Aboriginal Languages Bill.

The Minister for Aboriginal Affairs, Hon. Sarah Mitchell, MLC, said: *"As the English flag was being raised not far from this Parliament in 1788, the Eora language would have been heard. Eora was just one of an estimated 35 first languages, and the more than 100 dialects of those languages, spoken on the lands of what is now New South Wales. First people's languages belong to the land, and to its custodians. Languages hold knowledge of country, the stories of its creation, its seasons, and first people's connections with and obligations to it. Languages also speak of first people's connections to each other. Languages are part of the song lines going across this State, connecting people, places*

and time, and connecting the current generations to the past, to their ancestors and to the future.

Past governments, through their assimilation policies and practices, tried to eliminate first people's languages. Speaking language was forbidden on Aboriginal reserves and missions, people were arrested for daring to speak their language in public, and children were removed because their parents or grandparents were heard uttering their language. During conversations on the draft Bill, Uncle George Fernando from Gingi Mission outside Walgett recollected how old people were imprisoned for speaking Gamilaraay. At Wagga Wagga, Dr Stan Grant Senior shared similar memories of police arresting his relative for being heard to speak Wiradjuri in public.

But while the land appeared to fall silent, the languages were only sleeping and awaiting reawakening. The languages continued to be passed on in secret through the generations. They were also recorded by well meaning non-Aboriginal people, and kept for future generations by libraries and other cultural institutions. Reawakening languages has a ripple effect within families, extending through Aboriginal communities and out into the broader community. First people's languages are dynamic, from rebuilding the language from historical sources and remaining speakers right through to becoming an everyday language."

The Leader of the Opposition, Hon. Adam Searle, MLC, noted: *"We should remember that more than 250 Aboriginal Australian language groups were present on the continent at the time of European settlement in 1788. Today, only*

around 120 of those languages are still spoken, and many are at risk of being lost as elders pass away.

In one sense there is nothing in this legislation that could not be undertaken without there being a special Act of Parliament; each of these steps could be taken by administrative action alone. But the fact of this Bill and its contents, the fact that the collected, elected representatives of all the people of this land acting together are consciously willing these courses of action and are committing to them in the context of all that was done to destroy Aboriginal language, culture and identity in the past, this small step today has important symbolic resonance. However, let it not be merely symbolic.

I note that legislation does not seek to protect or to preserve Aboriginal languages, rejecting the language of past colonial injustice, but rather seeks to reawaken them, as if they were a strong flame that has been caused to die down to embers, but not extinguished, continuing to glow and to smoulder until given oxygen and nourishment, to be given support, they grow back into their full glory once more."

Marking the significance of the introduction of the legislation

Some weeks before the introduction of the Bill, the Clerk and I were approached by the Minister and her officers. It was pointed out that this legislation had been fifteen years in the making and was part of a long journey that, in the last 18 months, had been the subject of state-wide consultation with Aboriginal language stakeholders. There was considerable interest in the legislation and its development and its final form would be watched by Aboriginal people throughout New South Wales, across Australia and also by first peoples in other parts of the world, such as North America. We were asked whether we would be open to the incorporation into the proceedings in the House of a culturally appropriate ceremony



to mark the introduction of the Bill that would be both symbolic and potentially transformative. The legislation would be introduced in the Legislative Council as the Minister for Aboriginal Affairs was a Member of the Legislative Council and the Premier had advised that she would be given this honour in view of her hard work to bring the legislation forward.

Fortunately, only a couple of months before, during the 48th Presiding Officers and Clerks Conference (POCC), hosted by the Parliament of New South Wales in Sydney, we had heard a presentation by Hon. Chester Borrows, MP, then Deputy Speaker of the New Zealand House of Representatives. Hon. Chester Borrows had outlined a number of recent innovations in the New Zealand Parliament which had made Parliament more accessible to citizens and more relevant to their lives. One of those innovations was the relaxation of rules to facilitate the observance of some aspects of *'Tikanga Maori'* or Maori culture, particularly following debate on Treaty of Waitangi Settlement Bills. He gave the example of permitting *'waiata'*, the singing of songs or hymns from the public galleries, and the saying of a *'karakia'* or prayer by

a Member at each sitting.

Hon. Chester Borrows stated: *"These additions are not only respectful to Maori; they increase the relevance of the House of Representatives to all New Zealanders lives and now we see it as normal process of running of Parliament."*

His presentation concluded with a video of one of the songs being sung in the public gallery. It was spine tingling and inspirational.

Inspired by Chester Borrow's presentation and the example of the New Zealand House of Representatives, I felt empowered to be able to embrace the Minister's request. I consulted the Clerk and the advice received was that, provided the House clearly approved any innovative procedures (on motion), the House could temporarily suspend any of the rules that might otherwise stand in the way of incorporating any ceremony that could practically be incorporated into the procedures of the chamber.

During a number of meetings with the Minister's staff and departmental staff a range of ideas were discussed, including:

- a welcome to country
- a smoking ceremony
- Aboriginal elders and language group representatives being

Above: A smoking ceremony takes place in front of Parliament House in New South Wales with representatives of the traditional owners of the land on which the Parliament meets.

admitted to the floor of the Chamber

- a message stick being carried with the Bill and presented to the Minister
- Aboriginal languages being spoken in the Chamber
- music and dance.

The legislation would still need to go through all of the relevant stages namely: initiation by notice of motion; the moving of a motion for leave to introduce the Bill; the presentation, First Reading and printing of the Bill; the Second Reading; consideration in Committee-of-the-whole; Third Reading; forwarding to the other House for concurrence. Further, whatever innovative procedures were adopted needed to be carefully crafted so as to address any anxieties or misgivings from traditionalists who might be uncomfortable with departing from the long-standing traditions of the House.



Innovative procedures

On Tuesday 10 October 2017, the Minister for Aboriginal Affairs gave a Notice of Motion for leave to introduce the Bill. She also gave a Notice of Motion seeking the support of the House for a series of procedures to be followed the next day. On Wednesday 11 October 2017, the Minister moved the latter motion and the House agreed to suspend standing orders. As a result, the introduction of the Aboriginal Languages Bill proceeded as follows:

- Immediately following the House agreeing to a motion for leave to introduce the Bill, the President left the Chair with the sitting interrupted.
- Members then proceeded to the forecourt in front of Parliament House, for a spoken Welcome to Country from a representative of the Gadigal clan of the Eora nation, the traditional owners of the land on which the Parliament meets, and a smoking ceremony.
- Members then returned to the Chamber and awaited the arrival of the President, the Minister for Aboriginal Affairs and Aboriginal elders.
- Once the President and Ministers had taken seats on the benches (note the President did not yet return to the President's Chair as the House was not yet again in session), Aboriginal elders and others came onto the floor of the Chamber and positioned themselves around the end of the table.
- The elders and other participants then conducted a message stick ceremony, in which they each spoke or sung words about the significance of the legislation, with the message stick passed around the table and held by each participant in turn as they addressed Members.
- The final message stick ceremony participant handed the message stick to the Minister for Aboriginal Affairs.
- Upon the message stick ceremony participants then taking their seats in the President's Gallery, the Usher of the Black Rod announced the President, who took the Chair and indicated that the House was again in session.
- Two Aboriginal elders, Uncle Gary Williams and Auntie Irene Harrington, were invited to take seats on the dais.
- The Minister then proceeded through the remaining usual formalities in introducing the Bill and commenced her Second Reading speech.
- Early in her Second Reading debate, the Minister invited Dr Ray Kelly, academic researcher at the Purai Global Indigenous and Diaspora Research Studies Centre at the University of Newcastle, to come to the lectern at the Table to translate her acknowledgement of the traditional owners into Dhungutti.
- Towards the end of her speech, the Minister again invited Dr Ray Kelly to the lectern at the Table to remark on what the Bill means to the first peoples of New South Wales.
- Following the Minister's speech, the Leader of the Opposition and two crossbench Members commenced their Second Reading speeches, and the debate was then adjourned for five calendar days.

Members' responses

The response of Members to the innovative procedures, particularly the message stick ceremony on the floor of the Chamber, was overwhelmingly positive. The views expressed on the record by Members during the Second Reading debate were unanimously supportive of the approach taken:

Hon. Mick Veitch, MLC, said: *"The very moving message stick ceremony that took place on the floor of this Chamber was significant and substantial not only for those of us who were in the Chamber at the time but for a range of people, whether they*

*be first peoples, white Australians or multicultural Australians."*¹³

Hon. Scot Macdonald, MLC said: *"I support the Aboriginal Languages Bill 2017 and express my appreciation to the Minister for its introduction and the way we were taken through the ceremonies last week. The ceremonies were quite remarkable and we will remember them for a long time."*¹⁴

Hon. Shaoquett Moselmane, MLC said: *"I thank everyone who took part in the smoking ceremony on 11 October 2017. They included: Dr Ray Kelly; Uncle Ray Davison; Ray Ingrey; Rhonda Ashby; Jaycent Davis; Auntie Di McNaboe; Uncle Gary Williams; Auntie Irene Harrington; Murray Butcher; Ronan Singleton; and Auntie Maureen Sulter. I take this opportunity to congratulate President, the Hon. John Ajaka for being open to new and modern procedures and for allowing members of the Aboriginal community onto the floor of the Chamber. That is a very worthy precedent. Suddenly there were no strangers in the House; those present were part and parcel of this place. It was a wonderful ceremony that brought Members and Indigenous people together in this place and rightfully on their land. I hope the Government will continue to uphold the symbolic and sincere intentions of that wonderful ceremony in its practical implementation of this important legislation."*¹⁵

Hon. Sarah Mitchell, MLC, Minister for Aboriginal Affairs, speaking in reply said: *"Last Wednesday saw the celebration of a special occasion for this Parliament and for Aboriginal people across New South Wales. I place on record my appreciation and thanks to the President and members of the House for agreeing to the performance of and participation in the ceremonies. I acknowledge the assistance of the staff of the Parliament: the Clerk, David Blunt; the Usher of the Black Rod, Susan Want; and the many others who helped create a meaningful day for us all."*¹⁶

The message stick

Whilst noting the significance of

the message stick ceremony, a number of Members also took the opportunity during the Second Reading debate to reflect on the potential for further future appropriate symbolism in the Chamber. A specific suggestion was made by one Member about the form that symbolism could take, centred on what would happen to the message stick that had been handed to the Minister for Aboriginal Affairs at the conclusion of the message stick ceremony and subsequently presented to the Presiding Officers:

Hon. Mick Veitch, MLC, said: *"This Chamber must do a lot more over time to reflect the substantial contribution of the First Peoples of New South Wales to the development of this State. . . It is my view, and I had a quiet conversation with the Minister about this, that that message stick should be placed on the table of the House so that the important conversation that commenced with that wonderful, moving ceremony will be conveyed and remembered not just by the people that are here now but those who follow in our footsteps, for all time. It will be a very important message. People will refer to the message stick and this central piece of legislation around retaining, nurturing and regaining Aboriginal language. It will be here. I appreciate that a range of processes have to take place with the local Indigenous community as well as our own processes in order for that to happen. It is not an easy thing and I accept that. We cannot just put something on the table of the Chamber, but we should work towards making a gesture like that. It is more than just a symbolic gesture. We should be looking at other ways for this Chamber to reflect the contribution to this State of the First People of this State. We must do more than just have several busts of white Australian men, display the Aboriginal flag or acknowledge the country at the start of each sitting week. There is plenty we can do. There should be physical attachments to the First*



Peoples of this State somewhere in this Chamber. I have raised this with the Minister and I know it is in good hands. I would like to explore further how we can make that happen."

The Deputy President of the New South Wales Legislative Council, Hon. Trevor Khan MLC, responded: *"I will raise a couple of issues. One arises from what my friend, the Hon. Mick Veitch had to say about the absence of appropriate symbolism in this place. I noticed that he directed his comments to the Minister. I am sure that it is appropriate that he direct his observations to the Minister, but, as you would know, Mr President, such items of significance are a matter for this House. It is within our power. It is not the Government's power, because this is a Parliament. The Parliament is not part of the Executive, so we should have this discussion amongst ourselves and with appropriate people outside this place; we are in control of our own destiny. Just as we perform a recognition of country - hopefully, respectfully - each*

*Tuesday, we should consider the symbols of this House and consider what is appropriate. I encourage the Minister to be involved. I encourage the Leader of the Opposition and the Deputy Leader of the Opposition to be involved. I encourage Hon. Mick Veitch and Hon. Shaoquett Moselmane to be involved. Hon. Shaoquett Moselmane has played a significant role in these matters. It is a matter for all of us."*¹⁸

After the Third Reading of the Bill in the Legislative Council of New South Wales, the Bill was delivered to the Legislative Assembly of New South Wales together with the message stick. The message stick was returned with the Bill after it had passed the Assembly.

Given the contributions of Members about the message stick, consultation immediately commenced about options for its ongoing display and use. As the Bill had been introduced in the Council, it was felt appropriate that it primarily be displayed in or near

the Legislative Council Chamber.

In 2007, Clive Lucas, Stapleton and Partners Pty Ltd, one of Sydney's leading firms of heritage architects, prepared the first Conservation Management Plan (CMP) for Parliament House. The CMP describes the heritage significance of the Parliament and various parts of the building complex and sets out conservation policies to guide decision making about the precinct. As the proposal put forward during debate was for the message stick to be displayed in the Chamber, Clive Lucas, Stapleton and Partners were engaged to prepare concept plans that would be appropriate and sympathetic to the heritage significance of the Chamber. The concept plan provided for the message stick to be located in a display case in an existing bookshelf in the President's Gallery. Once concept plans were received and deemed suitable, further consultation took place with a range of Members.

In addition to Members, however, it was critically important that the Aboriginal community was also consulted. Through the office of the Minister for Aboriginal Affairs, arrangements were made to consult with two interested groups of elders: the Aboriginal Languages Establishment Advisory Group (ALEAG) and the New South Wales Coalition of Aboriginal Regional Alliances (NCARA). A number of meetings were held during which valuable feedback was received in relation to the concept plans and, specifically, in relation to the interpretative wording to be included to explain the message stick. The final wording agreed was as follows:

"This original message stick, presented to the Parliament of New South Wales, is a physical symbol of the Languages that the Aboriginal Languages Act 2017 seeks to acknowledge, nurture and grow. It is a commemoration of the introduction of the Bill in the Legislative Council,





the first of its kind in the world, and the first occasion on which an Aboriginal Language was spoken in debate by a non-Member. It is a reminder of the two-way ongoing dialogue between the Aboriginal community and the New South Wales Parliament.⁹

The Aboriginal elders from the ALEAG and NCARA also provided valuable feedback on the circumstances in which the message stick would be removed from the display case for placing on the Table of the Chamber during significant proceedings. It was agreed that these would include the opening of Parliament, and other special occasions at the discretion of the President. (It is envisaged this might include, for example, during debate on legislation of specific relevance to the Aboriginal community in New South Wales.) The ALEAG agreed that it (and the Aboriginal Languages Trust once established) would provide a list of Aboriginal Language groups, from which an elder would be nominated on rotation to remove the message stick from the display case on those special occasions, briefly address Members from the bar of the House in language, and then hand the message stick to the Usher of the Black Rod for placement on the Table.

On the final sitting day before the 2018 winter recess, the House agreed to a motion, moved by the Minister for Aboriginal Affairs, authorising the permanent display of the message stick in the President's Gallery and the arrangements for its

removal and placement on the Table during proceedings on the opening of Parliaments or during other special occasions.⁹

Innovation in parliamentary practice and procedures

The historic proceedings that took place on 11 October 2017 on the introduction of the Aboriginal Languages Bill involved innovations to three long-standing rules of the House:

- *Standing Order 196(3)* sets out that “no person other than a Member, a Clerk-at-the-Table or an Officer attending on the House may enter any part of the Chamber reserved for Members, while the House is sitting.” The message stick ceremony took place during an interruption to proceedings, so that the House was technically not in session. However, once the President took the chair and proceedings resumed, two Aboriginal elders, who are stakeholders of the Bill, were invited by the President to sit on the dais during the debate, and Dr Ray Kelly, an Aboriginal academic researcher, who is not a Member of the House, was invited onto the floor of the House. Each of those events was specifically provided for in the procedural motion, moved by the Minister for Aboriginal Affairs and agreed



- to by the House.
- Dr Kelly, a non-Member, was invited to address the House from the lectern at the Table.
 - Dr Kelly was invited to address the House, in part, in a language other than English. Dr Kelly's full speech was recorded in Hansard, published on the parliamentary website, and noted in the official Minutes of Proceedings of the House.

Procedurally, each of these three innovations was facilitated, on this special occasion, because they were agreed to by the House on a motion of which notice had been given the previous day. The motion commenced by stating that Standing Orders be suspended to allow the specified steps to take place. If a similar request was to be received from a Minister or other Member for innovations to be adopted to mark the significance of the introduction of another Bill or other special occasion, I would approach the request in the same way as this one – cautiously but with an eye to ensuring the relevance and accessibility of parliamentary proceedings. I would also ensure that any such innovative proceedings were the subject of detailed consideration and consultation with Members, and that they were authorised by the House through a motion of which notice has been given.

In conclusion, in addition to the message stick ceremony, there were three major innovative practices

adopted for the debate on the Bill:

1. A stranger (non-Member) was permitted to enter the Chamber during the debate.
2. A stranger (non-Member) was permitted to speak in the debate.
3. A language other than English was spoken in the Chamber.

From this experience, I would submit that, it is clear to all involved, that Westminster traditions can be respected whilst Parliaments can still be a platform, that is open to innovation and culturally appropriate practices and symbolism. Or as I have on a number of occasions stated:

“It is a matter of evolving in a positive way the traditions and practices of the Chamber.”

This article is based on a paper presented by the author at the 49th Presiding Officers and Clerks Conference (POCC) for the CPA Pacific and Australia Regions in Wellington, New Zealand from 8-13 July 2018.

References:

- ¹ Second Reading speech, 11 October 2017.
- ² Second Reading debate, 11 October 2017.
- ³ Second Reading debate, 17 October 2017.
- ⁴ Second Reading debate, 17 October 2017.
- ⁵ Second Reading debate, 17 October 2017.
- ⁶ Second Reading debate, 17 October 2017.
- ⁷ Second Reading debate, 17 October 2017.
- ⁸ Second Reading debate, 17 October 2017.
- ⁹ Also that week, the Minister for Aboriginal Affairs informed the House that the New South Wales Budget had allocated \$2.8 million to establish the Aboriginal Languages Trust under the Aboriginal Languages Act.

THE CROSSBENCH AND THE BALANCE OF POWER: THE CHANGING FACE OF THE LEGISLATIVE COUNCIL OF VICTORIA



Hon. Bruce Atkinson, MLC is President of the Legislative Council of the Parliament of Victoria in Australia since 2010. First elected to the Victorian Parliament in 1992 as the Member for Koonung Province, he held that seat at the 1996, 1999 and 2002 elections. Following boundary changes, he was re-elected as a Member for the Eastern Metropolitan Region in 2006, 2010 and 2014. Prior to entering Parliament, he was a journalist, publisher and business consultant and held many local government positions including Mayor.

The changing face of the Victorian Legislative Council from Parliament to Parliament since constitutional reforms took effect in 2006¹ has impacted on the work and culture of the Council Chamber in various ways, both anticipated and unforeseen.

While it is not the first balance of power situation in the Council since 2006, the 58th Parliament is the most diverse in terms of political representation and, when considered together with extensive changes to rules and practices in the House, the impact has been significant, and the ordinary flow of a sitting day has become a much more volatile prospect.

In this article, the Crossbench refers to all Members other than Labor and Coalition (Liberal and National parties) Members.

Composition of the House

Victoria is currently in the third Parliament since constitutional changes came into effect in 2006, which saw the introduction of

proportional representation (PR) to the Legislative Council elections for the first time in the Council's history. The expectation this change brought about, of a greater proportion of minor party, micro party and independent candidates gaining election to the Upper House, has increasingly manifested as the actual membership of the House.

The composition of the Council has differed significantly across these three Parliaments, each with its own challenges. The constituent membership across each of the 56th, 57th and 58th Parliaments is shown in Table 1.

Excepting the 57th Parliament, which delivered an unexpected government majority in the Upper House, the expectation of balance of power situations under PR has so far been realised. However, key differences between the composition of the 56th Parliament: the government party being the largest of four political blocs and requiring only two votes for a majority on any question; and the

58th Parliament: the opposition coalition (Liberal and National parties) formed the largest of seven political blocs, with the government needing seven votes for a majority on any question.

The significantly more diverse political make-up of the 58th Parliament, coupled with the need of the Government to obtain support from a significant number of non-government Members on any given question, has delivered a unique and previously not experienced series of circumstances.

One of the most significant impacts of the composition of the House played-out on the first day

TABLE 1: Membership of the 56th, 57th and 58th Victoria Parliaments.

**The Liberal and National Parties entered into Coalition in 2008, having terminated the previous coalition agreement in 1999.*
***Originally elected to the Shooters and Fishers Party, party name subsequently changed.*
****Originally elected for the Democratic Labour Party, subsequently changed party membership.*
*****Originally elected for the Sex Party, party name subsequently changed.*

56 th Parliament (2006–2010)		57 th Parliament (2010–2014)		58 th Parliament (2014–present)	
Labor (Government)	19	Coalition (Government) (Liberal) (Nationals)	21 (18) (3)	Labor (Government)	14
Coalition* (Opposition) (Liberals) (Nationals)	17 (15) (2)	Labor (Opposition)	16	Coalition (Opposition) (Liberal) (Nationals)	16 (14) (2)
Greens	3	Greens	3	Greens	5
Democratic Labour Party	1			Shooters, Farmers and Fishers**	2
				Australian Conservatives***	1
				Reason Victoria ****	1
				Vote 1 Local Jobs	1
Total Members	40	Total Members	40	Total Members	40



Procedure	Daily/Weekly limits	Eligible Members*	Notes
Question Time (<i>Sessional Order 3</i>)	9 per day 18 per week	26 of 40* (non-government only)	Conducted on Friday sittings
Members Statements (<i>Standing Order 5.13</i>)	Up to 15 per day 1 per Member per week	39 of 40* (all Members)	Entitlement can be transferred Not held on Friday sittings
Constituency questions (<i>Sessional Order 4</i>)	1 per Member per day Up to 10 Members per day	35 of 40* (not available to Ministers)	Conducted on Friday sittings
Adjournment matters (<i>Standing Order 4.11</i>)	1 per Member per day Up to 20 Members per day	35 of 40* (not available to Ministers)	Conducted on Friday sittings

TABLE 2: Speaking allocations/limits in the House (Standing Order 12.06).
**While the President does not participate in these procedures, he/she is counted in the calculation of the proportional representation of their party.*

of the 58th Parliament, when the Government was unable to secure the necessary votes to elect their preferred candidate as President of the Legislative Council. Rather, the incumbent President (an Opposition Member) was re-elected with, crucially, the support of the Greens and one other Crossbencher. This was an indicative statement, by an Upper House in particular, that it was not beholden to the will of the Government, a sentiment that has characterised its approach to most things over the life of the current Parliament.

The composition of the House has also compounded issues thrown-up as a result of significant reform to the Standing Orders, which took effect at the commencement of the Parliament, and the introduction of extensive new sessional orders.

The unprecedented number of represented political groups means the Legislative Council, and the President, has had to deal with Members competing and negotiating for time in the House to progress their particular interests. It has also seen a higher-than-usual burden fall on Council staff in providing assistance with the preparing, drafting and administration of Members' business for the House. As well, the President and the Clerk have been required to provide a higher than usual degree of advice and support to new Members, particularly early in the Parliament,

who don't have access to the support of a major party structure and/or are less familiar with concepts and practical operation of parliamentary procedure.

Impact of new rules and procedures

At the end of the 57th Parliament, the Council adopted significant changes to its Standing Orders, which came into effect upon the commencement of the 58th Parliament. A number of new procedures were also introduced by way of sessional orders. Of particular note:

- Question Time:**
- Nine oral questions without notice (and one supplementary available to the Member asking the original question), restricted to non-government Members only (*Sessional Order 3*)
 - The President may determine that an answer is not responsive to the question and order a written response, to be lodged with the Clerk by 11.45am on the next sitting day (*Sessional Order 5*)
- Ministers statements:** Up to five Ministers may each make a two minute statement on new Government initiatives, projects and achievements (*Sessional Order 2*)
- Constituency questions:** Up to ten Members may ask an oral question of a Minister relating to a constituency matter, for written response within 30 days, and time limited to one minute per question (*Sessional Order 4*)

Additionally, the impact of new *Standing Order 12.06*, requiring the President to have regard to the proportional political representation of the Legislative Council when allocating speaking rights, is discussed in more detail later in this article.

The influence of the Crossbench on Legislative Council procedure was particularly apparent in the adoption of sessional orders early in the Parliament. The Government proposed extensive sessional orders for a number of mirrored procedures to be implemented in both Houses. Most notably, changes to Question Time were introduced to meet the Government's commitment to do away with '*Dorothy Dix*' questions², instead replacing them with Ministers statements on new government initiatives, projects and achievements.

Prior to the changes brought about by sessional orders, the Legislative Council Question Time comprised ten questions without notice (plus one supplementary per original question), asked by alternating government and non-government Members. Minister's statements (not to be confused with the more traditional '*Ministerial statement*' procedure) was a concept designed to replace government-asked questions in Question Time, while retaining the alternating approach of a non-government question followed by a Minister's statement.

This intended approach

supported the Opposition's position that Question Time was for questions, with a procedure such as Ministers' statements more fittingly located elsewhere in the sitting day routine. Consequently, Ministers' statements were implemented at the end of formal business immediately prior to Members' statements, and Question Time morphed into nine non-government questions (plus supplementaries).

The move to all non-government questions has seen Question Time develop a more combative flow than was previously the case, with no '*Dorothy Dixers*' (or Ministers' statements) available to temper the typically more robust nature of non-government scrutiny.

Further, *Sessional Order 5* tightened obligation on Ministers to provide answers that are '*direct, factual, succinct and relevant*' and placed a significant obligation on the President to ensure answers are responsive without unduly impinging on how a Minister might choose to answer a question. *Sessional Order 5* allows the President to require a written response from a Minister whose answer does not, in the President's opinion, satisfactorily meet the direct/factual/succinct/relevant requirement.

However, the provisions of the sessional order fail to differentiate between Ministers answering in respect of their own portfolios versus those they represent in the Council on behalf of Lower House

Ministers. The ability of a Minister to provide a satisfactory answer under sessional orders in relation to a Legislative Assembly (The Victoria Parliament's Lower House) portfolio is understandably limited and the President has had to account for this by exercising discretion not strictly afforded him by *Sessional Order 5* in order to allow a two-day deadline for written responses relating to Legislative Assembly portfolios.

Taken together, these changes have placed a not insignificant degree of added responsibility on the President in acquitting the powers of the Chair during Question Time. While sessional orders are very clear in the expectation that Ministers will provide satisfactory answers to the House, what is or is not satisfactory is entirely a product of the President's opinion.

In relation to the other new procedures, both Ministers statements and constituency questions were the subject of early President's rulings in order to flesh out the relatively brief provisions in the text of the sessional orders, notably:

Ministers statements:

- the default reading of the sessional order is that only one statement may be made per Minister per day; however, Ministers with more than one portfolio can make more than one statement per day on the basis of their different portfolio responsibilities, provided the total number of statements does not exceed five per day
 - '*new government initiatives, projects and achievements*' may be new in the sense of being contemporary, or in the sense that the House has not previously been advised of the matter (notwithstanding announcement elsewhere); if a statement relates to a matter the Government has announced or referred to in the House previously, it may be ruled out.
- Constituency questions:**
- the question asked must

relate to the Member's region; this does not prevent it from also being relevant to other regions, but the matter should not be so general as to have only incidental relevance to the Member's region

- if fewer than 10 Members make a statement in a day, it is not open for a Member to ask more than one question
- unlike other procedures subject to a written response, there is no formal mechanism for Members to follow-up on unanswered constituency questions; consequently, there is little scope for the Chair to observe a point of order about outstanding questions.

Another significant change to Standing Orders during the 58th Parliament was the development and implementation of an e-petitions system, which came about as a direct result of a Crossbench motion. A relatively neutral concept politically speaking, the introduction of e-petitions had been explored in previous years, however they were never progressed as a matter of priority by either of the major parties. The instigation of e-petitions is an example of how the ability of Crossbench Members to bring business directly into the House, without having to lobby or work within major party structures, has translated into direct impact on the operation of the House.

As well as new rules and procedures in the Chamber, the introduction of Monday night business meetings held immediately prior to a sitting week, an idea borrowed from the Senate, was developed as an opportunity for all parties to discuss, inform and negotiate business likely to be debated for that sitting week.

Meetings were convened by the President and usually chaired by the Deputy President in order to bring parties together to discuss the organisation of business for the sitting week and give everyone, including the Clerks, a rough idea

of how the week might progress and an opportunity to prepare.

The success of Monday night meetings has been variable, operating at their best when there has been a level of trust and cooperation between parties. However, over the course of the Parliament meetings have progressively moved toward use for political tactics to the point that, in recent months, the good will between the Government and Opposition, in particular, has eroded substantially. As of early 2018 the Monday meeting is not attended by government Members and is now only convened by non-government parties to organise non-government business for the sitting week.

Managing allocation of time in the House

Under Standing and Sessional Orders, each Member has prescribed speaking entitlements in order to participate in certain procedures of the House.

New *Standing Order 12.06*, operative from the commencement of the 58th Parliament, requires that the President should have regard to the proportionality of the political representation of the whole Membership of the Council when allocating speaking rights. Applying this Standing Order has presented some difficulty because, as shown in Table 2, not every procedure divides evenly into the membership of the House. With forty Members across seven political groups vying for speaking time, extensive behind the scenes work has had to be done to meet the practical requirements of proportional allocation.

While limits on speaking entitlements for different procedures is not a new concept, the traditional two-party dominance and lack of a proportional allocation rule in previous Parliaments, meant no particular effort had to be exerted to ensure a fair spread of speaking rights across the House and, for the most part, speaking lists were managed by negotiation between party whips. The

government-controlled Legislative Council of the 57th Parliament showed demonstrable foresight in introducing proportional speaking rights as part of a larger Standing Orders review to cater for the expected political diversity of future Parliaments.

How the principle of proportional speaking rights translates into operation in the House is ultimately the responsibility of the President, however the practical allocation of who gets a speaking entitlement for a procedure on any given day falls to the Clerks to manage on the President's behalf. As shown in Table 2, allocations differ depending on the procedure. One of the biggest early challenges of implementing the new requirement was managing (sometimes very different) expectations of individual Members and gaining agreement from all political groups for the proposed approach.

Allocation of speaking time is percentage based, i.e. the percentage of party representation across the total pool of eligible Members on a given procedure is equated to the percentage of total speaking entitlements available for the calendar year, based on scheduled sitting dates. For example, Question Time equates to five to six questions for the Opposition and three to four questions for the crossbench members each scheduled sitting day. Unscheduled sitting days are negotiated on a case-by-case basis.

While speaking allocations continue to be managed by the Clerk group for Members statements and Question Time, responsibility for constituency questions and adjournment matters has gradually shifted away from the Clerks to the point where it has totally devolved back to management by party whips/representatives.

The other major division of time in the House is the carving-up of general (non-government) business between the Opposition and Crossbench Members (Wednesday sittings are largely reserved for

general business between 9.30am and 5.00pm). Council staff are not involved in the division of this time, rather it is solely a negotiation between the non-government parties and Members.

The Crossbench has been surprisingly effective in its ability to secure time in the House (and representation on Committees) by virtue of an informal arrangement of the five non-Greens Crossbenchers to operate as a group for most procedural/process-driven negotiations, despite the disparate political views of those Members. This approach has enabled Members who would otherwise have very little individual sway to use their collective power to ensure a fair spread of time to pursue their motions and Bills and has better equipped them to withstand occasional pressure exerted by the Opposition (and sometimes the Greens) to defer Crossbench business. As a result, Wednesday sittings have settled on a routine where the Opposition gets time in the morning and the Crossbench (including the Greens) get 1.5-2 hours after the lunch suspension, before the House returns to Opposition business for the remaining time.

Amendments

The impact of the Crossbench on amendments in the Legislative Council of Victoria has been twofold: firstly, there has been a notable increase in the number and complexity of amendments proposed on Bills, which is to be expected given the diverse political make-up of the House. Secondly, the frequency with which amendments have been accepted and ultimately passed by Parliament has increased dramatically.

While many Crossbench-proposed amendments have been successful, it is interesting to note in relation to the second point that the majority of successful non-government amendments have actually been proposed by the Opposition. In this respect, the impact of Crossbench Members in relation to amendments has been most telling in their willingness to support opposition amendments to government Bills.

The overall higher proportion of amendments proposed has required the House to inject a degree of flexibility into its approach to amendments and to the Committee of the Whole. The more frequent incidences of competing amendments and use of more complex amendment procedures, such as suggested amendments, and amendments to amendments, has stretched the ability of Standing Orders to cater to the needs of the House in an efficient manner and, in some cases, exposed limitations in the current rules of procedure.

Use of amendments as a negotiation tool (by both the Crossbench and major parties) has resulted in significant impact on policy, both directly and indirectly. It has not been unusual for Crossbench Members to use the balance of power to great effect in order to trade their support for Bills and/or amendments in exchange for major party support for their own (sometimes unrelated) policy goals.

Private Members Bills

One of the stand-out characteristics of the 58th Parliament has been the large number of Private Members Bills brought into the House compared to previous Parliaments. This was not wholly unexpected given the size of the

Crossbench and the fact that Private Members Bills are an ideal platform for Crossbench Members to make a substantial case for their particular policy interests. The main catalyst for the increased use of Private Members Bills, however, has been the change in process to require drafting requests for Bills to be lodged with the Clerk, rather than the Premier's Office as was previously the case.

In May 2015, the Premier wrote to the President of the Legislative Council to advise that non-government Members would no longer require permission from the Premier's Office for assistance from the Office of Chief Parliamentary Counsel (OCPC) to draft Private Members Bills. Requests would instead be made through the Clerk of the Council. This change in process was a welcome recognition of the principle that a member should be able to bring a properly drafted bill to the House independent of the Executive.

The removal of what had until then served as an automatic deterrent to Members seeking drafting assistance had immediate impact with multiple requests being lodged within days of the process change. This, in turn, led to a departmental decision that the Clerk and Council officers would need to take a more active role in assisting Members to develop drafting instructions prior to submitting a drafting request to OCPC. Council staff and OCPC worked together to establish a process for the preparation and lodgement of drafting instructions, which included tailored staff training for Council officers who hitherto had very limited involvement in this aspect of the Bill process.

Statistics on Private Members Bills in the 58th Parliament show that one of the most significant outcomes of the increased number of Private Members Bills in the Legislative Council is the way in which, particularly, the Government has responded to the policy proposals brought forward by such Bills, some of which were ultimately adopted by the Government.

Committee inquiries

The balance of power situation in the Legislative Council has impacted the Parliamentary Committee system in a number of ways.

The reality of the Government lacking the votes in the Council has led to the concession of government control of Joint Committees, established and operated under the *Parliamentary Committees Act 2003*, with membership (drawn from both Houses) becoming, for the first time, more reflective of the political composition of the Parliament. This is also reflected in the appointment of non-government Members as Chair for all Joint Committees except the Public Accounts and Estimates Committee.

The ceding of government control also extended to the Dispute Resolution Committee (DRC) — appointed under the *Constitution Act 1975* to deal with disputed/deadlocked Bills. As a result, the Government has not utilised the DRC despite there being a number of Bills that would qualify as disputed Bills for the purposes of that Committee.

The political composition of the Legislative Council is also reflected in the membership of the Council's Standing, Select and domestic Committees (established under Standing Orders) by way of sessional orders mandating appointment of eight Members per Committee: three each from the Government and Opposition and one each from the Greens and the remaining Crossbench/Independent Members.

TABLE 3: Bills passed or amended by the Legislative Council.
* Figures current as at 8 June 2018.

	56 th Parliament (2006–10)	57 th Parliament (2010–14)	58 th Parliament (2014–)*
Bills passed Legislative Council unamended	291	330	249
Bills amended by Legislative Council	49	11	58

Issue	How progressed	Outcome
End of life/assisted dying laws	Long term lobbying over several Parliaments from certain Crossbench Members, including attempts to progress Private Members Bills. Committee inquiry in 57 th Parliament led to a government taskforce working on a proposal.	Government legislation passed Parliament (with conscience vote granted to all Members)
Safe access buffer zones	Initially proposed as a Private Members Bill. Negotiation resulted in issued being debated as a motion on the basis that the Government undertook to bring in a Bill later in the year.	Government legislation passed Parliament
Injecting room trial	Initially instigated as a Committee inquiry, the recommendations of which led to a Private Members Bill.	Ultimately adopted as Government legislation
Online advertising of firearms	Proposed as a Private Members Bill, which passed the Legislative Council and stalled in the Legislative Assembly. Second attempt to progress issue by way of amendments to a Government Bill.	Amendments accepted in both Houses
Smoking bans in outdoor dining areas	Long term push over several Parliaments from certain Crossbench Members, including attempts to progress Private Members Bills.	Ultimately accepted as amendments to a Government Bill

TABLE 4: Notable examples of Crossbench-driven issues that resulted in a change to, or adoption of, policy.

The political diversity, establishment of self-referencing powers and use of Committee references as negotiated outcomes between major parties and the Crossbench has presented significant challenges both in terms of the resourcing needs and staffing profile of Legislative Council Committees, with a significant increased workload for Committee Members and staff compared to previous Parliaments. This is particularly exacerbated for Crossbench Members who lack the support structure and staff resources of the major parties to assist them.

Consequently, the capacity of Crossbench Members (especially the non-Greens Members) to serve on Committees is spread thin. Each Legislative Council Crossbench Member serves on at least two (more commonly three or more) Committees, excluding participating membership. For the most part however, Crossbench Members have been able to gain membership for their preferred Committees/Inquiries, except on the rare occasions when

the political differences of the Crossbench have come into play.

Crossbenchers have changed the balance of Committees in a similar manner as they have the House. They are essential for votes and quorums, resulting in both major parties at times having to appease one or more Crossbench/Greens Members in order to secure particular outcomes. Consequently, Crossbench Members have had significant influence on driving the direction, findings and recommendations of Committee inquiries.

In addition, Committee inquiries have been the most notably successful mechanism utilised by Crossbench Members in pursuing their particular areas of policy interest. Many references have been the result of a compromise by one or both major parties that would otherwise not have been supported in a different form, such as a Bill. In addition, the self-referencing power conveyed by sessional orders has seen increased the ability of all Members to pursue issues in Committees that they would not necessarily have had the opportunity to bring through the House.

Impact and influence on policy outcomes

The impact of Crossbench Members on policy outcomes has been significant relative to previous Parliaments. Crossbenchers have been able to influence policy utilising Committee inquiries, Private Members Bills and amendments to great effect. Notable examples of Crossbench-driven issues that resulted in a change to, or adoption of, policy are set out in Table 4.

The outcomes of Crossbencher influence on policy, while notable, must be taken in the context of the composition of the House: both major parties require Crossbench votes to achieve a majority on any given question. The reality that neither the Government nor the Opposition wield a majority of votes in the House presents the opportunity for Crossbenchers to leverage their vote in exchange for major party support as a means of furthering their own policy agenda.

It is also important to note that not all issues adopted as policy are solely the product of the Crossbench. Much Crossbencher success has been realised because their policy goal, while not necessarily a priority of the Government (or Opposition), is similar to policies held by the major parties or,

at least, compatible with their policy platforms. The real impact of the Crossbench in such cases is their ability to bring an issue directly onto the floor of the House. This access means they don't have to lobby for legislative change to be considered by the Parliament.

Conclusion

The 58th Parliament is in the final year of its four year term, with the state election due at the end of November 2018. The experience of the preceding three and a half years has seen the Members and Officers of the

Legislative Council develop a level of flexibility and nimbleness to respond to many unique and challenging situations, and the body of working procedural knowledge of the Legislative Council has developed substantially over a relatively short period of time.

Whether the 59th Parliament sees the continuation of a balance of power situation in the Legislative Council or the major party dominance of former years reasserts itself, the experience of the Legislative Council over the 58th Parliament has done much to enhance the ability of its Members and staff to respond dynamically, robustly and effectively to the needs of future Parliaments.

This article is based on a paper presented by the author at the 49th Presiding Officers and Clerks Conference (POCC) for the CPA Pacific and Australia Regions in Wellington, New Zealand from 8-13 July 2018.

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- ¹ Sections 8–10, *Constitution (Parliamentary Reform) Act 2003* (Vic)
- ² In Australian politics, a Dorothy Dixer is a rehearsed or planted question asked of a government Minister by a backbencher of their own political party during Parliamentary Question Time.



'YOU CAN'T BE WHAT YOU CAN'T SEE': WOMEN'S REPRESENTATION IN THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY



Hon. Joy Burch, MLA is the Speaker of the Legislative Assembly for the Australian Capital Territory. She was first elected in 2008 and has served on a number of Committees including Administration and Procedure; Health, Ageing, Community and Social Services; and Justice and Community; and has held several Ministerial positions. She served as Deputy Speaker before becoming Speaker in October 2016.

"Any way you look at it there are many, many women who are capable of that job of leadership and making an impact at every level of government and I think we should see more"

*"Women in politics do make a difference and they can change people's perceptions of politics – they also change the structural discrimination of old-style political systems and parliamentary conventions"*²

Introduction

Women have played an important and prominent role in the Legislative Assembly for the Australian Capital Territory (ACT) since its establishment in 1989. The ACT was the first state or territory to have a woman as its Head of Government. In the Second Assembly, the positions of Speaker, Chief Minister and Leader of the Opposition were all held by women. Perhaps most significantly, at the Territory election for the Ninth Assembly in 2016, thirteen women were elected to the Assembly. It was the first time in Australian history that a majority of women had been elected to a Parliament and one of the first jurisdictions in the world to have done so.³ It was also notable that the voters of the ACT returned this result even though only 36% of the total 140 candidates that stood for election were women.

In this article, I run through a brief history of women in the Assembly with relevant statistics and milestones. I also reflect on some of the dynamics that might operate to encourage women to become involved in politics, my personal experiences in parliamentary leadership, and why the ACT and the Assembly

has been comparatively good at achieving gender diversity.

Women in politics

Women have played a critical role in the Australian Federation since its establishment almost 120 years ago.⁴ However, it has been, perhaps, only over the last several decades that we have started to see the 'normalisation' of women's involvement in the political process and culture. It is no longer regarded as novel or ground-breaking to see women elected to Parliaments or to take up the most senior positions in government. We have had one Prime Minister, one Governor-General, and numerous Governors, Premiers and Chief Ministers who have been women. That women are increasingly visible in political leadership is important. Each time a woman is elected or appointed to high office, the level of community acceptance for gender equality increases

and the view that has held sway for much of human history - that politics and leadership is the domain of men - further recedes into the background.

I strongly believe that the prominence of women in political leadership is an important catalyst in motivating other women to become involved. Increased participation of women has a snowball effect because the visibility of women in these positions encourages other women to become politically active and seek out these positions. As one of my parliamentary colleagues, Tara Cheyne, MLA recently told an Australasian Study of Parliament Group seminar: *"You can't be what you can't see."*

In this vein, it is interesting to note one memorable (and historic) moment that occurred in 2011 when Queen Elizabeth II visited Canberra. At the Fairbairn Airbase, Her Majesty was met by three

female leaders - the Governor-General, Her Excellency Dame Quentin Bryce, AC; the Australian Prime Minister, Hon. Julia Gillard, AC; and the ACT Chief Minister, Ms Katy Gallagher, MLA. The effect that such an image might have on girls and young women considering a political vocation cannot be underestimated.

While substantial inroads have been made - both in the ACT and nationally - towards greater gender equity in politics, there is still a long way to go in the Commonwealth, state and territory parliaments. The Parliamentary Library recently produced a guide on the composition of Australian parliaments by party and gender which showed that despite some outliers such as the ACT and Tasmania, Parliaments continue to be dominated by men - women hold only 33.9% (281) of the 829 seats across Australian Parliaments.

The Australian Labor Party (ALP), the party to which I belong, has made considerable strides in achieving greater gender diversity with 44.6% of all seats it holds in parliaments across Australia being held by women. In the Assembly, seven of the 12 ALP MLAs that were elected at the 2016 election are women.

The ALP makes deliberate and concerted efforts to ensure the representative of women in Parliaments. It has achieved this through a number of strategies including, in the ACT, a party requirement that women must make up at least 40% of preselected candidates for public office and men must make up 40% of preselected candidates. In an ACT Election with an electorate of 5 Members, this means that 2 candidates must be women and 2 candidates must be men with a spot left open for either gender. Interestingly, and perhaps a sign of the importance of these requirements in ensuring women's representation, at the 2016 election this open spot went to a woman in only one of the five electorates.

The ACT Labor Party also holds regular workshops for women focusing on political skills. It is often said that men naturally pass on skills such as counting a proportional representation ballot, organising, and other political skills to other men. These workshops have been a great success in giving women the skills to participate in the internal mechanics of politics.

History of women in the Assembly

If the visibility of women in the public and political life of a polity is an important factor in encouraging other women to become involved, then the Assembly has a mixed record. From its low of 12% of women in the fourth Assembly, the trend has been broadly one of progress towards gender equality.

Office holders

The story is slightly more encouraging when it comes to women holding senior offices in the parliament and in government in the ACT.

Women holding the position of Chief Minister

On 11 May 1989, the first sitting day of the newly established Legislative Assembly of ACT - history was made when Rosemary Follett was elected⁷ the first ever female leader of a State or Territory. The states were not far behind - Carmen Lawrence was appointed Premier of Western Australia on 12 February 1990 and Joan Kimer was appointed Victorian Premier on 10 August 1990.

In its 29 year history, the ACT Assembly has had seven Chief Ministers, and three of them have been women. Kate Carnell was elected Chief Minister in the Third

and Fourth Assemblies and Katy Gallagher was elected Chief Minister in the Seventh and Eighth Assemblies. Therefore, four of the nine ACT Assemblies have elected a woman to be Chief Minister.

Women holding the position of Speaker

Since self-government, there have been seven Speakers, and of those, three speakerships have been held by women - Roberta McRae in the Second and Third Assemblies, Vicki Dunne (the current CPA Treasurer) in the Eighth Assembly and myself in the current (Ninth) Assembly. Therefore, four of the nine Assemblies have been presided over by women. With the speakership playing such an important leadership role in the operations of the Assembly and the formation of the political culture as it plays out in proceedings, it is significant that women have featured so prominently in the role.

Women in Cabinet positions

There has been much discussion at the Federal level in recent years about the number of female positions within Cabinet - the central decision-making body of government. The first ever member of the Federal Cabinet was Dame Enid Lyons who was appointed in 1949. Unfortunately, neither of the major parties have a great track record in achieving gender balance around the Federal Cabinet table. Under the final Rudd Government, 30% of the Cabinet were women and under the current government just over 17% of the Cabinet are women.

Above: The Chamber of the Legislative Assembly of the Australian Capital Territory.

In contrast, the ACT had an auspicious start in 1989 with 50% of the Cabinet positions going to women. In the current Assembly, 42% of Cabinet positions are held by women.

Factors that may have impacted on the female representation in the Assembly

The Hare-Clark system of proportional representation gives voters a substantial choice at the ballot box not only between candidates representing particular political parties but also between candidates within political parties. This choice can promote a more accurate reflection of the community in the composition of the Assembly. A candidate in a single Member electorate cannot personally reflect the diversity of their electorate. Multi-Member electorates can better reflect that diversity. More women get elected where voters are able to have direct input into the choice of candidate with their preferred political party. This is reflected in the Tasmanian and ACT experience, two Hare-Clarke voting systems which, in their most recent elections, returned female majority Parliaments.

Gender is a relevant consideration when an elector chooses where to preference a candidate within their preferred party's ticket if they choose to vote within a party ticket. There is evidence in the preference





distributions from the 2016 ACT Election that suggests a voter that votes for or preferences a woman is more likely to highly preference other women.

For example, in the ACT, in the Ginninderra electorate the first excluded ALP candidate in count 25 on 3,755 votes was a woman. Of the votes going to other candidates in the ALP ticket (approx. 80% of the candidate's votes), 55% went to other women candidates. In the electorate of Murrumbidgee the second candidate from the ALP ticket to be excluded saw her votes remaining in the ticket (80%) split between the remaining ALP female and male candidates 57% to 43% respectively. The same situation can be seen again in Kurrajong where the second excluded ALP female candidate's vote within the ticket split 64% to 36% in favour of the remaining female candidate. The same situation can be seen in the Canberra Liberal column where the last excluded female candidate's preferences split 57% to 43% in favour of the non-incumbent female candidate against the incumbent male candidate.

Of course, a candidate's gender does not explain all the factors that go to a voter's decision, there are a magnitude of considerations some of which are certainly given a greater consideration than the gender of the candidate such as performance as an elected representative or campaign commitments, but this brief analysis shows gender is certainly



a factor where voters are given a choice of candidates within their preferred party. You can't be what you can't see, but once seen, the gender of a candidate is relevant to the decision of a voter and may be one of the reasons why multi-member proportional electorates have recently returned more women to Parliament. Electors do choose women to represent them when given the chance.

Across elections in the ACT as the two major parties have increased the number of women they have preselected that has corresponded to larger number of women being elected to the Assembly. As the major parties have decreased the number of women they preselect so has the number of women elected to the Assembly fallen. The 2016 Election led to a majority of women in the Assembly for the first time. It was no co-incidence that it was also the election that had the highest number of women as a percentage of preselected candidates between the major parties.

Therefore, giving the electorate a broader choice of who they chose to elect to the Assembly will result in a more diverse Assembly. A more homogenous slate of candidates will lead to a less diverse Assembly.

The following factors might have also had some bearing on women's representation in the ACT Assembly:

- unlike many other jurisdictions, the ACT is geographically small and there aren't the onerous travel requirements that exist in some states and territories, which can militate against participation (for both men and women) where family and other commitments do not sit easily with long periods away from a Parliamentarian's home;
- family friendly sitting hours, with most sittings concluded by 6pm on Tuesdays and Thursdays, and 7pm on Wednesdays;

- the ACT is a highly educated and progressive community that has a track record of embracing social and political change on a number of different issues (for example, the ACT recorded the largest 'yes' vote in the same-sex marriage survey (74%) and was the only state or territory to vote 'yes' in the referendum on a republic);
- Like other Parliaments, the Assembly has also taken steps to ensure that its procedural, administrative and inter-party arrangements cater for those with caring responsibilities.
- Through an amendment to *Standing Order 210*, an exception to the prohibition against strangers being admitted on the floor of the chamber was included whereby a nursing infant being breastfed by a Member is permitted on to the floor. The Assembly has introduced a carers' room at the Assembly building to provide, amongst other things, a space for breastfeeding mothers.
- The ALP, Canberra Liberals and the ACT Greens have agreed to protocols to enable pairs to be given to an MLA with a caring responsibility.

Conclusion

You can't be what you can't see. The debates over the effectiveness or necessity of quotas for women for positions in Parliaments, on boards, or in other fora have proven to be controversial. A definitive answer to that question is beyond the scope of this article. However, the ACT experience suggests that the more women that become candidates for public office, the more it is considered normal and the more women eventually find a seat in Parliament. When given the choice, the electorate will elect a diverse Parliament that better reflects the community that the

Parliament represents rather than when they are given a more limited choice, especially in the case of single member electorates. This article has discussed some of the measurers that my party takes to ensure women are seen, and has outlined steps the ACT Assembly has taken to ensure women are able to work effectively in the Parliament, balancing their work and family life. The higher percentages of women that are becoming visible in our political system is leading to increasing numbers of women in our Parliaments. It will not be long before all Australian Parliaments are truly gender balanced, however first they must remove the roadblocks to women participating from the outset.

This article is based on a paper presented by the author to the 49th Presiding Officers and Clerks Conference (POCC) for the CPA Pacific and Australia Regions in Wellington, New Zealand from 8-13 July 2018.

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- ¹ Rosemary Follett, 'Rosemary Follett and Kate Carnell reunited to sight sexism in politics' *Canberra Times*, 7 March 2015.
- ² Katy Gallagher, ACT Chief Minister, katygallagher.net/blog blog post, 1 October 2014.
- ³ Subsequently, there was a casual vacancy and in February 2018 this number has now increased to 14 women MLAs or 56% of the Assembly's membership. According to the World Economic Forum nationally, only Rwanda and Bolivia have a majority of women in their Parliaments.
- ⁴ It wasn't until the passage of the Commonwealth Franchise Act in 1902 that women were granted the same voting rights as men at the federal level.
- ⁵ This became 7/17 (41%) following the filling of a number of casual vacancies during the Third Assembly.
- ⁶ This became 14/25 (56%) following the filling of a casual vacancy during the Ninth Assembly.
- ⁷ The Chief Minister is determined by the Assembly electing a Member to the position (there is no Administrator or vice-regal function in the ACT system of government).

NEW LEGISLATION INTRODUCES TRANSGENDER RIGHTS IN PAKISTAN



Hon. Syed Naveed Qamar, MP is a Pakistani politician who has been a member of the National Assembly of Pakistan since 1990 and served as Minister for Defence and Minister for Finance. He began his political career by being elected to the Provincial Assembly of Sindh in 1988. He was first elected to the National Assembly of Pakistan in 1990 and reelected in 1993, 1997, 2002, 2008, 2013 and 2018. He has been a member of Parliamentarians for Global Action since 1992 and served on its Executive Committee.

Transgender people constitute one of the most marginalized communities in my country, Pakistan, and they face social exclusion and discrimination in areas such as education, employment and healthcare. Though *Article 25* of the Constitution of the Islamic Republic of Pakistan guarantees to all citizens equality before law, discrimination and violence against transgender people continues to take place. This is the reason why I introduced the Transgender Persons (Protection of Rights) Bill 2018 in the Pakistani National Assembly.

The Bill prohibits discrimination against transgender persons, confers them the right to be recognized as per their self-perceived gender identity and provides for welfare measures by the government. As a Member of the National Assembly, I was proud to support this momentous Bill and introduce it in the Lower Chamber. After the Senate approved the Bill, it was passed by the National Assembly by an overwhelming majority on 8 May 2018, thus becoming law.

My involvement with Parliamentarians for Global Action (PGA) helped me become aware of the Bill and its importance. PGA is the largest network of individual Members of Parliament worldwide, with more than 1,300 legislators in over 140 elected Parliaments around the globe advocating for human rights and the rule of law, democracy, human security, non-discrimination and

gender equality. I joined PGA in 1992 to contribute to the creation of a rules-based international order for a more equitable, safe and democratic world and have served as a member of its Executive Committee for many years.

In 2013, PGA launched its Global Parliamentary Campaign against Discrimination based on Sexual Orientation and Gender Identity (SOGI Campaign)¹, to mobilize Parliamentarians as human rights champions and encourage them to take action to guarantee that every individual has equal value, lives with dignity and is able to achieve their highest potential free from all forms of violence and discrimination, including on the basis of sexual orientation, gender identity and expression and sex characteristics. My exposure to the work and objectives of the SOGI Campaign played a key role to inform and sensitize me on this topic.

Inspired by PGA's work and the efforts of countless people and civil society organisations in my country that are committed to the equality and inclusion of transgender people, I decided to introduce the Transgender Persons (Protection of Rights) Bill in the National Assembly of Pakistan and dedicated myself to garner support for it among the different political parties represented in the Lower Chamber to approve it. It was a difficult time at the National Assembly as we were discussing the budget, but we managed to

obtain a space for the Bill through a special Private Member's initiative and eventually it was passed by an overwhelming majority.

“Inspired by PGA's work and the efforts of countless people and civil society organisations in my country that are committed to the equality and inclusion of transgender people, I decided to introduce the Transgender Persons (Protection of Rights) Bill in the National Assembly of Pakistan and dedicated myself to garner support for it among the different political parties represented in the Lower Chamber to approve it.”





As a PGA member, I feel proud to have forwarded the agenda of the organisation on human rights protections on the basis of the principles of equality and non-discrimination.

The *Transgender Persons (Protection of Rights) Act* explicitly prohibits discrimination against transgender persons in the fields of education, employment, healthcare, provision of goods and services, transportation, residential property and government or private establishments. The law indicates that the Government of Pakistan shall take steps to provide free and compulsory education to transgender persons and that the Government must ensure their right to enter into any lawful profession or occupation.

Regarding the right to health, the law states that the Government shall review the medical curriculum and improve research for doctors and nursing staff to address the specific health issues of transgender persons, facilitate access by providing an enabling and safe environment for transgender persons in hospitals and ensure transgender persons access to all necessary medical and psychological gender

corrective treatment.

The law also prohibits the harassment of transgender persons *“both within and outside the home”* and *“the denial of, or discontinuation of, or unfair treatment in, the opportunity to stand for or hold public or private office.”* As a Parliamentarian, I would like to highlight the importance of this last provision, which defends the right of transgender people to stand for office, without discrimination. I hope this encourages more transgender persons to run for office in Pakistan in the near future and the general population to elect them. I was heartened by a recent report² indicating that at least 13 transgender people would be contesting the general elections in Pakistan on 25 July 2018 (two of them for the National Assembly and the rest for the provincial assemblies).

The law establishes that, in addition to the usual remedies available under the Constitution, the Penal Code, the Code of Criminal Procedure or the Code of Civil Procedure, aggrieved transgender persons shall have a right to move a complaint to the Federal Ombudsman, the National Commission for Status of Women and the National Commission of Human Rights if any of the rights guaranteed in the law are denied to them.

Crucially, the *Transgender Persons (Protection of Rights) Act* not only prohibits discrimination against the transgender community, but also obliges the Government of Pakistan to *“take steps to secure full and effective participation of transgender persons and their inclusion in society”* by:

- Establishing safe houses to ensure the rescue and protection of transgender persons.
- Providing transgender persons with medical facilities, psychological care, counseling and adult education.
- Establishing separate prisons

for transgender persons.

- Instituting mechanisms for the periodic sensitization and awareness of public servants, in particular, but not limited to, law enforcement agencies and medical institutions, relating to the issues involving transgender persons and their protection.
- Formulating special vocational training programs to facilitate, promote and support the livelihood of transgender persons.
- Encouraging transgender persons to start small business by providing incentives, easy loan schemes and grants.

Many national and international human rights organisations and activists have celebrated the *Transgender Persons (Protection of Rights) Act* as a historic victory for transgender people and allies in Pakistan.

“This is a truly historic moment as Pakistan joins the ranks of a growing number of countries with non-discrimination laws that protect the transgender community,” said Ty Cobb, director of the Human Rights Campaign’s global program³. *“These are explicit, nationwide protections that we have yet to achieve here in the United States. Transgender people around the globe face high levels of discrimination, stigma and violence, and Pakistan has now taken a historic step in addressing this heartbreaking tragedy. We congratulate the transgender advocates and allies in Pakistan who achieved this major victory through hard work, dedication and undying commitment to fighting for a more fair and just world.”*

Amnesty International’s Pakistan researcher Rabia Mehmood also praised the law: *“This Bill makes Pakistan one of the few countries in the world to recognize the self-perceived gender identity of transgender individuals.”*⁴ *“This is a victory for the*

entire transgender community in Pakistan,” said Jannat Ali, a transgender activist and artist in Pakistan. *“I am proud to have played a part in researching, drafting and advocating for this crucial legislation. We must now work to ensure consistent implementation and enforcement of this legislation now that it is the law of the land.”*⁶

“The law signals a recognition on the part of the Government of Pakistan that transgender persons are our sisters, brothers, friends, and that they have to be treated like every other Pakistani,” said Dr Qasim Iqbal, Executive Director of NAZ, a leading organisation working for the health and human rights of sexual and gender minorities in Pakistan. *“The law, which is a result of the hard work, sweat, tears and blood of trans activists at NAZ and from across the country, makes Pakistan one of the most progressive countries in the world in terms of transgender rights.”*⁶

Mehlab Jameel, an activist in Lahore, Pakistan, who helped write the Bill, agreed: *“This kind of development is not only unprecedented in Pakistani history, but it’s one of the most progressive laws in the whole world,”* adding: *“I believe that it will make a positive impact on the ground”*⁸ and *“we are overwhelmed by how supportive the state has been to this law – we have so much hope.”*⁹

The significance and potential of the *Transgender Persons (Protection of Rights) Act* is thus beyond doubt. However, as Ashee Butt, founder of the Be Ghar Foundation, which runs a shelter for transgender people in Pakistan, has said, *“the passage of the Bill into law...is a battle that is still only half won. We now face the challenge of fighting for the law to be enforced in its true spirit.”*¹⁰

Similarly, Amnesty International’s Pakistan researcher Rabia Mehmood has stated: *“The country’s transgender community has very high hopes from this Bill. Its*



*implementation is therefore crucial to ensure they can live their lives with dignity and respect.”*¹¹ I agree and would like to encourage the Government of Pakistan to fully implement the law, including the proactive measures in favor of the inclusion of transgender people.

Much remains to be done in my country to effectively end discrimination, stigma and violence against transgender people and other minorities. For example, in northwest Pakistan’s Khyber Pakhtunkhwa province, local sources have reported at least four killings of transgender women in 2018 and 57 since 2015¹². These figures are unacceptable! I sincerely hope that the *Transgender Persons (Protection of Rights) Act* will serve as a catalyst for positive change in my country when it comes to inclusive societal attitudes towards transgender people and appropriate government policies.

As Pakistani transgender

activist Mehlab Jameel has pointed out, *“after this Bill passes, what the government really needs to do is start a campaign to sensitize the masses, government officials, policemen, everyone. That’s the real challenge.”*¹³

While I feel very proud of what the Pakistani Parliament has been able to achieve, in collaboration with civil society, I also recognise the important work that lies ahead and, in particular, the importance of further sensitization about the equality and inclusion of transgender individuals. As a longstanding Member of Pakistan’s Parliament, I am committed to contribute to sensitizing the people of my country in this regard; and as a longstanding member of PGA, I am committed to one of the main objectives of PGA’s SOGI Campaign: to raise awareness among Parliamentarians around the world about equality and non-discrimination on the basis

of sexual orientation and gender identity, in accordance with regional and international human rights instruments.

For further information on the *Transgender Persons Rights Bill* visit the *Parliamentarians for Global Action (PGA)* website at www.pgaction.org.

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- ³ <https://www.hrc.org/blog/pakistan-enacts-legislation-protecting-trans-people-from-discrimination>
- ⁴ <https://www.aljazeera.com/news/2018/05/pakistan-passes-landmark-transgender-rights-law-180509095207950.html>
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- ⁶ <https://www.hrc.org/blog/pakistan-enacts-legislation-protecting-trans-people-from-discrimination>

Above: A candle light vigil during a transgender awareness event in Pakistan.

- ⁷ <https://www.npr.org/sections/thetwo-way/2018/05/09/609700652/pakistan-passes-historic-transgender-rights-bill>
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HISTORIC MOMENT IN PARLIAMENTARY COMMUNICATIONS IN PAKISTAN WITH LAUNCH OF PTV PARLIAMENT



Zafarullah Khan is the Executive Director of the Pakistan Institute for Parliamentary Services since May 2016. He is also a member of the Editorial Advisory Board for *The Parliamentarian*.

On 30 May 2018, the Speaker of the National Assembly of Pakistan, Hon. Sardar Ayaz Sadiq, MNA along with Federal Minister of Information, Marriyum Aurangzeb; the Chairman of the Senate Standing Committee on Information, Senator Faisal Javed; and the Secretary of Information, Ahmed Nawaz Sukhaira inaugurated PTV Parliament in Pakistan by pressing the transmission button. The moment transformed the culture of parliamentary communication in Pakistan.

Speaking on the occasion, the Speaker of the National Assembly of Pakistan said that the doors of Parliament had been opened to everybody over the last five years in order to create awareness amongst the people about the functions of the Parliament. He said that students from schools, colleges and universities were also invited to witness the proceedings of the Parliament. He said the idea behind the launch of the PTV Parliament channel was to create awareness amongst the people of the workings of the Parliament of Pakistan and to generate public opinion that will help improve the performance of the elected representatives. He said through this channel, the people will be able to see whether or not

their elected representatives are highlighting their issues.

The Minister for Information and Broadcasting, Marriyum Aurangzeb in her remarks said that the new channel will not only broadcast 'live' the proceedings of the Parliament of Pakistan but also those of the Standing Committees. She said the content to be generated under the guidance of the Pakistan Institute for Parliamentary Services (PIPS) will also be broadcast on PTV Parliament.

The preamble of the Constitution of Pakistan acknowledges citizens' right to be governed democratically by stating "...the state shall exercise its powers and authority through the chosen representatives of the people." The command of the Constitution calls for citizens' informed participation in the nation's democratic political processes and affairs through their vote and voice. For voters to do this effectively, they need to know what their elected representatives are doing in the representative democratic institutions. It is hoped that the PTV Parliament will serve this nation in building its purpose intelligently as access to accurate information is vital for the health of democracy.

In Pakistan, the role of the

Parliament is least understood by a majority of the population because the sporadic, selective and episodic coverage and reportage accorded to it often fails to capture the role, work and performance of this important institution. Presently there is a paucity of detailed, in-depth and accurately contextualized coverage of the Parliament. Mere sound bites, tickers, talk shows, occasional news packages and Tweets invariably remain inadequate to present a comprehensive picture about the Parliament and its work.

Global trends and traditions of parliamentary broadcasting and communications are going through rapid transformation in the digital age. Historically, Parliaments opened up their proceedings for the print media and the institution of the Press Gallery became an integral part of parliamentary heritage. The print media has a limited outreach in many societies due to literacy barriers.

In 1936, New Zealand started its first radio broadcast of parliamentary proceedings to expand public outreach. The dedicated television cameras were allowed in the parliamentary chambers in the 20th century. Today, many Parliaments in the world allow cameras in their



Above: On 30 May 2018, the Speaker of the National Assembly of Pakistan, Hon. Sardar Ayaz Sadiq, MNA addressed the launch event for the new PTV Parliament in Islamabad.

Chambers and in more than 80 countries, either there are dedicated parliamentary channels or they allow live broadcast of parliamentary proceedings to show the public representatives in action and at work.

In Pakistan, the culture of covering the Parliament in the print media is as old as the institution itself. The country inherited the institution of the Parliamentary Press Gallery at the time of independence in 1947. For many years, the radio reports

summarizing the proceedings on Radio Pakistan and parliamentary round-ups on Pakistan Television (PTV) have been a tradition of the Parliament of Pakistan. Television covered live major events like the inaugural sessions, elections of the Presiding Officers and the Prime Minister, budget speeches and the President's address to the joint sitting at the beginning of every parliamentary year. In 1997, PTV started televising pre-recorded *Questions and Answer Hour*.

In 2002, with the

unprecedented growth of private electronic media channels, the tele-democracy gained new ground. However most of their frames remain episodic. In the age of the internet, the Parliament itself started disseminating its content through comprehensive websites and occasional webcasts. Due to technological advancements, today the parliamentary proceedings are more widely distributed and remain easily accessible to the interested public.

In 2017, the PTV National took a bold step and started telecasting the live proceedings of the Parliament. Now in 2018, Pakistan has joined the club of the countries that have a fully fledged parliamentary channel.





FOURTH INDUSTRIAL REVOLUTION UNDER THE MICROSCOPE

Parliamentary staff develop their skills to meet the impact of the Fourth Industrial Revolution at the 3rd SoCATT Africa Region Development Seminar in Namibia



Immanuel Kooper is the Chief Information Officer at the National Council of the Parliament of Namibia.

The Fourth Industrial Revolution is indeed a reality as it seems that artificial intelligence systems challenge the usual traditional norms of work performance by humans.

Due to the overwhelming flow of information, the work of Parliaments becomes more complex, as we are at the brink of a technological revolution that will primarily alter the way things are being done. The Fourth Industrial Revolution is thus signaling a new world order.

The 3rd Society of Clerks-at-the-Table (SoCATT) Africa Region Professional Development Seminar was held under the theme of '*Capacitating Parliaments towards realizing Agenda 2063: The role of Parliaments in the age of knowledge-based economy*'.

The seminar was held from 2 to 3 July 2018 at the Safari Court Hotel and Conference Centre in the capital city of Windhoek, Namibia for Clerks and parliamentary staff from across the CPA Africa Region, who converged in an attempt to transform parliamentary operations and practices in Africa.

Amidst the exorbitant costs of data and limited access to technology by the masses of the African people, it is high time for the continent of Africa and its inhabitants to embrace technological advancements in this modern world of technology. Africa today, like any other

continent in the world, is faced with what is referred to as the Fourth Industrial Revolution.

The two-day gathering was attended by Parliamentary Secretaries and Clerks from countries across the African continent among them Nigeria, Sierra Leone, Zambia, Lesotho, Kenya, Ghana, Botswana and national and provincial Legislatures from South Africa. A multi-disciplinary team of presenters and panelists formed part of the gathering, sharing their knowledge and expertise for the continent to be able to compete within the status quo of the world order.

There is indeed a need for Parliaments particularly in Africa to:

- Revisit old parliamentary codes and rules, and refashion them to talk to the needs and realities of changing Parliaments of the 21st century;
- Reconfigure and/or rethink parliamentary systems and processes and explore different avenues for contextualizing new parliamentary management paradigms that have a positive cumulative impact on the administration of parliamentary business.
- Improve parliamentary core business processes to ensure that they maximise efficiency;
- Improve and provide integrated and seamless

support to Members of Parliament as they discharge their constitutional duties around oversight, accountability, making quality laws and increasing public participation in parliamentary processes.

- Refocuses parliamentary systems and processes to be member-centric.
- Ensure that the support and service offerings are tailor made for individual needs of Members of Parliament to ensure that they discharge their responsibilities unhindered.
- Make considerable efforts to ensure that Members of Parliament, as elected representatives of the people, are able to access, in real time and space, research products, content advisory services, legal and procedural advice of highest quality.
- Improve the value of information and ease of use.

For Parliamentarians and parliamentary staff in the CPA Africa Region and for the Society of Clerks-at-the-Table (SoCATT) Africa Region membership, the observation is that, in this current world that is at a stage of profound change and major readjustment, they face the common problem of bringing expert knowledge to bear on parliamentary business and decision-making. As McGann (2009) rightfully observes "*in a*



world saturated with information, connected by the web and challenged by complex issues that often hit like a meteor from outer space, there is a growing need to know where to turn for high quality information and analysis on critical policy issues." In fact, this talks to the need to build their capacity, harness their know-how, expertise and subject-specific specialties.

The purpose of the seminar, therefore, was to harness the delegates' understanding and knowledge of the Fourth Industrial Revolution in order to determine strategies and develop context-specific capacity building programmes for African Parliaments in the knowledge-based economy. Whereas the objectives were to enhance and stimulate debate on the role of Parliaments in the knowledge-based economy using the Fourth Industrial Revolution as the rallying point; revisiting the question of what knowledge, skills and abilities Parliamentarians need to do their job by identifying relevant capacity-building

programmes in a changing world and parliamentary environment; to enhance strategies for developing, managing and securing African Parliaments' intellectual knowledge and develop strategic partnerships for sustainable capacity-building programmes for African Parliaments.

The seminar was officially opened by the Chairperson of the National Council of Namibia, Hon. Margaret Mensah-Williams. In her welcoming remarks, she noted that the 3rd SoCATT Professional Development Seminar would add value to the acceleration of the Africa Agenda 2063. She added that the importance of parliamentary reforms in the context of the knowledge-based economy are aimed at making our Parliaments more accountable, transparent and more responsive to the electorate's needs.

She also stressed that critical components of building a highly knowledge-based economy, lies in skilled human resources and effective national systems of innovation. She

challenged the delegates by asking whether our Parliaments and Legislatures are equipped with an ICT infrastructure that will enable both staff members and Members of Parliament to continuously upgrade new skills.

In his opening address to the participants, the Clerk of the National Council of Provinces, Namibia and Chairperson of SoCATT Africa Region, Advocate Eric Phindela urged Parliaments to change and not rationalise by refusing to adjust, and he reminded the audience of the role of technology in the advancement of the African Agenda. However, he also warned that technology must not enslave administrators in their quest to advance the operations of Parliaments and to improve the effectiveness and efficiencies of both the administration and the Members of Parliament. He said: "*we must make it our mission to ensure that technology does not enslave us as we seek to fulfil our mission to create modern institutions that truly advance the development of the people of Africa through the use of technology. We must vehemently resist the mentality that some of us were born before the current technological advances.*" For there is nothing that inhibits us from issuing notices of meetings and public hearings, using the new technology, he further emphasized.

Technology knows no bounds, hence needs fundamental change of the rules of Parliaments, the systems and processes to accommodate technological advances. The

rules must make it possible for people to make submissions on matters before Parliaments without travelling long distances.

The seminar was therefore aptly titled '*Capacitating Parliaments towards realizing Agenda 2063: The Role of Parliaments in the age of knowledge-based economy*'. It acknowledges that both Members and Administrators are indeed knowledge workers. On a daily basis, knowledge is being generated through, amongst others, research, legal advice and procedural advice. The weaknesses however lie in the fact that people and staff around Parliament do not make it their mission to own and protect this knowledge.

The call from delegates that emerged from the seminar was that strategies were required to harvest and store knowledge so that nobody dare contest the assertion that there are knowledge-based Legislative sectors in the African context. Further that, the use of technology can truly transform and improve the effectiveness and efficiencies of these institutions.

In his presentation titled '*Building Parliamentary Capacity - How Parliaments can prepare for the future*', Dr Rasheed Draman, an Executive Director of the Africa Center for Parliamentary Affairs (ACEPA), specifically looked at lawmaking, oversight and representation as core functions for any Parliament. These functions have to be performed with dedication and to





perfection, Dr Draman emphasized. Knowledge management is the cornerstone upon which any Member of Parliament must have to be able to have a clear mission, because openness promotes democracy and the citizens' interest in politics. A Member of Parliament's own professional development is target-oriented, and so their work should be innovative. Knowledge acquisition and information retrieval needs to be fast and efficient, co-linked to Information Technology that drives parliamentary work in lawmaking, oversight and representation. Hence, many factors that shape parliamentary performance across the latter three functions are values and beliefs, incentives, motivations, independence and love for a country, openness to change and innovation as well as networks.

Looking into the future, Dr Draman shared how Parliaments should be structured to respond to the knowledge economy. The focus should be on knowledge Committees. Parliaments should place a premium on evidence and innovation in informing their work and Parliaments must have Committees that simply think of the future (for example, the Technology Assessment Project and Committee of the Future in Finland).

On the question of '*what role parliamentary staff should be playing?*', it was agreed that knowledge, dedication and commitment is key. Parliaments should be populated with highly skilled human resources, ready for the knowledge economy,

giving evidence-based support to Members of Parliament, service with integrity, conducting meaningful and credible monitoring, evaluation and documentation, coupled with systematic planning.

On the question of '*what role parliamentary institutes should be playing?*', Dr Draman noted that they should design programs that are targeted and with the goal of preparing Members of Parliament to perform their triple role within the context of a knowledge economy. Most importantly, they should prepare parliamentary staff with skills in IT, innovation and efficient work processes so that they can support Members of Parliament. Hence, it is crucial that every Parliament should be setting up Parliamentary Training Institutes, having the necessary commitment from the leadership, dedicated/committed leadership in formative years and dedicated, experienced and knowledgeable staff.

Dr Michael Akuupa, Director of the Labour Resource and Research Institute in his presentation, looked at what roles legislative practitioners and Parliaments could play in the context of the knowledge-based economy. He was of the opinion that they need to understand the socio- and eco-political contexts in which they work and operate in, and their actions should be informed by empirical research.

Parliaments as institutions must be well serviced with modern data and proper archives for ease of reference. Parliaments must be well informed about topical issues on trade, innovation, technology, peace and security. They need to have intelligent information about affordability of changes and new economies. It is important

to appreciate the various 'scapes' (ethnoscapes, technoscapes, finanscapes, mediascapes, ideoscapes) and that this has narrowed and shrunk the global borders. (Appadurai, 1996).

Ms Suzanne Hattingh, Managing Director of Learning for Performance Improvement made a presentation on the Fourth Industrial Revolution, its various phases and its impact on governments, society and people. She highlighted the disruptive effect on the economy and the skills needed in preparation of the 2063 workforce. It is predicted that a high percentage of the workforce in developing countries will be replaced by robots and that education as a pillar will be affected through new skills demand.

New strategies will have to be developed and existing plans re-designed because of the irrelevance and rigidity of the current qualification frameworks. According to Ms Hattingh, governments and HR departments will have to take proactive steps to update their skills development and training plans to prevent job losses, and greater inequalities between techno-smart and administrative manual workers.

Dr Marius Kudumo from the Namibia University of Science and Technology, elaborated on the impact on quality public policy making and recommended that Parliaments be capacitated to make our institutions more relevant. He expressed concern about the powers of the state in the Fourth Industrial Revolution and the exclusion of some people from the budget or equitable distribution of resources. His conclusion was that knowledge is embedded with values which are equally important in the Fourth Industrial Revolution era.

After thoughtful and informative presentations on the Fourth Industrial Revolution, the participants reflected on them during break away sessions as they were to, amongst others; assess

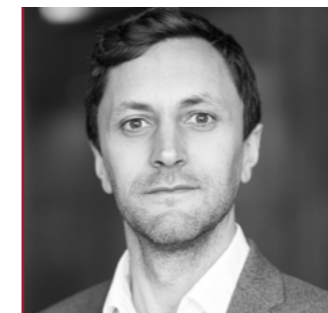
the readiness of parliamentary administration in the knowledge-based economy and to respond to the Fourth Industrial Revolution and its impact; revisit the question of what knowledge, skills and abilities Parliamentarians and parliamentary administration need to do their job; identify the kind of capacity-building programmes required in a changing world and parliamentary environment; make proposals on the enabling facilities and changes required for African Parliaments to meet the demands of the Fourth Industrial Revolution; identify strategies and proposals on how to manage and secure African Parliaments intellectual knowledge; and to identify strategic partnerships for African Parliaments and their role in assisting Parliaments attain Agenda 2063 and Sustainable Development Goals, which also involves Institutions of Higher Learning, Parliamentary Institutes and Research Institutes.

Next Steps

As a way forward, the seminar resolved that the Parliament of Namibia as the host institution, would draft a report for submission to the SoCATT Africa Region Steering Committee. The technical team under the guidance of the SoCATT Africa Region Steering Committee would prepare proposals on the way forward based on the inputs derived from the report. The report and proposed recommendations would be tabled at the next Annual General Meeting of the SoCATT Africa Region to be held in Botswana in August 2018. The report will also be shared with the CPA Africa Regional Executive Committee, at their meeting to be held before the 49th CPA Africa Regional Conference in August 2018.

The Society of Clerks-at-the-Table (SoCATT) Africa Region is an organ of the Commonwealth Parliamentary Association Africa Region.

THE ROLE OF LEGISLATORS IN TACKLING GLOBAL ORPHANAGE TRAFFICKING



Alex Christopoulos is Deputy Chief Executive of international children's charity, Lumos. Alex leads Lumos' programmatic, research, advocacy and training and technical support functions. Prior to joining Lumos, he was responsible for designing and leading a range of complex programmes to prevent family separation and child exploitation in a number of countries.

Under international and regional human rights treaties, every child has the right to a family. However, research demonstrates that millions of children are routinely and systematically separated from their families and placed in institutions across the world.

Although 'institutions' do not all look or operate the same – some may be run by the state, others by private providers – they are characterised by the same '*institutional culture*' that prevails, regardless of context.

In institutions, children are isolated from the community and do not have control over their lives, or decisions that affect them. Crucially, the requirements of the organisation take precedence over the children's individual needs.

Many institutions are commonly known as '*orphanages*', but this definition also includes '*reception centres*', '*special facilities/schools* for children with disabilities and other types of residential facility that display institutional characteristics.

Over 80 years of evidence from around the world demonstrates that living in institutions can cause significant harm to children. They are deprived of loving parental care and can suffer lifelong physical and psychological harm as a consequence. Babies in particular fail to develop as they should without one-to-one parental interaction, and research has demonstrated the severe impact of institutionalisation on early brain development.

Institutions can also severely limit the life chances of the children who grow up in them. Irrespective of the intentions with which an institution is established, how it is managed or its material conditions, it can never replace the love, support and stability that children need to form secure attachments.

Of the estimated eight million children living in institutions around the world, around 80% have at least one living parent, and with the right support, most of them could live with their family.

Many governments believe that providing care and protection to children through institutions is the most cost-effective option. However, research has shown that on average, institutional care is eight times more expensive than supporting families. Yet despite these facts, institutions continue to proliferate in many parts of the world.

A solvable global issue of our time

Many countries across the world – high and low income – have transitioned away from systems of care that rely on institutions, towards supporting families and children in the community.

'*Deinstitutionalisation*' involves transforming services to ensure that children are able to live with their families, or in family-based or family-like services in the community. Reform is complex and requires a well-planned approach. Deinstitutionalisation does not mean closing institutions

overnight, and typically involves the following elements:

- providing community services that prevent family separation
- ensuring that appropriate alternatives are available when it is not possible for children to remain with their families
- dismantling the institutional system
- redirecting resources invested in institutions towards community-based health, education and social services that keep families together.

Institutions and trafficking

Contemporary evidence from different contexts demonstrates that institutions are central participants in a web of modern slavery and trafficking of children.

Orphanage tourism and philanthropic donations to institutions have created a marketplace which leads to the commodification and exploitation of vulnerable children.

The financial incentive available to orphanage directors to host international volunteers and solicit and receive international donations has become so significant that it is resulting in children being 'recruited' into institutions. In some countries, the demand for orphanage volunteering is so great, that orphanages are set up solely to provide these experiences.

"Child finders' travel to local villages or communities - often those affected by war, natural disaster, poverty, or societal





“As elected leaders, Parliamentarians have a unique role and responsibility to respond to these issues – both in leveraging their legislative influence, and in encouraging public action and awareness-raising of the issue. Parliamentarians also have a key role in transforming care systems around the world.”

discrimination – and promise parents education, food security, safety, and healthcare for their children.”¹

The reality is that these promises are seldom kept. Once in an orphanage, children are often housed in poor conditions, exposed to a continuous cycle of unskilled, unvetted and unqualified volunteers, deprived of adequate healthcare and schooling, and at increased risk of harm, abuse and being trafficked.

The money that is being channelled into, often unregulated, institutions is vast. In Haiti alone, Lumos research was able to document at least US\$100 million of *traceable* donations that went annually to orphanages in the country, the overwhelming majority of which are not registered with the government, with evidence showing harm and abuse to children.

This phenomenon is referred to as ‘*orphanage trafficking*’, which is the practice of actively recruiting children from vulnerable families into

orphanages, for the purpose of exploitation.²

It is tempting to imagine that this problem is confined to certain isolated orphanages or countries, but this is truly a global phenomenon, which is gaining increasing attention on the international stage. Notably, the Trafficking in Persons Report 2018 dedicated a special section on *Child Institutionalisation and Human Trafficking* which highlighted the harm of institutional care and recognised that it enhances the risk of children being trafficked – both in and out of orphanages.

Examples of reform

In 2017, the Australian Government’s parliamentary inquiry into establishing a Modern Slavery Act set a global precedent by recommending that ‘*orphanage trafficking*’ should be included in the definition of modern slavery. In its final report, the Committee listed eleven recommendations on measures to tackle the exploitation of children in orphanages overseas.³ In

addition, the Australian Federal Government launched a ‘*Smart Volunteering*’ campaign where they explicitly discourage any short-term, unskilled volunteering in orphanages.⁴ With mounting pressure, several travel agencies have since publicly withdrawn from offering volunteering experiences in orphanages.

Rwanda has made great strides in reforming its system of care for vulnerable children. Prior to 1994, there were thirty-seven residential facilities housing 4,800 children, but by 1995 – in the wake of the 1994 genocide – the number of facilities rose to 77, housing 12,704 children. Work on family tracing and reunification, alongside an expansion of foster care for children who could not be reunified, meant that by April 2000, the 37 remaining centres housed fewer than 5,000 children.⁵

The passing of a landmark law on the Rights and Protection of the Child; the establishment of the National Commission for Children (NCC); and successful pilot deinstitutionalisation projects demonstrated that



Images credit: Chris Lessez/Lumos

This testimony is from a child in Haiti, who was reunited with her family after intervention at the orphanage she was living in:
“At the orphanage, we were mistreated, because when the white people came and brought stuff for the kids, we couldn’t enjoy it. They took all the stuff and sold it. The white people would bring us sandals, and she [the orphanage Director] would not give them to us – all the kids would walk around barefoot. If something valuable was sent to a kid by their sponsor, she would take it and use it for herself.

Even when they made food for the kids, they would not put good ingredients in the food for the meal to taste good. But when she cooked for herself it would be good and well-prepared food.

Even though my mom was searching for us, she did not know that we were still alive. [When I was reunited with my parents] I was very happy because I hadn’t seen my mom and dad for six years.

What hurt me the most was the fact that I was not living with my parents. Your parent’s love is stronger than anyone else’s love.”

– with a concrete strategy, well-trained social workers and available alternative care options such as formal foster care – deinstitutionalisation was possible in Rwanda.⁶

In 2017, the Kenyan Government placed a moratorium on the registration of new residential care facilities for children – referred to as Children’s Charitable Institutions (CCI’s). This marks a notable step towards tackling the proliferation of institutions in the country.

The role of the Commonwealth

The Commonwealth can play a key role in recognising and tackling the exploitation of children in institutions.

Action is needed to ensure that countries who support residential institutions overseas redirect their support to alternatives that strengthen families and communities, and that countries with care systems which rely heavily on institutions are supported to transition to providing systems of care that keep families together.

As elected leaders, Parliamentarians have a unique role and responsibility to respond to these issues – both in leveraging their legislative influence, and in

encouraging public action and awareness-raising of the issue. Parliamentarians also have a key role in transforming care systems around the world in order to:

- ensure all children in institutions are counted and included in national plans
- secure a long-term strategy to build a care system that keeps families together
- ensure the transition from institutions to family and community-based services is reflected in relevant laws and policy
- safely dismantle institutional systems and redirect money towards new services
- place children and young people at the centre of all reform plans
- prioritise the most vulnerable children in the reform process
- involve a range of perspectives, including civil society, in the reform process
- recognise ‘*orphanage trafficking*’ in legislation and expanding law enforcement action and vital prevention efforts around the world.

Lumos is an international children’s charity, founded by J.K. Rowling, to end the institutionalisation of children around the world by 2050. They work with international donors, governments and communities, helping them redirect funds from

orphanages to provide health, education and social services, so children can be raised in loving families. They also train professionals to deliver better care and support. For further information visit www.wearelumos.org.

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LEGISLATIVE PROCEDURES ON LAW, RULES AND DELEGATED LEGISLATION IN THE INDIAN PARLIAMENT AND THE STATE OF KERALA



V. K. Babu Prakash
is Secretary of the
Kerala Legislative
Assembly in India and
CPA Kerala Branch
Secretary.

Law is the body of principles, recognised and applied by the State for the administration of justice. The important sources of law are legislation, judicial precedent, customary law and convention. The term '*legislation*' is derived from the Latin word '*legislatio*' meaning bringing or proposing of a law. It is the process of making or enacting laws. In other words, legislation is the exercise of the power and function of making laws that have the force of authority by virtue of their promulgations by the sovereign State or other organisation.

Two broad categories of legislation are supreme legislation and subordinate legislation. Supreme legislation precedes from supreme or sovereign power like Parliament or a State Legislature incapable of being repealed, annulled or controlled by any authority. Subordinate legislation precedes from any authority other than the sovereign power and is dependent for its continued existence on some authority.

The main function of the legislature is making and enacting of laws. The Constitution of India lays out provisions for the enactment of the law by the Parliament at the Union level. Regarding the State Legislatures, the Legislative Assembly makes the law in a State. The law enacted by a Parliament or State Legislature can be challenged before the courts alleging *ultra vires* of the Constitution.

Principles of Legislation
Legislation must be in consonance

with the principles of natural justice. There are various theories holding on legislation and its effects. The utility theory exhorting by Jeremy Bentham postulates that good legislation is the art of achieving maximum pleasure to the maximum number of the people.

Distribution of Legislative Powers between the Union and State Legislatures

The Legislation passed by the State Legislatures naturally suffers from a limitation to which the national Parliament is not subject, namely, that the territory of the union which is divided amongst the States, has the power to legislate for any part of the territory of India [Article 246(4)].

A State Legislature can make laws for the whole or any part of the State to which it belongs [Article 245(1)]. The national Parliament has the power of extra territorial legislation, which no State Legislature possesses. This means that the national Parliament can enact laws not only on persons and property within the territory of India but also on Indian subjects and their property situated anywhere in the world outside India.

Distribution of Legislative Subjects

The Constitution of India adopts a threefold distribution of legislative power between the Union and the States (Article 246). This is also called List I. There are ninety-seven subjects over which the Union (national Parliament) shall have exclusive power of legislation. It includes defence, foreign affairs,

banking, insurance, currency and coinage, union duties and taxes.

List II, which is also called the State list, comprises fifty-nine items or entries over which the State Legislatures shall have exclusive power of legislation. These include police, local self-government, public health and sanitations, agriculture,

“Law is the body of principles, recognised and applied by the State for the administration of justice. The important sources of law are legislation, judicial precedent, customary law and convention. The term ‘legislation’ is derived from the Latin word ‘*legislatio*’ meaning bringing or proposing of a law. It is the process of making or enacting laws.”

fisheries, state taxes and duties.

List III, also called the concurrent list empowers both the Union and State Legislatures to enact laws over fifty-two items. These are criminal law and procedure, civil procedures, marriage, contracts, torts, trusts, welfare of labour and education. Whenever there is an overlapping of legislation, predominance is given to the enactment of the national Parliament. When there is repugnancy between a Union and State law relating to an entry in the concurrent list, the law enacted by the Union prevails [Article 254(1)].

In order to determine whether a particular enactment falls under one entry or the other, generally the court before which such a law is challenged, applies the '*pith and substance*' principle. The principle is to find out the legislative competency of the State and the Union over the entry. If the Legislature has no power to legislate over the entry, then the court finds repugnancy and holds that the State Legislation is only a '*Colourable Legislation*'. Therefore, the Union law prevails over the State law.

Classification of Bills

1. **Government Bill:** When a Bill is presented in the House by a Minister it is called the Government Bill.
2. **Private Members Bill:** When a Bill is presented in the House by a Member other than a Minister, it is called a Private Members Bill.
3. **Original Bills:** Bills containing new proposals or policies are termed Original Bills.
4. **Consolidating Bills:** Bills aimed at consolidating existing laws on a particular subject are known as Consolidating Bills.
5. **Expiring Laws Bills:** Bills providing for the continuation of an expiring Act are termed expiring laws Bills.
6. **Ordinance Replacing Bills:** Bills seeking to replace ordinance are called Ordinance Replacing Bills.
7. **Constitution (Amendment)**

Bills: Bills seeking to amend the Constitution of India are known as Constitution Amendment Bills.

8. **Money Bills:** Bills which exclusively contain provision for imposition, abolition, remission, alteration or regulation of taxes or for appropriation of money out of the consolidated fund etc. are classified as Money Bills.
9. **Financial Bills:** Any of the matters which come within the definition of a Money Bill, but do not consist solely of those matters and those which, if enacted and brought into operation would involve expenditure from the consolidated fund of India.

Important features of a Bill

1. **Title:** Every Bill has a title succinctly describing the nature of the proposed measure that the Bill aims at achieving. The title, generally referred to as the long title is pre-fixed to the Bill and retained in the Act and is different from the short title.
2. **Preamble:** The Preamble is a clause at the beginning of a statute following the title and preceding the enacting clauses. The proper function of the preamble is to explain facts which are necessary for the purpose of understanding the Act. Earlier, the preamble was not considered part of the Bill. Now it is a part of the Bill, which is amenable for amendment.
3. **Enacting Formula:** This is a short paragraph preceding the clauses of a Bill.
4. **Short Title:** This is merely a label or index heading to the enactment.
5. **Extent Clause:** It is with respect to the area within which the Act is made applicable. Normally a law passed in the Parliament is applicable throughout the country except, whether it is otherwise expressly provided



for in the Act itself.

6. **Commencement Clause:** It is an important provision which shows how the Acts is intended to take effect. However not all Bills need to have a commencement clause.
7. **Interpretation of Definition Clause:** This clause usually comes after the short title or situation clause. The definitions are arranged in alphabetical order.
8. **Duration Clause:** Certain laws are of limited duration which are enacted for a short stipulated period. Such enactment is not to be effective after the expiry of the period stipulated.
9. **Declaratory Clause:** This declares or states the need or requirement which the law was framed to fulfill.
10. **Rule-making Clause:** This clause contains the delegating power to the Executive to make rules and regulations for administering the various provisions contained in the rule-making clause of a Bill.
11. **Repeal and Savings:** This is a provision both for repeal and savings which is placed at the end of the statute.
12. **Schedules:** Some Acts only have schedules. It contains an illustration of forms, appending plans etc.
13. **Statement of Objects and Reasons:** This is an explanatory statement regarding the purpose of the proposed legislation. It helps with understanding the necessity and scope of the Bill. However, the Constitutional Courts may not rely on the statement of objects and reasons to gather the intention of the legislation for the enactment.
14. **Notes on Clauses:** This is to explain the various provisions in a Bill and their significance.
15. **Memorandum Regarding Delegated Legislation:** The Memorandum draws proposals for the delegation of subordinate legislative power to the authority concerned or is a Government Memorandum containing re-modifications in a Bill to replace an ordinance.





The purpose is to replace an ordinance with a modified Bill for the introduction into the House.

Statutory Provisions for Legislation

Articles 107-111 and *Articles 196-201* of the Constitution of India deal with the legislative power of the national Parliament and the State Legislative Assemblies respectively. *Rules 66 to 106* of the *Rules of Procedure and Conduct of Business of Kerala Legislative Assembly* provide the procedure for legislation in the Kerala Legislative Assembly. Paragraphs 219-230 of the Kerala Secretariat Office manual deal with putting of the files regarding legislation by the officers concerned of the administrative department of the Government. The *Rules of Business of Government of Kerala* provide the procedure for legislation through the administrative department concerned, the Government Department, Ministers, Chief Ministers and advice given by the Law Department on a particular legislation.

Drafting of Bills

The proposal for legislation comes from the department to which the subject matter of the legislation relates. The Law Department will examine the competence of the State Legislature for the Legislation along with various constitutional requirements, such as the need for obtaining the recommendation of Governor if it is a Money Bill.

The question regarding whether the proposed Bill would be inconsistent with any of the provisions of the Constitution of India or in relation to fundamental rights would also be examined. The Law Department gives its advice on the above matters as per rule 45 of the Rules of Business.

Thereafter, the administrative department would prepare a note for circulation to the Chief Minister, the Minister concerned of the Government Department and the Law Minister. When the Chief

Minister agrees to the proposal and a policy decision is taken, the administrative department would draw a memorandum of instructions explaining the circumstances for the proposed legislation with a statement of the objects and reasons. The administrative department would also prepare a financial memorandum in relation to the Bill. Then, this is sent to the Law Department for the preparation of the draft Bill.

When the draft Bill has been approved by the Minister concerned, it would be circulated to the Chief Minister for forwarding it to the Cabinet of Ministers for approval. After approval by the Cabinet, the draft Bill would be forwarded to the Governor or to the President for approval if necessary. After obtaining their approval if needed, the Bill would be sent back to the administrative department for final approval. The finally approved draft Bill is then forwarded to the Secretariat of the Legislative Assembly by the Law Department for further action.

Enacting procedures

The enacting procedures followed at the Legislative Assembly Secretariat include:

1. The Secretariat will scrutinise whether the Bill contains a statement of objects and reasons.
2. Whether the recommendation and approval of the Governor is obtained.
3. Whether constitutional requirements had been complied with or not.
4. Whether the Bill involves expenditure from public funds. If so whether it is printed in italics or not.
5. Whether the Bill contains the financial memorandum and if so whether it is attached to the Bill or not.
6. When a memorandum on subordinate legislation, if needed, has been appended to the Bill.
7. When a memorandum

containing modification to the Bill to replace an ordinance, if needed, has been appended to the Bill. Whether correction carried out in the proof with the seal of the Ministry of Law.

Publication of Bills before introduction

On a request made by the Member in charge of the Bill, the Speaker may order publication of the Bill in the Gazette.

Introduction of Government Bills

A Minister who wishes to introduce a Bill has to give seven days' notice in writing of his intention to move for leave to introduce the Bill. The Speaker can allow a shorter notice than 7 days. Copies of the Bill have to be made available to Members at least two days before the day on which it is proposed to be introduced.

Motion after the introduction of Bills

After introduction, a motion can be moved by the Member to refer the Bill to the Select Committee or to a Joint Committee.

Motion for considerations

The Member who is in-charge of the Bill can move for a motion for consideration of the principle of the Bill and its provisions. But at that stage, the details of the Bill are not discussed other than its principles.

Circulation for eliciting public opinion

The Member in-charge of the Bill, after introduction, may move that the Bill be circulated for eliciting public opinion, if the Bill requires public inputs.

Second Reading of the Bill

After the introduction of the Bill, or the Bill has been reported by the Select and Joint Committees, then the Bill is considered by the House clause by clause. The Speaker may call each clause separately and when amendments relating to the particular clause are disposed

of, then he puts the question of passing the Bill clause by clause.

Third Reading of the Bill

This is the final stage of the passing of a Bill. When all the clauses and schedules of the Bill have been considered and voted upon by the House, the Member in-charge can move for the passing of the Bill. No amendments except formal or consequential shall be adopted.

Thereafter, the Bill can be passed on the basis of voting. When the Bill has been passed by the Assembly, it should be signed by the Speaker and presented to the Governor. The Governor may either assent to the Bill, withhold their assent or return the Bill, if it is not a Money Bill with the message for reconsideration of the Bill or any of the provisions. When the Bill, which was returned, has been reconsidered by the House and it is again passed by the House with or without the modification suggested by the Governor, then it is again re-presented to the Governor. At this stage, the Governor shall not withhold their assent to the Bill. In the Kerala Legislative Assembly, all the Bills are to be introduced in Malayalam version (the language of Kerala). Prior permission of the Speaker is necessary for introducing a Bill in the English version.

Private Members Bill

Any Member of the Legislative Assembly, other than the Minister, can introduce a Bill into the Assembly. Such a Member shall draft the Bill and forward it to the Legislative Secretariat for scrutiny. Thereafter, the Bill should be introduced in the manual, like a Government Bill is introduced.

Ordinance

The President or the Governor has the legislative power to promulgate an ordinance under *Article 123 & 213* of the Constitution of India. When the House is not in session and the President or Governor is satisfied that circumstance exists which is necessary for them to

take immediate action, they can promulgate an ordinance on the advice of the Council of Ministers, which is then approved by the Cabinet. It would not be sent to the Assembly Secretariat like the drafted Bill. The ordinance approved by the Cabinet shall be signed by the Governor which shall be notified in the gazette. The ordinance lapses at the expiry of six weeks from the date of the re-assembly of the national Parliament or Legislative Assembly.

Subordinate Legislation

Subordinate Legislation is an important area in administrative law. In the modern concepts of a welfare state, governmental activity has expanded in various walks of law and the Executive machinery has to issue rules and orders to catch up with the needs of the people. Delegated legislation in India is generally expressed as statutory rules and orders. The term rule is defined in the *General Clauses Acts, 1897* as a rule made in the exercise of a power conferred by any enactment and shall include a rule made under any enactment or a rule made under any enactment.

Often the Legislature passes statutes that set out broad outlines and principles, and delegates authority to an Executive branch official to issue delegated legislation. The purpose of delegated legislation is to provide the procedural recommendations for implementing the substantive provisions of the statute. This is also called '*colourable legislation*'.

Generally, a subordinate legislation other than a rule is always called a government notification or SRO. It is published in the gazette having the government order number and date on its top. The numbering of all SROs is done on year basis. The name of the parent Act by the section which confers the power to make the rule is mentioned before the first rule. The first rule shall be a short title and a commencement of rules. The



Government SRO shall contain an explanatory note. Although it does not form part of a notification yet, it would explain the object of the rule or notification.

As per paragraph 250 of the Kerala Secretariat Office manual, the statutory rules are provided by the administrative department concerned itself. The drafted rule shall be forwarded to the Law Department for scrutiny. In addition to the scrutiny of Law Department, the notifications issued under the *Public Services Act* have to be scrutinized by the personal and administrative reforms department as well. The draft shall be placed before the Cabinet of Ministers under paragraph 251. There shall also be a consultation with Kerala Public Service Commission in the matter of notification issued under a *Public Services Act*. Subordinate legislation has usually been controlled by the Judiciary and the Legislative Assembly.

Controlled by the Judiciary

A subordinate legislation can be challenged before the appropriate court of law. The court usually looks into the competency of the provision to see whether it is consistent with the parent Act. There are two tests adopted by the courts for deciding the validity of a subordinate legislation. The first is *ultra vires*, which means as beyond

legal powers or authority. If the subordinate legislation is beyond the authority, then it becomes *ultra vires*. If the parent Act itself is *ultra vires*, then obviously the subordinate legislation also would become *ultra vires*. If there is procedural non-compliance, then also the court strikes down the subordinate legislation. Gazette publication and consultation are the two main procedural requirements prescribed for subordinate Legislation.

Parliamentary or Legislative Control

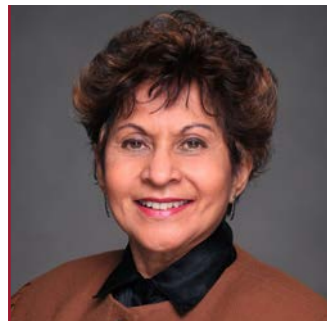
The national Parliament and Legislative Assembly have constituted three Committees for legislative scrutiny of subordinate legislation. They are the Subject Committee, the Committee on Subordinate Legislation and the Committee on Papers Laid on Table. The Subject Committee considers rules at the draft stage and approves it with or without amendment. The Committee on Subordinate Legislation scrutinizes the rules and regulation, and the first statute after they have been notified. A Minister cannot become a Member of the Committees. The Committee on Papers Laid on the Table examines the subordinate legislation laid on the table of the House and reports to the House on whether there had been

compliance of the provisions of the Constitution or any other Act. The Committee also looks into whether there has been any undue delay in laying the paper and whether the statement explaining the delay also has been laid on the table.

Before 1957, there was no laying on table procedure regarding subordinate legislations in Kerala. Now, uniformity has been achieved in the laying procedure. As per rule 166 of the *Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly*, all the subordinate legislation framed in furtherance of the Constitution or any Act, shall be laid before the Legislative Assembly for the period specified in the Constitution or the relevant Act. If the relevant Act does not specify the period, it shall be laid before the Legislative Assembly for a period of 14 days. When the specified period is not completed on any one session, it should be re-laid in the succeeding session until 14 days are completed. The laying is done by the Minister concerned, who is in-charge of the administrative department. A Member can give notice for an amendment on the subordinate legislation. The Speaker will fix the time for consideration of the amendment. If the rule is amended, the amended rule shall be laid on the table.



WOMEN'S RIGHT TO VOTE IN CANADA: A HISTORICAL PERSPECTIVE



Hon. Yasmin Ratansi, MP is a Canadian MP for the Liberal Party. She is Chairperson of the CPA Canada Federal Branch, Vice-Chair of the Standing Committee on Government Operations and Estimates and a Director of the Canada-Africa Parliamentary Association. She is continuously working to engage multi-faith groups in promoting peace, harmony and respect for each other. She is also a Fellow of the Chartered Professional Accountants of Canada, a Certified Management Consultant, and Vice-Chair of the Global Organization of Parliamentarians Against Corruption (GOPAC).

2016 marked the 100th anniversary of women's first right to vote in Canada. On 28 January 1916, Manitoba passed a Bill to Amend the Manitoba Elections Act and became the first Canadian province to allow women the right to vote. This Bill granted the right to vote to women 21 years of age and older who were British subjects (by birth or by naturalization) in the provincial elections. Alberta and Saskatchewan followed with granting women the right to vote in the same year and British Columbia the following year.

At the end of the 19th century, women in Canada began to organize themselves to fight for their right to vote. The Women's Suffrage Society, Canada's first suffragette association was created in 1883. Although women in Manitoba, Alberta and Saskatchewan were granted the right to vote in 1916, not all Canadian women enjoyed the same rights during the same period.

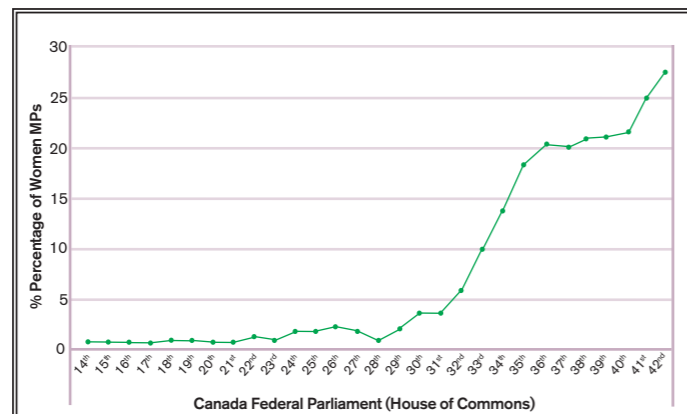
While Manitoba is often referred to as the first Canadian

jurisdiction to grant women the right to vote, there were some exceptions. Women in Lower Canada were eligible to vote until 1849 due to an oversight in the language of the *Constitutional Act, 1791*. Mohawk women from Kahnawake voted in an 1825 election in Lower Canada. Catholic, Protestant and Jewish women who owned property voted in subsequent elections in Québec. Some women who owned property had also won rights to vote in municipal councils, as well as library and school elections in the years prior to the Manitoba legislation. Women who owned property in British Columbia could vote in municipal elections starting in 1873.

At the federal level, the government under Prime Minister Sir Robert Borden passed the *War-time Elections Act* in 1917. This allowed women who were British subjects and who were wives, mothers or sisters of soldiers serving in World War One to vote on behalf of their male family members. Women, mainly nurses, who served in the military, could also vote. On 17 December 1917, approximately 500,000 women voted for the first time in a federal election, which was won by Borden's coalition government.

Figure 1 – Women's Representation in the House of Commons since the 14th Parliament.

Source: Figure prepared by the Canadian Library of Parliament using data obtained from Parliament of Canada, 'Parliamentarians', Parlinfo.



In the spring of 1918, the government extended the right to vote in federal elections to Canadian women 21 years of age and older. However, this right did not apply to most women of colour including Chinese, East Indian and Japanese women. It was not until the late 1940s when these women gained the right to vote.

Not all Indigenous peoples were granted the right to vote at the same time as other Canadians. Métis individuals were not specifically excluded from voting and most enjoyed the same rights as other Canadians, as few were covered by treaties or the Indian Act. Until 1960, most First Nations people were able to vote only if they gave up their treaty rights and Indian status (a process known as enfranchisement). However, under the *Military Voter Act* of 1917, 'Indians' actively serving in the armed forces could vote. In 1960, the Act to Amend the *Indian Act* and the *Act to Amend the Canada Elections Act* granted First Nations people the right to vote without having to relinquish their Indian status.

Today, Canadian women generally have a higher voter turnout rate than men. In the 2015 federal general election, women's voter turnout was higher than men's for every age group except for people aged 65 years and over.

A. Women in the Federal Parliament of Canada

1. Women in the House of Commons

In 1921, Agnes Campbell Macphail became the first woman to be elected in the House of Commons in Canada. Since then, 321 women have served as

Members of Parliament (MP).

Women's representation in Parliament has been on a gradual increase commencing from the 14th Parliament in March 1922. The representation of women has increased from 10.3% in 1922 to 20.6% in 1997, where women surpassed the 20% threshold in the 36th Parliament. Figures 1 and 2 show this gradual increase in women's representation. In the last federal election on 19 October 2015, women won a record number of seats; 88 out of 338 increasing the representation to 26%.

As of 5 July 2018, women held 91 of the 337 occupied seats in the House of Commons (27.0%).

According to Inter-Parliamentary Union (IPU) data from May 2018, the world average for women's representation in single or lower legislative houses was 23.8%. Canada ranks 60th in terms of women's representation in single or lower legislative houses worldwide.

2. Women in the Senate

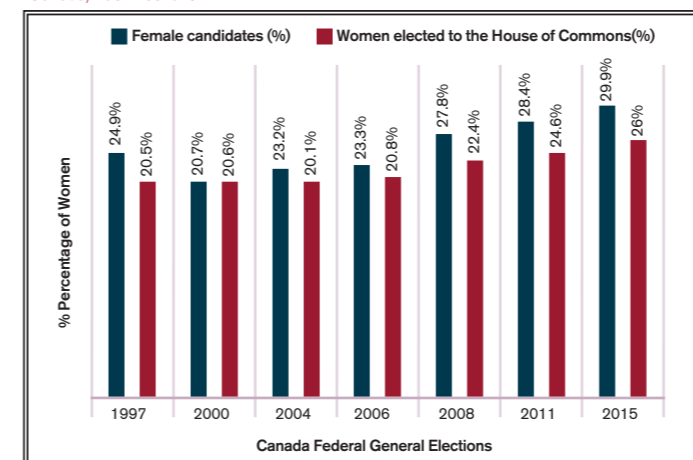
The Persons Case: Known as the 'Famous Five', Emily Murphy, Louise McKinney, Irene Parlby, Nellie McClung and Henrietta Muir Edwards paved the way for Canadian women to participate in public and political life. Emily Murphy, a social activist, was

appointed as the first woman magistrate in Alberta in 1916. Her appointment was challenged on the grounds that women were not persons under the *British North America Act* (BNA). The Alberta Supreme Court ruled that women were persons and this ruling only applied to the province of Alberta. Subsequently, Ms Murphy's name was forwarded as a candidate for the Senate of Canada. The Prime Minister at that time, Sir Robert Borden, turned it down on the basis that she was not defined as a person under the BNA.

In 1928, the 'Famous Five' petitioned the federal government to ask the Supreme Court of Canada to determine whether women were included in the meaning of 'persons' in the *British North America Act*, 1867. The Supreme Court determined that the word 'persons' did not include women. They appealed the Supreme Court of Canada decision to the Judicial Committee of the Privy Council in England. On 18 October 1929, the Judicial Committee of the Privy Council of Great Britain announced that women were included in the legal definition of 'persons' under the *British North America Act*, 1867. This marked a significant juncture in Canadian history.

Figure 2 – Women's Representation as Candidates in Federal General Elections and as MPs in the House of Commons.

Source: Figure prepared by the author using data obtained from Parliament of Canada, *Women Candidates in General Elections – 1921 to Date and Elections Canada, Past Elections*.



Above: The Canadian Federal Parliament marks International Women's Day by hosting the 'Daughters of the Vote' programme, where young women from every federal riding in Canada are invited to the Canadian Federal Parliament and provincial legislatures to share and discuss their vision for the future. The Canadian Federal Parliament hosted 338 young women from across Canada in the House of Commons chamber who sat in their Members seats for a special debate on International Women's Day.

On 15 February 1930, the year after the Persons Case, Hon. Cairine Reay Wilson became the first woman to be appointed to the Senate. Since then, 114 women have been appointed to the Senate.

Since the beginning of the 17th Parliament in September 1930, the representation of women in the Senate has generally been between 11.8% to 17.3%. In October 2015, the government of Prime Minister, Rt Hon. Justin Trudeau, MP made a conscious commitment to bring about gender parity to both Houses. In Parliament, the Cabinet comprises 50% women, though the total representation in the House of women is 27%. Through changes to the Senate appointment process, the representation of women in the Senate exceeds that in the House of Commons. As of 5 July 2018, women held 44 of the 97 occupied seats (45.4%) in the Red Chamber (the Senate).

B. Women in Provincial and Territorial Legislatures

In Alberta, British Columbia, Manitoba and at the federal level, women were first elected soon after they were granted the right to vote. In New Brunswick, Québec and Ontario more than 20 years passed between the time women were first granted the right to vote and the time the first woman was elected.

The first women to be elected

as Members of Legislative Assemblies (MLAs) in Canada were Louise Crummy McKinney and Roberta Catherine MacAdams Price, in the 1917 general elections in Alberta. They hold the distinction of being the first women to be elected in the British Empire.

Women's representation in provincial and territorial legislatures varies significantly (see Figure 3). As of 5 July 2018, women's representation was above the Commonwealth benchmark of 30% in five Provincial and Territorial Legislatures: Alberta (34.12%), British Columbia (37.93%), Nova Scotia (33.33%), Ontario (39.52%) and Yukon (36.84%).



Barriers to women's participation in politics in Canada

Women still face many barriers to representation in politics in Canada. These include:

Psychological and cultural barriers: Women are more likely to be socialized to have lower levels of self-confidence, to be less competitive and to have less political ambition. As well, women in politics sometimes find themselves in a 'double bind' that does not usually affect their male counterparts – to succeed in political and public life, they must project the image of women who are also successful in their personal or domestic lives.

Unpaid care work: Women's political participation can be limited because gendered societal roles and expectations mean that women in Canada continue to hold a disproportionate share of household and caregiving responsibilities.

Recruitment of candidates: Women may hesitate to run for elected office and need to be asked to do so. As well, women often occupy professions or volunteer outside of what is generally considered the 'political pipeline' or networks that can lead to political involvement.

Financial barriers: Women may face additional barriers to finance nomination and election campaigns given the wage gap between men and women in Canada and the fact that women generally have a lower income than men.

Parliamentary culture: The

parliamentary culture can be aggressive and adversarial, and women may hesitate to run for elected office because of this reality. Parliaments are also male-dominated environments.

Gender-based violence and harassment: Female Parliamentarians have reported that they have faced harassment, in particular "misogynist language, inappropriate propositions and touching [and have alleged] sexual assault and rape."

Initiatives to increase women's representation in politics

Gender-sensitive parliaments: According to the IPU, a gender-sensitive Parliament is one that "responds to the needs and interests of both men and women in its structures, operations, methods and in its work." Several changes can have a positive impact on women's participation in politics, such as "less aggressive parliamentary language and behaviour; more family-friendly sitting hours; the introduction of childcare facilities and parental leave for Members; and gender-sensitive training programmes for all Members." Some Parliamentary Committees have conducted studies regarding gender-sensitive Parliaments or women in politics.

The House of Commons in Canada has undertaken a number of initiatives in this regard. The Standing Committee on Procedure

and House Affairs (PROC) tabled a report in June 2016 containing several recommendations aimed at making the House of Commons a more family-friendly environment.

Additionally, in November 2017, PROC tabled a report titled *Support for Members of Parliament with Young Children* which intended "to improve the work-life balance for Members all while taking into consideration the impact of changes on Members' constituents." In June 2018, PROC tabled a report titled *Code of Conduct for Members of the House of Commons: Sexual Harassment Between Members* which contained proposed amendments to the *Code of Conduct for the Members of the House of Commons*.

The Standing Committee on the Status of Women (FEWO) is conducting a study on the barriers facing women in politics in Canada.

Support for women's organisations: there are a number of Canadian women's organisations which offer programs to foster women's interest in politics and services to women interested in entering politics, such as access to campaign schools and mentors and role models. The Status of Women Canada's (SWC) Women's Program has provided funding for projects whose goals were to empower women for political and community action. For instance, SWC has provided:

- \$1 million to Equal Voice for a project that aimed "to address some of the key systemic barriers that contribute to the under-representation of women in politics at the provincial, territorial, and

federal levels in Canada";

- \$1.5 million to the Federation of Canadian Municipalities for a project that aimed to "increase the diversity of women engaged in local

government at the local and regional levels"; and

- \$1.3 million to the *Groupe Femmes, Politique et Démocratie* for a project that aimed to "create conditions that promote women's active participation in political life."

Quotas: Quotas are seen by some as a means of "fast-tracking" women's representation in elected bodies of government. They are mandatory or voluntary targets that specify the number or percentage of women who should be on a list of candidates or the number of seats to be allocated to women in a Legislative Assembly.

Conclusion

In the CPA Masterclass video I produced on Gender Budgeting in 2017 for the wider CPA membership (see www.cpahq.org/cpahq/cpamasterclasses for access to the videos), I identified a number of steps for Parliamentarians to help women overcome barriers, which included:

- Get more women involved in politics;
- Choose leaders who understand that women's issues are societal issues;
- Be advocates for the 52% of the population who has little to no voice;
- Be firm with 'mansplaining' where men out-talk or talk over women;
- Create a network of like-minded men and women who are looking to alleviate poverty and ignorance.

While women in Canada have made great progress for the right to vote in the last 100 years, there is much work needed to increase their numbers at all three levels of government. Women represent more than half of the Canadian population, yet only 27% (current) of the MPs at the federal level are women. If we are to harness the capacity of the human intellect to solve the problems in Canada, especially for women's issues like closing the wage gap, breaking the glass ceilings in all sectors, etc., long term strategies are required to eliminate barriers and make it more equitable for women to enter and participate in politics.



Commonwealth Women Parliamentarians Canada Region launch new website ahead of Steering Committee meeting highlighting forthcoming 2018 priorities

During the 2018 Commonwealth Women Parliamentarians (CWP) Canada Regional meetings, the CPA Chairperson, Hon. Emilia Monjowa Lifaka, MP together with CWP Canada Regional Chair, Hon. Laura Ross, MLA launched the new CWP Canada Regional website at www.cwpcanada.ca.

The CWP Canada Regional Steering Committee meeting took place on 23 July 2018 during the 56th CPA Canada Regional Conference in Ottawa, Canada from 22 to 27 July 2018. The

Commonwealth Women Parliamentarians (CWP) Canada Region held a regional meeting and workshop sessions introduced by the CWP Canada Regional Chair, Hon. Laura Ross, MLA (Saskatchewan). The meeting provided Members with the opportunity to hear about activities over the previous year, and to think about priorities for the upcoming year.



Hon. Laura Ross, MLA (Saskatchewan), CWP Canada Regional Chair said: "I was honoured to launch the CWP Canada Region website alongside the CPA Chairperson. Our webpage is a useful information tool where we are able to share information of who CWP is and what our mission and vision are."

The CWP Canada Chair gave her report emphasising the importance of the CWP Canada Regional Steering

Committee continuing their efforts to promote CWP in Canada on a variety of platforms, including social media. The importance of continuing to build ties with other groups who promote the role of women in Legislative Assemblies was also emphasised.



At the conclusion of the 56th CPA Canada Regional Conference and as Canada marked the centenary of women's suffrage in Canada's federal elections, four Commonwealth Women Parliamentarians (CWP) – the CPA Chairperson, Hon. Emilia Monjowa Lifaka, MP (Cameroon); CPA Vice-Chairperson, Hon. Alexandra Mendes, MP (Canada Federal); Hon. Yasmin Ratansi, MP, Chair of the CPA Canada Federal Branch; and CWP Canada Regional Chair, Hon. Laura Ross, MLA (Saskatchewan) – were photographed at the 'Women Are Persons! - Famous Five' monument at Parliament Hill recognising the campaign for gender equality.



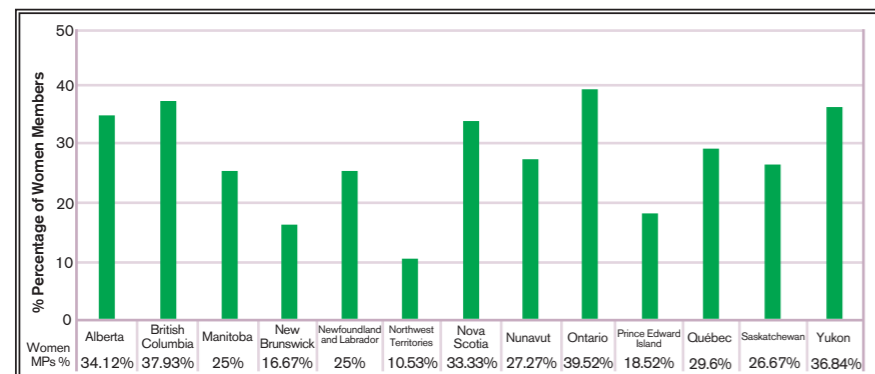
11th CWP Caribbean Regional Conference takes place in the Cayman Islands



The 11th Regional Conference of the Commonwealth Women Parliamentarians (CWP) of the Caribbean, Americas and Atlantic (CAA) Region took place ahead of the 43rd CPA CAA Regional Conference in George Town in the Cayman Islands in June 2018. The 11th CWP Regional Conference was chaired by Hon. Shirley Osborne, MLA, Speaker of the Legislative Assembly of Montserrat and Chair of the Regional CWP and saw updates on the activities of the CWP across the region.

Figure 3 – Women's Representation in Provincial and Territorial Legislative Assemblies (July 2018). Note: As of 5 July 2018, the results from the 2018 Ontario provincial elections were not official. Data was obtained using media articles. See, for example: Kristin Rushowy, "Ontario makes history with record number of female MPPs," *The Star*, 17 June 2018.

Source: Figure prepared by the author using data obtained from the websites of the provincial and territorial legislative assemblies. The data presented in the figure reflect the gender identity of Parliamentarians as indicated on those websites.





UK Parliament receives picture of first woman elected to UK House of Commons in 1918 from the Parliament of Ireland in the centenary year for women's vote



A picture of the first woman elected to the UK House of Commons, Constance Markievicz, in 1918 has been gifted to the UK Parliament by the Irish Parliament (*Houses of the Oireachtas*). The Speaker of the House of Commons, Rt Hon. John Bercow, MP accepted the picture on behalf of the UK House of Commons from Seán Ó Fearghail, the Ceann Comhairle (Speaker) of Dáil Éireann (the lower house of the Irish Parliament).

The picture, which is a photographic reproduction of a 1901 oil painting of Markievicz owned by the Dublin City Gallery The Hugh Lane, will feature in the UK Parliament's landmark 'Voice and Vote' exhibition until 6 October 2018 when it will be transferred to Portcullis House within the UK Parliament for public display.

The gift of the Markievicz picture comes as the UK Parliament and the Houses of the Oireachtas are marking the centenary of the 1918 *Representation of the People Act*, which gave some women in the United Kingdom (then of Great Britain and Ireland) the right to vote. In the December 1918 general election, 8.4 million British and Irish women were eligible to vote for the first time and 17 women stood for election including Constance Markievicz (*Sinn Féin*) and Christabel Pankhurst (*Women's Party*). Constance Markievicz, standing for election to Dublin St Patrick's division, was the only woman to be elected.

Markievicz had long been involved in political activism by the time she was elected, having earlier joined Sinn Féin and Inghinidhe na hÉireann, a nationalist women's organisation. In 1908 she joined the suffragist opposition to Winston Churchill in the Manchester-North by-election. She supported the striking workers of the Irish Transport and General Workers Union during the 1913 Dublin Lockout, and joined the Irish Citizen Army. Markievicz was one of many women who took part in the 1916 Rising, fighting with the Citizen Army, for which she was imprisoned and sentenced to death.

Markievicz's sentence was commuted on the grounds of her sex, and she was released in 1917. However, she was rearrested and imprisoned the following year for her participation in nationalist activities in Ireland. She was still imprisoned when she was elected to the UK House of Commons and celebrated the historic win from her cell, where she received a letter from 10 Downing Street inviting her to attend the State Opening of Parliament, addressed 'Dear Sir...'. However, she never took her seat in Westminster in line with Sinn Féin's abstentionist policy. Markievicz became a dedicated Parliamentarian in the Irish Parliament (Dáil Éireann) which was established in 1919 and she was appointed as Secretary for Labour and a Member of the Executive – making her the first woman to hold a Ministerial position in Great Britain and Ireland and the first woman Minister in Western Europe.

Left: Copy of a portrait of Constance Countess Markievicz (1901) by Boleslaw von Szankowski (1873-1953), Collection: Dublin City Gallery The Hugh Lane. Permission to reproduce granted by the Estate of Boleslaw von Szankowski.

Markievicz spoke about her suffrage activities in Dáil Éireann on 22 March 1922: *"I rise to support this just measure for women because it is one of the things that I have worked for wherever I was since I was a young girl. My first realisation of tyranny came from some chance words spoken in favour of woman's suffrage and it raised a question of the tyranny it was intended to prevent - women voicing their opinions publicly in the ordinary and simple manner of registering their votes at the polling booth. That was my first bite, you may say, at the apple of freedom and soon I got on to the other freedom, freedom to the nation, freedom to the workers. This question of votes for women, with the bigger thing, freedom for women and opening of the professions to women, has been one of the things that I have worked for and given my influence and time to procuring all my life whenever I got an opportunity."*

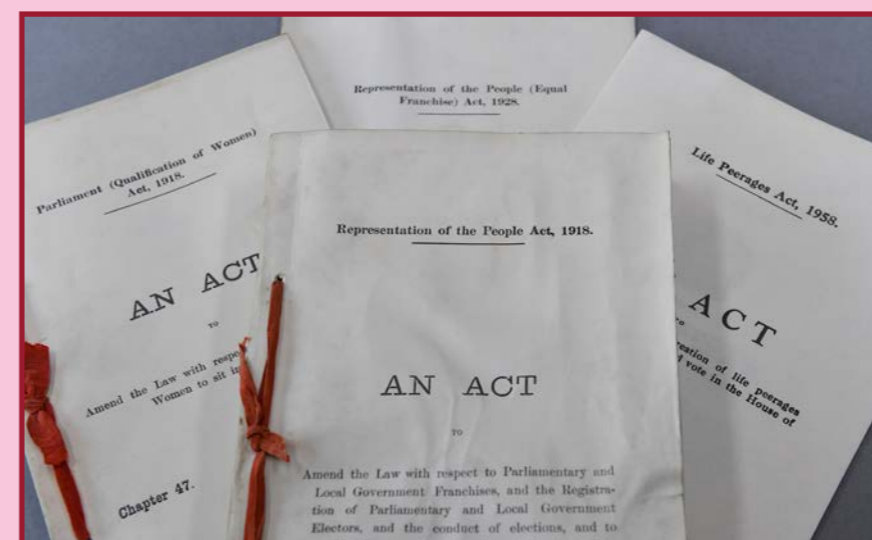
Seán Ó Fearghail TD, Ceann Comhairle (Speaker) of Dáil Éireann, said: *"I am honoured to present this portrait of Constance Markievicz to Speaker Bercow on behalf of the Houses of the Oireachtas. Ireland is understandably very proud of Constance Markievicz, who amongst her many achievements, was the first woman elected to the British House of Commons, although she refused to take her seat, instead sitting in the first Dáil and being*



Above: Seán Ó Fearghail TD, the Ceann Comhairle (Speaker) of Dáil Éireann (Parliament of Ireland) at a reception to present the picture of Constance Markievicz to Rt Hon. John Bercow, MP, Speaker of the UK House of Commons at the UK Parliament on Wednesday 18 July 2018. Images ©UK Parliament/Jessica Taylor

the first woman elected to the Irish Parliament. I think it is very appropriate that a portrait of Countess Markievicz should hang in Westminster to mark the 100th anniversary of her election to this honoured House and that it should be gifted from the House in which she took her seat. This gifting also illustrates our shared historical and suffrage heritage and underlines the sometimes troubled, but overwhelmingly very positive links between our two countries."

Rt Hon. John Bercow, MP, Speaker of the UK House of Commons, said: *"It is fitting that in the centenary year of the 1918 Parliament (Qualification of Women) Act, we mark the contribution of Constance Markievicz who, as the first woman elected to Parliament, holds a unique place in British and Irish history. The picture of Markievicz will now join the Parliamentary Art Collection: a testament to the past, and an inspiration to future generations."*





MPs discuss the impact of women's economic empowerment at the Commonwealth Women Parliamentarians Africa Regional Workshop

The Commonwealth Women Parliamentarians (CWP) Africa Region have held a three-day workshop and women's parliament dialogue for Commonwealth Parliamentarians at the Eastern Cape Provincial Legislature in South Africa from 18 to 20 June 2018.

The objectives of the CWP Africa Regional workshop were to expand accountability by Members on women's representation; to mobilise the active participation of women in government programmes; to ensure the involvement of women in the Africa 2063 Agenda and sustainable development goals with a view to mainstream gender in the budgetary process. The dialogue also aimed to raise awareness and debate towards the emancipation of women and representation of women in leadership.

The Chairperson of the Commonwealth Women Parliamentarians (CWP) Africa Region and the Deputy Chairperson of Committees

in the South Africa Parliament, Hon. Angela Thoko Didiza, MP, gave a keynote address under the theme of 'Women at the centre of radical economic transformation'.

Delegates attending the CWP Africa Regional workshop included Speakers and Members of Parliament, Government Ministers, Members of Provincial Legislatures, councillors from local municipalities, civic society organisations, academic institutions, businesses and student organisations.



Commonwealth Women Parliamentarians East Africa Regional Gender Sensitization Workshop in Uganda focuses on mainstreaming gender in parliamentary business

The Commonwealth Women Parliamentarians (CWP) Africa Region have held a four-day gender sensitization workshop for Commonwealth Parliamentarians from the East Africa region at the Parliament of Uganda in Kampala from 21 to 26 July 2018.

The Chairperson of the Commonwealth Women Parliamentarians (CWP) Africa Region and the Deputy Chairperson of Committees in the South Africa Parliament, Hon. Angela Thoko Didiza, MP, gave a keynote address under the theme of 'Mainstreaming Gender in Parliamentary Business'.

The CWP workshop was attended by Rt Hon. Rebecca Kadaga, MP, Speaker of the Parliament of Uganda and former Chairperson of Commonwealth Women Parliamentarians (CWP) International; Hon. Lindiwe Maseko, MP, (South Africa), Chairperson of the CPA Africa Region; and Hon. Mary Karoro Okurut, Minister of Gender Labour and Social Development of Uganda.

Delegates attending the CWP Africa Regional workshop included Speakers and Members of Parliament and Government Ministers.



Parliamentary Report

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With thanks to our *Parliamentary Report* and *Third Reading* contributors: Stephen Boyd (Federal Parliament of Australia); Ravindra Garimella (Parliament of India); Dr Jayadev Sahu (Parliament of India); Erin Virgint (Federal Parliament of Canada); Luke Harris (Parliament of New Zealand); Josie Schofield (British Columbia Legislative Assembly); Neil Iddawala (Parliament of Sri Lanka); Ayeesha Waller (Parliament of the United Kingdom); André Grenier (Québec Legislative Assembly).

SUPER SATURDAY BY-ELECTIONS: LABOR TAKES FOUR FROM FOUR

On Saturday 28 July 2018, five by-elections were held as a result of three Australian Labor Party (ALP) MPs and an Independent MP being disqualified on dual citizenship grounds and one ALP MP resigning for personal reasons. Ms Susan Lamb, ALP (Longman), Ms Justine Keay, ALP (Braddon), Mr Josh Wilson, ALP (Freemantle) and Ms Rebekha Sharkie, Centre Alliance (Mayo) were found by the High Court to be in breach of section 44 of the Australian Constitution for having dual nationality. They were disqualified, renounced their citizenship of other countries and then recontested the by-elections. Mr Matt Hammond ALP (Perth) resigned for family reasons.

By-elections are usually an opportunity for voters to protest against the government of the day without changing the overall result. Voting history demonstrates that there is normally a swing of about 3% against the government. It is very rare for an Opposition party to lose a by election. However, in the weeks before the by-elections, the Leader

of the Labor Opposition, **Hon. Bill Shorten, MP**, was coming under intense pressure from the media that he was in danger of losing one of even two ALP seats. The last time this occurred was about 100 years ago. The media suggested that if Mr Shorten lost a seat then his future leadership may be in doubt. For the first time this Parliament, it was Mr Shorten who was under intense pressure and not the Prime Minister, **Hon. Malcolm Turnbull, MP**. Mr Turnbull waded into the debate conceding that leadership was a factor stating: *“by-elections are a test of policies, they’re a test of leaders, they’re a test of candidates, but there are many issues and people vote with different matters in mind.”* The ALP won all four seats it originally held and the pressure soon turned on the Prime Minister.

The results seat-by-seat show that Susan Lamb, ALP, in Longman received a two-party preferred swing of just over 3.5%. While this swing against the government in a by-election is normal, the first preference swing against the Liberal/National candidate was almost 10%. This is significant and if repeated at a Federal

Election could see up to eight government seats fall which are currently on a margin of less than 5%. In 2013 the Liberal/National primary vote in Longman was 45%. In 2016, its primary vote fell to 39% and at the by-election, it fell to about 28%.

Justine Keay, ALP, in Braddon was elected with a small swing of about 0.3%. The government did not contest the by-elections in Perth and Freemantle and the ALP candidates Mr Patrick Gorman and Mr Josh Wilson were easily elected for the respective seats. When the Prime Minister was questioned on why the government did not contest these seats he commented that *“was a decision the West Australian (WA) party made and I’m not going to second-guess them. I mean, the reality is we have limited financial resources. We have much less financial resources available to us than Labor. So the WA party decided not to run in two seats which they believed they had no prospect of winning, recognising there will be a general election in the first half of next year. So the people in Fremantle and Perth and in every electorate will have the opportunity to vote for a Liberal or a National or an LNP candidate then.”*

The seat of Mayo in South Australia was previously held by Rebekha Sharkie, Centre Alliance. However, before Ms Sharkie won it from the Liberals at the 2016 election, Mayo was a blue ribbon Liberal seat formally held by Mr Alexander Downer, former Foreign Affairs Minister in the Howard Government and most recently the Australian High Commissioner to the UK. The Liberals believed they could increase their chances of winning the seat from Ms Sharkie by pre-selecting Ms Georgina Downer, Mr Downer’s daughter, as the Liberal candidate for the seat. But this failed. Ms Sharkie achieved a

swing towards her of just over 3% against her 2016 result. In Australia, Independent Members having won a seat from a major party usually go on to retain them for very long time. Nevertheless, there are reports that the Liberals will urge Ms Downer to contest the Federal Election due within the next nine months.

Mr Turnbull sought to play down the results of the by-elections by saying that the margins were all within historical contexts and that there was nothing to worry about. Mr Turnbull commented that *“I see that Bill Shorten is punching the air as though he’s won the World Cup. The reality is that the Labor Party has secured an average or conventional swing in a by-election to it in Longman and has not secured any swing at all in Braddon, at this stage it looks like it will be a line-ball result. So there is not a lot to celebrate for the Labor Party. There is certainly nothing to crow about.”* Nevertheless, if the by-election results were all within historical contexts, why did the Prime Minister suggest during the campaign that these by-elections, among other things, are a test of leaders.

One of the biggest areas of voter concern about the government is its commitment to the second tranche of company tax cuts for businesses with an annual turnover of \$50 million. There are now reports that some government backbenchers are keen on ditching the company tax cuts. Mr Turnbull, at a post by-election press conference, was asked whether the government will take its company tax policy to the next Federal Election responded that *“we are committed to ensuring Australia has a competitive company tax rate. That is our position and we’re obviously looking forward to reengaging in the argument in the debate in the Senate when Parliament*

comes back in a couple of weeks.” One option being considered is to limit the next round of company tax cuts to \$500 million which would have the effect of excluding the banks and major retailers. Nationals MP and Assistant Minister to the Prime Minister, **Hon. Keith Pitt, MP**, summed it up when he said, *“no one in my electorate is sitting around their kitchen tables talking about company tax cuts for major companies, they can’t pay their bills.”*

Mr Shorten commented that *“I know for the Labor MPs they worked very hard, and this election wasn’t, despite what the Government said, about personalities and Mr Turnbull versus me. It was about the voters, it was about Australians, it was about the lives they’re leading. It was about the fact, I believe, that voters from Queensland to Tasmania to Western Australia, they actually want to see better hospitals not bigger banks. They want to see pensioners prioritised not*

multinationals taxation, cut. They want to see our schools properly funded. They don’t want to see corporations get large tax cuts. This is an election where Labor put forward issues about the lives that people are living, about health care, making sure that we provide proper health services rather than cutting health services across Australia.”

The massive pressure on Mr Shorten’s leadership going into the by-elections has faded away and instead the pressure is all on Mr Turnbull’s

leadership. The government’s chances at the next Federal Election are now in doubt. In the lead-up to the by-elections there was media speculation that if Mr Turnbull won a seat from Labor he might call a snap election before Christmas. This possibility is now remote. It is now more likely that the Federal Election will occur in the first half of 2019 with 18 May being the final date for a combined House and half Senate election.

THIRD READING: AUSTRALIA

National Redress Scheme for Institutional Child Sexual Abuse Act 2018

The legislation establishes a national redress scheme (the scheme) for survivors of institutional child sexual abuse. The initiative is in response to the Royal Commission into Institutional Responses to Child Sexual Abuse which recommended the establishment of a national redress scheme for survivors of institutional child sexual abuse.

The Minister for Social Services, **Hon. Dan Tehan, MP**, commented that *“children placed in the trust of our institutions were some of the most vulnerable members in our community. That any were sexually abused by the very people charged with their care and protection is a disgrace. No child should ever experience what they did. That is why it is time for all institutions and governments to take responsibility for what happened. The establishment of the scheme is an acknowledgement by the Australian Government and participating governments that sexual abuse suffered by children in institutional settings was wrong. It was a betrayal of trust. It should never have happened.”*

The Royal Commission estimated that almost 20,000 survivors were sexually abused in more than 4,000 state and territory government institutions. The Minister commented that *“the psychological, physical and emotional injuries can affect a survivor for the rest of their life. In spite of the severity of these injuries, many survivors have not sought or obtained any kind of acknowledgement or redress for this harm.”*

The Minister advised that *“the scheme will provide survivors with three elements of redress, comprising: a monetary payment of up to \$150,000; access to counselling*

or psychological services; and a personal response from the responsible institutions.”

Mr Tehan commented that *“the scheme is not intended to replace legal avenues to seek justice. It is intended to provide a survivor with a means to access a sense of justice, through monetary redress and through restorative supports. It is intended to be faster, simpler and less distressing for survivors and to provide governments and institutions with the means to deliver justice to their survivors.”* Mr Tehan advised that *“the scheme will run for 10 years, with all applications to be finalised by 30 June 2028. The scheme can be extended if there is a need to do so. For a person to be eligible for redress they must have suffered sexual abuse where a participating institution is responsible, and it occurred when the person was a child before the scheme’s commencement on 1 July 2018.”*

Senator Louise Pratt noted that Labor would support the legislation commenting that *“the evidence presented to the Royal Commission was very deeply shocking. It exposed heinous crimes perpetrated against vulnerable children. The case studies and private sessions left absolutely no doubt that a great many people, while children, were injured by being subjected to sexual abuse in institutions or in connection with institutions. We can see from the evidence presented to the Royal Commission that their injuries have been severe and lifelong.”*

In relation the redress amount, Senator Pratt commented that *“I want to place on record Labor’s concerns, which are well known, about the compensation amount. The Royal Commission recommended that the maximum payment be \$200,000. However, this Bill unfortunately places an upper limit of \$150,000 on the amount of redress that would be payable to any one survivor.”* Senator Pratt concluded by

acknowledging *“that establishing this National Redress Scheme has indeed been a very complex task and that the Bill is moving forward today with bipartisan support and support across the Parliament. However, this Bill is different to the one that a Labor government would have put forward, and I’ve highlighted our concerns today in relation to those issues that we believe are important. I note the risk of amending the Bill, as it would result in the states needing to amend it.”*

Senator Derryn Hinch (Derryn Hinch’s Justice Party) commented that *“there have been decades of abuse, as so heartbreakingly revealed by the Royal Commission that was announced by former Prime Minister Gillard; a national investigation for which she and her government must be rightly acknowledged. There will not only be compensation and counselling but, finally, official recognition of the cover-ups and lies and the obstruction of justice by some truly venal, cruel and hypocritical people in authority who abused Australia’s trust, as other members of their churches - hiding piously behind their clerical raiments - plus government entities and others, abused the bodies and minds of innocent children entrusted into their care.”*

Senator Hinch was critical of the government for reducing the compensation amount from \$200,000 to \$150,000. He commented that *“last week Prime Minister Turnbull announced that a national apology will be made here in Canberra on 22 October. He proudly said that his government had accepted nearly 100 of the Royal Commission’s recommendations, and more would follow. He also said they had rejected none. Sadly, that’s not quite true. The Royal Commission recommended a maximum payout, as you’ve heard, of \$200,000. By the time the government’s Commonwealth Bills, the*



National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 and the National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2018, became public - after the state governments of New South Wales and Victoria had passed their own legislation - it had been reduced to \$150,000, which - surprise, surprise! - was the Catholic Church's preferred position all along. What a coincidence! The average payout, I'm told, will be around \$76,000, and some people may only get \$10,000, but that's not the point today."

Intelligence Services Amendment
 (Establishment of the Australian Signals
 Directorate) Act 2018

The legislation establishes the Australian Signals Directorate (ASD) as an independent statutory agency within the Defence portfolio reporting directly to the Minister for Defence and amends ASD's functions to include providing material, advice and other assistance to prescribed persons or bodies, and preventing and disrupting cybercrime.

The then Minister for Veterans' Affairs, **Hon. Michael McCormack, MP** noted that "last year the Australian Government announced the most significant reform to Australia's intelligence and security landscape in decades by establishing a new Home Affairs portfolio, creating an Office of National Intelligence (subsuming the existing Office of National Assessments), and transforming the Australian Signals Directorate into a statutory agency." He commented that "the Australian Signals Directorate has a long history which goes back to the Second World War, when Australian Navy, Army and Air Force personnel were brought together to support General MacArthur's south-west Pacific campaign by intercepting and decoding enemy radio signals."

Mr McCormack explained that the "Australian Signals Directorate has evolved from a primarily Defence signals collection agency after World War II to become Australia's national signals intelligence authority for collecting intelligence, supporting the military and undertaking cybersecurity, and affects operations through the application of advanced technologies. The Australian Signals Directorate is now a national asset with a national focus, playing a much broader role than defined by its previously exclusive Defence focus."

The Minister concluded that "the establishment of the Australian Signals Directorate as a statutory authority puts the agency on a similar footing to ASIS and ASIO as a national security and intelligence asset. Given the Australian Signals Directorate's increased national responsibilities in relation to cybersecurity and the critical operational support it provides to the Australian Defence Force, the Australian Signals Directorate will now have the appropriate statutory functions to ensure it is well placed to support Australian Defence Force operations and its national responsibility for combating cybercrime, including the

provision of advice to the private sector into the future."

Senator Don Farrell noted Labor's support for the legislation commenting that "staff of the ASD will not be employed by the Director-General of the ASD or under the Public Service Act 1999. Under the new legislative framework, ASD staff will be Commonwealth officers and not APS employees. This is the same employment framework that applies to ASIO and ASIS employees. Labor supports this change on the basis that it will give ASD greater flexibility in attracting and retaining its highly specialised workforce." Senator Farrell noted that during the Committee review of the legislation, concerns were raised about employee entitlements including staff mobility, that is, ease of movement within other APS agencies; redeployment, that is, access to the APS redeployment policy if declared excess or potentially excess; and paid maternity leave as ASD will no longer be covered by the *Public Service Act* and is not currently a prescribed authority under the *Maternity Leave Act*. Senator Farrell noted that the "Minister addressed all three of these issues in her earlier contribution to the debate. I thank her for her explanation and assurances that no ASD employee will be disadvantaged by the transition to the statutory authority."

Senator Rex Patrick (Centre Alliance) noted that "the Bill has been examined by the Senate Foreign Affairs, Defence and Trade Legislation Committee, which has recommended that the Bill be passed. I and my colleague Senator Griff are pleased to support the Bill as a necessary and desirable measure to strengthen a vital national intelligence collection agency." Senator Patrick also advised that he supports stronger operational oversight of the intelligence agencies. He noted that the "Parliamentary Joint Committee on Intelligence and Security is currently severely limited in the scope of its oversight role, which is largely limited to questions of administration and finance."

Senator Patrick commented that "these limitations of the extent of parliamentary oversight are very extensive and reflect an underlying bureaucratic mindset that MPs and Senators, elected representatives of the people, cannot be trusted with our nation's most sensitive national security information. This is not the approach taken in other countries, including Australia's intelligence partners. In the United States, high-powered Congressional Committees have the authority to reach far into operational matters. Those inquiries are accepted by the US intelligence community as necessary and appropriate." Senator Patrick concluded that "if the government wants to increase the powers and the responsibilities of our intelligence agencies, which, again, I and my colleagues broadly support, then they must be prepared to strengthen the role of the Parliament in overseeing those agencies to ensure they are truly defenders of our national interest and, indeed, the Australian people."

This session, the EU (Withdrawal) Bill concluded its long journey through the UK Parliament. This Bill, as readers of previous Parliamentary reports may recall, started life as '*the Great Repeal Bill*'. Under its final and more prosaic title, it aimed to do three things:

- Repeal the *European Communities Act 1972*¹ which provides the legal authority for EU law to have effect as national law in the UK. This will no longer be the case after '*Brexit*'.
- Bring all EU laws onto the UK statute book so that laws and regulations made over the past 40 years while the UK was a member of the EU will continue to apply after '*Brexit*'.
- Give Ministers the power to make secondary legislation to make sure they can address any technical problems that will arise as EU laws are put on the statute book.

The Institute for Government estimated that Parliament spent 272 hours debating the Bill: 112 hours, 33 minutes in the House of Commons, and 160 hours, 44 minutes in the House of Lords. The Bill also attracted some of the largest divisions seen in the House of Lords.

In total the Government suffered sixteen defeats on the Bill, fifteen in the House of Lords and one in the House of Commons. The Government offered concessions on eight of these amendments. The Government also made over 170 of its own changes to the Bill during its Parliamentary passage.

A full summary of the changes to the Bill is beyond the scope of this report. Two key changes: one to Parliamentary procedure; and one near miss for the Government are outlined below:

New scrutiny of statutory instruments

One of the controversial issues in the Bill was the extent of the

powers given to the Government to amend and repeal primary legislation through the use of statutory instruments and other forms of delegated or secondary legislation. These so-called '*Henry VIII powers*' (named after that monarch's fondness for government by decree), concerned both MPs and peers. The Government said these powers were necessary due to the scale of the legal changes needed before the UK leaves the EU. In debates, the Government often characterised the changes to be delivered by the powers as technical or narrow. Critics stated that the wide range of the powers was unprecedented and would prevent Parliamentary scrutiny of key changes.

In the House of Commons, **Hon. Charles Walker, MP**, Chair of the Procedure Committee proposed a new Committee to consider this delegated legislation and decide what level of scrutiny it should attract. This amendment was one of the few accepted by the Government. Whilst expressing reservations about the Committee's limited

powers, **Rt Hon. Dominic Grieve, MP** described the Committee as enabling the House to deal with "*the avalanche of statutory instruments about to come in our direction*." In the House of Lords, a similar cross-party amendment was agreed.

As a result of these amendments, two new scrutiny mechanisms have been established. In the House of Commons, the European Statutory Instruments Committee, chaired by **Rt Hon. Patrick McLoughlin, MP**, will be able to recommend that delegated powers that the Government proposes to pass with minimal scrutiny procedures; are looked at more closely. In the House of Lords, the remit of the Secondary Legislation Scrutiny Committee was expanded, and it will perform a similar role. Whilst their recommendations are not binding, the Leader of the House of Lords, **Rt Hon. Baroness Evans of Bowes Park** said in the debate on this issue: "*if both sifting Committees were to reach*



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the same ... and persuasive recommendation, I assure your Lordships that the Government's expectation is that such recommendations are likely to be accepted."

Parliamentary approval of the final deal

A key issue in the final stages of the Bill was what was described as the '*meaningful vote*' issue. This referred to the vote that Parliament will have on the Brexit withdrawal agreement. If the negotiations go to plan this will be in Autumn 2018.

Rt Hon. Sir Keir Starmer, MP, Shadow Brexit Secretary, described this aim as: "*It is not about frustrating or blocking Brexit, it is not about tying the hands of the UK negotiators, and it would not empower Parliament to direct the Government in the ongoing negotiations. It is simply about this House playing a meaningful role in the terms of the final Brexit deal. It is about making sure that on the most important peacetime issue this House has faced for a generation, this House is not silenced.*"

An amendment to the Bill was passed in the House of Commons to ensure a vote on the final deal. This was amplified in the House of Lords to clarify the parameters and terms of such a vote. In the final stages of the Bill, focus turned to the precise nature of the debate that would be heard and its impact on the Government's position. The Government put forward a compromise position which, the (then) Secretary of State for Exiting the EU, **Rt Hon. David Davis, MP** described as: "*Our new amendments provide for a statement and a motion, ensuring that there is a guaranteed opportunity for both Houses to express their views on the Government's proposed next steps.*"

A key question became: would MPs be able to change the proposal (motion) the Government put before the House? The Government conceded that the final say on this rested with the Speaker. The Government compromise won the day by 319 votes to 303. Arguably, the final confrontation between the Executive and the Legislature on this issue has simply been postponed until the Government returns with the final Brexit deal.

We're (not) going on a summer holiday

Both Houses of Parliament in the United Kingdom have now risen for the summer months. Labour Peer, **Rt Hon. Lord Adonis** attempted to shorten the House of Lords summer holidays to two weeks "so that it [the House of Lords] can monitor and debate ... vital issues to do with Brexit and the future of the country."

In reply, **Rt Hon. Lord Taylor of Holbeach**, the Government Chief Whip, stated: "*beyond the narrow self-interest that a Government Chief Whip might always have in Parliament being available to pass and to scrutinise legislation, I cannot accept the noble Lord's motion. We must bear in mind that it is not only Members who wear themselves out in the interests of Parliament; it is also the staff, who are always here. We are served by excellent staff, and they too are entitled to leave. They can take their leave only when the House is not sitting, and to suggest to them that they have to come back and look after the affairs of the House during recess is a little selfish and, frankly, not in the interests of Parliament in the longer run.*" The motion was defeated 130 votes to nine.

THIRD READING: BRITISH COLUMBIA, CANADA

During the third session of the 41st Parliament, legislation was introduced in the Legislative Assembly of British Columbia in response to the federal government's decision to legalize non-medicinal cannabis in Canada. The Parliament of Canada passed enabling legislation, the *Cannabis Act*, which comes into force on 17 October 2018.

Bill 30, Cannabis Control and Licensing Act and *Bill 31, Cannabis Distribution Act*, comprise the new legislative framework for regulating non-medical cannabis in British Columbia. A third Bill (No.17) amending the *Motor Vehicle Act* to include penalties for driving under the influence of drugs also passed Third Reading.

Cannabis Control and Licensing Act
On 17 May 2018, the Legislative Assembly passed *Bill 30, Cannabis Control and Licensing Act*. The Act establishes a provincial regime to regulate the possession, sale, supply, production and consumption of cannabis in the province, and introduces a licensing scheme for the retail sale of cannabis in private stores and for agents involved in the purchase and sale of cannabis. The legislation sets a minimum age of 19, and it imposes restrictions on possession, public use and cultivation of cannabis by adults.

At Second Reading, **Hon. Mike Farnworth**, Minister of Public Safety and Solicitor General, informed the House that the Bill was based on consultations with stakeholders, Indigenous and local governments, and 48,000 submissions from the public. He claimed that the legislation supports the government's goals of prioritizing the health and safety of British Columbians, protecting children and youth, reducing crime and the illegal market and supporting economic

development opportunities in the province. He explained that the Bill requires local or Indigenous government support to open a retail location; amends the *Residential Tenancy Act* to prohibit cultivation on rental properties; and establishes a provincial cannabis safety unit.

The Official Opposition critic for Public Safety and Solicitor General, **Mike Morris, MLA**, raised a concern about the possible involvement of organized crime in existing retail locations, and proposed a 'cooling off' period for individuals involved in illegal cannabis operations before they can become licensed retailers. The critic and other Official Opposition Members also claimed that the Act does not include adequate protections for youth and suggested increasing the legal age from 19 to 25.

A representative of the Third Party, **Adam Olsen, MLA**, voiced his caucus' general support for *Bill 30*, claiming that the regulatory framework provided an opportunity for British Columbia to lead the country. He expressed a preference for harm reduction in addressing addiction and substance abuse, emphasizing that the legislation should not criminalize people. He also suggested an eventual move towards a vertical integration model similar to that existing in the craft beer market.

At Committee stage, the Official Opposition critic introduced amendments to: set a minimum distance for cannabis retail outlets from schools; implement a multi-year 'cooling off' period; and provide funding for education and mental health services. These amendments were defeated on division. A minor amendment, introduced by the Minister, was approved to correct a typographical error.

Cannabis Distribution Act
The Legislative Assembly passed *Bill 31, Cannabis Distribution Act*, on 15 May 2018. The Bill establishes a public wholesale distribution regime for non-medical cannabis in British Columbia and authorizes government-run retail sales both in stores and online. At Second Reading, **Hon. Mike Farnworth**, Minister for Public Safety and Solicitor General, explained that as the exclusive wholesale distributor, the province would have direct oversight of the cannabis supply chain. He also reported that the new regime is modeled on current liquor distribution practices, with the general manager of liquor distribution appointed as the administrator of the new Act.

The Official Opposition critic for Public Safety and Solicitor General, **Mike Morris, MLA** acknowledged the complexities and challenges involved in introducing legislation to respond to the federal decision to legalize non-medical cannabis. However, he voiced his party's concern about how to prevent youth under 19 from buying cannabis online. At the Committee stage, he asked the Minister of Public Safety and Solicitor General what kinds of security measures are in place to ensure that cannabis is not being sold to minors. In response, the Minister clarified that at the provincial level, there will be measures such as age checks and identity verification at the point of delivery.

Another Official Opposition Member, **Peter Milobar, MLA** voiced doubts about the appropriateness of the government operating retail stores and the manner in which these will be approved by municipalities. Hon. David Eby, the Attorney General, responded that government liquor stores have historically been safe and responsible, and that municipalities are free to approve government retailers, private retailers, both or neither, without interference.

A representative of the Third Party, **Adam Olsen, MLA** expressed his caucus' support for the framework and reiterated his preference for the adoption of a vertical integration model in the future. *Bill 31* passed Committee stage and Third Reading without amendment.

Outside the House, responses to the new legislative framework have been mixed. Municipalities appear to be pleased, overall, with the framework. Public opinion is varied, with some viewing the regulations as too restrictive, and others in support of the penalties put in place for offenses or of the protections for small retailers.



After adjourning for the Christmas break, the National Assembly of Québec resumed its proceedings on 6 February 2018. Between February and June, the Assembly passed 19 public Government Bills (15 unanimously). Three of them, in particular, sparked considerable interest and debate.

Health (regulation of cannabis)
On 12 June 2018, the National Assembly of Québec passed *Bill 157, An Act to constitute the Société québécoise du cannabis*, to enact the *Cannabis Regulation Act* and to amend various highway safety-related provisions, by a majority vote. The Act was in response to the Canadian Government's will to legalize access to marijuana for recreational purposes starting from 17 October 2018. The federal plan calls on Québec and the other provinces and territories to oversee and regulate the distribution and sale of cannabis.

To that end, the Act creates a cannabis control board, the *Société québécoise du cannabis* (SQDC) as a subsidiary of Québec's liquor control board, the *Société des alcools du Québec* (SAQ). It also adds a new section to the Act respecting the *Société des alcools du Québec* to expand the SAQ's mission. The provision in question clearly explains the general philosophy behind the cannabis reform.

"16.1. *The Société's mission is also to ensure the sale of cannabis in accordance with the Cannabis Regulation Act (2018, chapter 19, section 19) and from a health protection perspective, in order to integrate consumers into, and maintain them in, the legal market without encouraging cannabis consumption. . . .*"

The SQDC is given the exclusive rights for the bulk procurement, transportation, storage and retail sale of cannabis. Cannabis retail purchases will be made either through the SQDC website or at one of the 20 retail sales outlets slated to open starting 17 October 2018.

The Act prohibits minors (i.e. youths under 18 years of age) from possessing or purchasing cannabis and prohibits adults from procuring cannabis for minors. The Act also determines the many enclosed spaces and outdoor areas where cannabis smoking will be prohibited. In addition, Québec municipalities are given the power to regulate cannabis use in public places.

The Act further prohibits cannabis cultivation for personal purposes at home. This choice by Québec legislators is in direct contradiction with the federal statute and, as

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such, is likely to lead to a legal debate. In terms of proceedings, Bill 157 turned out to be the most time-intensive Bill during the 2014 to 2018 period. It mobilized MNAs for more than 137 hours over the course of 32 sittings. Finally, 138 amendments were made to the text of the Bill as introduced.

Communications: the future of newspapers
From 1967 to the present, *La Presse*, one of Québec's major daily newspapers, belonged to the Power Corporation of Canada holding company. On 8 May 2018, Power Corporation announced that it wished to transfer its newspaper to a non-profit organization. It also announced that it would give the new organization \$50M and meet past obligations under the newspaper's employee pension plans.

Before this could happen, an amendment needed to be made to a 1967 private Act that imposed restrictions on *La Presse* share and asset transfers to ensure the newspaper's shares and assets would remain Québec-owned. The Bill amending that private Act, *Bill 400*, comprised only two sections, yet gave rise to substantial debate in particular about the future of print media.

From the outset of the special consultations in Committee, *La Presse* President Pierre-Elliott Levasseur recalled the crisis print newspapers have been faced with, losing two-thirds of their advertising revenue since 2005. Two American companies, Google and Facebook, now have the lion's share - 80% - of digital advertising revenue.

Levasseur believes that the print newspaper-centric model is beyond repair. To ensure it lives on, *La Presse* must diversify its sources of revenue, which implies transforming the newspaper's legal structure into a 'social trust' governed by the *Civil Code of Québec*.

The change in structure is aimed at enabling the newspaper to receive government assistance, collect private donations and issue receipts so donors can claim tax credits. Of note is the fact that the digital edition for tablets, *La Presse+*, has been available to its readers entirely free of charge since it was launched in 2013. The newspaper stopped producing its weekday print edition at the end of 2015 and put an end to delivery of its Saturday edition at the end of 2017.

Among the witnesses heard in Committee, a representative of the *Fédération professionnelle*

des journalistes du Québec, Marie Lambert-Chan, recalled that 43% of jobs in the Québec newspaper industry had been cut over the last 10 years.

The President of the *Syndicat des travailleurs de l'information de La Presse*, Charles Côté, was pleased to see that Parliamentarians were concerned about media funding and the independence and future of information, 'democracy's oxygen'.

The members of the *Fédération nationale des communications* (a constituent of the *Confédération des syndicats nationaux*), following the example of *La Presse*'s President, asked that the State implement a universal funding program for newspapers.

It must be mentioned that Québec's 2018–2019 budget introduced a temporary tax credit to support print media's digital shift. Furthermore, the last federal budget expressed the Government's intention to provide financial support to Canada's 'national' media. More particularly, it mentions - in the conditional tense - that this support could include helping newspapers to innovate and granting charitable status for non-profit daily newspapers.

Because *Bill 400* was introduced after 15 May, the MNAs' unanimous consent was needed for it to pass before the end of the



sitting period. During the vote, one independent Member refused to indicate whether she gave her consent or not. Faced with this situation, the Government moved a motion to use the exceptional legislative procedure so that the Bill could be passed without delay. At the outcome of an extraordinary sitting, the Bill was passed by a majority vote.

Communications: journalistic sources

Bill 187, An Act to protect the confidentiality of journalistic sources, was passed on 15 June 2018. The Bill is the legislator’s response to the top recommendation made by a government commission of inquiry that sat in 2016–2017. The Commission was chaired by Commissioner Jacques Chamberland, who is also a judge of the Court of Appeal of Québec, and included two other Commissioners.

At the end of October 2016, *La Presse* revealed that one of its columnists, Patrick Lagacé, had been under surveillance for many months by the Internal Affairs Division of Montréal’s police department. During that operation, the police gained access to Lagacé’s cellphone records and location data. At the beginning of November, the media reported on many other cases of police surveillance involving journalists. Each police surveillance operation had, prior to being carried out, been authorized by a warrant from a presiding justice of the peace. On 11 November, the Government issued an order creating a commission of inquiry on the protection of the confidentiality of journalistic sources.

Under section 3 of the new Act, a journalist may object to disclosing information or a document before a court, body or person with the power to compel the production of information on the grounds that the information or document identifies or could identify a journalistic source.

However, sections 4 and 5 allow disclosure if the information or document cannot be produced in evidence by any other reasonable means and the public interest for the administration of justice outweighs the public interest in preserving the confidentiality of the source.

Lastly, the person requesting the disclosure of the information or document has the burden of convincing the court that the conditions set out in section 5 for lifting the immunity relating to the protection of sources are met.

The National Assembly of Québec adjourned its proceedings immediately after passing Bill 187. Under the new legislative provisions requiring that fixed-date elections be held every four years, the 41st Legislature of the Québec Parliament will expire next on 29 August 2018. In keeping with the scenario set by the Election Act, the general election will take place on 1 October 2018.

SUMMER LEGISLATIVE NEWS

Legislation Update

On 21 June 2018, *Bill C-45, the Cannabis Act*, the federal government’s legislation to legalize and regulate recreational marijuana, received Royal Assent. After the Bill was passed, the Prime Minister, Rt Hon. Justin Trudeau, MP, announced that the legislation will take full effect on 17 October 2018. This will give the provinces and territories, which are responsible for determining the rules around the distribution and sale of cannabis, time to prepare. In May 2018, the Senate proposed 46 amendments to *Bill C-45*, but passed the Bill even though the House of Commons rejected 13 of them.

As a companion to *C-45*, Parliament also passed *C-46, An Act to amend the Criminal Code*, which amends the impaired driving provisions to give police new powers to conduct roadside intoxication tests and makes it illegal to drive within two hours of being over the legal limit.

Before adjourning for the summer, several other Government Bills also received Royal Assent, including:

- *Bill C-24, An Act to amend the Salaries Act*, which allows for the appointment of up to eight new Ministers with full Minister salaries.
- *Bill C-50, An Act to amend the Canada Elections Act* (political financing), which creates new rules regarding fundraising for political parties. Specifically, C-50 requires fundraising events to be advertised publicly in advance if they cost \$200 or more per ticket and feature the Prime Minister, Cabinet Ministers, party leaders or party leadership candidates. It also requires these events be reported on in some detail to Elections Canada.
- *Bill C-66, An Act to establish a procedure for expunging certain historically unjust convictions*, which allows people convicted of historical same-sex offences to have their criminal records expunged and permit spouses, parents, siblings, children or

legal representatives to apply for record expungement on behalf of deceased persons.

A number of Private Members’ Bills also received Royal Assent, including:

- *Bill C-211, An Act respecting a federal framework on post-traumatic stress disorder*, which requires the federal government to work with the provinces and territories and the medical community to create a federal framework to fully address post-traumatic stress disorder.
- *Bill C-309, An Act to establish Gender Equality Week*, which designates the fourth week in September as ‘Gender Equality Week’.
- *Bill S-218, An Act respecting Latin American Heritage Month*, which designates October as Latin American Heritage Month.

Committee Hearings and Reports

Although the Canadian House of Commons adjourned for the summer recess on 20 June 2018, the House of Commons Standing Committee on Citizenship and Immigration agreed to meet in July to study the impact of irregular crossing of Canada’s southern border by asylum seekers.

In addition, a number of reports were tabled by House Committees, including:

- Review of the Code of Conduct for Members of the House of Commons: Sexual Harassment (Standing Committee on Procedure and House Affairs);
- Use of Ion Mobility Spectrometers by Correctional Service Canada (Standing Committee on Public Safety and National Security);
- Report on Highly Sweetened Pre-Mixed Alcoholic Beverages (Standing Committee on Health);
- From the Ashes: Reimagining Fire Safety and Emergency Management in Indigenous Communities (Standing Committee on Indigenous and Northern Affairs);

- Women’s Economic Security: Securing the Future of Canada’s Economy (Standing Committee on the Status of Women); and
- Healthy Oceans, Vibrant Coastal Communities: Strengthening The Oceans Act’s Marine Protected Areas Establishment Process (Standing Committee on Fisheries and Oceans).

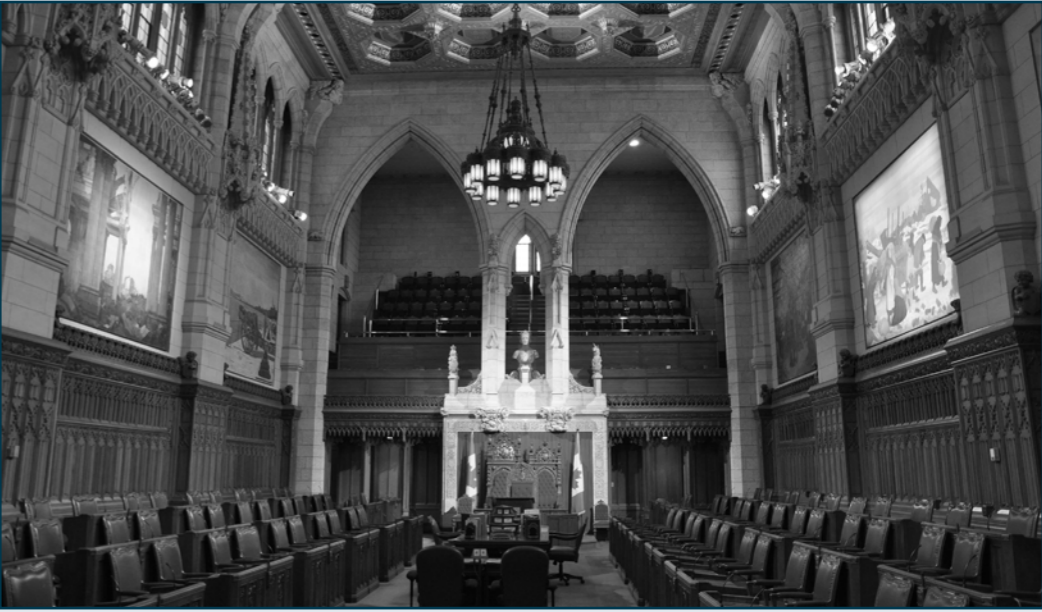
Changes in the Senate

In June 2018, Prime Minister, Rt Hon. Justin Trudeau, MP announced the appointment of five Senators based on the advice of the Independent Advisory Board on Senate Appointments.

The new independent Senators are:

- **Hon. Donna Dasko**, a sociologist, business leader, and one of Canada’s best-known pollsters, to fill a vacancy in Ontario.
- **Hon. Pierre Dalphond**, an arbitrator, accredited mediator, and former senior Judge of the Quebec Court of Appeal, to fill a vacancy in Quebec.
- **Hon. Mohamed-Iqbal Ravalia**, a community leader, family physician, and senior medical officer at the Notre Dame Bay Memorial Health Centre in Newfoundland and Labrador, to fill a vacancy in Newfoundland and Labrador.
- **Hon. Colin Deacon**, a technology entrepreneur and business leader, as an independent Senator to fill a vacancy in Nova Scotia.
- **Hon. Julie Miville-Dechéne**, formerly a journalist, a senior public servant, and longtime advocate for gender equality and women’s rights, to fill a vacancy in Québec.

As of 26 July 2018, the standings in the Senate were: Independent Senators Group 46, Conservative Party 32, Liberal



Party 11 and non-affiliated 8; there were also 8 vacancies.

Changes in the House of Commons

On 18 June 2018, Richard Martel, MP, of the Conservative Party won the Québec riding of Chicoutimi-Le Fjord in a by-election. The by-election was triggered by the resignation of Denis Lemieux of the Liberal Party in December 2017.

On 18 July 2018, Prime Minister Trudeau announced changes to the Ministry and welcomed several new members to Cabinet:

- **Hon. Dominic LeBlanc, MP**, former Minister of Fisheries, Oceans and the Canadian Coast Guard, was appointed Minister of Intergovernmental and Northern Affairs and Internal Trade.
- **Hon. James Gordon Carr, MP**, former Minister of Natural Resources, was appointed Minister of International Trade Diversification.
- **Hon. Mélanie Joly, MP**, former Minister of Canadian Heritage, was appointed Minister of Tourism, Official Languages and La Francophonie.

- **Hon. Amarjeet Sohi, MP**, former Minister of Infrastructure and Communities, was appointed Minister of Natural Resources.
- **Hon. Carla Qualtrough, MP**, former Minister of Public Services and Procurement, was appointed Minister of Public Services and Procurement and Accessibility.
- **Hon. François-Philippe Champagne, MP**, former Minister of International Trade, was appointed Minister of Infrastructure and Communities.
- **Hon. Pablo Rodriguez, MP**, the Chief Government Whip, was appointed Minister of Canadian Heritage and Multiculturalism.
- **Hon. Bill Blair, MP**, former Parliamentary Secretary to the Minister of Justice and Attorney General of Canada and to the Minister of Health, was appointed Minister of Border Security and Organized Crime Reduction.
- **Hon. Mary Ng, MP**, was appointed Minister of Small Business and Export Promotion.
- **Hon. Filomena Tassi, MP**, the Deputy Government

Whip, was appointed Minister of Seniors.

- **Hon. Jonathan Wilkinson, MP**, former Parliamentary Secretary to the Minister of Environment and Climate Change, was appointed Minister of Fisheries, Oceans and the Canadian Coast Guard.

In addition, the following Ministers were renamed:

- **Hon. Carolyn Bennett, MP**, became Minister of Crown-Indigenous Relations.
- **Hon. Scott Brison, MP**, became President of the Treasury Board and Minister of Digital Government.
- **Hon. Marie-Claude Bibeau, MP**, became Minister of International Development.
- **Hon. Kirsty Duncan, MP**, became Minister of Science and Sport.
- **Hon. Bardish Chagger, MP**, became Leader of the Government in the House of Commons.

On 4 June 2018, leader of the Bloc Québécois, Martine Ouellet, announced she was stepping down after receiving the support of 32% of Bloc members in a confidence vote. Mario Beaulieu, MP, became interim leader.



Ngāi Tai ki Tāmaki Claims Settlement Bill

The Ngāi Tai ki Tāmaki Claims Settlement Bill passed its Third Reading on 28 June 2018, and this was celebrated with a *waiata* (song) sung by *iwi* representatives in the gallery of the New Zealand Parliament. The Bill gives effect to elements of the deed of settlement, signed on 7 November 2015.

The historical grievances of *Ngāi Tai ki Tāmaki iwi* (tribe) relate primarily to the alienation of land through the Crown's failure to implement the terms of pre-Treaty of Waitangi land transactions, and *raupatu* (confiscation) of significant ancestral and cultural sites belonging to the *iwi*. Ancestors of *Ngāi Tai ki Tāmaki* entered into land transactions intending to foster ongoing and mutually beneficial relationships with European settlers.

The result, post-1840, however, was that large blocks of land were sold to private purchasers, with the Crown failing to protect and reserve land for *Ngāi Tai ki Tāmaki*. The impact of these *Te Tiriti o Waitangi* (Treaty of Waitangi) breaches meant that the loss of communal ancestral lands challenged the *iwi*'s traditional tribal structure. Families were left landless and, with insufficient means to support themselves, they left their ancestral home of *Umupuia* in search of work. This dispersal isolated many *whānau* (family) and their descendants not only from their lands but from their *iwi* identity, their tribal authority, their language, and their cultural traditions.

Hon. Andrew Little, MP (Labour), Minister for Treaty of Waitangi Negotiations, shed more light on the marginalisation of the *iwi*, explaining: “*This Bill represents the culmination of the Crown’s efforts to fulfil its obligation to*

redress the wrongs of its past actions with respect to the iwi of Ngāi Tai ki Tāmaki ... The Crown repeatedly failed the people of Ngāi Tai ki Tāmaki and breached its obligations under the Treaty of Waitangi ... This Bill cannot change the past, nor will it be enough to fully compensate the loss incurred by Ngāi Tai ki Tāmaki. However, the redress will recognise and acknowledge the loss suffered by Ngāi Tai ki Tāmaki and provide a new future for the iwi ... The redress items provide a starting point for the restoration of the Ngāi Tai ki Tāmaki economic base and cultural redress in recognition of sites of paramount significance to the iwi. Sixteen cultural sites will be vested in Ngāi Tai ki Tāmaki, which will provide the iwi with a more visible presence in their land and a more active role in how that land is cared for.”

Hon. Christopher Finlayson, MP (National), former Minister for Treaty of Waitangi Negotiations, who launched the initial settlement negotiations with *Ngāi Tai ki Tāmaki*, highlighted the importance of the apology from the Crown: “*In my experience, there are several parts of a settlement that some people sometimes overlook. People always get fixated on the commercial relief, but that’s only part of it. The history and the apology are extremely important in a Treaty settlement ... people want to know what the history was, they want the general public to know what the history was, and they want an adequate apology.*”

Mr Rino Tirikatene, MP (Labour), Chairperson of the Māori Affairs Committee, echoed these sentiments, saying, “*one of the most rewarding aspects of being a Member in this House, [is] to be able to put these special Bills through and to acknowledge and learn*

more about the people that it concerns ... So there is that history there, and it must always be recorded and remembered. I’m sure there will be many waiata and haka that will be created and composed by Ngāi Tai ki Tāmaki to reinforce their identity.”

The economic benefits to the *iwi* were explained by **Mr Nuk Korako, MP** (National), who chaired the Māori Affairs Committee during its examination of the Bill, in the 51st Parliament, when he stated: “*The settlement itself is only a small proportion of what Ngāi Tai ki Tāmaki really lost - it’s cents in the dollar - but at least it’s a start. So the quantum is not large, but the opportunities available to Ngāi Tai ki Tāmaki are indeed very, very large.*”

Brokering (Weapons and Related Items) Controls Bill

The Brokering (Weapons and Related Items) Controls Bill, a Government Bill aimed at bringing New Zealand legislation into line with the country's commitments under the Arms Trade Treaty, passed its Third Reading with unanimous support on 15 May 2018. The Bill seeks to regulate the brokering of weapons and related items between countries by New Zealanders and New Zealand entities, requiring brokers to register first with the Secretary of Foreign Affairs and Trade and to obtain a permit. Although initially introduced by the previous National Government, the Labour – New Zealand First coalition has sponsored the Bill through its remaining stages.

At the Bill's First Reading, then Minister of Foreign Affairs, **Hon. Gerry Brownlee, MP** (National) outlined the purpose of the Bill, stating, “*the prospect of New Zealanders engaging in the transfer of illegal arms legally in this country is intolerable, and for that reason the Bill will close that prospect to New Zealanders or New Zealand entities and ensure that where they do legitimately want to get involved in those activities, there is a legal process for them to be able to do so.*”

In subsequent speeches, Members debated the adequacy of the Bill's definition of ‘dual-use goods’.

Mr Simon O'Connor, MP (National) argued that the Bill required “*some greater surety and clarity around how dual-use goods are defined, to give some certainty to us ... We don’t want to end up being so tough on the brokering, or the military use of goods, that we are affecting the civilian population.*” As an example, he pointed to “*a very successful*

company in New Zealand, Raycom, which makes guidance chips, which are particularly of use in joint direct attack munition bombs ... but also these chips can be used for other guidance services.”

Mr Todd McClay, MP (National) noted also that the Foreign Affairs, Defence and Trade Committee had considered the issue of dual-use goods and “*went to some lengths to question officials to ensure that there wouldn’t be unintended consequences ... things that have a military use can also have a civilian use, and it is important in meeting our obligation that we don’t burden law-abiding citizens.*”

Some Members were concerned that the Bill's exemption clause for brokers conducting activity outside New Zealand but in compliance with an ‘equivalent overseas regime’ could be used as a loophole. **Dr Duncan Webb, MP** (Labour) argued “*the difficulty is that arms brokers will simply look for the jurisdiction with the weakest regulatory regime and comply with that. If that happens, that’s really going to undermine the Arms Trade Treaty and everything that New Zealand is aiming for.*”

Expanding on Dr Webb's point, **Dr Deborah Russell, MP** (Labour) said she “*found it interesting that it is the Secretary of Foreign Affairs and Trade who makes the judgment as to what is an equivalent overseas regime. I would ordinarily have expected that it perhaps might be the Minister who made that decision.*”

Hon. Tracey Martin, MP (New Zealand First) explained that “*equivalent overseas*

regimes’ means regimes imposed by those countries which are members of the four export control regimes, all of which use the same list of military and dual-use goods.” She added that “*The judgment of equivalent regimes is based on countries who have been accepted as members of a regime after meeting various criteria, and through analysis of the capability of that regime.*”

In the final debate, Members praised the bipartisan spirit in which the Bill was moved through the House, with **Ms Kiritapu Allan, MP** (Labour) stating “*This is one of the rare occasions ... when we can find agreement from both sides of the aisle in respect of matters that are of fundamental importance to New Zealand and our international brand.*”

The Bill received Royal Assent on 21 May 2018.

Land Transport Management (Regional Fuel Tax) Amendment Bill

The Third Reading of the Land Transport Management (Regional Fuel Tax) Amendment Bill was completed on 26 June 2018, after urgency was accorded to its Committee of the Whole House stage and Third Reading. The Bill introduces a mechanism by which regional councils can fund infrastructure programmes for their regions that would otherwise be delayed or not funded, using revenue from a regional fuel tax of up to 10 cents per litre. Initially, the ability to implement a regional fuel tax will be available only to the Auckland region; it will be available to other regions in New Zealand from 1 January 2021.

The need for the Bill's swift passage through the House was so that an Order in Council could be made under a new provision to establish the Auckland regional fuel tax scheme by 1 July, as scheduled. The Bill had been supported by all parties at its First and Second Readings, but the vigorous Committee of the Whole House stage saw many amendments moved by the Opposition.

Hon. Phil Twyford, MP (Labour), Minister of Transport, in moving the Third Reading, asserted

that “*This Government wants to actually build the infrastructure that our country’s biggest city needs. That costs money. It has to come from somewhere, and we are already paying the price of doing nothing in congestion, lost productivity, and lives.*”

Speaking in opposition to the Bill, however, **Mr Jami-Lee Ross, MP** (National) charged the Government with not having considered the fuel tax's impact on low-income New Zealanders: “*these taxes are regressive. They will ensure and see that the lowest-income New Zealanders living in South Auckland, Māori and Pacific families that they claim and purport to represent, will be the ones hit the hardest by this regional fuel tax. They also won’t see any benefits.*”

Ms Jan Logie, MP (Greens) refuted this, noting: “*congestion costs are also regressive, and we know that people in the south and west are spending a lot of time in their cars, and that the best way to deal with the regressive cost of congestion is to invest in rapid transit. And this regional fuel tax will fund those projects across Auckland, enabling people on low incomes to get around faster ... and in a more affordable way.*”

Mr Michael Wood, MP (Labour) spoke about the increase in road safety that was part of the Government's vision as part of this Bill: “*Over the past five years, the number of serious injuries and deaths on Auckland’s roads has skyrocketed by 60%. That is a scandal. That is real people losing their lives; real people being injured because the previous Government forgot to invest in the safety that we need in a growing city.*”

Opposition Member **Ms Denise Lee, MP** (National) questioned the speed with which the Bill had passed through the House. “*Since it was first proposed, both the council and the Government have arrogantly pushed it through step by step. They’ve foregone convention, foregone process, and the public consultation itself, of course, was shortened. The Select Committee process was shortened.*”

The regional fuel tax must be reviewed by the regional council and relevant Ministers before being varied or extended, and the New Zealand Transport Agency has administrative, monitoring, and enforcement functions in relation to the tax. The Bill passed with 63 votes to 56, and received the Royal Assent on the same day as its Third Reading.



SRI LANKA INTRODUCES A NEW SET OF STANDING ORDERS

The new Standing Orders numbering 143 were adopted by the Parliament of Sri Lanka recently on 15 April 2018. Standing Orders in Parliament have been enacted since the first Parliament was set up in 1948 and have been amended from time to time since its first introduction and were adopted in 1993. This is almost the first time that the Standing Orders have been changed in a significant manner following a report from the Committee of Standing Orders presented to the House by the Speaker. **Hon. Karu Jayasuriya** on 27 Nov 2017 (*Parliamentary Series No 314*).

The Committee consisted of eight members and was also chaired by the Speaker of Parliament. It was also attended by four senior Members appointed to look into and report into special matters consisting of **Hon. Rauff Hakeem**, **Hon. Wijeyadasa Rajapakse**, **Hon. R. Sampanthan** and **Hon. Chamal Rajapakse**. Twelve sittings of this Committee were held from December 2015 to October 2017. They deliberated very diligently and carefully before submitting their recommendations.

A keyword about the history of the Standing Orders may be useful. Following the recommendations of the Colebrooke-Cameron Commission in 1833, the Executive Council and the Legislative Council were set up. The very first Legislative Codes of colonial Ceylon was set up by the Governor, Sir Robert Horton in 1833. These institutions were located in the building opposite Gordon Gardens and later shifted to the old Parliamentary building at Galle Face. The building was declared open on 29 January 1930 by the then Governor, Sir Herbert Stanley and housed the Legislature

till it was shifted to the new Parliamentary Complex at Sri Jawardenapura in April 1992. It may also be of interest to note that the name of the Legislature has been changed several times during its history as follows:

1. The Legislative Council: 1833-1931 consisting of 41 Members
2. The State Council: 1931-1947 consisting of 61 Members
3. The House of Representatives: 1947-1972 consisting of 101 Members and 157 Members after 1960
4. The National State Assembly: 1972-1978 consisting of 168 Members
5. The Parliament of Sri Lanka: 1978 to date consisting of 225 Members

According to the available records, the first set of Standing Orders was adopted by the Legislative Council in 1912. These were largely based on those of the British Parliament at that time, largely modelled on Westminster practices followed in the House of Commons. These Standing Orders were amended from time to time to form the bulk of the Standing Orders that exists until today. It is believed that the then Clerk of the House of Commons, Sir Edward Fellowes had assisted in the formulation of the Standing Orders in 1947.

The Standing Orders of Parliament are the agreed rules under which procedure, debate and the conduct of Members in the House are regulated. The main purpose of the Standing Orders is to lay down the procedure for the functioning of Parliament, in an orderly and meaningful manner. It is easily the most important source of our Parliamentary procedure and is often referred to as the bible of our Parliamentary procedure. It provides and sets out ample opportunity for debate

and discussion and lays down the procedure for decisions to be taken for matters under consideration. The Standing Orders have the status of rules under the Constitution of Democratic Socialist Republic of Sri Lanka. Article 74 of the 1978 Constitution states that Parliament may by resolution provide for Standing Orders.

Throughout the twelve sittings of the Standing Orders Committee over a period of two and half years, an intensive and comprehensive in-depth study was made of all the available material before the Committee. To begin with all the Members of Parliament were asked to submit their proposals which included those coming from the Prime Minister, the Leader of the House, the Leader of the Opposition, the Deputy Speaker, Deputy Chairman of the Committees and all the leaders of the political parties represented in the House. In addition, the Secretariat of the Sri Lanka Parliament asked for and received the views of the Secretariats of many Commonwealth Parliaments including the UK, India, Australia and Canada. All these reports were made available to all the Members of the Standing Orders Committee.

The proceedings of a Parliamentary Debate on 26 February 1993, upon a Motion by the Leader of the House then to approve of Amendments to Standing Orders was made available to all the Members of the Committee. Special attention was focused on few matters which was considered very topical and important. Among others these included the setting up of Parliamentary Oversight Committees, the approval of Liaison and Statutory Committees, the consultation with the Supreme Court with special reference to

the removal of judges and the impeachment of Judges.

At the end of their deliberations the Committee unanimously agreed to make changes in the following Standing Orders:

1. Official oath and affirmation by the Speaker and Members
2. Election of a President
3. Meetings of Parliament
4. Proceedings of the House to be made available for broadcast or telecast
5. Motions or Questions at Adjournment time
6. Private Member Motions
7. Ministerial Statements
8. Personal explanations
9. Questions to Ministers when they are absent and when Members are absent asking the question
10. Questions to the Prime Minister
11. Voting
12. Bills regarding list 3 of the 4th Schedule of the Constitution
13. Orders in Parliament
14. Removal of Members for unruly behavior
15. Sectoral Oversight Committees
16. Legislative Standing Committee
17. Committee on Ethics
18. Committee on Public Accounts
19. Committee on Public Finance
20. Committee on Constitutional Affairs
21. Backbencher Committee
22. Resignation or removal of Chairs of Committees

All these changes have been included into the new Standing Orders adopted in April 2018. It is fervently hoped that with these new changes and Members following and rigorously abiding by these provisions, Parliament will be made into a more vibrant and effective institution and earn the respect it so much deserves at a time when falling standards is much spoken of.

National Audit Bill

The National Audit Bill was passed in the Sri Lankan Parliament on 5 July 2018, without a vote, with the inclusion of several amendments at the Committee Stage. Opening the debate on the Bill, the Prime Minister, **Hon. Ranil Wickremesinghe** stated in Parliament that the *Yahapalanaya* (good governance) Government had been able to introduce the National Audit Bill despite successive governments failing in the task since 2003. He stated: “*The Bill was initially proposed by the then Government in 2003. I tried to bring it in as the Prime Minister of that government but was unable to do so. Thereafter successive governments failed to introduce the National Audit Bill until this Government decided to do so after being elected in 2015. President Sirisena, along with the Government, wanted to push for the establishment of independent commissions. We established the Right to Information Commission, the Elections Commission, the Independent Police Commission and now we have the National Audit Commission which will be set up soon.*”

He went on to note that the National Audit Commission was established under the 19th Amendment to the Constitution: “*The National Audit Commission comes under the power of this Parliament. An effective audit is a crucial part of a country. The Parliament can also bring amendments to the National Audit Bill in the future if there is a necessity after it is passed today,*” he said.

Taking part in the Second Reading debate of the National Audit Bill, **Hon. Sunil Handunetti, MP** (JVP) said that the original draft of the Bill had numerous provisions to prevent fraud and corruption. He said: “*There was an undue delay in presenting the Bill to Parliament and during that delay the Bill was stripped of its powers. It was marketed as a superman against corruption but what we now have before us is a straw man. This is only a dummy of the original Bill. This is nothing but a scarecrow. It has no powers.*”

Further criticising the Bill, MP Handunetti said that the JVP would propose sixteen amendments to the Bill to strengthen it against corruption. “*It is the duty of Parliament to give real life to this scarecrow. The substance of the original Bill has been removed. For that purpose, we propose sixteen amendments to the Bill. If the Bill is passed without incorporating the amendments we propose, then those who are waiting to rob the public institutions and continue their corruption need not fear for this new law. The original Bill*

had a maximum fine of Rs. 100,000. It has now been reduced to Rs. 5,000. Who did that? The Government has brought an amendment to that effect. The worst of this Bill is that it contains provisions to narrow down the scope of the Auditor General. Some of the subjects have been taken out from his auditing scope. Could anyone against corruption and fraud expect anything worse than that?” MP Handunetti said.

In response, the Minister of Higher Education, **Dr Wijeyadasa Rajapaksa, MP** said the Penal Code and Code of Criminal Procedure contained provisions to take action for the offenses MP Handunetti had pointed out. “*Do not belittle this Bill in that manner. This Bill would not overrule existing Acts and their provisions. The Penal Code and Code of Criminal Procedure would continue to exist. They have provisions for what you demand to do,*” Minister Rajapakse said.

Meanwhile, Deputy Minister of Social Empowerment, **Hon. Ranjan Ramanayake, MP** suggested that a clause be included empowering the Auditor General (AG) to audit and probe the fund received by political parties. He said that the AG should be vested with powers to examine political party funds as there are no laws to do so at present and political parties refuse to reveal funding they receive from individuals, groups or organizations and how such monies are spent.

“*The Auditor General should be given powers to examine where the parties get funds for their election campaigns, how much and how they have spent them as none of the parties disclose these details,*” Minister Ramanayake said. In addition, Deputy Minister Ramanayake recommended that the Auditor General also be given leeway to directly order the Inspector General of Police to carry out investigations into alleged financial crimes uncovered by the Auditor General's Department.

Salient features of the new Audit Act are as follows:

Objectives: To provide for the powers, duties, and functions of the Audit Service Commission, the establishment of the office of the National Audit Office and the Sri Lanka State Audit

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Service, specify the role of the Auditor General (AG) over public finance and to make provision for matters connected therewith.

The role of the Auditor-General: The Auditor General (AG) shall audit all expenditure from the Consolidated Fund, ascertain whether the moneys shown in the accounts of auditee entities as having been disbursed were legally available for and applicable to, the services or purposed to which they have been applied for or charged with, determine whether the expenditure conforms to the authority which governs it and in each audit, report on the expenditure, transactions and accounts of such audit. He inspects accounts of any auditee including treasuries. He shall get down any papers, accounts or books. He can question any Chief Accounting Officer. He can examine financial statements sent by various state institutions.

Scope: The scope of an audit carried out by the Auditor General includes examining the accounts, finances, financial position and prudent management of public finance and properties.

Auditing Standards: The Sri Lanka Auditing Standards determined by the Auditing Standards Committee established under the *Sri Lanka Accounting and Auditing Standards Act*, No. 15 of 1995.

In addition to the powers and functions conferred on the Auditor General under *Article 154 (5)* of the Constitution, he or any person authorized by him may exercise the following powers in respect of an audit or an auditee entity:

- (a) Access or call for any written or electronic records or other information relating to the activities of an auditee entity
- (b) Call any person whom the Auditor General has reasonable grounds to believe to be in possession of information
- (c) Examine and make copies of any written or electronic records
- (d) After obtaining permission from the



relevant Magistrate's Court, examine and audit accounts of a financial institution or any person

(e) Require any officer of any financial institution to produce any document or provide any information relating to an account, transaction or dealing.

(f) Obtaining views from the governing bodies of institution

(g) Pay rewards and incentives out of the Audit Fund

Public corporations and companies shall submit their Annual Reports. The Auditor General shall charge a fee for conducting an audit from public corporations, statutory Funds or Boards, government's business undertakings and any company registered under the *Companies Act*, No. 7 of 2007 in which the Government or a public corporation or local authority holds 50% or more of the shares.

The Audit Service Commission shall report the amount of any deficiency or loss in any relevant institution, a surcharge could be imposed. The Chief Accounting Officer of the relevant institution shall charge the amount from the person who is responsible for the deficiency or loss. Any person aggrieved by a decision made by the Chief Accounting Officer of that particular institution, may within one month from the date of receiving the Surcharge Certificate, appeal against such decision to the Surcharge Appeal Committee.

Audit Service Commission

It has powers to appoint Committees to assist the Commission. It can introduce schemes to enhance the quality of performance of the staff of the National Audit Office. National Audit Office assists the Auditor General in the discharge of his duties. The Sri Lanka State Audit Service will be established. The Auditor General may deploy any of the officers of the Sri Lanka Audit Service or qualified auditor to carry out any audit in any part of Sri Lanka.

The Audit Service Commission shall prepare the annual budget estimates of the Audit Office. The said estimates shall be submitted to the Speaker after consultation with the Minister of Finance and the Chairman of the Commission. The Speaker shall tale the estimates in Parliament. The Audit Service Commission is empowered to introduce schemes to enhance the quality of performance of the staff of the National Audit Office, to give directions for carrying out an internal audit, conduct inquires and make rules under this Act.

The Auditor General should submit the annual work programme for the coming

year. The Speaker shall cause the draft annual work programme to be reviewed by a Committee of Parliament established under the Standing Orders calling for any comments or amendments. The Speaker or the Committee should forward their comments or amendments within 30 days from the date of the work programme. The Speaker should forward it to the Auditor General. Accordingly, the Auditor General may amend the work programme. The Auditor General shall present a completed annual work programme to the Speaker before the beginning of each financial year. They then table the work programme in Parliament.

Imposition of Surcharge

Unless otherwise specifically provided for, in any other written law, the Audit Service Commission shall report the amount of any deficiency or loss in any transaction of an auditee entity. The Audit Service Commission can impose a surcharge for any fraud, negligence, misappropriation or corruption. The Chief Accounting Officer of the auditee entity shall charge the surcharge against any person who is responsible for any deficiency or loss.

A Surcharge Appeal Committee will be appointed by the Constitutional Council. The committee shall consist of not less than five members with experience in the fields of auditing, law and public finance management. That Committee determines the appeal procedure and rules.

The Chief Accounting Officer must credit all such sums of money collected as surcharge and interests accrued to the Consolidated Fund. Where the surcharge is related to a transaction made in respect of a Provincial Council or a local authority, the sum collected as surcharge should be credited to the Provincial Fund or the Fund of the relevant local authority.

When a sum has not been paid within specified time period, in order to recover such sum, the Audit Service Commission must inform a Magistrate. The Magistrate should summon the relevant person. If the person fails to show cause, a fine should be imposed. Any person aggrieved by the decision of the Magistrate can appeal to the High Court.

National Audit Office

The National Audit Office assists the Auditor General. The Sri Lanka National Audit Service is established under this Act. The members of the Sri Lanka Audit Service and the Audit Examiners' Service serving on the date immediately prior to the date of operation of this Act, shall be deemed

to be members of the Sri Lanka Audit Service as at the date of operation of this Act. The Auditor General may deploy any of the officers of the Sri Lanka State Audit Service to carry out any audit in any part of Sri Lanka.

The Speaker shall appoint an independent auditor to carry out the audit of the financial statements, accounts and other information relating to the Audit Office. The independent auditor should submit a report to the Commission, and the Commission should submit it to Parliament together with any observations/views.

Offences and Penalties

Failure to assist the Auditor General is an offence. Other offences include: refusing to furnish information and documents, refusing to nominate a person conversant on the subject, to appear before the Auditor General, making any false statements to the Auditor General; resisting or obstructing the functions and duties of the Auditor General or any person authorized by them.

If a person is convicted, a Magistrate can impose a fine not exceeding Rs. 100,000 or a prison sentence not exceeding six months. In addition, a person holding any public office shall be disqualified from holding such office. However, the convicted person can appeal to a competent court.

Influencing or attempting to influence a decision of the Commission or any officer of the Sri Lanka State Audit Service is also an offence. If convicted, a fine of not exceeding Rs. 100,000 could be imposed on the offender or imprisonment for a term not exceeding three years or to both such fine and imprisonment could be imposed.

If an offence is committed by a body of persons, all persons and partners are liable to a fine or imprisonment or both. However, a director or an officer or agent of such corporation or firm can prove that such offence took place without his knowledge, or that he used all such diligence to prevent the commission of such offence, shall not be deemed to be guilty.

The National Audit Bill was introduced by the Prime Minister on 3 April 2018 and it was challenged before the Supreme Court. The Supreme Court, delivering its Order, determined that none of the sections of the Draft Bill are inconsistent with the Constitution on 23 April 2018. Thereafter, the Bill was taken up for the Second Reading debate on 5 July 2018, in Parliament and passed the Bill with few Committee Stage amendments but without a Division on the same day. Finally, the Hon. Speaker assented the Bill on 17 July 2018.

NO-CONFIDENCE MOTION IN COUNCIL OF MINISTERS DEFEATED IN THE PARLIAMENT OF INDIA

On 20 July 2018, the Lok Sabha discussed a no-confidence motion for about 12 hours for notices which had been submitted by a number of Opposition parties. This was the first no-trust motion against the government headed by Shri Narendra Modi after it came to power in May 2014 and less than a year before the next general elections. The motion was rejected by 325 to 126 votes. Members of the Shiv Sena, BJD and TRS were not present in the House when the voting took place. Several AIADMK members supported the government and voted against the motion.

Shri Jayadev Galla (TDP), starting the debate on behalf of his party member, Shri Kesineni Srinivas, cited four reasons for moving the no-confidence motion, namely, lack of fairness in bifurcation of the State of Andhra Pradesh in 2014; lack of trust as the central government has used misleading, delaying, confusing, and coercion tactics to betray the people of Andhra Pradesh; lack of priority because Andhra Pradesh is getting the least priority and lack of unbiased approach because funds given to Andhra Pradesh are far less than what is being given to projects across India. He charged the NDA government with making empty promises to Andhra Pradesh and denying it the special category status after bifurcating Andhra Pradesh into two States.

Shri Rakesh Singh (BJP) said there is no concrete reason for moving this motion and people are unable to understand whether the motion has been moved by the Opposition to protect their shrinking popular base in the

States or to try unsuccessfully to block the victory march under the leadership of the Prime Minister. The only truth behind the Opposition parties coming together is that they have become nervous with the popularity of the Prime Minister and intent to grab the power by just forming a temporary coalition.

The Congress Party President, **Shri Rahul Gandhi** alleged that the government has failed to provide sufficient employment to the youths and the promised 1.5 million rupees in everyone's bank account. He accused the NDA government of making only lofty promises and alleged that the Prime Minister talks only with 15-20 big businessmen while the voice of small traders, the poor does not reach him. Shri Gandhi questioned the government for not revealing the details related to purchase of Rafale fighter aircrafts from France.

Intervening in the debate, the Defence Minister, **Smt. Nirmala Sitharaman** clarified that the government is following the agreement signed between India and France in January 2008 during the time of the previous UPA government which clearly states that the classified information and materials exchanged under the agreement are governed by the provisions of security agreement.

Dr P. Venugopal (AIADMK) said five to six States including Tamil Nadu are contributing significantly to India's GDP but they are not getting much in return. He requested the union government immediately release the central assistance to Tamil Nadu including all grants and grants-in-aid and resolve all inter-state river

water disputes before bringing the proposed Dam Safety Bill and also to pass the Women's Reservation Bill.

Prof. Saugata Roy (AITC) said the fact that TDP, an ally of BJP in 2014, has brought the no-confidence motion is a sign of no confidence in the government. The demonetization of high value currency notes slowed down GDP growth and wiped out 2.5 million jobs.

Shri B. Vinod Kumar (TRS) said that the assurances given in the Andhra Pradesh Reorganization Act for the State of Telangana should be fulfilled. **Shri Mulayam Singh Yadav** (SP) alleged that the government has not fulfilled even a single promise made in its election manifesto and failed to provide employment to the youths while farmers are suffering due to high cost of inputs like water, fertilizer, seeds etc.

Shri Mohammad Salim (CPI-M) said farmers and agricultural labourers today are the most distressed lot and worst affected by good and services tax (GST) and demonetization. The government which was talking about cashless economy has instead increased the circulation of currency.

The Minister of Home Affairs, **Shri Rajnath Singh** (BJP) said a government with a full majority was formed under Shri Narendra Modi in 2014 and the opposition is not able to understand the faith people have reposed in the leadership of Shri Modi. The continuous victory of BJP in State Assembly elections shows the trust people have in his leadership. He assured the people of Andhra Pradesh of providing all assistance and support for the development of the State.

Shri Tariq Anwar (NCP) said the government has failed to address the problem of unemployment, farmers' problems, safety of women and atrocities against the tribals, dalits, minority communities and weaker sections of the society.

The Minister of Consumer Affairs, Food and Public Distribution, **Shri Ram Vilas Paswan** (LJSP) said the NDA Government has done a lot for promoting the interests of minorities and the TDP has not raised any issues other than that of Andhra Pradesh.

Shri Mallikarjun Kharge (INC) said the Congress Party has supported the no-confidence motion in the interests of the people of Andhra Pradesh. The BJP is trying to divide the society,



suppress freedom of speech and create inequality. He said people want to know when will the government bring back black money stashed abroad and provide employment to 20 million people in a year, give justice to farmers and stop atrocities against the dalits and women.

Kambhampati Haribabu (BJP) said if the Congress Party leaders were really interested to extend special category status to Andhra Pradesh, why did they not include that status in the Act itself?

Dr Jayakumar Jayavardhan (AIADMK) said Tamil Nadu is concerned about the impact of GST on the fiscal autonomy of the States and huge revenue loss to manufacturing and net exporting States like Tamil Nadu. The centre has always fallen short in providing a helping hand to the State in disaster management.

Shri Dinesh Trivedi (AITC) believed there is threat to democracy and an impending economic crisis. The union government does not have a single programme for the people of weaker sections, dalits, downtrodden and women.

Shri Prem Singh Chandumajra (SAD) opposing the motion, favoured giving special status to Andhra Pradesh. **Shri Jai Prakash Narayan Yadav** (RJD) also supported special status for Andhra Pradesh. He alleged that constitutional provision relating to reservation is being violated and Scheduled Castes, Scheduled Tribes, and Other



Backward Communities are being deprived of their rights.

The Minister of State in the Ministry of Health and Family Welfare, **Smt. Anupriya Patel** said every scheme of the government is for all sections of society and the government has taken many steps to empower the farmers.

Shri Ram Mohan Naidu Kinjarapu (TDP) said his party has brought the motion so that it could hear from the Prime Minister about what he has done for the State.

Shri Bhagwant Mann (AAP) believed the BJP government to be a big threat to federal structure which has failed to do anything about unemployment or digital India. **Shri Virendra Singh** (BJP) narrated the various schemes launched by the central government. **Shri Badruddin Ajmal** (AIUDF) raised various problems faced by the people of Assam and the development issue of the north-east region.

The Minister of State in the Ministry of Human Resource Development, **Shri Upendra Kushwaha** requested the Prime Minister to kindly pay special attention to Bihar. **Smt. Butta Renuka** (YSR Congress) said the State of Andhra Pradesh has lost substantial revenue because of the division and needs to spend a lot on building of new capital, relocation of employees, infrastructure development, etc. The BJP which had demanded special category status for Andhra Pradesh when in opposition is now expressing its inability to give it.

Shri Dushyant Chautala (INLD) said farmers are in distress and there is no job opportunity for the youths. **Shri P.K. Kunhalikutty** (IUML) said the purpose for which the Opposition brought the no confidence motion has been very well served.

Shri Kaushalendra Kumar (JD-U) congratulating the Prime Minister for his efforts to make India corruption free, said a no confidence motion should be brought on the question of a big national issue. **Shri Vijay Kumar Hansdak** (JMM) said mob lynching has increased in the name of cow vigilante and the tribal people of Jharkhand State are also being divided in the name of religion. **Shri Asaddudin Owaisi** (AIMIM) supporting the motion against the government said not even one percent of the muslim community has been provided employment. He wanted to know the policy of the government on Kashmir.

Dr Farooq Abdullah (J&K NC) asked the government to find a solution to Kashmir problem and make efforts to win over the hearts of the people of Kashmir. **Shri Dharam Vira Gandhi** (AAP) said all the natural resources and wealth generation is with the States but control of political power and economy is with the centre which needs to be redefined.

Shri C. N. Jayadevan (CPI) said country's economy is in shambles, the banking system is on the verge of bankruptcy and farmer's crisis has escalated in last four years of NDA rule. **Shri Anurag Singh Thakur** (BJP) asked the leader in the opposition to apologize for raising baseless allegations against the Defence Minister.

The Minister of State in the Ministry of Social Justice and Empowerment, **Shri Ramdas Athawale** (RPI) said all should work for welfare of dalits, minorities and the society

instead of making allegations against each other. **Shri Thota Narasimham** (TDP) asked for the implementation of Andhra Pradesh Reorganisation Act and central government's assurances to the State of Andhra Pradesh.

Shri N.K. Premachandran (RSP) said the policies of the government which came to power on the slogans of 'development' and 'good governance' are destabilizing and disturbing the social fabric of India. **Smt. Kothapalli Geetha** (YSR Congress) said the UPA government badly let down the people of Andhra Pradesh by arbitrarily bifurcating Andhra Pradesh against the will and interests of the people. She requested that the union government fulfil all the assurances given to the State. **Shri Mukesh Rajput** (BJP) said a lot of development works has been undertaken during the last four years while **Shri Raju Shetty** (Swabhimani Paksha) expressed his lack of confidence in the government.

Shri Prem Das Rai (SDF) thanked the government for bringing progress to the people of Sikkim. **Shri Bhairon Prasad Mishra** (BJP) said the different schemes launched by the government have helped in strengthening the country and India has become the sixth largest economy of the world.

Smt. Tabassum Begum (RLD) said government has failed in promoting love and brotherhood among different sections of society. The increased input costs of seeds, fertilizers, electricity and irrigation facilities have created a lot of problems for farmers. The inconsistencies between the *Andhra Pradesh Reorganization Act, 2014* and the actions of the central government have done injustice to Andhra Pradesh said TDP Members,

Dr Ravindra Babu and Shri Konakalla Narayana Rao.

Shri Santosh Ahlawat (BJP) opposed the motion. **Shri Rajesh Ranjan** (RJD) said a large number of people are being pushed to poverty and unemployment and are being deprived of their rights. **Smt. Meenakashi Lekhi** (BJP) said there is no logic in bringing a no-confidence motion when there is all round development in the country. **Shri R. Radhakrishnan** (AINR Congress), opposing the motion said his party will support any Bill that is brought to provide financial assistance to Andhra Pradesh.

Replying to the debate, the Prime Minister, **Shri Narendra Modi** said the no confidence motion is in a way indicative of great strength of our democracy. The government has the numbers and the blessings of the people of India. This is not the floor test of the government but of the Congress and its so-called partners. The Prime Minister asserted that the NDA government has done several things for the benefit of the people especially women, vulnerable sections, youth and farmers and his government is serving the nation on the basis of the philosophy of Sabka Saath - Sabka Vikas.

The Prime Minister expressed confidence that the NDA will return to power next year. In a blunt retort to Congress President Rahul Gandhi's accusation against the Prime Minister being a partner in corruption, Shri Modi asserted that they are partners in people's dreams. Rejecting the allegations on Rafale deal, the Prime Minister asked Shri Gandhi to abstain from making childish statements on sensitive issues like national security. He assured the House that the governments of India

and France signed the pact maintaining full transparency.

On the incidents of lynching, the Prime Minister urged all state governments to punish those who indulge in violence saying that any such incident brings shame to the nation. The fight against black money will continue. The Prime Minister said the problem of Non Performing Assets of Banks has been inherited from the UPA government. He accused the Congress of giving new loans without recovering the old ones.

On the issue of demand of special category status to Andhra Pradesh, the Prime Minister assured the House and the people of Andhra Pradesh that his government will continue to work for them and will do everything possible for the development.

Shri Kesineni Srinivas (TDP) by way of reply said unethical and unscientific bifurcation of Andhra Pradesh happened in this House and a lot of promises, false promises were made for Andhra Pradesh, but there was no delivery.

Virtual Local Area Network-based Wi-Fi facility in Lok Sabha Chamber started

On the first day of the Monsoon Session of the India Parliament that commenced on 18 July 2018, the Speaker of Lok Sabha, **Smt. Sumitra Mahajan** informed the Members about the availability of a dedicated Virtual Local Area Network based Wi-Fi facility in the Chamber of Lok Sabha. Wi-Fi access to Intranet Services of Lok Sabha and various government websites/portals have been provided through this network. Internet facility is not available through this network inside the Lok Sabha Chamber. Members will be able to avail this facility inside the Lok Sabha Chamber through their officially registered mobile or officially registered iPad.

THIRD READING: INDIA

The Indian Institute of Petroleum and Energy Bill, 2017
 In pursuance of the commitment of the Government of India to establish a Petroleum University in the successor State of Andhra Pradesh as per the *Andhra Pradesh Reorganisation Act, 2014*, it had been decided to set-up the Indian Institute of Petroleum and Energy in Visakhapatnam district of Andhra Pradesh. The Institute was sought to be set up to be a domain-specific energy Institute that will serve as the fountain-head for nurturing world class technical human resources capable of serving as leaders and innovators in the field of petroleum technology and energy.

The Institute had been mandated to provide high quality education and conduct advance research in all aspects relating to the conventional hydrocarbons. At the same time, as the energy sector evolves and the non-conventional hydrocarbons as well as new sources, like, Liquefied Natural Gas, biofuels and renewables gain market share, the Institute will actively pursue research and development in these fields in order to strive for and maintain a leadership position in the Indian and global energy arena. The curriculum of the Institute was proposed to be a specialised one and would include advanced programmes at the post-graduate and doctoral level.

Accordingly, the Indian Institute of Petroleum and Energy Bill, 2017, was brought forward by the Government.

- Salient features:
- Provision had been made for establishment of the Indian Institute of Petroleum and Energy. Provision has also been made to declare the Institute as an institution of national importance.
 - It had been further provided that the Indian Institute of Petroleum and Energy, Vishakhapatnam, Andhra Pradesh as an institution registered under the *Andhra Pradesh Societies Registration Act, 2001* and shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of the Act, to acquire, hold and dispose of property and to contract and shall, by that name, sue and be sued.
 - Provision has been made providing for various powers and functions of the Board of Governors. The powers of the Board, inter alia, include the power to appoint such Committees as it considers necessary for the exercise of its powers and the performance of its duties under the Bill, the power to establish campus and academic centres at any place within India and with the prior approval of the Central Government, establish any campus or academic centre outside India.
 - It has been provided that all teaching and other academic activities at the Institute shall be conducted by or in the name of the Institute in accordance with the Statutes and Ordinances made in this behalf.
 - The President of India is to be the Visitor of the Institute. The Visitor is empowered to appoint one or more persons to review the work and progress of the Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.
 - Provision has been made to the effect that various authorities of the Institute such as the General Council, the Board of Governors, the Senate and such other authorities as may be declared by the



the world as it will help our youth get employment. The Bill was passed by Lok Sabha on 4 August 2017 and by Rajya Sabha on 27 December 2017. The Bill as passed by both Houses of Parliament was assented to by the President of India on 5 January 2018.

The Indian Institute of Management Bill, 2017

In 1961, the Government of India, had decided to establish two Indian Institutes of Management (IIMs), one in Calcutta and other in Ahmedabad, which were industrial, research and commercial hubs of the country. These specialised institutions were envisaged to be outside the University system for greater flexibility and autonomy and for increasing the pace of management training and education in India. Thereafter, IIMs were established at Bangalore in 1973, IIM Lucknow in 1984, IIM Indore in 1996 and IIM Kozhikode in 1997. In the 11th plan, seven new IIMs at Shillong (2008), Ranchi (2010), Rohtak (2010), Raipur (2010), Kashipur (2011), Tiruchirapalli (2011) and Udaipur (2011) were established. Five new IIMs were established in Amritsar, Bodhgaya, Nagpur, Sambalpur and Sirmour and another IIM at Visakhapatnam was established as part of the *Andhra Pradesh Reorganisation Act, 2014*. The twentieth IIM at Jammu was announced in the Budget proposal of 2015-16. The six new IIMs started functioning from the academic session 2015-16 and IIM Jammu started its academic session from 2016-17 from their transit campuses.

IIMs provide post-graduate, doctoral, post-doctoral and research education in the field of management and allied areas of knowledge. Being registered under the Societies Act, IIMs award to their students Post-graduate Diploma in Management and Fellow Programme in Management and are not entitled to use the nomenclature of Master of Business Administration (MBA) or Ph.D degree as issued by an University or Institution of National importance.

While, the Post-graduate Diploma in Management programme (equivalent to MBA) was relatively unaffected by the absence of a formal degree, the Fellow Programme in Management (equivalent to Ph.D), without the formal degree nomenclature, had not been able to attract enough students required to develop a strong research base in the country in the field of management education and also address the faculty shortages affecting

the management institutions in the country. IIMs having grown into Institutions of global repute, it was felt that they might be enabled to award degrees to their students, through an Act of Parliament, which would declare them as Institutes of National importance.

In view of the above, the Government were of the view that it became necessary to have a Central Legislation, namely the Indian Institutes of Management Act, 2017 in the larger interest of students. The degree granting power to IIMs will not only enhance the universal acceptability of degrees being awarded by these premier institutions, but also empower these institutions to attain standards of global excellence, especially in management research.

Salient features:

- Provision had been made that with the commencement of this measure, all existing Institutes would become a body corporate by the existing names;
- Every institute shall be open to all persons irrespective of sex, race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever;
- Admission to every academic course or programme of study in each Institute shall be based on merit assessed through transparent and reasonable criteria. However, reservation in admissions will be provided as per *Central Educational Institutions (Reservation in Admission) Act, 2006*;
- Every Institute shall exercise powers and functions like conducting courses of study, training and research in management and allied subjects, publication, consultancy, advisory work to advance new knowledge and innovation and to provide global leadership in management theory and practice, conduct examinations and award degrees, institute and award fellowships, scholarships, prizes and medals, establish and maintain infrastructure etc., and also do all such things and activities, incidental to the attainment of the objects of the Institute;
- The Director of the institute shall be appointed by the Board, out of the panel of names recommended by a search-cum-selection Committee to be constituted by the Board;
- There shall be the Board of Governors as the principal executive body of each institute.

The composition, powers and functions of the Board had been enumerated in clauses 10 and 11 of the Bill respectively. The Board would be responsible for the general superintendence, direction and control of the affairs of the Institute. The powers would be exercised by the Board as per regulations framed by the Board of Governors;

- Provision has been made for an Academic Council which will be the principal academic body of each institute and will exercise its powers as per provisions laid down;
- The Director would be the Chief Executive Officer of the Institute and shall provide leadership to the institute, exercise powers and perform the duties as may be assigned under this Act or the regulations or as may be delegated to Director by the Board and be responsible for implementation of the decisions of the Board. Director's powers and functions have inter alia been enumerated;
- It had further provided that there would be a co-ordination forum which shall be established with an eminent person as its Chairman to be selected by a Search-cum-Selection Committee constituted by the Coordination forum to consider matters of common interest to these institutes and facilitate the coordination amongst various institutes, sharing of experiences, ideas and concerns with a view to enhancing the performance of all Institutes;
- Also, that the Board of every Institute is empowered to evaluate and review the performance of the institute within the first three years of establishment and thereafter at least once in every three years. The evaluation and review report of the Board shall be placed in public domain.
- It had been laid down that the Institutes will receive grants in aid, if required. Every institute shall maintain proper accounts and records, which are to be audited by the Comptroller and Auditor-General of India. The Bill also provides that the twenty existing IIMs independent statutory status with uniform governance structure and policy framework as also to declare them as Institutions of National importance and to enable them to grant degrees to their students in the academic courses conducted by these Institutes.

Debate: During discussion in Parliament, the Bill was welcomed by all sections of the Houses. The gist of views expressed by

Members was as follows:

- The larger point which is there in the country needs to be taken note of - which is the potential demographic dividend because of the youthful population of the country. But it is very clear that if the education sector in India particularly higher education is not revitalized, this demographic dividend potentially would transform into a demographic disaster.
- It was a remarkable moment when a Government Minister in the system of governance, actually surrenders power.
- It was suggested that Government in its next step should come up with a more ambitious Management Education Bill, so that other management institutions can benefit from these reforms and create a National Management University.
- Granting greater autonomy to Indian Institutes of Management in the Bill was welcomed.
- While the idea of academic autonomy with adequate safeguards and accountability was commendable, there are still some issues related to this concept of autonomy, which need to be addressed.
- The Bill would also protect the academic standards of Indian Institutes of Management in the country.

The Minister while replying to the debate inter alia observed that Members have put forth their very good view points on the future of twenty Indian Institutes of Management and thanked them all for supporting the Bill. He also observed that Members of all the parties had spoken in favour of the autonomy of these institutes. This clearly indicated that India has been progressing and this also sends a clear message to the countrymen in this regard. The world could see that India had taken an initiative for providing autonomy to these institutes in a real sense. The Minister reiterated the need to trust best brains and best institutes in the country. These institutes had proved time and again that they were the institutes of excellence. Hence, these needs to be accorded the status of institutes of national importance.

The Minister finally felt that this was a historic decision and IIMs would go to the next level and the whole education sector would aspire to be more quality oriented.

The Bill was passed by Lok Sabha on 28 July 2017 and by Rajya Sabha on 19 December 2017. The Bill as passed by both Houses of Parliament was assented to by the President of India on 31 December 2017.

Statutes to be the authorities of the Institute.

- Further provision has been made for the constitution and composition of the General Council. The Chairperson of the Council shall be the Secretary, Ministry of Petroleum and Natural Gas in the Central Government. The Chairperson is empowered to invite any person who is not a member of the Council to attend a meeting of the Council, but such invitee shall not be entitled to vote at such a meeting.
- Also powers and functions of the General Council have been provided for.

Various other operational functions are:

- The Senate of the Institute shall be the principal academic body and its composition shall be such as may be provided by the Statute.
- The Senate of the Institute shall have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination in the Institute and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.
- Provision has been made for the duties, powers and functions of the President of the Board, Director, Registrar, etc.

Debate: The Minister in-charge of the Bill during his reply inter alia stated that when the Andhra Pradesh Reorganization Bill was enacted, two separate administrative units were carved out. The development of both the states was talked about and it was mulled over as to how Andhra Pradesh and Telangana would make progress. One of the better offshoots and well thought out decisions from the discussion was the establishment of a world class Petroleum and Energy Institute in Andhra Pradesh. In the Schedule 13 of the said Act, it was decided that

Indian Institute of Petroleum and Energy would be opened in Visakhapatnam for the purpose of increasing the skilled manpower. It has been given the shape of an institute by setting up a society. The initial financial arrangement has also been made and it is already into the completion of first year of its academic session.

The Bill had been brought forward before the House to give the status of institution of national importance to the said institute. The measure was welcomed by Members during discussion on the Bill in both Houses of Parliament.

The views that emerged were:

- The objective of the Bill is to meet the quantitative and qualitative gap in the supply of skilled manpower for the petroleum sector and to promote required research.
- The middle class is expanding fast in the country and their consumption power is also increasing.
- The experts are of the opinion that India has a huge potential in terms of shale gas.
- The Minister has been requested to allocate the funds that are required as per the construction of the buildings of the Institute so that the Institute comes up with necessary infrastructure at the earliest.
- There is a need to harness the potential of both conventional as well as renewable sources of energy. It was about the time that dependence on fossil fuel needs to be challenged. People need to be encouraged to increase their dependence on renewable energy.

The Minister while replying to the debate at the outset thanked Members for their valuable suggestions. He stated that had shale gas not been discovered in America, then perhaps the politics and economy of the world would have been different. At the time of state reorganization, the previous government rightly decided to have an institute of national importance for Andhra Pradesh but also the economy of the country and

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Her Majesty Queen Elizabeth II
Head of the Commonwealth

VICE-PATRON:

Vacant



Portrait of The Queen © John Swannell/Camera Press

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Executive Committee Members' dates of membership are indicated below each name. Correct at time of printing.

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Sindh
(2017-2020)

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President of the Legislative
Council, South Australia
(2015-2018)

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Council, New South Wales
(2016-2019)

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(2017-2020)

BRITISH ISLANDS AND MEDITERRANEAN

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Scotland (*stand in for
Northern Ireland*)
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Hon. Leona Roberts, MLA
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Hon. Jackson Lafferty, MLA
Speaker of Legislative
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Hon. Kevin Murphy, MHA
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Hon. Leroy C. Rogers, MLA
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Speaker of the Legislative
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(2016-2019)

Shri Hitendra Goswami, MLA
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(2017-2020)

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Hon. Clayton Mitchell, MP
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(2016-2019)

Hon. Simon Pentanu, MP
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Representatives, Bougainville
(2017-2020)

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Hon. Datuk Wira Haji Othman
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(2016-2019)

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Mr Akbar Khan
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Commonwealth Parliamentary
Association, CPA Headquarters
Secretariat, Richmond House,
Houses of Parliament, London
SW1A 0AA, United Kingdom

Tel: +44 (0)20 7799 1460
Email: hq.sec@cpahq.org
www.cpahq.org
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