CPA COMMONWEALTH PARLIAMENTARY ASSOCIATION

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Shared interests in Commonwealth Parliaments

The challenges facing CPA Small Branches

PLUS

CPC 2017
63rd COMMONWEALTH PARLIAMENTARY CONFERENCE

CPA COMMONWEALTH PARLIAMENTARY ASSOCIATION

Bangladesh Parliament

63rd COMMONWEALTH PARLIAMENTARY CONFERENCE
DHAKA, BANGLADESH
1 - 8 NOVEMBER 2017 (inclusive of arrival and departure dates)

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CPA COMMONWEALTH PARLIAMENTARY ASSOCIATION

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 at 18 August 2017

2017

August

31 August –1 September	Commonwealth Conference for Parliamentarians with Disabilities - Halifax, Nova Scotia, Canada

October

8 to 12 October	9th Commonwealth Youth Parliament – British Virgin Islands
15 to 21 October	Canadian Parliamentary Seminar - Ottawa, Canada
19 to 20 October	CPA Small Branches Strategy Meeting - Valetta, Malta
20 to 25 October	48th CPA Africa Regional Conference - Imo State, Nigeria
23 to 25 October	36th CPA Australia and Pacific Regional Conference – New South Wales, Australia
24 to 27 October	5th CPA Asia Regional Conference - National Assembly of Pakistan
26 October	CPA Regional '*Hot Topic*' Forum for Australia and Pacific Regions - New South Wales, Australia

November

1 to 8 November	63rd Commonwealth Parliamentary Conference – Dhaka, Bangladesh

December

11 to 14 December	Annual Session of the Parliamentary Conference on the WTO – Buenos Aires, Argentina

2018

April

16 to 20 April 2018	Commonwealth Summit 2018, London and Windsor, United Kingdom

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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PARLIAMENTARY REPORTS

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COMMON INTERESTS IN COMMONWEALTH PARLIAMENTS

The Editor's Note

It has often been said that the Commonwealth highlights the things that unite us and our mutual understanding across the world and this issue of *The Parliamentarian* features articles and news that demonstrate the common interests that we share.

Indeed, the *2013 Commonwealth Charter* highlights our shared interests, principles and values when it states:

"Recalling that the Commonwealth is a voluntary association of independent and equal sovereign states, each responsible for its own policies, consulting and co-operating in the common interests of our peoples and in the promotion of international understanding and world peace, and influencing international society to the benefit of all through the pursuit of common principles and values."

Jeffrey Hyland, Editor *The Parliamentarian*, Commonwealth Parliamentary Association

The Commonwealth Parliamentary Association (CPA) is taking positive steps in this important work through its membership, outreach and programmes work.

This issue of *The Parliamentarian* features a number of articles from the CPA's network of Small Branches. Of the over 180 Branches of the CPA, forty-three Branches are classified as Small Branches, which are defined as jurisdictions having a population below 500,000 people. Some of the articles in this issue highlight their unique needs and requirements in parliamentary strengthening, development and cooperation.

Hon. Anġelo Farrugia, MP, Chairperson of the CPA Small Branches and Speaker of the House of Representatives of the Parliament of Malta writes about the opportunities for CPA Small Branches in the '*post-Brexit*' era which was the main theme at the recent 47th CPA British Islands and Mediterranean Regional Conference. **Hon. Dr Joseph Garcia, MP** (Gibraltar) also focuses on this theme in his article on '*Brexit*' and the Commonwealth.

The many similarities between two CPA Small Branches in remote jurisdictions in Canada and Australia are examined by **Hon. Kezia Purick, MLA**, Speaker of the Northern Territory Legislative Assembly and **Hon. Jackson Lafferty, MLA**, the Speaker of the Legislative Assembly of Northwest Territories.

One of the emerging themes that Members of the CPA Small Branches have highlighted is the role of parliamentary ethics and its regulation in Parliaments and Legislatures.

Hon. Juan Watterson, SHK, Speaker of the House of Keys (Isle of Man) examines the role of the Member in parliamentary ethics in the light of the 2017 Commonwealth theme of '*A Peace-building Commonwealth*'.

Deputy Dawn Tindall (Guernsey) looks at the unique challenges of conflicts of interests that Members' face in a small jurisdiction while Greffier **Mark Egan** (Jersey) provides a case study from his jurisdiction on the regulation of parliamentary ethics.

Tom Duncan (Australian Capital Territory) provides a review of the CPA's *Recommended Benchmarks for Codes of Conduct applying to Members of Parliament* and how they have been applied in his legislature.

Although not from a Small Branch of the CPA, **Hon. Shyam Rajak, MLA** (Bihar, India) brings another view of the importance of the regulation and discipline of parliamentary ethics and the Secretary-General of the Commonwealth Parliamentary Association, **Mr Akbar Khan** in his View article looks at giving a voice to the Small Branches of the CPA.

As the Chairperson of the CPA Executive Committee, **Hon. Dr Shirin Sharmin Chaudhury, MP** (Bangladesh) comes to the end of her three year term in office, we provide a gallery of photographs of her past and recent CPA activities over the last three years.

Many different topics are examined in this issue of *The Parliamentarian*. **Hon. Dr Dato' Noraini Ahmad, MP**, Chairperson of the Commonwealth Women Parliamentarians (CWP) and Member of the Parliament of Malaysia writes about the networking opportunities between Parliaments, the possibilities of creating alliances and how the ASEAN network has used networking to further women's participation.

Hon. John Ajaka, MLC (New South Wales) writes about '*Re-engaging the disengaged*' and why parliamentary education and community engagement is Parliaments' core business. **Baroness Manzoor** (United Kingdom) discusses the role of Parliamentarians in building intercultural bridges for dialogue following her participation in the 4th World Forum on Intercultural Dialogue in Azerbaijan.

Hon. Yasmin Ratansi, MP (Canada Federal) celebrates the 150th anniversary of Canada's confederation and looks at Canada's recognition of its indigenous peoples while **Dr Chris Bourke, MLA** (Australian Capital Territory) observes how recent diversity management theory can be applied to the goal of increasing the number of indigenous Parliamentarians in the CPA Australia Region.

Hon. Sylvain Gaudreault, MNA (Québec) is the Chairman of the Committee on Public Administration, the equivalent of the Public Accounts Committee (PAC) in many Commonwealth jurisdictions and he celebrates its achievements as it reaches its 20th anniversary.

Election observation expert, **Dame Audrey Glover** (OSCE) shares with readers why elections and their observation are important and what the main challenges are for observers from her many years of experience.

To mark the 20th anniversary of the Universal Declaration on Democracy in 2017, **Martin Chungong**, Secretary-General of the Inter-Parliamentary Union (IPU) writes in defence of democracy while **Ms Neelofur S. Hafeez** (Pakistan) shares the experiences of democracy in transition from the Senate of Pakistan.

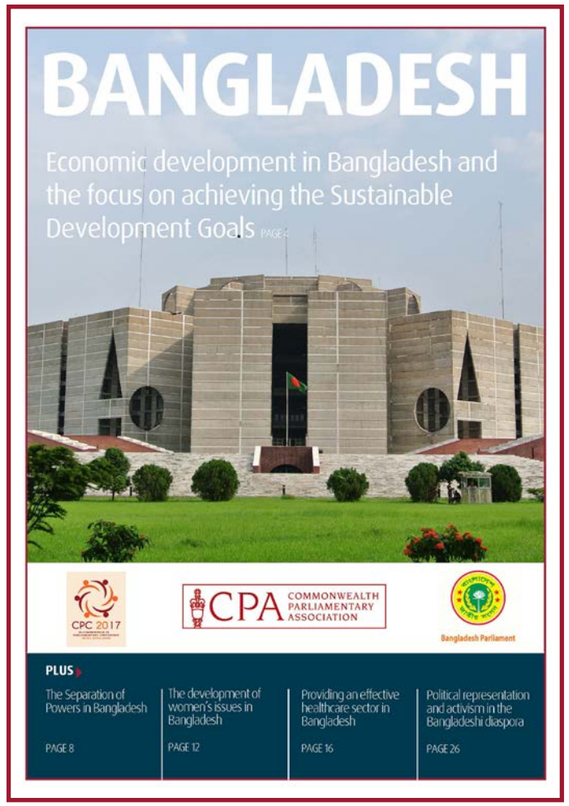
Jon Breukel from the Parliamentary Library and Information Service at the Parliament of Victoria in Australia, provides us with an analysis of the *Commonwealth Latimer House Principles* and the separation of powers. **Vivek K. Agnihotri** (Rajya Sabha, India) writes about the role and responsibilities of the Governor of a State in India and the curious case of the Arunachal Pradesh Legislative Assembly.

This issue features a report of the third lecture in the Commonwealth Parliamentary Association's international lecture series and the first for the CPA Caribbean, Americas and Atlantic Region, with the keynote address given by the Head of the Multilateral Environmental Agreements Unit of the Government of Trinidad and Tobago, Mr Kishan Kumarsingh. The lecture, hosted by the CPA Trinidad and Tobago Branch on behalf of the CPA Caribbean Region, reflected on '*the geo-political response to climate change*'.

This issue also features reports of recent regional conferences with CPA Members - the 16th Commonwealth Speakers and Presiding Officers Conference for the CPA Africa Region; the 48th Presiding Officers and Clerks Conference for the CPA Australia and Pacific Regions; and the 18th Biennial Conference of Presiding Officers and Clerks of the Caribbean, Americas and Atlantic (CAA) Region of the Commonwealth Parliamentary Association.

This issue of *The Parliamentarian* features reports of Commonwealth Women Parliamentarians (CWP) recent activities including the CWP Canada Regional Steering Committee meeting in Manitoba; reports of CWP activity in the CPA Pacific Region; and the Regional Conference and Sub-Regional Women and Girls' Forum of the CWP Caribbean, Americas and Atlantic Region in St Kitts and Nevis.

The *Parliamentary Report* and *Third Readin*g section in this issue includes parliamentary and legislative news from Canada Federal, Québec, India, New Zealand, the United Kingdom and Australia, both the States and Territories and the Federal Parliament.



Above: The cover of the supplementary publication of *The Parliamentarian* on Bangladesh published ahead of the 63rd Commonwealth Parliamentary Conference (CPC).

Ahead of the one of the largest annual gatherings of Commonwealth Parliamentarians at the 63rd Commonwealth Parliamentary Conference (CPC) hosted by the CPA Bangladesh Branch and the Parliament of Bangladesh from 1 to 8 November 2017 (inclusive of arrival and departure dates) in Dhaka, Bangladesh, we are delighted to provide a supplementary publication to this issue of *The Parliamentarian*. The supplement features articles by Members of Parliament in Bangladesh and the United Kingdom that examine many different areas of the political and cultural life of Bangladesh.

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

Jeffrey Hyland
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Editorial Advisory Board for *The Parliamentarian*

We are delighted to welcome the members of the recently established Editorial Advisory Board for *The Parliamentarian*, the Commonwealth Parliamentary Association's flagship quarterly publication and the Journal of Commonwealth Parliaments. The Editorial Advisory Board will advise the Editor of *The Parliamentarian* and the CPA Headquarters Secretariat on the journal's direction and editorial content for the years ahead. For further information about the new members of the board and the work of the Editorial Advisory Board please turn to page 271.

CPA CHAIRPERSON'S GALLERY

As the Chairperson of the CPA Executive Committee, Hon. Dr Shirin Sharmin Chaudhury, MP, Speaker of the Parliament of Bangladesh comes to the end of her three year term in office (2014-2017), we publish a small gallery of photographs of her past and recent CPA activities over the last three years.

Left: The Chairperson of the CPA Executive Committee, Hon. Dr Shirin Sharmin Chaudhury, MP, Speaker of the Parliament of Bangladesh, launched the CPA Roashows for Young People in March 2016 with a group of 150 young people from five different schools and colleges at the Parliament of Bangladesh. The CPA Roadshows have visited schools and universities across the Commonwealth to help to increase young people's awareness of parliament, democracy and the CPA and the CPA Chairperson has held three CPA Roadshows in Bangladesh.

Below: The Secretary-General of the CPA, Mr Akbar Khan met with the Chairperson of the CPA and Speaker of the Parliament of Bangladesh, Hon. Dr Shirin Sharmin Chaudhury MP on his first official visit to Bangladesh in January 2016.

Below: Hon. Dr Shirin Sharmin Chaudhury, MP, CPA Chairperson together with Mr Akbar Khan, CPA Secretary-General meet Her Majesty Queen Elizabeth II, Head of the Commonwealth and Patron of the Commonwealth Parliamentary Association at the Commonwealth Secretary-General's Commonwealth Day 2016 reception.

Above: The CPA Chairperson opens the 62nd Commonwealth Parliamentary Conference in December 2016.

Below: The Chairperson of the CPA Executive Committee attends the 46th CPA Africa Regional Conference in Kenya in August 2015.

Image credit: Commonwealth Secretariat

Above: The Chairperson of the CPA Executive Committee, Hon. Dr. Shirin Sharmin Chaudhury, MP (centre) attends the CPA British Islands and Mediterranean Region's Commonwealth Women Parliamentarians' Conference, hosted by the Parliament of Gibraltar in February 2015.

Above: The Chairperson of the CPA Executive Committee welcoming Members to the CPA Mid-Year Executive Committee Meeting in April 2015 in Kota Kinabalu, Sabah, Malaysia.

Below: The Chairperson of the CPA Executive Committee, Hon. Dr Shirin Sharmin Chaudhury, MP presents the Bangladesh Youth Leaders Alumni Award to Osama Bin Noor (centre), co-founder, Youth Opportunities and Queen's Youth Leaders Award winner in June 2017.

Left: The CPA Chairperson speaking at the CPA Workshop on '*Economic and Financial Challenges for Emerging Economies*' in Bangladesh in November 2014

Above: The Chairperson of the CPA Executive Committee, Hon. Dr Shirin Sharmin Chaudhury, MP, Speaker of the Parliament of Bangladesh called upon Madam Halimah Yacob MP, Speaker of the Parliament of Singapore at Parliament House during a recent visit to Singapore in August 2017.

Below: The CPA Chairperson also met with the Deputy Speaker of the Parliament of Singapore, Hon. Lim Biow Chuan, MP, who is a member of the CPA's International Executive Committee representing the CPA South-East Asia Region.

NETWORKING BETWEEN PARLIAMENTS AND CREATING ALLIANCES

How the ASEAN network has used networking to further women's participation

View from the Commonwealth Women Parliamentarians (CWP) Chairperson

Women Parliamentarians must foster solidarity, cooperation, collaboration, inspiration, leadership, and other skills to build capacity and capability between parliaments. Through establishing networks and alliances between Parliaments, women Parliamentarians can establish shared values and identify priorities, which can in turn lead to change.

Looking at ASEAN (The Association of South East Asian Nations) as an example, women Parliamentarians of the ASEAN Inter-parliamentary Association (WAIPA) have shown a tremendous commitment to facilitating networking between women Parliamentarians of the region, and to establishing networks with other women's associations and women's meetings within international organisations, including the CPA, the CWP network and the IPU.

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

Economic and social development both present many opportunities to women and women Parliamentarians and we should undertake every available opportunity and develop our skills to ensure that the inspiration to succeed is reinforced. Such cooperation from women to women and led by women definitely fosters more momentum for success amongst women. The development of key skills and a new 'skills-building' process amongst women would enhance and strengthen our capacity. Women Parliamentarians who have the parliamentary capacity could monitor and evaluate the progress of women for their future success.

Women Parliamentarians as leaders are thus urged to do more for interactive participation which would meet all nations' demands for greater public engagement.

As a way forward, ASEAN has announced its master plan AEC 2025, for the next phase of regional integration. AIPA and women Parliamentarians play a pivotal role in the making of the next generation and the sustainability of all projects and future infrastructures; thus, women Parliamentarians need to be more far-sighted and move towards increased collective actions.

ASEAN connectivity transforms the region into a more competitive and resilient network and allows it integrate itself into the global economy. The Master Plan on ASEAN Connectivity (MPAC) is a blueprint, which consists of a 5-year plan of action to enhance the region's physical infrastructure, institutions, and people-to-people relations to realize the cooperation between ASEAN countries. MPAC was adopted on the 28th October 2010.

Connectivity is key to realizing the ASEAN community based on 3 pillars, Political-Security Community, Economic Community, Socio-Cultural Community. It is also key to continued economic growth, to a reduction in the development gap and the sustainable development of the region.

The ASEAN region is now planning for the next phase of regional integration, based on the themes of *"people oriented"* policy and "*good governance*". However, the concept of ASEAN Connectivity remains important in enhancing the development of the ASEAN region to be a more economically competitive and resilient region, especially as the fastest growing market in the world with a consumer population of 625 million.

Women Parliamentarians need to engage with the meaning of economic integration and connectivity to provide capacity building and the necessary foundations and tools for success among women. Trade liberalization, movement of professionals, intellectual policy rights, and competition policy are some of the areas which have helped develop the economic integration and connectivity between ASEAN member states.

ASEAN has also engaged other countries in developing economic partnerships and to ensure regional comprehensive economic strength. India, China, Korea, Japan and New Zealand are some of the more economically viable countries and work in tandem with ASEAN's connectivity aspirations. As an example, Japan has had a comprehensive Free Trade Agreement with ASEAN since 2008, and has been investing in ASEAN infrastructure and finance.

One of the pressing issues regarding connectivity is bureaucracy, and as such, the ASEAN Secretariat could help place or organize continuous meetings for better coordination between Ministers, Such platforms allow conceptual and contentious issues to be discussed.

Youth represent a huge demographic population of ASEAN, which is behind the huge consumer boom within ASEAN. One of the key points in the ASEAN Summit in Kuala Lumpur 2015 was the inclusion of youth in the entrepreneurship economic blueprint where they have developed a strategic plan.

A total of 885,800 youth participated in youth development programmes between 2011 and 2013 in the areas of leadership, socio-economic development, volunteerism, and international youth cooperation. In addition, 10,812 youth participated in entrepreneurship programmes to enhance their skills and capabilities in doing business.

Recognising the potential for youth to become future leaders and upholding the responsibility of long-term planning for the prosperity of the nation, the Malaysia Government launched the National Youth Transformation Programme in 2015.

VIEW FROM THE COMMONWEALTH WOMEN PARLIAMENTARIANS (CWP) CHAIRPERSON

Above: Youth engagement: The CWP Chairperson, Hon. Dr Dato' Noraini Ahmad MP, together with Members of the Malaysian Parliament and the CPA Secretary-General at a CPA Roadshow for Young People in April 2017 with over 100 university students and members of the Malaysia Youth Parliament at UiTM (MARA University of Technology) in Malaysia where students had the opportunity to discuss the importance of the Commonwealth and of parliamentary democracy.

Parliamentarians and decision-makers must ensure there is political will to address youth needs, and should commit to make youth voices heard at all levels. Building partnerships and networking with them is important to ensure youth are beneficiaries of, and partners in, the national development process.

Women Parliamentarians can play a pivotal role in the realization of the right to migrant social protection within ASEAN. This would and could be strengthened via ASEAN parliaments devising regional multilateral frameworks, agreement and standards based on research, inclusive policy development, best practices and human rights standards.

Essentially ASEAN is presupposing to attract more people and establish a common market. Thus, free movement of people does expedite integration. However, ASEAN countries do not stand on a par with each other economically and in infrastructure development. There are many regulations which need to be put in place, such as intellectual property protection, consumer protection and free movement that connects the people.

The 2008 ASEAN Charter (*Article 1 Paragraph 11*) states that ASEAN would "*enhance the well-being and the livelihood of the people of ASEAN by providing them with equitable access to opportunities for human development, social welfare and justice."* Section 3.2.2 of the ASEAN Economic Community Blueprint recommends: *"(1) Establish an integrated social protection and social risk management system... And (3) Strengthen system of social protection at the national level and work toward adoption of appropriate measures at the regional level."*

In 2007, ASEAN agreed to the Declaration on the Protection and Promotion of the Rights of Migrant Worker (DPPMW) and the ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) was established.

The ASEAN framework Agreement Services is needed on the movement of natural persons as well as migrant workers. Natural person in this context refers to Professionals. It is hoped that policy makers could work out a hindsight policy through some permissible political tools.

Conclusion

Women Parliamentarians must inspire the upholding of meaningful values, should be able to identify the potential of other women, both within the parliamentary sphere and outside it, and connect with each other for deeper understanding. By undertaking these commitments, women Parliamentarians can help to provide positive change and solidarity within Commonwealth countries. Sustainable benefits for women Parliamentarians should be based on inclusive systems in which all women can participate and, at the same time, calls for respect by every member of the wider society. Women's voices and good decision-making should resonate equally across the Commonwealth.

Networking plays a critical role in helping women to reach out to each other in support, to exchange knowledge, to promote growth and to generate the energy needed in the women's development process. Successful networking requires an understanding of what we can do for each other, and it also requires time, patience and a commitment to helping others.

Women Parliamentarians are thus urged and encouraged to connect more within the sphere of their parliamentary office by engaging with the people of their constituencies.

Women Parliamentarians should be considered as catalysts towards the future success of their nations, and it must be recognized that sustainable benefits can be gained through our voice and good decision-making should be recognized by all of us - across the Commonwealth.

Article adapted from a presentation by the CWP Chairperson at the Commonwealth Women Parliamentarians Working Group and Strategy meeting in February 2017 on best practice and how to share lessons learnt.

OPPORTUNITIES FOR CPA SMALL BRANCHES IN THE 'POST-BREXIT' ERA

View from the CPA Small Branches Chairperson

In the context of an ever-globalised world, the meaning of borders and their management is changing. This can create uncertainty and instability especially when it comes to jurisdictions which are connected to larger countries in some way or another. CPA Small Branches have the ability to prosper in a peaceful and economically integrated world; however, such a world needs supranational institutions that enforce free trade and ensure the proper functioning of markets. Within the Commonwealth, lie a number of small jurisdictions who hold limited power over their own governance since they are not sovereign. This article will attempt to delve into how the Small Branches of the Crown Dependencies or Overseas Territories deal with such issues resulting from their size and historical fates.

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

With 'Brexit' talks and separation of territories amidst discussions, one must not misjudge or side-line the effects that 'Brexit' will bring on the smaller dependent countries. Viewing 'Brexit' as just one country leaving the European Union is a very short-sighted one. The United Kingdom embraces a number of Overseas Territories and Crown Dependencies who over the years have built not only an economy but also a sense of belonging on the back of this special relationship. Gibraltar is one such overseas territory which has long been favouring the influence of the British rule and shunning Spanish claims over its territory. This quandary is present also in other regions of the Commonwealth; talks with Argentina concerning their claim over the Falkland Islands are also ongoing. If one asks a Gibraltarian or a person from the Falkland Islands whether they feel more British or Spanish/Argentinean respectively, I am confident that their reply will be British. Questions over the status and rights of residents of the Sovereign Base areas of Akrotiri and Dhekelia in Cyprus have also been raised.

So what happens in these circumstances when a jurisdiction is so small in ability that it must depend on others?

During the most recent CPA British Isles and Mediterranean Region (BIMR) Conference organised by the CPA Gibraltar Branch in May this year, 'Brexit' and its effect on different communities was the main issue raised within the Small Branches' overarching theme. This led to a lengthy yet interesting debate regarding how smaller dependencies will fare following 'Brexit'.

The Commonwealth has always worked on the principles of voluntary cooperation, goodwill, partnership, understanding, openness and flexibility. Despite the different statuses and relationships amongst CPA Members with the EU, what is common among BIMR Members is that the EU has enabled us all to have open borders within it and with each other. This means that within the CPA, the door is also open to welcome opportunities for tourism, trade and employment as well as increased security and stability, which must also be open amongst our region.

Similarly, the CPA recognizes 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.

For the UK and its Commonwealth partners there is safety in knowing that even once the EU flag goes down, there will always be the much larger Commonwealth family, which, together with its parliamentary arm, remains a strong tool to foster strength and support among countries and Parliaments.

The 'post-Brexit' scenario

We are now facing a 'post-Brexit' scenario in which the UK, being the largest and most influential Branch of the CPA British Islands and Mediterranean Region, is set to leave the European Union, which – through its single market – is the largest, most open economy in the world. One hopes that the close geographic and cultural proximity of the Region with the EU will result in Gibraltar not being collateral damage and becoming a trophy following a battle of territories. 96% of voters in Gibraltar expressed the desire for the UK to remain in the EU. Lacking in natural resources, its strong ties with the UK and the EU has enabled the services sector, through its links with the European Single Market, to thrive. 'Brexit' is now putting all of this at risk.

In the discussion about the status of the British Overseas Territories and Crown Dependencies in the context of 'Brexit', one must remember that one of the cornerstones of the CPA is the opportunities it offers for the exchange of information, sharing experiences and debating policies.

The CPA is recognized by Commonwealth Heads of Government and intergovernmental agencies as an organisation which acts to strengthen good parliamentary governance and contributes in a tangible manner to the development of all the peoples of the Commonwealth. Legislatures within the CPA should be able to find comfort in opportunities that the CPA, through its programme of activities, has to offer in order to increase good governance, their economic stability and rely on the CPA to look for a safe house and reach out for support.

VIEW FROM THE
CPA SMALL BRANCHES
CHAIRPERSON

Above: The CPA Small Branches Chairperson joins Commonwealth Parliamentarians at the 47th CPA British Islands and Mediterranean Regional Conference in Gibraltar on the theme of '*Strengthening the role of the BIM Region; considering the role of Small Branches post-Brexit*'.

Members of Parliament from across the Commonwealth are well-placed to bring to the discussions their experience in countless situations, including those on economic and border issues. The experiences of countries of all sizes and stages of development, and the diverse practices of national, state, provincial and territorial Parliaments and Legislatures, no two of which work exactly alike, provide the perfect opportunity for such exchanges.

However, their contribution does not stop at being an ideal forum for discussion. By meeting in a Commonwealth setting, Parliamentarians from all over the world have the opportunity to appreciate the value of the wider Commonwealth of Nations. They take back to their own Branches – and to their governments – a greater realization of the advantages of using the Commonwealth as a force for good.

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.

And this is where Small Branches come in. Returning to the issue of Gibraltar, this Overseas Territory can find comfort in the Commonwealth, and specifically the CPA British Islands and Mediterranean Region, as a place where good practices from past experiences can be shared.

Hailing from a Small Branch within the CPA, I must say that Malta can relate well to these situations. Thanks to its history, Malta can serve as an example of good practice for other small jurisdictions in the way that it was able to adapt to surrounding situations and take strong decisions, highlighting its ability to strive despite its dimensions and limitations. Following its independence from the UK in 1964, Malta moved on to become a republic. The final steps towards true independence from Britain were taken in 1979 when the UK troops and the Royal Navy left Malta for good. Yet, in spite of the legal separation from the UK, the economic, social and cultural ties that developed between the two countries thanks to Commonwealth relations remain as strong as ever, and one expects that they will remain as strong even when the 'Brexit' effects have settled.

Conclusion

As circumstances are evolving, solidarity between the jurisdictions and the Branches in the CPA British Islands and Mediterranean Region and the wider CPA as a whole has now become a priority and can no longer be considered as a luxury. Small Branches face more complex issues of sovereignty and identity which may result in uncertainties. One must be wary of relying on the dependent country as it can be reasonably expected that when push comes to shove they will put their needs in front of the rest, failing to realise the collateral damage that might result from that action.

In light of this, we must work together to enhance the relationships we are building with each other to learn new lessons and share old experiences which clearly are still relevant. We must bridge the information gaps present among Small Branches of the CPA in order to be effective.

To this end, as Chairperson of the Small Branches, I feel that one of the first steps we should take is to commission a study to collect historical and current information concerning the Small Branches of the CPA, which is then analysed from a strengths-weaknesses-opportunities-threats (SWOT) perspective. I believe that the findings of such a study would serve as food for thought for our future debates within the Small Branches and thereby contribute to setting objectives and benchmarks throughout our assemblies.

GIVING A VOICE TO THE SMALL BRANCHES OF THE CPA

View from the 7th CPA Secretary-General

Our Commonwealth family, is defined by our diversity comprising large and small member states, developed and developing, strong and weak, island and landlocked. As the Commonwealth Parliamentary Association, we are also defined by the recognition we give to supporting small states and by extension our small parliamentary Branches.

For CPA Small Branches, I believe that the CPA is one of the best possible parliamentary associations where Members of a smaller legislature can sit alongside Members from much larger Parliaments in complete equality and with equal voice. This in turn helps to highlight best practices in Small Branches, their vulnerabilities and concerns and provides a platform to share these across the Commonwealth's parliamentary community.

The CPA's network of Small Branches has, since 1981, convened at the annual Commonwealth Parliamentary Conference (CPC) for the CPA Small Branches Conference, to discuss the unique and distinct challenges facing Small Branches and to seek, through the sharing of experiences, new strategies to strengthen our legislatures; making them more representative, responsive and accountable to the people they serve.

Of the over 180 Branches of the CPA, forty-three Branches are classified as 'Small Branches', which are defined as jurisdictions having a population below 500,000 people. The CPA Headquarters Secretariat works closely with Small Branches in all Regions of the CPA to identify their unique needs and requirements in parliamentary strengthening, development and cooperation.

Mr Akbar Khan
Secretary-General of the Commonwealth Parliamentary Association

"Of the over 180 Branches of the CPA, forty-three Branches are classified as 'Small Branches', which are defined as jurisdictions having a population below 500,000 people. The CPA Headquarters Secretariat works closely with Small Branches in all Regions of the CPA to identify their unique needs and requirements in parliamentary strengthening, development and cooperation."

One such example of a CPA programme was the CPA Small Branches Committee Workshop, held in partnership with the CPA Isle of Man Branch in August 2015, which brought together Members from Small Branches to provide a forum to discuss the process of scrutiny by way of the parliamentary committee system and the unique challenges faced by the CPA's Small Branches. Many small jurisdictions have very strong traditions which are particular to themselves but through forums such as this, we are able to identify particular common issues and solutions which benefit all Members.

For all of our CPA Branches, one of the principal indicators of the success for any legislature or parliament must be the delivery to its citizens of the benefits of democracy and development and the difference it makes to their lives. As the Secretary-General of the CPA, I have been fortunate to have seen for myself during my Branch visits, some of the challenges facing Small Branches in seeking to deliver the benefits of democracy to their citizens.

This first-hand exposé to the peculiarities of Small Branches has underscored my determination to prioritise through the CPA's programme of parliamentary strengthening the needs of Small Branches to better meet the benchmarks of an inclusive, transparent and gender equal legislature that reaches into communities to engage people in the democratic process.

Despite the many challenges facing Small Branches, their experience shows that by adopting a pragmatic and responsive approach to the issues that the CPA's Small Branches face, rather than a prescriptive or rigid one, it is possible for small legislatures to adapt to the rapidly changing context in which they operate, which in turn helps to build their resilience.

A significant recent development in this aim to support Small Branches has been pioneered by the CPA Headquarters Secretariat with the launch of the CPA Parliamentary Fundamentals Course on Practice and Procedure for Small Branches, developed and delivered in association with McGill University in Canada. This course is aimed at 'upskilling' newly elected or returning Parliamentarians with the relevant skills and tools to help them become effective Parliamentarians and to build their skills for post-parliamentary life. The first intake of 25 Parliamentarians from Small Branches began in April 2017. The Parliamentary Fundamentals Course goes to the heart of the CPA's ambition – to strengthen Parliaments and Parliamentarians' work to ensure that Parliaments are effective, accountable and inclusive institutions at all levels.

Above: The Commonwealth Parliamentary Association Secretary-General's video message commending the regional twinning programmes between the CPA Australia and CPA Pacific Regions is played to the delegates at the 48th Presiding Officers and Clerks Conference for the CPA Australia and Pacific Regions at Parliament House in Sydney, Australia in July 2017 (see page 201).

Another important step in the revised support for CPA Small Branches has been the review of the CPA Headquarters Secretariat funding policy to support Branch programme delivery and the changes in these finance rules to allow Branches to apply in advance to deliver a diverse range of programme activity approved by the CPA International Executive Committee. This small but important funding development has already helped Small Branches to take forward CPA activities.

The CPA is the only Commonwealth body that works to strengthen national, state, provincial and territorial assemblies and legislatures with many of these found in the CPA's Small Branches. The relationship between the CPA's Small Branches is therefore key to providing a platform to develop good parliamentary practice and to share good practice with other similar legislatures across the Commonwealth. The platform that the CPA provides for Small Branches to network, share good practice and innovative work to strengthen the role of Parliament as an institution, is essential in an age of greater scrutiny of Parliament's work.

The CPA's conferences, seminars and meetings also enable Commonwealth Parliamentarians to reach beyond their own Parliaments to contribute in a global setting to the development of best parliamentary practices and the most effective policies for parliamentary strengthening.

I was delighted that the Legislative Assembly of Northern Territory, one of the CPA's Small and most active Branches, stepped up to host over 30 Commonwealth Speakers and Members of Parliament for the recent CPA Executive Committee meeting in Darwin in April 2017. The hosting of a large-scale international meeting like this demonstrates their commitment to parliamentary democracy and the work of the CPA and is an excellent opportunity to showcase their Branch to Parliamentarians from across the Commonwealth.

Another CPA Small Branch, the British Virgin Islands, will host the 9th Commonwealth Youth Parliament in October this year demonstrating their commitment to the CPA's important work in reaching out to young people to promote parliamentary democracy.

I am delighted to welcome the new Chairperson of the CPA Small Branches, Hon. Aġelo Farrugia MP, Speaker of the House of Representatives of the Parliament of Malta. The role of Chairperson of Small Branches is a new Officer role for the CPA and the new Small Branches Chairperson has joined the CPA International Executive Committee to bring a voice for Small Branches to the governing body of the CPA. The new Small Branches Chairperson is seeking to build an exciting new strategy and is developing a focused work programme for Small Branches to enable the CPA to better support Small Branches to meet their unique and specific needs.

I would strongly encourage all CPA Small Branches either alone or collectively through their regional networks to share with the Small Branches Chairperson their experience of the unique challenges facing Small Branches - such as resource constraints, the challenges of oversight and difficulties establishing an effective committee system, or opening parliament up to the public - to ensure that the future CPA Small Branches strategic approach is genuinely responsive to its membership.

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

The Commonwealth Parliamentary Association
CPA Photo Gallery

Above: The CPA St Kitts and Nevis Branch hosted the 42nd CPA Regional Conference of the Caribbean, Americas and Atlantic (CAA) Region from 16 to 24 June 2017 in Basseterre, St Kitts.

Below: The 13th Caribbean Regional Youth Parliament, hosted by the St Kitts National Youth Parliament Association (SKNYPA), also took place with young people aged 18 -29 years from across the region. The event was attended by Hon. Anthony Michael Perkins, Speaker of the National Assembly of St Kitts. Participants in the youth parliament came from St.Kitts, Nevis, Antigua and Barbuda, Trinidad and Tobago, Barbados, Cayman Islands and Bermuda.

Above: Delegates at the 55th CPA Canadian Regional Conference, hosted in Winnipeg, Manitoba from 16 to 22 July 2017, stand in front of the Manitoba Legislative Building.

Below: During the CAA Regional Conference, the CPA Caribbean, Americas and Atlantic Regional 'Hot Topic' Forum *Part Two* took place on the need for increased women's political participation for the benefit of wider society as they discussed the 'hot topic' of the region '*Seeking to Increase Women's Political Participation*'. The Forum was moderated by Professor Verene Shepherd of the University of the West Indies (Mona).

Below: Members of the Khyber Pakhtunkhwa Provincial Assembly in Pakistan visited the Commonwealth Parliamentary Association Headquarters Secretariat to meet with the CPA Secretary-General, Mr Akbar Khan to discuss the CPA's Parliamentary Fundamentals Programme on Practice and Procedure and parliamentary strengthening opportunities. The delegation were visiting the United Kingdom as part of a British Council Facilitated Parliamentary Exchange Programme.

Below: A global study group on Public Accounts Committees (PACs) and their oversight of responses to national crises organised by the Commonwealth Parliamentary Association and hosted by the Legislative Assembly of British Columbia took place in Victoria, Canada. The study group is working on recommendations for action and heard from global experts in the field and was attended by Members from Grenada, Samoa, Sierra Leone, British Columbia and Sri Lanka.

CPA COMMONWEALTH PARLIAMENTARY ASSOCIATION

Above: The Commonwealth Parliamentary Association has played a crucial role in embedding good governance in Turks and Caicos with a CPA post-election seminar for newly elected Members of the Legislature to strengthen parliamentary practice and procedure following the recent elections. The CPA is the only Commonwealth body that works to strengthen territorial assemblies and legislatures as well as national, state and provincial legislatures. The seminar was opened by Hon. Dwayne S. Taylor, MHA, Speaker of the House of Assembly of Turks and Caicos; Hon. Sharlene L. Cartwright-Robinson, MHA, Premier of Turks and Caicos and the CPA Secretary-General, Mr Akbar Khan. The newly elected Members heard from experts from across the Commonwealth including: Montserrat; Ontario, Canada; and Trinidad and Tobago.

Below: A Commonwealth Parliamentary Association post-election seminar has helped to embed democracy in the Cayman Islands and highlight the importance of equal gender representation in parliaments. The two-day CPA post-election seminar attended by the CPA Secretary-General was held at the Legislative Assembly of the Cayman Islands for newly elected and returning Members to provide training and guidance to the Legislature in all aspects of good parliamentary practice. Presided over by the Cayman Islands Speaker, Hon. W. McKeeva Bush, the Members heard from experts from neighbouring Branches in the region: Trinidad and Tobago; Bermuda; and Jamaica as well as from former Members of the Cayman Islands Legislature.

Below right: Following the seminar, a CPA Roadshow for around 50 young people aged 14-18 in the Cayman Islands highlighted youth participation in a parliamentary democracy.

Above: Following the CPA post-election seminar, a CPA Roadshow for over 150 young people was held at the Helena Jones Robinson High School Auditorium in Turks and Caicos as part of the CPA Roadshows tour of Commonwealth schools and universities. The CPA Secretary-General was accompanied at the CPA Roadshow by the Speaker; the Premier and the Leader of the Opposition; and many Members of the House of Assembly of Turks and Caicos.

Right: The Commonwealth Parliamentary Association Headquarters Secretariat have hosted the Towards Outstanding Leadership Alumni event on the theme of 'collaboration' with alumni from the programme from a wide range of public, governmental and charitable sectors. CPA Secretariat staff also benefited from the learning and development programme which covered presence and power, powerful listening and working collaboratively. The CPA Secretary-General, Mr Akbar Khan also shared his experience of cross-cultural collaboration from his many years of experience in various leadership positions.

Right: The CPA Secretary-General Mr Akbar Khan met with Lord Ahmad of Wimbledon, UK Minister for the Commonwealth at the Foreign & Commonwealth Office to discuss parliamentary strengthening in the Commonwealth ahead of the Commonwealth Summit 2018.

Commonwealth Speakers and Presiding Officers from the CPA Africa Region end their conference pledging to accelerate the modernization and the integrity of Parliaments in the region

The 16th Commonwealth Speakers and Presiding Officers Conference for the CPA Africa Region took place from 21 to 29 July 2017 in Abuja, Nigeria and ended on a high note with the pledge to accelerate the modernization and affirming of the integrity of African Parliaments.

The Speakers and Presiding Officers called for more vigilance in protecting the integrity, effectiveness and efficiency of the parliamentary process to serve the non-partisan interests of citizens of the members of the Commonwealth Parliamentary Association.

Amongst the many outcomes and resolutions at the conference, delegates recognised that e-Parliaments are a key development tool for all Parliaments and Legislatures and that members of the CPA Africa Region need to embrace these developments if institutions are to remain relevant and deliver on their mandates, especially when it comes to citizen participation.

Other key resolutions included: broadening the scope, powers and competencies of Parliamentary Budget Offices (PBOs) in order to provide impartial, non-partisan, independent and cutting edge analysis of the economy and budgets in support of Parliament's oversight role; and a strong caution of Parliaments, in their engagement of non-state actors, to avoid any signs of 'state capture' to maintain and promote the integrity and capacity of Parliaments to spearhead the delivery of dividends of democracy to the people.

The 16th Commonwealth Speakers and Presiding Officers Conference (CSPOC) Africa Region opening ceremony was attended by the Chairperson of the CPA Africa Region Executive Committee, Hon. Lindiwe Maseko, MP (South Africa); Hon. Emilia Monjowa Lifaka, MP, Vice-Chairperson of the CPA International Executive Committee and Deputy Speaker of the National Assembly of Cameroon; the Acting President of Nigeria, HE Professor Yemi Osinbajo; the President of the Nigeria Senate, Senator Dr Bukola Saraki; and the Speaker of the Nigeria House of Representatives, Hon. Yakubu Dogara and was held at the International Conference Centre in Abuja.

The conference was attended by Speakers and Presiding Officers from 11 CPA Africa Region countries including Botswana, Cameroon, Ghana, Lesotho, Namibia, Nigeria, Sierra Leone, South Africa, Tanzania, Uganda and Zambia.

Presenters at the conference included the Chairperson of the South African National Council of Provinces, Hon. Thandi Modise, MP and the Deputy Speaker of the Ghanaian Parliament, Hon. Alban Bagbin, MP who both addressed the conference on their experiences in managing an e-Parliament in their respective jurisdictions.

The next biennial conference of Commonwealth Speakers and Presiding Officers of the CPA Africa Region will be held in 2019.

Below: Ahead of the 16th Commonwealth Speakers and Presiding Officers Conference (CSPOC) Africa Region, the Acting President of Nigeria, HE Professor Yemi Osinbajo (centre right) received the Chairperson of the CPA Africa Region Executive Committee, Hon. Lindiwe Maseko, MP (South Africa) and Hon. Emilia Monjowa Lifaka, MP, Vice-Chairperson of the CPA International Executive Committee and Deputy Speaker of the National Assembly of Cameroon along with the President of the Nigeria Senate, Senator Dr Bukola Saraki; and the Speaker of the Nigeria House of Representatives, Hon. Yakubu Dogara.

Celebrating Regional Twinning between Parliaments at the 48th Presiding Officers and Clerks Conference in New South Wales, Australia

The Speaker of the New South Wales Legislative Assembly, Hon. Shelley Hancock, MP and the President of the New South Wales Legislative Council, Hon. John Ajaka, MLC were delighted to host the 48th Presiding Officers and Clerks Conference for the CPA Australia and Pacific Regions at Parliament House in Sydney, Australia from 2 to 7 July 2017.

The conference provided a unique forum for the Presiding Officers and Clerks of eight Australian Parliaments, the Parliament of New Zealand and eight Pacific Island Parliaments to discuss their pivotal roles and experiences in the Parliamentary and Legislative institutions from the region and to celebrate their work together.

Delegates to the conference were welcomed with a reception at Government House where they were warmly welcomed to New South Wales by the Governor of New South Wales and the New South Wales Presiding Officers.

The following day, the conference commenced with the formal opening ceremony outside Parliament House which began with a 'welcome to country' address delivered by aboriginal elder Uncle Chicka Madden followed by a traditional indigenous smoking ceremony. Delegates were then welcomed into Parliament House and the Legislative Assembly Chamber with a traditional Pacific welcome by a local Cook Islands performance group.

Once settled after a rousing opening ceremony, Hon. Shelley Hancock, MP was elected as Chair of the conference and Hon. Chester Borrows, MP, Deputy Speaker of the New Zealand Parliament was elected as the Deputy Chair. The opening address was delivered by Hon. Professor Dame Marie Bashir, AD CVO, former Governor of New South Wales.

The formal proceedings of the conference culminated in a celebration of the 10th anniversary of the Twinning programme between Australian and Pacific Islands Parliaments, which took place in the Legislative Council Chamber and was presided over by the President of the Legislative Council, Hon. John Ajaka, MLC.

The Commonwealth Parliamentary Association Secretary-General, Mr Akbar Khan had recorded a video address commending the regional twinning programme, which was played to the delegates at the commencement of the celebrations. Representatives of the respective Australian State and Pacific Island partnerships discussed the experiences and benefits of their twinning relationships and the twinning programme was universally acclaimed by all delegates.

Formal meetings arranged throughout the conference provided further opportunities for the Presiding Officers to share experiences, announce plans and agree to various interparliamentary matters. Delegates shared experiences and information on a variety of topics relevant to the role of Presiding Officers, Clerks and the administration of Parliament which included: public engagement, parliamentary security, statutory accountability and procedural innovation.

A highlight of the week was the official conference dinner where delegates were able to take a well-earned break from the intensive conference programme over a meal served by the New South Wales Parliament's world class catering department while they were entertained by the New South Wales Young Women's Jazz Band and the Cook Islands performance group. The conference programme included tours and lectures about the unique structure and history of the New South Wales Parliament. Emeritus Curator of the New South Wales State Library, Mr Paul Brunton OAM delivered a lecture about the 200th Anniversary of the Rum Hospital which was refurbished to form the front section of the parliament building.

Delegates were taken on a day excursion to showcase some of the unique beauty of Sydney and the western New South Wales landscape with visits to the Featherdale Wildlife Park to view native Australian animals and the famous Blue Mountains.

The conference was formally closed by Hon. Shelley Hancock, MP who conveyed a sincere thank you from the host Parliament to all the delegates for participating in an incredibly valuable week. This year's Presiding Officers and Clerks Conference was heralded by all as an incredibly informative, insightful and above all enjoyable event. The Presiding Officers, Clerks and Officers of the New South Wales Parliament enjoyed hosting the event and the valuable friendships made throughout the week.

Adapted from text provided by Brett Rodgers, Department of the Legislative Council, Parliament of New South Wales. Images provided by NSW Parliament.

18th Biennial Conference for Clerks and Presiding Officers of the Commonwealth Parliamentary Association Caribbean, Americas and Atlantic Region takes place in Tobago

Official Photograph
18th Biennial Conference of Presiding Officers and Clerks of the
Caribbean, Americas and Atlantic Region of the Commonwealth Parliamentary Association.
Tobago, August 13-17, 2017

Images provided by the Parliament of Trinidad and Tobago

The Trinidad and Tobago Branch of the Commonwealth Parliamentary Association welcomed delegates attending the 18th Biennial Conference of Presiding Officers and Clerks of the Caribbean, Americas and Atlantic (CAA) Region of the Commonwealth Parliamentary Association.

The conference was attended by over 40 Presiding Officers and Clerks from sixteen Branches in the CAA Region. During the official opening ceremony hosted at the Magdalena Grand Beach Resort in Tobago, Hon. Bridgid Annisette-George, MP, Speaker of the House offered welcome remarks followed by a feature address by the Chief Secretary of the Tobago House of Assembly, Hon. Kelvin Charles. In closing, the Presiding Officer for the Assembly Legislature, Dr Denise Tsoiafatt Angus offered the vote of thanks.

The conference was held on the overall theme of '*Parliamentary Accountability and Governance - Comparing Institutional Designs*' and delegates convened into sessions held on various topics including: '*Sharing of recent procedural developments', 'The Committees System in Small Parliaments - meeting the challenges', 'Parliamentary Leadership: Strengthening Accountability', 'Improving relations between Parliaments and Society', 'Strategic Planning: a starting point for building effective Parliaments'* and '*The adequacy of administrative support for the management of the Legislative Branch in Small Island States*'.

Following the end of the 18th Biennial Conference of Presiding Officers and Clerks of the Caribbean, Americas and Atlantic Region of the Commonwealth Parliamentary Association, a small reception was held at the Tavaco Lounge at the Magdalena Grand Beach Resort.

The Conference also saw the first CPA Commonwealth Parliamentary Lecture for the Caribbean, Americas and Atlantic Region delivered in its margins.

International Climate Change expert urges Caribbean Parliamentarians to lead the fight against global warming at first Commonwealth Parliamentary Association Lecture for the region

During the first Commonwealth Parliamentary Association Lecture for the CPA Caribbean, Americas and Atlantic (CAA) Region, the Head of the Multilateral Environmental Agreements Unit of the Government of Trinidad and Tobago, Mr Kishan Kumarsingh, stressed the importance of implementing the Paris Accord on Climate Change at a national level and how Speakers and Presiding Officers in the Caribbean Region can take the lead.

Mr Kishan Kumarsingh stressed the need for all countries to adhere to the Paris Agreement and the importance of and challenges to its implementation. He also spoke about the role that Commonwealth Parliamentarians can play in this process and how they can promote the application of new technologies of climate change adaption and mitigation: *"The impact of climate change poses a substantial threat to Small Island States. Addressing climate change and implementing a multi-disciplined approach is of crucial importance. Climate change is a development issue, not an environmental issue and is beyond political partnership."*

The Speaker of the Parliament of Trinidad and Tobago, Hon. Bridgid Annisette-George, MP said: *"The CPA Lecture reinforced the issues we were discussing during the Conference. Mr Kumarsingh's presentation reminded me of the importance of the role of Presiding Officers in parliamentary committees to achieve the SDGs and exercise effective oversight through committee mechanisms. It also underlined the importance of Parliament as a monitoring entity as part of the Monitoring, Reporting and Verification framework for Climate Change."*

The CPA Commonwealth Parliamentary Lecture, titled '*The Geo-political response to Climate Change*', was delivered in the margins of the 18th Biennial Regional Presiding Officers and Clerks Conference, hosted by the Parliament of Trinidad and Tobago and the lecture was attended by over 35 Speakers, Presiding Officers and parliamentary staff from across the Caribbean Region.

The Commonwealth Parliamentary Association Lecture Series is a global programme of Commonwealth lectures that offer Members of Parliament and the parliamentary community a unique opportunity to hear from distinguished former and current Parliamentarians and key policy-makers who have made an outstanding contribution to their nation's democracy and to the institution of Parliament and all that it represents. An expert in international environmental law and its national application, Mr Kishan Kumarsingh has authored Trinidad and Tobago's National Climate Change Policy and First National Communication to the United Nations Framework Convention on Climate Change (UNFCCC).

Collectively, this series of lectures will contribute both to the CPA's continuing dialogue within its membership and to reach out beyond to other stakeholders such as members of the international community, the diplomatic corps, civil society and the wider public with the lectures being available online through the CPA website and *YouTube* channel.

To view the CPA lecture on '*The Geo-political response to Climate Change*', please visit the following link: **https://youtu.be/1vSKKnLXyjE**.

Commonwealth Women Parliamentarians (CWP)

News and Regional Strengthening Activities

CWP Canada Regional Steering Committee Meeting highlights previous activities and forthcoming priorities in 2017

The CWP Canada Regional Steering Committee Meeting took place on 17 July 2017 during the 55th CPA Canada Regional Conference, hosted by Hon. Myrna Driedger, MLA, Speaker of the Manitoba Legislature. 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. Linda Reid, MLA (British Columbia), gave her report as the CWP Canada Chair, emphasising the importance of the Steering Committee continuing their efforts to create a website and 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. Parliamentarians who participated in conferences, such as the CWP Working Group and Outreach in Saskatchewan, also gave their reports.

As the CWP Canada Chair's mandate would be ending at the close of the Bangladesh conference and she would be replaced by the Alternate Chair, Hon. Laura Ross, MLA (Saskatchewan), the CWP Canada Steering Committee proceeded with the election of a new Alternate CWP Canada Chair. Hon. Lisa Thompson, MLA (Ontario) was elected by acclamation for a three-year mandate as Alternate CWP Canada Chair to begin when Hon. Laura Ross commences her mandate as Chair.

Those in attendance had the opportunity to hear Hon. Amna Ally, MP of the National Assembly of the Parliament of Guyana and Hon. Karen E. Malcolm, MLA of the House of Assembly of Turks and Caicos. Both women spoke about the situation of women Parliamentarians in their respective countries and were able to participate in the meeting as a result of the regional strengthening funds provided by the CPA Headquarters Secretariat to CWP Canada.

Thereafter, presentations were given on three themes: the Daughters of the Vote initiative; interacting with the media; and the Dancing Backwards project. It was noted that a number of CWP Canada Steering Committee members were able to participate in the Daughters of the Vote activity as a result of the 2017 regional strengthening funds. The presentation on interacting with the media was of great interest to Parliamentarians, as they must interact with the media on a regular basis. The Dancing Backwards presentation provided an innovative way to show students the important role various women have played in Canadian society.

Above: (left to right) Former Chair of CWP Canada Region and host for the Canadian Regional Conference, Hon. Myrna Driedger, Speaker of the Legislative Assembly (Manitoba); current Chair of CWP Canada, Hon. Linda Reid, MLA (British Columbia); incoming Alternate Chair, Hon. Lisa Thompson, MLA (Ontario); and current Vice-Chair, Hon. Laura Ross, MLA (Saskatchewan) in front of the famous monument featuring 'Nellie McClung and the Famous Five' in the grounds of the Manitoba Legislature in Canada.

Below left: Commonwealth Women Parliamentarians from across Canada gather for the group photograph in Manitoba.

To close the meeting, Hon. Myrna Driedger, thanked and congratulated Hon. Linda Reid for chairing her last annual CWP Canadian Region meeting after a three-year mandate.

CWP activity in the CPA Pacific Region

In July 2017, the Fiji Parliament convened a one day seminar on the '*Analysis of Legislation from a Gender Perspective for Committee Chairs, their Deputies and Whips*' in association with the United Nations Development Programme (UNDP) Pacific Region. The CPA Pacific Regional Secretariat has been working with the Fiji Parliament to assist their inter-parliamentary team, including tracking resolutions to enhance gender equality.

This seminar coincided with the first Samoa gender-based analysis of the national budget of Fiji, as part of the Fiji Parliament's wider gender-mainstreaming initiative, which also involved the launch of a toolkit for MPs titled *Scrutinising Legislation from a Gender Perspective: A Practical Toolkit*. This toolkit is intended to be used as a practical guide for Members of the Fiji Parliament on how to scrutinise legislation from a gender perspective.

Also in July 2017, the Solomon Islands Parliament held a two-day workshop on gender equality on the theme of 'The Outrigger Navigating Gender Equality through Pacific Parliaments', in association with the Pacific Women's Parliamentary Partnerships.

In the Autonomous Region of Bougainville, activities promoting more women representatives in Parliament has been done through parliamentary education and outreach programmes. This included a Mock Parliament jointly facilitated by the House of Representatives and the Department of Community Development with support from Care International, World Vision and Department of Foreign Affairs and Trade (Australia). The four women MPs in the House continue to advocate the mission to increase women representatives. A presentation on the PWPP Outrigger workshop on gender equality was also provided at Members' referendum induction.

In June this year, Cook Islands women MPs met together with visiting New Zealand women MPs and women who aspire to be candidates for the next General Election in 2018, with the opportunity to discuss matters and issues around encouraging more women to stand for future elections, with a similar meeting being held in Niue.

In Tonga, in June 2017, a women in leadership breakfast was convened with visiting New Zealand women MPs, including the CWP International Vice-Chairperson, Hon. Munokoa Poto Williams, MP (New Zealand). CWP New Zealand also held a fundraising breakfast on Breast Cancer Awareness in May 2017. In addition, a milestone in its work spanning several years to end under-aged and forced marriage was the CWP New Zealand's submission to the Justice and Electoral Committee on the Family and Whānau Violence Bill.

CWP Caribbean, Americas and Atlantic Region holds Regional Conference and Sub-Regional Women and Girls' Forum in St Kitts and Nevis

The 11th Conference of the Commonwealth Women Parliamentarians of the Caribbean, Americas and the Atlantic (CAA) Region was scheduled in three sessions from 16 to 18 June 2017 in St. Kitts and Nevis, on the theme of finding '*Next Steps in Strategising for Women's Leadership in the Caribbean Political Space*'. Delegates attended from Anguilla, Antigua and Barbuda, the Bahamas, Barbados, Bermuda, the British Virgin Islands, the Cayman Islands, Dominica, Guyana, Jamaica, Montserrat, Nevis Island, St Kitts and Nevis, Trinidad and Tobago, and Turks and Caicos.

Above: Commonwealth Women Parliamentarians from the Caribbean, Americas and Atlantic Region at their annual meeting in St Kitts in June 2017.

Below: CWP International Vice-Chairperson and CWP Steering Committee Member for the Pacific Region, Hon. Poto Williams, MP (front row far right) with women leaders in the Pacific Region.

The CWP regional meetings opened with discussions on the status of the CWP generally and in the CAA Region specifically. Amongst the matters discussed during the CWP Regional Conference, there was significant discussion of the need for closer communication and more frequent meetings of members, raising the profile of the CWP within the CPA, seeking formal and informal partnerships with both international and regional organisations, online meetings and trainings, and the inclusion of young people and support of youth Parliamentarians.

Attending Members also reported on the activities in their Branches over the past year, as well as the difficulties faced in carrying out these undertakings. Furthermore, Members highlighted several thematic priorities for CWP in the Region, which require immediate and forceful attention. These priorities included: good governance, sexism and sexist norms in the region and within parliament; people trafficking and the exploitation of young girls; the separation of church and state; and the health of Caribbean peoples generally, and of women specifically.

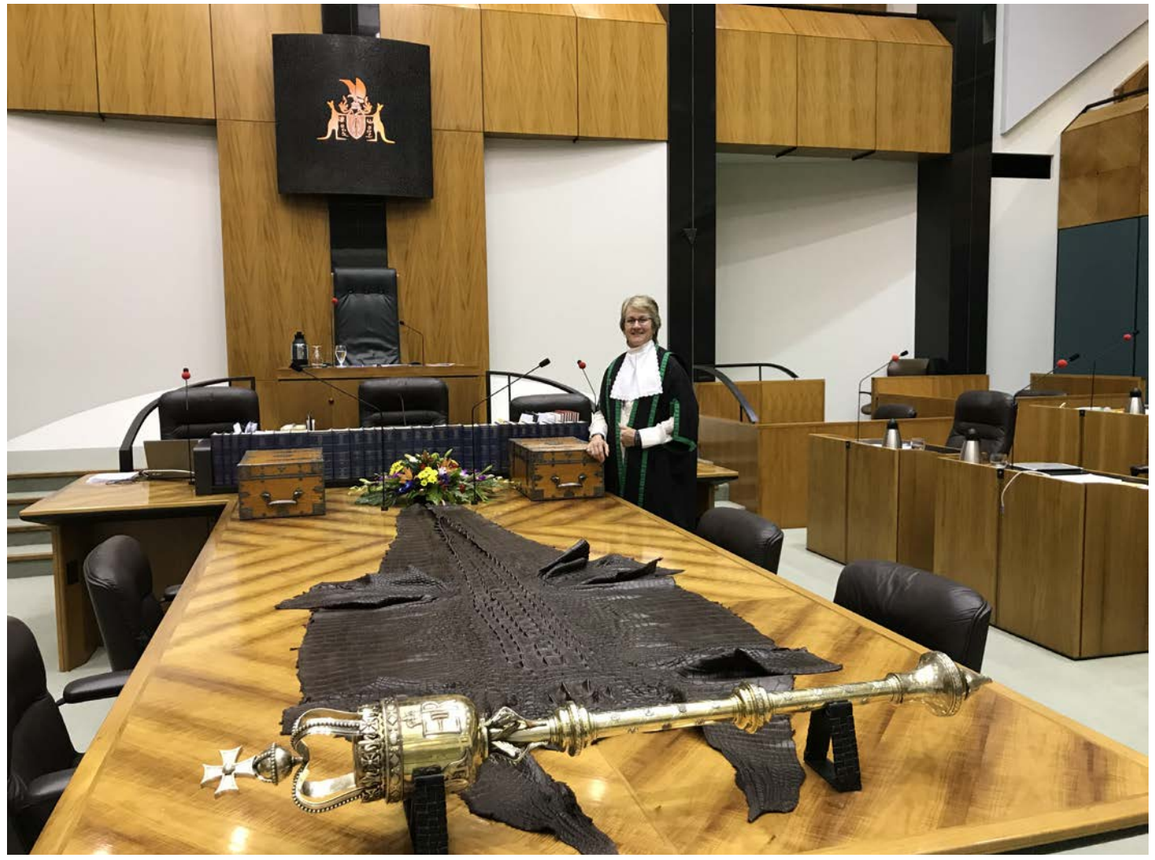
The Members similarly saw the need to rehabilitate the vocation of a 'politician' in the minds of the CAA Region's constituents and discussed methods of influencing the standard of political membership to raise the quality of governance in the Region as being of great urgency. The meeting discussed the initiation of a public education project designed to reinforce the notion of politics as a respectable and vital profession, in order to attract more women and young people, into standing for the highest offices in representational politics in the region.

From 22 to 23 March 2017, the first ever Sub-Regional Women and Girls' Forum on the 2030 Sustainable Development Goals (SDGs) was held at the Mount Nevis Hotel, Nevis Island. The Forum provided participants with the opportunity to network and informally share experiences with fellow women in political life from across St Kitts and Nevis and the wider CAA Region.

The meeting also served to underscore the commitment of the Nevis Island Administration's continued commitment to gender equality and the empowerment of women within the framework of the United Nations' SDGs.

COMMONALITIES IN COMMONWEALTH PARLIAMENTS

Two CPA Small Branches have found many similarities between their two remote jurisdictions and their Parliaments.



Above: The Speaker of the Northern Territory Legislative Assembly, Hon. Kezia Purick, MLA with the symbolic crocodile skin in the Northern Territory Legislative Chamber in Darwin, Australia.

The recent occasion of the 2017 Commonwealth Parliamentary Association Executive Committee Mid-Year Meeting in Darwin in April 2017 provided an opportunity for two of our smaller Branches to compare notes.

The host Branch, the Legislative Assembly of the Northern Territory, discovered that despite having the polar opposite climate of the snow-swept Northwest Territories of Canada, the two Assemblies are not so different after all.

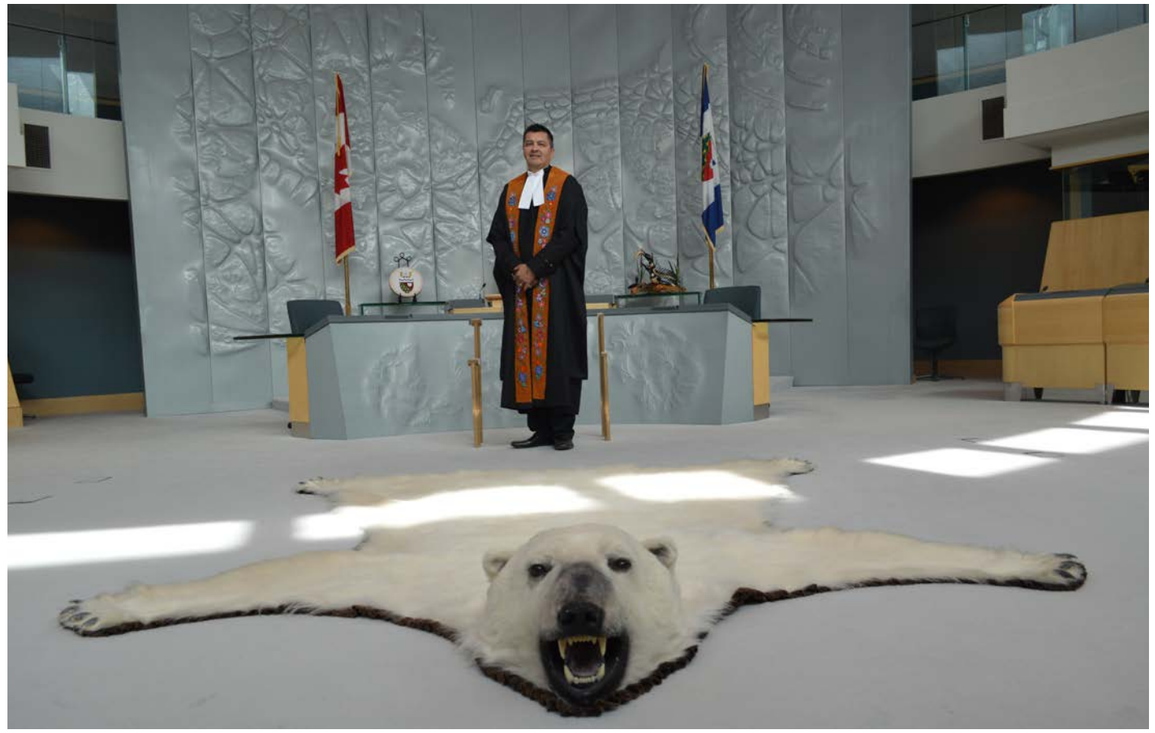
For example, the Northwest Territories (NT) jurisdiction spans 1,144,000 square kilometers of land, and the jurisdiction of the Northern Territory (NT) similarly encompasses 1,349,129 square kilometers of land. Also, despite the vast country that the Legislative Assemblies of the Northern Territory and Northwest Territories govern, population is sparse: only 41,462 persons reside in the Northwest Territories and 244,000 in the Northern Territory. Further, both jurisdictions hold half their population in their capitals, Yellowknife (NT) and Darwin (NT).

Turning to the parliament buildings, the structures in which the Assemblies meet were built within a year of each other, the Northwest Territories Parliament House in 1993 and the Northern Territory Parliament House in 1994. Both are architecturally impressive buildings which will continue to serve the institutions of democracy for decades to come.

Looking within the unicameral Houses, 19 Members sit in the Northwest Territories of Canada (a decrease from 24 Members after the territory divided in 1999) and 25 in the Northern Territory of Australia (an increase from its original establishment of 19 in 1974). Here there is one point of difference however, the Legislative Assembly of the Northern Territory hosts a house divided on party lines, whereas a consensus government exists in the Legislative Assembly of the Northwest Territories.

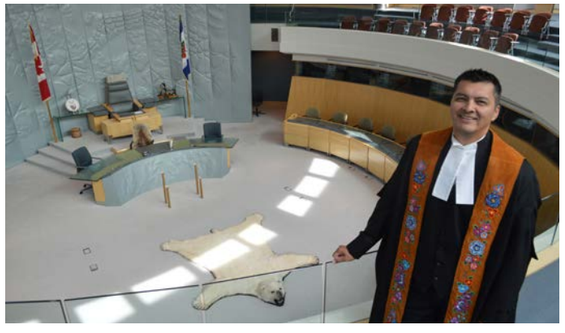
Both legislatures have chosen to adorn the Chambers of their Houses of Assembly with the skin of an animal with symbolic attachment to the land on which the parliaments are built. The Northern Territory took inspiration from the Northwest Territories polar bear skin following an official visit several years ago, and arranged for the skin of its own emblematic animal, the saltwater crocodile, to be placed on the Chamber table in 2014, in commemoration of the 40th anniversary of self-government.

Both Commonwealth Parliaments are continuing to look at ways to work collaboratively for the benefit of their Members and the wider community.



Above and below: The Speaker of the Legislative Assembly of Northwest Territories, Hon. Jackson Lafferty, MLA with the symbolic polar bear skin in the Northwest Territories Legislative Chamber in Canada.

With grateful thanks to the Speaker of the Northern Territory Legislative Assembly, Hon. Kezia Purick, MLA and the Speaker of the Legislative Assembly of Northwest Territories, Hon. Jackson Lafferty, MLA for this article and images.



BREXIT AND THE COMMONWEALTH: THE PERSPECTIVE FROM GIBRALTAR

The challenges that Brexit poses for a small country and how a closer relationship with the Commonwealth is the way forward.

Hon. Dr Joseph Garcia, MP is the Deputy Chief Minister of Gibraltar and its Minister for European Affairs. In a re-shuffle that followed the UK Referendum on EU membership, he was also appointed Minister for work relating to the United Kingdom's departure from the European Union, known as Brexit.

There are no two ways about it, Gibraltar is British. It is also a part of the European Union (EU) until the United Kingdom exits. At the same time, we embody and embrace fully the British culture, traditions, values and way of life which are reflected in the Commonwealth itself.

And just as 96% of voters in Gibraltar did not choose Brexit, we respect the overall outcome of the Referendum vote and are working hard to ensure that a sensible departure from the EU defends and protects our best interests. But whilst there is no conflict between our British and European identities, as we look towards an inevitably post-European future, we also look to strengthen and develop a third, non-conflicting identity: by virtue of Gibraltar's status as a British Overseas Territory. This is our proud relationship the Commonwealth.

Although we are a small community, Gibraltar is outward-looking, modern and cosmopolitan. Like the Commonwealth, the strength of our community is in its diversity. We embrace and share the progressive and democratic values that the Commonwealth represents, and will seek to foster and strengthen ties with Commonwealth nations after Brexit.

Gibraltarians are a mere 30,000 of the 2.5 billion people across 71 nations and territories who maintain this special connection. Together we represent about a third of the global population and we share a common language, culture and values and enjoy similar legal, political and accounting systems.

And in an increasingly uncertain global political environment, many Commonwealth nations are progressively looking towards each other as natural allies and partners.

In this, Gibraltar has a lot to give and a lot to gain. Since the London Declaration established the member states as *"free and equal"* 68 years ago, the Commonwealth remains relevant in 2017 in what it does and in the political clout that it exercises. There are huge benefits to being part of this large family of nations.

Gibraltar is an eager and active participant, and has a lot to offer. We stand ready and able to provide aid in times of disasters, and support whenever it is needed. For example, the Royal Gibraltar Police, well-known for their experience and professionalism, are often deployed to other Commonwealth nations to provide training and support. The Royal Gibraltar Regiment does likewise.

Our athletes are enthusiastic and passionate participants in the Commonwealth Games, which are widely lauded as the network's greatest success. And the University of Gibraltar this year established the first new Commonwealth scholarship scheme in 20 years. We are proud to provide these opportunities for PhD students: we want to be progressive, active members of the Commonwealth, working with our family for a productive, sustainable future for all.

The Commonwealth is a loose network more akin to an association of like-minded states than to the structured systems and bureaucratic institutions of the European Union. But that doesn't mean that it is politically ineffectual. Gibraltar gains much politically through our participation in the Commonwealth Parliamentary Association (CPA) and the networking that we are able to conduct through its meetings.

Indeed, at the height of Spain's threats to Gibraltar's sovereignty in 2013, the CPA adopted a resolution stating that the political pressure exerted against Gibraltar by Spain, including the lengthy border queues, was totally unacceptable. In addition to the numerous resolutions of support for Gibraltar and for our right to self-determination, EU members of the CPA also vowed to raise the issue with their respective Members of the European Parliament.

Gibraltar is leaving the European Union with the United Kingdom. We do not want to leave but respect the overall referendum result. This will bring unique challenges to Gibraltar. Brexit is already complicated enough without the additional factor posed by a hostile Spain next door.

A frictionless border between Gibraltar and Spain is as important to the Rock as it is to the whole region surrounding it. There are 13,000 frontier workers, who live in Spain and work in Gibraltar who have to cross the land border in and out every day. In addition to this, some ten million tourists cross the border to visit Gibraltar every year. Countless residents on both sides also move in either direction. Gibraltar is an economic engine for the neighbouring region of Spain which accounts for 25% of their GDP. Indeed, the Rock is the second largest employer for the entire region of Andalucía.

It is obvious that a sensible, orderly and well-managed Brexit is therefore not only in the best interests of Gibraltar, it is also in the best interests of Spain itself.

Our departure from the EU will bring challenges, but there will be new opportunities as well. Already a number of major Commonwealth countries have expressed an interest in learning more about trade with Gibraltar. This is positive news.

This year, the Gibraltar Parliament and CPA Gibraltar Branch was delighted to host the annual CPA British Islands and Mediterranean (BIM) Regional Conference. Forty Parliamentarians from 11 countries met to establish links and networks that we can use to our mutual benefit post-Brexit. I had the pleasure of addressing the delegates on our preparations to leave the EU.

The Conference was a reminder and celebration of the shared democratic values and commitment to human rights: our greatest weapon in combatting the isolationism that threatens us post-Brexit.

We have the opportunity and renewed impetus to work together as equal partners. But simultaneously it is crucial that the UK Parliament works together with other Commonwealth partners throughout the exit negotiations with the EU in order to address their concerns and protect their interests.

I often describe the Constitutional position of Gibraltar as 'devo max', meaning that we have more self-government than any of the devolved administrations. We are therefore in a strong position to do business with and otherwise work together with Commonwealth countries.

Whilst we have to date been concentrating our diplomatic efforts on the European Union and the United Nations, the Gibraltar Government is eager and ready to develop even deeper ties with the Commonwealth itself. Indeed, the Commonwealth flag may well replace the European Union flag after Brexit as a symbolic gesture of the strengthening of economic ties and the establishment of trade agreements between Gibraltar and other Commonwealth states post-Brexit. Of course, Gibraltar looks to form part of any trade deals that the United Kingdom may conclude after Brexit, and this will increasingly mean with fellow Commonwealth Members.

Our future opportunity for growth lies in the exporting of services to the UK, this plays to Gibraltar's greatest strength. Our geography too, can assist. More than a third of Commonwealth countries are African nations and Gibraltar, as the gatekeeper of the southern Mediterranean, is strategically placed for trade in both goods and services.

Each part of the Commonwealth is investing politically and economically in regional integration, in which the established network can play a supporting role. Indeed, the UK's trade imperatives are governed by proximity and the single market, much like other Commonwealth countries whose trading priorities are governed by their immediate neighbourhoods.

Gibraltar is an active and enthusiastic supporter of the Commonwealth that shares and embraces Commonwealth values, and has both a lot to give and a lot to gain from the network. However, it is clear that the Commonwealth cannot, and does not want to, act as a replacement for the EU after Brexit.

Above: Commonwealth Parliamentarians from eleven countries and territories across the CPA British Islands and Mediterranean (BIM) Region attend the 47th CPA BIM Regional Conference in Gibraltar in May 2017 on the theme of *"Strengthening the role of the BIM Region; considering the role of CPA Small Branches post-Brexit"*.

But Gibraltar is in a unique position to make the most out of a Brexit that we did not want and did not choose, but which we must deal with regardless. Looking forward, as we prepare to leave the EU together with the UK, it is clear that we will look to develop closer links with the Commonwealth family of nations in the years to come.

ETHICS AND THE PEACE-BUILDING COMMONWEALTH

Hon. Juan Watterson, SHK is the Speaker of the House of Keys and Member for Rushen, Isle of Man. Formerly a Chartered Accountant with KPMG, he has held a number of government posts since first being elected in 2006 including Minister of Home Affairs and he is currently also the Chairman of the Public Accounts Committee.

All politics, parliamentary and government practice must rest on a strong ethical base. Our electorates must have confidence that as elected politicians we will represent our constituents and our nations in accordance with ethical principles, which will be upheld by our parliamentary institutions. This confidence will engender a greater trust between politician and citizen.

This trust provides stability, which is directly linked to economic growth. Where there is a stability borne out of trust, we reduce the likelihood for internal conflict. Where trust in the ethics of politicians is missing, populist, fascist or dictatorial tendencies can easily grow.

Peace-building, which is the 2017 Commonwealth theme, is the elimination of harassment, bullying, intolerance and oppression as much as overt conflict. These are ideals that all Parliamentarians involved in the CPA will recognise. The preamble to our constitution states that we are: Commonwealth Parliamentarians who, irrespective of gender, race, religion or culture, being united by community of interest, respect for the rule of law and individual rights and freedoms, and by pursuit of the positive ideals of parliamentary democracy, have established the Commonwealth Parliamentary Association.

Religion, cultural norms and values that shape ethics are different across the world. So it would be wrong to codify in detail a single way forward. What is important though is a common understanding between the public, press and politicians as to good ethical conduct.

Ethics does not happen in a vacuum, it happens in the real world. It has the undesirable ability to creep up and surprise people. Most of us would say that 'we know it when we see it'. However, we would also acknowledge that the creation of a framework which expounds a common understanding is also very useful. For some nations these are contained in the constitution, and are high level principles. Sometimes, individual pieces of legislation are enacted, either principles or rules-based, to deal with specific matters such as anti-money laundering or corruption. In addition, many parliaments have also adopted ethical codes to bind Members and have developed mechanisms to call Members to account for actions which are not illegal, but do not comply with the declared ethical standards of parliament.

Avid readers of *The Parliamentarian*, especially those who attended the excellent 2014 Commonwealth Parliamentary Conference (CPC) in Cameroon will be aware of the work of the CPA Headquarters Secretariat in collaboration with Dr Ken Coghill and Monash University in Australia. Dr Coghill, himself a former Parliamentarian, has done much to promote ethical codes of conduct in parliament and review the similarities and differences of approaches between CPA member parliaments. The CPA's Recommended Benchmarks for Codes of Conduct for Members of Parliament are available on the CPA website.[1]

The Isle of Man experience

The Isle of Man is a self-governing crown dependency and is proud to be the world's oldest continuous Parliament, Tynwald.[2] Those who have visited the Isle of Man will have found a small, proud Island nation which is proud of its history and traditions, yet embraces new ideas, change and technology. Tynwald is comprised of two Houses, the popularly elected House of Keys and the Legislative Council, elected by the Keys through an electoral college. The two branches sit separately for legislative purposes but sit together as the High Court of Tynwald on matters of policy, finance and secondary legislation.

The overwhelming majority of Members of both branches of the legislature are elected and sit as independents, thus there is no role of whip in dealing with matters of discipline and conduct. The Chief Minister has the unfettered power to 'hire and fire' Members of the Government, but that is no substitute for proper parliamentary process. Tynwald has long had a Members' Standards and Interests Committee, however following its latest report[3], its role and powers have just been updated.

The changes adopted in June 2017 provide for:

- A principles based code of conduct
- A principles based approach to Members' interests
- A requirement for Members to sign the code of conduct after taking the Oath of a Member
- A need to include ethics in an induction to new Members
- Establishment of the principle of loss of pay during a period of suspension
- Explicit protection of public sector staff from inappropriate behaviour by Members
- A commitment of the Parliament to providing guidance and support on an ongoing bases on ethical issues.

The role of the Member

As we move towards our 63rd CPC to be held in Bangladesh later this year, it is an opportunity to reflect on whether we can do more together towards the aim of a peace building Commonwealth. *Can we do more to build a common understanding of ethical standards in each of our jurisdictions*?

Many Members of Parliament though also belong to professional bodies, whether as accountants, doctors, lawyers etc. Within these bodies there is a great common understanding of what constitutes good and bad conduct, as cases where there has been a breach are reported in their professional journal. This approach could be replicated in *The Parliamentarian*, without the need for Members to be named. A short few paragraphs of the complaint, the applicable law/standard, the finding of facts and the penalty invoked should be adequate.

This has the potential to be a useful tool for presiding officers, or standards committees who are considering Members' conduct and need a starting point for their actions. It is entirely possible that no breaches have occurred in their jurisdiction for many years, so a public repository of experience would be invaluable. In jurisdictions (especially small ones) without a political party mechanism, this becomes increasingly important.

It is important to say that this is not about standardisation. Different legislatures will have different approaches, and different remedies available to them. It is about using the knowledge and experience of others around the Commonwealth to understand the context of the offence, the options open to the decision makers and the eventual result.

It is also important to recognise that whilst we may all think we know unethical conduct when we see it, life is not always simple. There is a case for ensuring all Parliamentarians in a legislature have a common understanding of the ethical framework they need to live within.

There is a real opportunity to engage with this initiative, to share the experiences of your legislature and build a body of knowledge within the CPA on ethical and disciplinary matters. This way we are all better prepared to be better Parliamentarians.

Ethics and standards are ever evolving. This could be a perfect way of ensuring that the conversation on ethics continues around the Commonwealth.

Image: Tynwald/Paul Dougherty.

Above: The Parliament building of the Isle of Man in Douglas.

References:

[1] http://www.cpahq.org/cpahq/Main/Document_Library/Codes_of_Conduct/Codes_of_Conduct_.aspx

[2] www.tynwald.org.im

[3] http://www.tynwald.org.im/business/pp/Reports/2017-PP-0104.pdf

Examples from CPA Members: The '*CPA Recommended Benchmarks for Codes of Conduct applying to Parliamentarians*' was an initiative aimed to develop a credible code of ethics for Parliaments across the Commonwealth, which would in turn, help build trust in democracy. The next phase of this work involves the gathering of further information to guide Commonwealth Parliaments on sanctions or penalties where breaches of code provisions are found. The information gathered from CPA Branches will be analysed, looking at what sanctions are applied to address breaches of a code (or similar provisions addressing Parliamentarians' behaviour, such as Standing Orders). However, the information would not be attributed to individual Parliaments; rather it would be anonymised for publication and kept confidential unless consent is given in each case by the Branch. The outcomes of this research will be used to help guide CPA's Members and share best practices on the use of sanctions across the Commonwealth. **Please contact the CPA Headquarters Secretariat via hq.sec@cpahq.org if you would like to share examples and information from your CPA Branch via your Branch Secretary.**

BIAS AND CONFLICT: A MATTER OF INTEREST TO US ALL

Members' conflicts of interests in a small jurisdiction

Deputy Dawn Tindall, a solicitor by profession, was elected to the Guernsey Parliament as a People's Deputy in April 2016. She is the Vice-President of both the Development and Planning Authority and Transport Licensing Authority and also the Legislation Review Panel. Dawn has also taken a keen interest in the government of local parishes, being a member of the Douzaine Liaison Group, and that of fellow islands, Alderney and Sark.

In this year's Issue Two of *The Parliamentarian*, we read about the new strategic direction for CPA Small Branches proposed by Hon. Angelo Farrugia, MP, the recently elected Chairperson of the CPA Small Branches. He talked about reviewing common difficulties and strengths and sharing experiences.

As a newly elected Parliamentarian of the small branch of Guernsey, I was keen to take part in such a review and, through this article, debate one area affecting us all – the management of conflicts of interest in a small jurisdiction.

There are many competing ethical issues facing us today some of which have come to the fore recently due to the rise in a populist style of politics. Such areas include the differing views over how to balance transparency and confidentiality; to foster confidence in elected leaders through access to information yet maintain an ability to have a safe space in Committee to air views. A further dilemma can also be seen between an unlimited freedom of speech and the need to protect against internet or face-to-face abuse. However, the topic of this article is an issue we all face in the political arena; the conflicts between our own interests and that of our office.

A conflict of interest can be defined as *"a situation that has the potential to undermine the impartiality of a person because of the possibility of a clash between the person's self-interest and professional interest or public interest."*[1]

In politics we should always be aware of the possibility that, if we have a personal interest, it could be perceived to affect the way in which we act. That interest may not influence the decisions we make but the mere chance it has affected us, or even the perception of that chance, could lead to our impartiality being questioned.

However, being a Parliamentarian in a small jurisdiction, the likelihood of having a personal interest in a matter increases as does the potential for conflict. We may well be closely involved in aspects on which we will have to make difficult decisions and, due to the proximity of the electorate, it is quite possible they will consider that we will benefit from such decisions. The question is how to ensure that such conflicts are managed both to enhance decision making and also to increase the faith of the electorate in the ethical outcome of those decisions.

Most jurisdictions have Codes of Conduct which set out how to deal with conflicts but also identify what is a personal interest which could give rise to the conflict in the first place. It is as important for politicians to identify what is and what is not a personal interest as much as to understand the basis for the concern.

Whilst not a Parliamentarian in a small state, the former Italian Prime Minister Silvio Berlusconi once said about his alleged conflict of interest as both Prime Minister and as one of Italy's biggest tycoons with major media holdings: *"if I, taking care of everyone's interests, also take care of my own, you can't talk about a conflict of interest."*

By looking after his own interests through his position of power, he did not seem to see how this could be to anyone's detriment let alone be unethical.

Whilst Mr Berlusconi may not have understood the concepts involved, avoiding conflicts such as these are not, of course, a thing of the past for prominent politicians. However, living on a small island, I think we are more aware of the need to be seen to be impartial having seen the effect up close when conflicts arise.

When researching this article, I read a very interesting paper by Jack Corbett about politics on small island states in the Pacific.[2] He details the effect of the proximity of politicians with their electorate creating *"more personal, more intense, [and] more emotionally charged"* decision making.

> **"A conflict of interest can be defined as 'a situation that has the potential to undermine the impartiality of a person because of the possibility of a clash between the person's self-interest and professional interest or public interest'."**

Whilst Mr Corbett itemises many instances which are familiar in an island such as Guernsey, there are many differences. For example, he identifies a need for leadership codes to fix 'problems' that stem from familiarity and kinship ties. Whilst all electoral candidates in Guernsey hope their family and friends will vote for them, we do not have the issues that one politician from the Solomon Islands described to Mr Corbett.

"So, you can get rich, or you can get poorer. Poorer because, you know, people in Solomon Islands, they look at Members of Parliament as all things to all men. They will end up asking you to pay for their bag of rice ... school fees … that can drive Members of Parliament to secure loans to help them, or to get money by other means ... but yes … in that position you [also] have that power, you are influential, you open doors."

Another interesting difference in the politics of the Bailiwick of Guernsey[3], and some may say it is a 'problem' which needs fixing, is that we have no political parties. Our parliament, known as the States of Deliberation, consists of 38 Deputies elected from seven electoral districts and two representatives from our sister island, Alderney. We each stand for election every four years on the back of a manifesto which is (usually) written in isolation of any other candidate and without any political allegiances. Naturally, there are common themes between us mainly depending on the latest local issue but none that identifies groups for the populace to associate with – some of us say this is a real problem whilst others say it a virtue of our system. However, that is a debate for another day.

One effect of this lack of political machinery is, whilst candidates come from most backgrounds and experiences, it does not necessarily include an awareness of political rules and conventions. Naturally, like any good induction process for newly elected Parliamentarians, we were given lectures on what is expected of us and explanations of the rules to which we should abide.

However, understanding concepts is one aspect, putting

Above: The Royal Court Building in St. Peter Port, Guernsey has existed on its present site since the early 1800s and today, is the home of formal sessions of Guernsey's Parliament, the States of Deliberation.

"The running of our government through Committees is yet another aspect of Guernsey's political system that is different from others. The 40 of us in the Assembly agree by majority the overarching policy and then allocate the formulation of the detail to Committees.Once this has been done, the Committees revert to the Assembly to seek approval and the final amended version of the policy is incorporated into draft legislation. Whilst this is scrutinised by another Committee it is rarely amended to the extent it would be, say, in the United Kingdom for example and in my view this could be greatly improved, but that is also a debate for another day."

them into practice is another.

In February 2016, the Commonwealth Parliamentary Association issued a booklet entitled '*Recommended Benchmarks for Codes of Conduct applying to Members of Parliament*' and in Section 3 it deals with the disclosure and publication of interests. Such interests are those that could give rise to the perception of influencing the behaviour between the Member's duties and responsibilities and his/her personal interests.

We follow a similar requirement in Guernsey that, upon election and annually, the publication of the Member's declaration of interests, that of their spouse or partner and infant children, and of a company of which they own a controlling interest. We are asked to list our employment, directorships, partnerships and personal interests in trusts, offices held and self-employment and other work including public speaking contracts. We are also asked to list our real property in the Bailiwick and shareholdings and, of course, gifts we receive above a certain value whilst in office.

As well as completing a public declaration, we must also advise the Assembly of such interests before we are allowed to vote on any propositions. However, we are more restricted in Committee sessions as we must declare a direct or special interest in the business under consideration and we cannot participate any further in that business. We are not even allowed to see the Committee papers on the subject.

The running of our government through Committees is yet another aspect of Guernsey's political system that is different from others. The 40 of us in the Assembly agree by majority the overarching policy and then allocate the formulation of the detail to Committees. Once this has been done, the Committees revert to the Assembly to seek approval and the final amended version of the policy is incorporated into draft legislation. Whilst this is scrutinised by another Committee it is rarely amended to the extent it would be, say, in the United Kingdom for example and in my view this could be greatly improved, but that is also a debate for another day.

Having no group of individuals forming an executive nor a Prime Minister or cabinet, this results in Deputies sitting on a variety of Committees doing different jobs. Also, as with most Parliamentarians, we undertake work in our electoral district for individual parishioners. All such roles can give rise to a potential for interests to be in conflict with our responsibilities.

As a member of two Committees which make quasi-judicial decisions – the Development & Planning Authority (D&PA) and the Transport Licensing Authority – I am particularly aware of this concern. To take the Planning Committee as an example, we hold meetings which are open to the public where we are asked to decide whether to grant applications for planning permission. Not only does this mean we have to notify our President (or Chair) of any potential conflicts but also to appreciate that we must not have, or appear to have, a bias or pre-determined view on the outcome of the application.

Above: The main chamber of Guernsey's Parliament at the Royal Court Building.

This can often conflict with our role as a Deputy in respect of our relationship with the parish council or "Douzaine" and our responsibility to assist parishioners with issues that affect them. In particular, we are often asked to attend meetings where planning applications are discussed and our views sought both of which could be seen as an attempt to influence the outcome. Whether the lobbying is subtle or blatant and whether we express our views or not, allegations of bias can be made merely by attending. Whilst some attend and just decline to comment, personally, I prefer to avoid such scenarios whenever possible.

Any apparent bias from pre-determination is only one type of conflict faced by Members of the D&PA and the other is the one which parliamentary codes of conduct focus upon, namely the potential conflict arising from a benefit from self-interest. In relation to my role, this manifests itself in the need to ensure that interests are ones which do indeed give rise to a potential conflict rather than just an appearance of one.

In relation to our Rules of Procedure an 'interest' needs to be one that is 'direct or special', however, this is not defined. Due to the nature of the quasi-judicial decisions we make on the two Authorities on which I sit, we often discuss whether a Member has such an interest and whether it is one that puts that Member in conflict with the decision being made. In my view, such discussions and decisions as to whether there is a qualifying interest and if there is a conflict is correctly decided in a private meeting and only raised at open meetings when the Member needs to be recused because of that conflict.

I say this because, on one occasion, a Member of the D&PA declared in an open planning meeting that his relative was a resident of the nursing home subject to the application but then advised he did not consider this to be a direct or special interest. Whilst it certainly was not such an interest, and hence no conflict and no need for his recusal, members of the public and the media focused on this aspect of the decision making even though it had no relevance to the process. Needless to say, we discuss any such interests before the meeting and declare only those that are, indeed, direct and special.

One further observation Mr Corbett makes in his paper titled '*Everybody Knows Everybody*' is the need *"to know more about how politicians practise their legislative, representative and ministerial roles."* By understanding both the similarities and differences of parliamentary experience in smaller jurisdictions we should be in a better position to be ensure the people of island states can benefit.

I hope that my experiences resonate with readers and, in particular, the need to share how the issues we face and the ways which they can be managed. I also believe that by ensuring our population is aware of the conflicts we face and the way we manage them, we will increase the faith people have in our decision making.

References:

[1] http://www.businessdictionary.com/definition/conflict-of-interest.html 23/7/17 @ 15.12

[2] 'Everybody knows everybody: practising politics in the Pacific Islands' – Author: Corbett, Jack. Published 2013

[3] The Bailiwick of Guernsey consists of three separate self-governing, democratic territories - Guernsey (and its islands including Herm, Lihou and Jethou), Alderney and Sark (which includes Brecqhou).

ETHICS AND DISCIPLINE IN PARLIAMENTS: A VIEW FROM BIHAR

Hon. Shyam Rajak, MLA is a Member of the Bihar Legislative Assembly in India. He is the State Minister for Food and Consumer Protection in the Government of Bihar and a former State Minister for Energy. He holds a number of positions in leading organisations in the state and he is the Chairman of the Bihar Sports Council for the Deaf.

Ethics, transparency and accountability are the three basic attributes of public life. Elected representatives of people are expected to adhere to highest standards of ethical and moral values in the discharge of their public duties. However, a general deficit in peoples' faith in the hallowed institution of Parliament is being seen across the world.

People vest power and privileges in Parliamentarians to ensure the quality of debates in the house because the complexity of administration and legislation may only be preceded by adequate discussion. Without maintaining the ethics and discipline, the quality of debates cannot be possible in the Parliament and it will be a place of hooliganism only, and Parliamentarians will waste their time without doing their duty to the people.

There may be many ways for ensuring probity in public life, but a self-discipline mechanism appears to be the best in an institution like Parliament. Being effected by wrong emotion is a tool that can cause destruction. The intellect is governed by the intuitive emotion. When the human heart loses its sensitivity, whatever we encounter as well as the way we govern our actions will become bleached of all sensitivity and tenderness. It is important to keep positive thought in their mind. It is also important to focus on their failures as it will help them to not repeat it. MPs should have patience if they are not being allowed by the Chair to have their opinion or say in the House. They must wait for their time; it may be next session or even the next election.

They should have patience and mobilize the people against the government's attitude. If the views matter, it is lastly the people's court to decide, not the Parliament. Patience teaches us how to wait eagerly with hope and joy.

In India and in Indian politics, Chanakya is always quoted. Every Indian knows the story that when Chanakya was not permitted in the court of King Mahapadam Nand, he opened his hair lock and vowed that until and unless he dethrones the Nand dynasty, he will not bind his hair lock. When Chanakya established Chandragupta as a King, he rebinds his hair lock. A Parliamentarian also needs such type of patience. As it's been best said in the words of Leo Tolstoy '*Patience is the most powerful warrior*'.

With some twists in George Bernard Shaw's version, it can be said that two things define your patience - when you have nothing (when you are not elected as the people's representative) and your attitude when you have something (when you are elected as the people's representative). These attributes in any human being play a key role in leading to success or failure.

The behavior of MPs is hampering the priceless time of Parliament and wasting public money all over world. A case study of the Indian Parliament shows that 19.58% of the total time was lost due to interruption and adjournments in 14th Lok Sabha; 41.6% in the 15th Lok Sabha; and about 16% in the 16th Lok Sabha (up to the tenth session). This is an alarming situation.

This also shows that Parliamentarians do not act according to the expectations of the people. It is a sense of entitlement that makes some of our leaders behave in a regrettable manner. They feel they can get away with it. This must stop. Nobody will dispute the idea that political parties should breed productive Parliamentarians. The question is: how best do you do it? Certainly the political parties should regulate the conduct of their members. The parameters for the selection of candidates for election by the political parties should be proven standards in public life. They should train their workers and leaders through mock- Parliaments so that their leaders could learn right from the beginning how the people's highest institutions can run smoothly.

The fact that there has been a general erosion of moral values in all walks of life cannot be denied, but MPs should present themselves as role models to the people, because in the end, it affects the whole democratic system. Citizens who are vested in their country's future and want to preserve their country's identity have the right to have a good MP as their representative. For this they should be given the option to choose a role model as a candidate in an election from every political party. Unless political parties engage

disciplined and trained MPs, they cannot create good governance.

Everybody knows that enforced discipline is doomed to backfire. So it is not only the rules and the Chairman in Parliament who can control the unethical behavior of MPs.

A dramatic socio-political development has emerged in Indian society. This has also affected the Indian electorate and the Parliament. With the successive Lok Sabhas, the educational background of its Members has also changed considerably. Though the Indian Constitution does not stipulate any formal educational qualification for the Members of Parliament, it cannot be denied that educational accomplishments have seen a certain degree of deterioration amongst Parliamentarians.

It is generally seen that MPs storms into the well in simple matters and behaves with the Chair in an unethical and improper manner. Criticism should be welcomed by each party, but not by presenting them in a fashion that is tantamount to defamation. The MPs' behaviour should be such that it enhances the dignity of Parliament and its Members in general. It is true that MPs' debates keep democracy alive. No institution is above critique, not even Parliament. But MPs should know that power comes with accountability.

That's where the Commonwealth Parliamentary Association (CPA) should step in. The *CPA Recommended Benchmarks for Codes of Conduct applying to Members of Parliament* is one way of progressing this. It focuses on the characteristics of a parliamentary code of conduct that individuals should adhere to while serving as a Member of Parliament.

The CPA Benchmarks have emphasized the following point to be taken care of by any Parliamentarian:

- **Safeguarding Democracy, Human Rights and the Rule of Law:** Power comes with responsibility and accountability. Every Parliamentarian should abide by this fact and work for the welfare of society and nation.
- **Serving the Public Interest:** That's what they have been made a Parliamentarian for. They should keep aside their personal or political interest and work transparently in the best interest of the public.
- **Ensuring Public Integrity:** Parliamentarians are chosen by the public. They are accountable to them. And hence they should not intend to cheat the public in any manner whatsoever. They should not be biased towards certain sections of society or favor someone in an ill-fated way.
- **Acting Professionally:** They should carry themselves with utter dignity and transmit the same to their associates and public. The work they undertake should carry a certain degree of professionalism.
- **Valuing Diversity and Pluralism:** Democracy is required only when there is some form of diversity. Any Parliamentarian should embrace this fact and should treat and help people irrespective of their caste, religion or political opinion.

The CPA's recommendations are slowly being brought into practice in Indian Parliaments as well. New regulations and laws have been formulated to enforce these recommendations effectively.

THE REGULATION OF PARLIAMENTARY ETHICS

A case study from Jersey

Mark Egan is the Greffier of the States of Jersey. Mark Egan has been Greffier of the States of Jersey since December 2015. He was previously a clerk in the UK Parliament's House of Commons.

At its last sitting before the summer break, Jersey's States Assembly brought into force the Commissioner for Standards (Jersey) Law 2017, bringing to an end four years of debate about the regulation of parliamentary ethics in the Island.

The original proposal to introduce a Commissioner for Standards was put forward by the Assembly's Privileges and Procedures Committee (PPC) in 2013, following a review of the operation of the Code of Conduct for Elected Members.

The Committee recognised the drawbacks of the existing system for investigating complaints about Members' conduct. In particular, the Committee lacked the resources necessary to undertake effective investigations and there was a risk that the public would not regard such investigations as fair and impartial. The Assembly approved in principle the creation of a Commissioner for Standards post by 44 votes to 1 and asked the PPC to draw up the necessary legislation.

Draft legislation was debated in December 2015. A number of questions were raised and the vote on the draft law was deferred.

One question concerned the level at which the Commissioner should be remunerated. The Committee undertook research into the daily rate offered to office holders with similar working arrangements as was envisaged for the Commissioner. It concluded that a day rate of up to £400 was comparable and that was subsequently accepted by the Assembly.

The second issue concerned the scope of the Commissioner's remit. Some Members argued that the Commissioner should be responsible for investigating complaints about ministerial conduct, as well as those related to the Code of Conduct for Elected Members. There were also questions about whether the Commissioner should investigate complaints about the conduct of scrutiny panels (the Jersey equivalent of departmental Select Committees).

The Committee took the view that the Commissioner should investigate complaints that the Code of Conduct for Ministers and Assistant Ministers had been breached.

However, it recognised that where the Commissioner found a breach it might be for the Chief Minister rather than the PPC to decide how best to deal with the matter. In such cases the PPC can simply publish the Commissioner's report rather than take action itself. (A further complication is that the ministerial code of conduct is currently combined with a ministerial code of practice, which covers matters such as which business must be brought before the Council of Ministers. Separating out the two codes is now a priority.)

There was some ministerial resistance to this addition to the Commissioner's remit and an amendment was lodged which would have restricted the Commissioner's role to examining allegations that the ministerial code had been breached only at the request of the Chief Minister.

This was defeated by 22 votes to 20 so Jersey's Commissioner will be able to investigate complaints relating to the ministerial code and report to the PPC. The draft law itself passed by 41 votes to 0 with one abstention.

The Committee's conclusion that it would be inappropriate for the Commissioner to investigate how the scrutiny system operates – a matter of politics rather than ethics – was accepted and the issue was not pursued further.

The Commissioner has powers to require persons to appear before him, to provide information and to produce any written documents.

Failure to appear before the Commissioner when ordered to do so, or to provide information or documents, is a criminal offence subject to a maximum fine of £5,000. Falsifying records required by the Commissioner or hindering or obstructing the Commissioner in the discharge of his duties are also offences, both of which could lead to imprisonment.

The States of Jersey must ensure that the Commissioner is provided with such administrative and other support, including staff, services and accommodation, as the Commissioner may reasonably require. The expectation is that the Commissioner will do the bulk of the investigative work and report-drafting himself but will be assisted by States Greffe staff, particularly for administrative work. Much will depend on the number and complexity of the complaints the Commissioner has to consider.

One of the incoming Commissioner's first tasks will be to develop and publish a statement of how he intends to discharge his duties. This is an excellent opportunity to draw on best practice in other jurisdictions. The Commissioner is likely also to want to review the codes of conduct he oversees and the sanctions available to the Assembly for dealing with breaches.

The information and support available for Members to help them comply with the codes also need to be looked at. Complaints about Members' conduct are relatively infrequent in Jersey but are inevitably newsworthy in a small jurisdiction. Handling and resolving them effectively and with integrity and impartiality is essential to enhancing public confidence in the Assembly.

Our first Commissioner is Paul Kernaghan, Judicial Appointments and Conduct Ombudsman in England and Wales, who was formerly the House of Lords' Standards Commissioner from 2010 to 2016. I am looking forward to working with Paul on ensuring Jersey's system for upholding parliamentary standards is robust and commands public confidence.

Above: The main chamber of Jersey's Parliament.

DECODING THE CODE: APPLYING THE CPA CODES OF CONDUCT

A case study from the Legislative Assembly of the Australian Capital Territory

Tom Duncan is the Clerk of the Legislative Assembly for the Australian Capital Territory and the Regional Secretary for the CPA Australia Region.

Introduction

In April 2015 a workshop hosted by the Parliament of Victoria brought together Parliamentarians and Clerks[1] from across the nine regions of the Commonwealth Parliamentary Association (CPA) as well as other experts in the field. As a result of that workshop (there had been preliminary work undertaken by Monash University with interviews being conducted during a CPA conference in October 2014 in Cameroon) the CPA, on 24 April 2015 produced the *CPA Recommended Benchmarks for Codes of Conduct applying to Members of Parliament*.[2] The document contained 57 benchmarks and states:

"The CPA encourages Branches to use the Benchmarks as a set of provisions related to each other and together aimed to improve the integrity and performance of each legislature. Branches are encourage[d] to take the underlying contribution to integrity of each recommended Benchmark and adapt it to a particular parliamentary system so as to guide the conduct of Members and to benefit the performance of the Parliament."

This article examines how the Code of Conduct for All Members of the Legislative Assembly for the Australian Capital Territory (adopted on 25 August 2005), and other relevant instruments and arrangements, compare to the recommended benchmarks.

Background

The Legislative Assembly of the Australian Capital Territory first examined whether it should have a code of conduct in 1991 - two years after the Assembly was established. Despite Committee inquiries in the First, Third, Fourth and Fifth Assemblies, which all recommended or encouraged the adoption of some form of a code of conduct, it wasn't until the Sixth Assembly in August 2005 that the Assembly formally adopted a code. The mover of the motion (the then Speaker, Wayne Berry MLA) noted in his comments the research from the respected social commentator Hugh Mackay who stated in 2001 that: *"Australians view the honesty and ethics of Members of both State and Federal Parliament as only slightly better than those of car salesmen. Only 7 per cent of Australians believe that Members of both State (down 2 per cent, since 1997) and Federal (down 2 per cent) Parliament are of high or very high standards of honesty and ethics. The only profession rating lower than Members is car salesmen ..."*

In 2008, the Assembly further enhanced its integrity framework by passing a continuing resolution to appoint an Ethics and Integrity Adviser. The role of the Adviser is to provide advice to Members (on request), on ethical issues concerning the exercise of their official roles (including the use of entitlements and potential conflicts of interest), as well as giving advice that is consistent with the code of conduct or other guidelines.

Subsequently, in 2013 the Assembly passed a further continuing resolution (CR 5AA) to appoint a Commissioner for Standards. The role of the Commissioner is to investigate specific matters referred to the Commissioner by the Speaker (or, in the case of a complaint made about the Speaker, the Deputy Speaker) and report to a committee of the Assembly which will, in turn, report to the Legislative Assembly on the outcome of any such investigation. Under the resolution any member of the public, member of the ACT Public Service or Member of the Assembly may make a complaint about a Member's compliance with the Members' code of conduct or the rules relating to the registration or declaration of interests.

Review of the code of conduct and affirming commitment to the code

The Assembly has reviewed the code of conduct on two occasions, both with the assistance of the Ethics and Integrity Adviser.

The first review was conducted in October 2013, some eight years after the code was adopted. As part of that review the Adviser recommended that, at the commencement of each Assembly, there should be a motion for all Members to reaffirm their commitment to the code. On 24 October 2013 the Assembly passed the following resolution: *"That we, the Members of the Eighth Legislative Assembly for the Australian Capital Territory, having adopted a code of conduct for Members, reaffirm our commitment to the principles, obligations and aspirations of the code."*

Year	No of Members that sought and received advice	No of individual advices provided
2008-09	5	6
2009-10	2*	3
2010-11	5	6
2011-12	3	4
2012-13	-	-
2013-14	4	6
2014-15	8	12
2015-16	7	14
Total	**34**	**51**

TABLE 1: ETHICS AND INTEGRITY ADVISER: NUMBER OF MEMBERS SEEKING ADVICE AND NUMBER OF ISSUES ON WHICH ADVICE WAS SOUGHT

**Advice was also sought by a resolution of the Assembly relating to standing order 156*

The current Assembly is considering the second review (also conducted by the Ethics and Integrity Adviser) and it is expected that further refinements of the code will be adopted in August 2017. It is expected that Members of the Ninth Assembly will also reaffirm their commitment to the amended code in August 2017.

How have the Ethics and Integrity Adviser and the Commissioner for Standards operated?

As can be seen from Table 1, Members have made fairly regular use of the Ethics and Integrity Adviser since the role commenced in 2008. Each year the adviser is required to provide a report to the Speaker outlining the number of advices given and the sorts of matters (in general terms) that were the subject of advice (which the Speaker tables in the Assembly), as well as meet annually with the Standing Committee on Administration and Procedure (chaired by the Speaker and comprising each party's whip).

The Commissioner for Standards has been in operation at the Assembly since 2013, and since that time there have been four referrals (see Table 2). There is currently a proposal before the Assembly that the Speaker's role in the process (i.e., ascertaining whether a complaint is not vexatious etc) be reduced, and that complaints be referred directly to the Commissioner. As can be seen from Table 2, most of the complaints about MLAs so far have been raised by another MLA, but the Commissioner has not upheld any of the complaints referred to date.

How does the Assembly's code of conduct and related arrangements fare when measured against the CPA benchmarks?

A full assessment of the Assembly's code of conduct against the *CPA's Recommended Benchmarks for Codes of Conduct for Members of Parliament*. The assessments were made by myself and the Director of the Office of the Clerk, and we sought advice and input from the Assembly's Ethics and Integrity Adviser. Rather than assessing the Assembly as either meeting or not meeting the 67 benchmarks, we adopted the

TABLE 2: REFERRALS TO THE COMMISSIONER FOR STANDARDS

Year	Alleged breach	Raised by	Breach of code found / not found
2015	Breaches of sections 3, 5, 9 and 10 of the Members' Code of Conduct relating to: ▪ seeking to gain financial or other benefit ▪ acting in the public interest ▪ public trust and confidence ▪ conflicts of interest	Member	Not found
2016	Breaches of sections, 3, 5, 9 and 10 of the Members' Code of Conduct relating to: ▪ seeking to gain financial or other benefit ▪ acting in the public interest ▪ public trust and confidence ▪ conflicts of interest	Member	Not found
2016	Breaches of sections 7 and 15 of the Members' Code of Conduct relating to: ▪ not disclosing confidential information ▪ professional courtesy and respect	Member	Not found
2016	Breaches of section 3 and 6 of the Members' Code of Conduct relating to: ▪ seeking to gain financial or other benefit ▪ proper use of public resources	Campaign Director, Canberra Liberals	Not found

following rating scale:

2 = Fully complies with the spirit and the letter of the benchmark

1 = Partially complies with the spirit and the letter of the benchmark

0 = Does not comply with the spirit and the letter of the benchmark.

We adopted this methodology as there were a number of benchmarks where, although we did not fully comply, there were substantive measures in place to address the underlying principle enunciated. Following the self-assessment against the benchmarks, the ACT Legislative Assembly achieved a score of 96 out of a possible 114, or 84%. Whilst a pleasing result, it indicates more work needs to be done, although, as we explain, we found some of the benchmarks difficult to measure against.

Do some of the benchmarks need to be modified?

In undertaking this exercise it became apparent that the benchmarks might benefit from modification in several areas in order that Parliaments can use them to enhance their codes of conduct.

Benchmarks that we found difficult to measure or where we queried their usefulness are listed in Table 3. Perhaps if the benchmarks were to be reviewed those listed in Table 3 might warrant some revision/ reconsideration.

Conclusion

The Legislative Assembly for the Australian Capital Territory has taken great strides in its endeavour to establish an effective code of conduct regime. Assessing the Assembly's code of conduct against the CPA Recommended Benchmarks has been a useful exercise, and has identified where further reform and enhancement needs to be done.

TABLE 3: CPA BENCHMARKS THAT WERE DIFFICULT TO MEASURE OR REQUIRE REVIEW

No.	Benchmark	Rating	Comment
3.1.4	▪ There should be an effective mechanism to verify any disclosure and to immediately notify any discrepancy in a public report to the House.	0	Verification of disclosures made to the Parliament by Members would be a very resource intensive exercise. ▪ *The Assembly does not provide for an explicit mechanism for 'verifying any disclosure' but it is not clear how verifying a disclosure might produce an enhanced integrity outcome.* ▪ *The non-disclosure of information that is required to be disclosed pursuant to resolution is where integrity issues arise and the prospect of confirming non-disclosure presents obvious logistical difficulties.* ▪ *The onus is, and should be, on Parliamentarians to disclosure all information as required under relevant statute/regulation. Members of the Assembly by agreeing to abide by the code also acknowledge that a non-disclosure of relevant interests could give rise to an investigation by Standards Commissioner.*
4.6	▪ Members if unable to discuss an ethical dilemma with an ethics adviser or having done so, remain in doubt, must act with caution and not engage in any potentially compromising action.	0	Ascertaining whether a Member has discussed a matter or has acted with caution and not engaged in any potentially compromising action is very difficult to measure.
7.1.8	▪ Ensuring that newly elected Members receive induction in the Code of Conduct, and engaging in self-assessment of their individual ethical competence.	2	Asking Members (who are very busy in the respective roles) to engage in self-assessment on their individual ethical competence poses some logistical problem (i.e., who would administer the assessment), as well as how it would be measured whether Members have completed such an assessment.

This paper was presented to the 48th Presiding Officers and Clerks Conference in New South Wales, Australia from 2-7 July 2017.

References:

[1] The author was one of the Clerks attending the workshop.

[2] Commonwealth Parliamentary Association, *Recommended Benchmarks for Codes of Conduct applying to Members of Parliament*, 2015.

[3] Minutes of Proceedings, No 33, 25 August 2005, pp 318-24.

RE-ENGAGING THE DISENGAGED

Why Parliamentary education and community engagement is Parliaments' core business

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.

It is an interesting time in politics with populist 'revolts' seen around the world. Australia has so far largely avoided some of the populist 'revolts' and the confusion that has been occurring around the world. Nevertheless, many Australians are disillusioned with, or simply disengaged from, the wider political process. Given the community's lack of trust in politicians, the challenge, for us as Presiding Officers, is how to respond.

As an institution, Parliaments are uniquely placed to address disengagement with the political process. Initiatives being undertaken in Parliaments across Australia and elsewhere provide the chance to show how democracy can work and what it can mean for the citizen in a changing world.

So what is populism? Populism is a political style that features

- an appeal to 'the people' versus 'the elite';
- the use of 'bad manners' that are allegedly 'unbecoming' for politicians; and
- repeated claims of crisis, breakdown or threat.

In his 2016 book *What is populism?*, Jan-Werner Müller, Professor of Politics at Princeton University, defined populism as: *"… a particular moralistic imagination of politics, ….populists claim that they, and only they, represent the people. Other political competitors are just part of the immoral, corrupt elite."*

This is not a healthy way of looking at the world or politicians who care about an inclusive democratic political system.

In some countries this disillusionment is shown by the falling turnout at elections. Here in Australia with compulsory voting it is not something we experience. Instead however, there has been an ongoing rise in the number of Australians voting for minor parties at State and Commonwealth (Federal) elections.

According to Australian Electoral Commission data for the 2016 election, just over 35% of Senate first preference votes and 23% of House of Representatives first preference votes went to parties other than the ALP and Coalition. Similarly, the 2015 New South Wales State election saw approximately one quarter of Legislative Council votes and one-fifth of Legislative Assembly votes go to minor parties.

According to another 2016 report '*Mapping Social Cohesion*', only 29% of Australians believed that the Commonwealth (Federal) Government could be trusted to do the right thing for the Australian people most of the time: down from 48% in 2009.

A 2013 survey, conducted by the Institute for Governance and Policy Analysis at the University of Canberra reported that 90% of Australians think they have little or no influence over national decisions, while just over three quarters felt this way with regard to local decision-making.

These pessimistic views of politics are in stark contrast to the high degree of faith Australians have in their democratic system of governance. According to the 2012 World Values Survey, 87% of Australian respondents stated that a democratic political system was a fairly good or very good way of governing this country. The Survey also indicated that many Australians engage in, or are interested in becoming involved in, the political process.

So if there are many Australians who do want to re-engage with their political system, how can they be reached?

A variety of responses have been suggested:

- finding new political leaders who can juggle long-term vision with the politics of the moment;
- renewed efforts by political parties to effectively groom future politicians;
- increasing community efforts to boost 'social capital'; and
- calling the media to account for unfairly presenting politicians.

However, one of the ways of re-engaging the public has largely escaped discussion: and that is by educating and informing citizens of their political system via the *institution* of Parliament.

Compared to the political class, it is interesting to note that Parliament is more favourably regarded by Australians; 28% of respondents to the World Values Survey reporting confidence in the institution, compared to 13% for political parties.

Although these confidence levels remain low, this is likely because Parliament is directly associated with politicians and governments. If the focus is on

Above: Hon. John Ajaka, MLC, President of the Legislative Council of the Parliament of New South Wales gives an address at the 48th Presiding Officers and Clerks Conference, Parliament House, New South Wales, Australia in July 2017.

Parliament as an institution, the potential is much higher.

Public engagement has not traditionally been the core business of Parliaments, but that has been changing now for some time. It is clear that Parliaments increasingly see the need to make engagement a core component of their business.

So how does Parliament go about engaging more with the community? Technological developments have long been identified as radically changing the means by which people engage with the issues of the day, as well as what issues grab their attention.

Effective use of new technology can greatly influence the political debate of the day, and subsequently the public's perceptions of a given issue.

Most Australian Parliaments, including the New South Wales Parliament, now have their own *Twitter* and *Facebook* accounts. It is easy to provide information – the task is to ensure that information is entertaining and informative and continues to evolve in a positive manner.

It is imperative that Parliaments make greater efforts to engage the community through social media. The UK think-tank Demos recommends that all parliamentary debates should have a social media element to allow the public to offer their views and opinions for the participants' benefit.

One of our earliest attempts was in 2009, when the New South Wales Legislative Council General Purpose Standing Committee No 2 conducted an inquiry into bullying of children and young people. In order to encourage the participation of children and young people, the Committee hosted an online survey. While there were risks involved with this process the exercise resulted in the Committee receiving over 300 responses from children and young people, a typically elusive target group.

Furthermore, the survey had the added benefit of introducing hundreds of young people to the work of the New South Wales Parliament. The survey responses made clear that young people welcomed the Committee's attempt at online consultation. A number of respondents commended the New South Wales Parliament on its willingness to use new technologies and embrace the online environment, contributing to positive perceptions of the Parliament itself.

The Legislative Council Committee Office has also embraced the use of social media in advertising inquiries and related activities. Whereas inquiries were previously advertised via media releases and newspaper advertisements, the latter is no longer standard practice. Committees now regularly utilise *Twitter*, including tweeting all media releases and hearing schedules, as well as photos of Committee activities and links to live webcasts on hearing days.

The Committee Office has also recently used a free graphic design software program to create social media content, incorporating fonts, images and icons into an infographic that was attached to a tweet advertising a Committee inquiry. These infographics can also be used on other social media platforms, such as the New South Wales Parliament's Facebook page, to inform the community of Committee activities.

Other social media initiatives include creating *YouTube* videos of Portfolio Committee No 5 – Industry and Transport's visits to regional locations for its inquiry into the augmentation of water supply for rural and regional New South Wales, and the use of the *Storify* social media platform to document the progress of inquiries.

Evidence suggests that the public is interested in parliamentary outreach and engagement. According to the UK Hansard Society's most recent Audit of Public Engagement, 82% of respondents thought it was important or very important that the UK Parliament encourages public involvement in politics. However, as a core function of Parliament, only 26% of respondents believed that their Parliament had done a good or very good job of this encouragement.

Australia faces similar issues. To give one example, the 2007 Federal parliamentary inquiry into civics and electoral education found that civic apathy amongst Australian youth may be derived from a belief that the world of politics bears little or no effect on their lives. However, when youth understood the way in which political processes worked, they became more likely to participate.

Like many Parliaments, the New South Wales Parliament recognises this challenge and is making efforts to increase civic engagement amongst the community in New South Wales. Currently, the New South Wales Parliamentary Education department conducts a wide range of programmes – 22 in total - which engage the community with the workings of Parliament, cultural events and topical issues of social importance.

Many of these programmes are designed for school students: for example, the National Schools Constitutional Convention involves 100 secondary students discussing constitutional issues in the New South Wales Parliament, where they subsequently select delegates for the National Convention in Canberra. Other programmes are aimed at select community groups, such as the Young Women's Leadership Seminars, in which approximately 100 Year 11 girls from New South Wales secondary schools participate in leadership programmes involving keynote speakers and parliamentary Members focused on issues surrounding women and leadership.

Every day in our chambers, when Parliament isn't sitting, staff of both House departments deliver school talks 3 to 4 times a day to classes of primary and high school students. This is about to be expanded – we are intending to construct a new purpose built Education Centre, which will increase the number of schools we can engage with each day.

One of the longest running and most popular of the Parliament's community education programs is '*A Little Night Sitting*', where community members sit in during evening sittings of both Houses, and hear talks from Members of Parliament explaining what they have seen.

Education and engagement programmes extend beyond the confines of the New South Wales Parliament. In order to engage regional communities without the capacity to travel to Sydney, Parliamentary Education has used video conferencing software to deliver talks to regional schools. Similarly, when conducting regional hearings, Legislative Council Committees have been accompanied by parliamentary staff who run parliamentary education workshops at local schools. This was an idea which came from a programme conducted by the National Parliament of the Solomon Islands, our parliamentary twin. There may be more ideas we can take from the Pacific and apply in our Parliament.

Parliamentary associations are also conducting engagement activities. The Commonwealth Parliamentary Association (CPA), as part of its goal of promoting democratic governance across Commonwealth nations, conducts a series of CPA Roadshows designed to connect Parliamentarians with youth in schools, colleges and universities.

Parliamentary education can be directed at more than the general public: communicating and working with third parties is another potential means of engaging the community. This method of engagement has been used with relative success as part of the New South Wales Parliamentary Committee process.

Pauline Painter in the New South Wales Legislative Assembly, has reported on the increasingly directive and proactive attempts by third party organisations to encourage their members to make submissions to inquiries.

Another way in which third party participation in parliamentary inquiries is facilitated is via workshops delivered by Committee staff.

For example, since 2009, the Legislative Council Committee Office has delivered a very successful programme of workshops run in conjunction with the Council of Social Service of New South Wales (NCOSS) aimed at improving non-government stakeholders' understanding of parliamentary inquiries and their skills in participating in them. Held four times a year, these workshops give members of the community sector practical advice on how to write an effective submission and what makes an effective witness at a hearing.

The examples I have provided are just a starting point. Presiding Officers can encourage new innovative ways to fill gaps in community political education, and find ways for the public to re-engaged with the political process.

The current initiatives represent a series of small steps along a much longer, challenging path. But it is a path as Presiding Officers that we have a key role, and one in which we can make a small but important difference to the future of the democratic system of which we are one of the officeholders.

The public is on standby – disengagement and disillusion doesn't have to be permanent. Surveys show that the public has confidence in Parliament as an institution. It is up to us to respond, and justify that confidence.

This article was adapted from an address given by the author at the 48th Presiding Officers and Clerks Conference, Parliament House, New South Wales, Australia in July 2017. This address was prepared with the assistance of Mr Chris Angus of the Parliamentary Library Research Service, DPS.

"According to the UK Hansard Society's most recent Audit of Public Engagement, 82% of respondents thought it was important or very important that the UK Parliament encourages public involvement in politics. However, as a core function of Parliament, only 26% of respondents believed that their Parliament had done a good or very good job of this encouragement."

Below: Delegates to the 48th Presiding Officers and Clerks Conference for the CPA Australia and Pacific Regions are welcomed to with an address delivered by aboriginal elder Uncle Chicka Madden outside Parliament House in Sydney, Australia.

THE ROLE OF PARLIAMENTS IN BUILDING INTERCULTURAL BRIDGES FOR DIALOGUE

Baroness Manzoor, CBE is a Conservative Peer in the Parliament of the United Kingdom, speaking on issues surrounding health, international development and aid, and modern slavery and has been a member of the EU External Affairs Select Committee since June 2017. In 1993 Baroness Manzoor became a Commissioner of the Commission for Racial Equality, going on to serve as Deputy Chairman from 1995-1998. She was awarded a CBE in 1998 for her work in the health service and in improving race relations in the UK.

With the end of this year, and the beginning of the next, the international community approaches the midpoint of the United Nations Educational, Scientific and Cultural Organisation's International Decade for the Rapprochement of Cultures. In providing for this decade long observance, states, international organisations and all other stakeholders are invited to identify gaps, propose solutions and initiate actions towards the creation of more inclusive, peaceful societies. Additionally, this commitment allows the opportunity to showcase the importance of diversity, dialogue, and participatory democratic governance to peace and development in uncertain times.

In partial recognition of this milestone, I was fortunate to be invited to speak during a panel discussion at the 4th World Forum on Intercultural Dialogue in Baku, Azerbaijan in May 2017 on the topic of '*The Role of Parliamentarians in Building Intercultural Bridges for Dialogue*'.

This session provided a platform for me to share a Commonwealth parliamentary perspective during conversations with Mr Mohammad Ali Houmed, Chairman of the National Assembly of Djibouti; Mr Ziyafat Asgarov, First Deputy Speaker of the National Assembly of Azerbaijan; Mr Radek Vondracek, First Vice-Chairman of the Chamber of Deputies of the Parliament of the Czech Republic; Hon. Murtaza Javed Abbasi, Deputy Speaker of the National Assembly of Pakistan; and Rabbi Marc Schneier, Founder and President of the Ethnic Understanding Foundation in the United States of America.

When discussing the role of Parliaments in building intercultural bridges, it is important to highlight the fact that Parliaments across the Commonwealth should, first and foremost, act as successful examples of intercultural bridges, and I believe that a clear distinction between a number of terms must be made here.

We talk and hear often of societies being either multicultural or culturally diverse, in that they contain several cultures within a specific area, who may or may not interact with each other on any meaningful level.

This is to be differentiated from intercultural societies, which are those which engage in free and open dialogues between groups of varying ethnic, cultural, religious and linguistic heritage and identity.

As such it is necessary that Parliaments do not solely present themselves as multicultural entities, with little meaningful discussion between members of differing backgrounds and beliefs, but rather intercultural houses which allow for productive exchanges from varying perspectives, to the benefit of the publics whom we represent.

Underpinning the principles of intercultural dialogue is a respect for fundamental human rights, notably those political freedoms of speech, expression and assembly, thought, conscience and religion. It is, therefore, necessarily vital that Parliaments adhere to those international human rights instruments to which they are signatory parties.

As part of this observation and adherence, Parliaments must look to mainstream cultural diversity and sensitivity by providing spaces which enable individuals and cultural groups to communicate their opinions and perspectives regardless of cultural background. This in turn should allow intercultural dialogues to prosper, both within and without the walls of parliament.

Crucially, these spaces need to exist within a wider commitment to the rule of law and democratic institutions, which should endeavour to maximise political participation and engagement, and strengthen democratic governance.

Parliaments can also contribute to building intercultural bridges at the national level through direct, pertinent institutional changes. This can be done, for example, by promoting diversity numbers within political parties, by helping to establish and maintain caucuses, and by providing an effective complaints procedure in the event of bullying or harassment at any level and scale.

Such changes would not only serve to create an environment conducive to intercultural dialogue, but would also serve to build trust in the institution and systems of parliament, which can encourage and facilitate further intercultural engagements. In this manner, the institution of parliament can build a self-sustainable model of intercultural dialogue.

Above and above left: Baroness Manzoor at the 4th World Forum on Intercultural Dialogue in Azerbaijan in May 2017 where she spoke on the topic of '*The Role of Parliamentarians in Building Intercultural Bridges for Dialogue*'.

I wish to conclude this article by discussing the ways in which Parliaments and Parliamentarians can build intercultural bridges internationally with other jurisdictions, making specific reference to my experience with the Commonwealth Parliamentary Association.

In 2015, I participated in a CPA Post-Election Seminar in Pakistan, at the invitation of the Headquarters Secretariat of the Commonwealth Parliamentary Association, following the Pakistani Senate elections, which aimed to provide capacity-building and knowledge-sharing services to newly elected and returning Members of the Pakistani Senate.

Within the scope of this two day seminar, both experienced Parliamentarians and senior parliamentary officials shared good practice from their own Commonwealth jurisdictions outside of Pakistan, whilst relating these experiences to the specific, local cultural and political situation in Pakistan.

This undertaking is a particularly effective and successful learning experience for those participating Members of the Pakistani Senate as well as those Parliamentarians invited on behalf of the Commonwealth Parliamentary Association, irrespective of their background and political affiliation.

Over the course of this CPA Post-Election Seminar I, in my capacity as a representative of the Parliament of the United Kingdom, discussed democracy, parliament and the rule of law, and I was also presented with the opportunity to engage in a dialogue on the issues surrounding women in parliament, and the barriers and obstacles that often prevent female participation in politics across the Commonwealth.

Indeed, such barriers and obstacles are often cultural in their nature, with the issues discussed during the sessions including: the role of national media in representing female candidates, the prejudices and discriminations that exist within some Parliaments towards female Members and parliamentary staff, and the view of women as the primary caregiver to her children and family.

Engagements such as the Commonwealth Parliamentary Association's Post-Election Seminars do not only provide a uniquely valuable opportunity for Parliamentarians and parliamentary staff to discuss and learn about practice and procedure in Parliaments and Legislatures, but also allow for these important intercultural dialogues and the sharing of best practices between vastly different jurisdictions.

As such Parliaments should look to build intercultural bridges by engaging with, and taking the opportunity to develop, knowledge-sharing and capacity-building activities and platforms.

In the spirit of the principles of the Commonwealth Parliamentary Association, these activities can be undertaken at the national and the sub-national parliamentary level, and on a pan-Commonwealth or international scale through the establishing of bilateral relationships and multilateral networks.

It is with particular pleasure that I note in this regard, that UNESCO has identified the development, sharing and application of skills and knowledge in intercultural competences as a priority of their roadmap towards the rapprochement of cultures. I anticipate that many reading this article would join me in agreeing with UNESCO's assertion that education in this context is key.

Within this context, the unprecedented levels of accessibility to knowledge and information should be utilised to allow citizens to develop mutual understandings, address harmful stereotypes and combat violent extremism and racism.

Indeed, Parliaments should look to undertake a commitment to explore formal and non-formal education settings as an incentive to again provide those open spaces for dialogue. As an organisation committed to providing peer-to-peer learning opportunities to its Members, I am pleased to see the Commonwealth Parliamentary Association's existence.

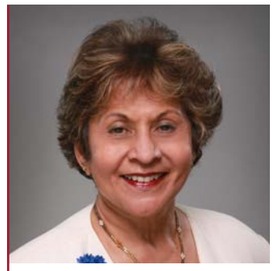
The importance of such endeavours is especially pertinent in light of the international development agenda, and more specifically the United Nations Sustainable Development Goals.

If the global community is to deliver the effective, accountable and above all inclusive institutions and societies as prescribed in the 16th Sustainable Development Goal, it is imperative that Parliaments around the world deliver on intercultural dialogue both within their walls, in their dialogues with other Parliaments, and in the wider societies and populations that they represent.

The core values and principles of the Commonwealth Charter include the reaffirmation that 'We accept that diversity and understanding the richness of our multiple identities are fundamental to the Commonwealth's principles and approach', as well as the commitment to 'peaceful, open dialogue and free flow of information'. As such, the importance of maintaining effective intercultural dialogue within and between Parliaments and Legislatures throughout the Commonwealth must be an institutional priority as we move into the second half of this International Decade for the Rapprochement of Cultures.

CELEBRATING 150 YEARS OF CANADA'S CONFEDERATION

Canada's recognition of its indigenous peoples



Hon. Yasmin Ratansi, MP is a Canadian Member of Parliament for the Liberal Party. She is Chair of the Canadian Federal Branch of the Commonwealth Parliamentary Association, Vice-Chair of the Standing Committee on Government Operations and Estimates and a Director of the Canada-Africa Parliamentary Association. She was the first female Muslim elected to the House of Commons and is continuously working to engage multi-faith groups in promoting peace, harmony and respect for each other.

On 1st July 2017, Canada celebrated its 150th year of confederation. It was a day of great rejoicing among the multitude of people who have been 'migrants' to this land, be it 300 years ago or 3 years ago.

However, Canadian history is older than that. The first peoples, the First Nations, the Inuit, the Métis and numerous aboriginal communities have been living on this land for over 500 years. To them, 1st July 2017 was not a day of celebration but a day of reflection on how they have been treated by the colonizers of their land.

Therefore, on the 150th year of the Canadian confederation, the focus of this article is to pay tribute to all the aboriginal communities that have shared their land, been gracious hosts to the new settlers and ensured the survival of the newcomers. It is also a brief review of the wrongs done to them and the reconciliation required for the road forward.

The First Nations, Inuit and Métis people have held long standing concerns related to their lands and traditional territories.

Between 1701 and the present day, the Crown signed 96 treaties with the Indigenous people, to address these issues. The 70 treaties signed pre-1975 cover nearly fifty percent (50%) of Canada`s land mass and are located in nine provinces and three territories. Since 1973, the federal government has signed 26 comprehensive land claims agreement, 18 of which include arrangements for self-government.

The Crown's relationship with Canada's Indigenous peoples has been described by the Supreme Court of Canada as *sui generis*, which literally means 'unique'. The Crown has a unique fiduciary duty to Canada's Indigenous peoples, a duty which imposes a higher standard of obligation in dealings with Indigenous peoples. As former Chief Justice Brian Dickson wrote in 1984: *"I repeat, the fiduciary obligation which is owed to the Indians by the Crown is sui generis. Given the unique character both of the Indians' interest in land and of their historical relationship with the Crown, the fact that this is so should occasion no surprise."*

Historical background and some salient highlights in indigenous policy, governance and rights

Between 1701 and 1760, three peace and neutrality treaties were signed between First Nations and the Crown. These treaties focussed on transforming commercial partnerships with First Nations into military alliances. Later, in 1763, a Royal Proclamation established the foundation of the treaty-making process based on land. In the late 1700s, the Crown began to sign territorial treaties with First Nations.

In 1867, a century after the Royal Proclamation, subsection 91(24) of the Constitution Act, 1867 granted Parliament exclusive legislative authority over *"Indians, and Lands reserved for the Indians."*

Nine years later, in 1876, The Indian Act was passed by the federal government. This Act is the principal legislation through which federal jurisdiction for 'Indians' and Lands reserved for Indians is exercised. It is comprehensive and regulates most aspects of First Nations life on reserve. Indigenous peoples object to its inherent paternalism.

Both First Nations people and government officials have acknowledged the legislation's limitations as a framework for relations between First Nations and governments.

The Indian Act contained a number of provisions that enabled the federal government to establish Indian residential schools. Discriminatory provisions of the Act, such as denying Indians the right to vote, forbidding them to leave a reserve or consume alcohol without the permission of an Indian agent, have since been repealed.

In 1885, Métis resistance to Canadian authority over the lands in the Northwest led to Louis Riel`s arrest and execution and the imprisonment of several First Nations Chiefs and Métis leaders.

Inuit gained the right to vote in federal elections in 1950,

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whilst some Inuit were forcibly relocated from areas in Nunavut, Nunatsiavut and Nunavik to new settlements in the High Arctic.

At the start of the following decade, in 1960, registered Indians were granted the right to vote in federal elections. Prior to this, First Nations people were required to relinquish their Indian status to be considered citizens.

From the 1990s to 2000, there were many changes that were made, including the Nunavut Land Claim Agreement which contributed to the creation of Nunavut in 1999. The Royal Commission on Aboriginal People released its report with 440 recommendations on a range of topics from treaties, education, health, housing and child welfare.

Some other notable events were: the Oka Crisis, in which a group of Mohawks from the town of Kanesatake tried to prevent the town of Oka from expanding a golf course into Mohawk lands; the Meech Lake Accord proposed by Prime Minister Brian Mulroney which was blocked by Elijah Harper at the Manitoba Legislature on the basis that the Indigenous peoples had not been involved in its negotiations and public consultations had not taken place; and the closing of the Gordon Residential School, the last Indian residential school in Saskatchewan.

Highlights from 2000-2015

The 2004 Supreme Court decision in *Haida Nation v British Columbia* established the framework of consultation with Indigenous communities. In that decision, the court stated that the Crown has the legal duty to consult affected First Nations communities *"when the Crown has the knowledge, real or constructive of the potential existence of Aboriginal right and contemplates conduct that might adversely affect it."*

In 2005 through the finalization of the Labrador Inuit Land Claims, the territory of Nunatsiavut was created.

Canadian Prime Minister Paul Martin released the Kelowna Accord a year later, an agreement which resulted from 18 months of roundtable consultations, leading up to the First Ministers' meeting in Kelowna. The accord was a series of agreements between the Government of Canada, First Ministers of the Provinces, Territorial Leaders and the leaders of the five national Aboriginal organizations in Canada. The Accord sought to improve the education, employment and living conditions for the Aboriginal people. To ensure its success $5 billion was committed by the Martin government.

Aboriginal leaders saw the Accord as a step forward, as it involved the process of cooperation and consultation that brought all parties together. Unfortunately, due to the change in government, the intent of the Accord and the money was never followed through.

"The United Nations Declaration on Rights of the Indigenous People was adopted in 2007 with Canada formally endorsing it in 2010."

Former Canadian Assembly of First Nations Chief Phil Fontaine called the deal a breakthrough for his people and asked the new government to implement the Accord.

The United Nations Declaration on Rights of the Indigenous People was adopted in 2007 with Canada formally endorsing it in 2010.

The Truth and Reconciliation Commission was established in 2008 with a mandate to document the history and legacy of the residential schools in Canada, with the subsequent report being released in 2015 with 94 Calls to Action.

In 2016, the Canadian Human Rights Tribunal found that the First Nations children and families living on reserve and in the Yukon, are discriminated against in the provision of child and family service by Indigenous and Northern Affairs Canada (INAC).

Conclusion

This article aims to give highlights of major events and setbacks in Canada's approach to working with the Indigenous communities. Successive Canadian governments have been trying to right the wrong of the inter-generational trauma from those colonial policies such as the Indian Residential Schools, some with creative ideas, some with a paternalist approach.

The focus of the current Liberal government is reconciliation with First Nations, Inuit and Métis people.

Canadian Prime Minister Justin Trudeau and the Minister of Indigenous Affairs, Hon. Carolyn Bennett have been reaching out to various aboriginal communities to ensure that the consultation process is working. There are many complexities involved, including land claims, treaties, provincial and federal jurisdictions, etc. However, with the cooperation of all parties, the road ahead can be made less complex.

The current government has committed significant investment for better housing, better health and educational services, to alleviate the tremendous challenges that the isolated and remote aboriginal communities face.

Some of the areas of investments include:

- Investing $828.2 million over five years, to improve health care for First Nations and Inuit;
- An unprecedented investment of $1.8 billion over five years into First Nation communities to significantly improve water and wastewater infrastructure, ensure proper facility operation and maintenance, and enhance the training of water system operations;
- Advancing Renewed Relationships with Indigenous Peoples based on the Recognition of Rights through nation to nation consultation;
- Closing the Gap on Housing for Indigenous Peoples by investing $225 million over one year to support housing providers serving people not living on reserves and renovating nearly 6,000 homes on reserves;
- Creating more opportunities for Indigenous Peoples by ensuring that students have the same opportunities for success as other students in Canada. The Budget 2017 increased funding for this initiative by $90 million over two years. This initiative will support 4,600 indigenous students advancing their education and careers;
- Creating early learning and child care programs for Indigenous children living on- and off-reserve;
- Revitalize and Enhance Indigenous Languages and Cultures by providing $69 million in new funding.

The above measures by the government as well as recent Supreme Court of Canada decisions against private enterprises that do not consult with Indigenous communities regarding projects which involve drilling or which create environmental harm, are all steps in the right direction.

It is heartening to note that we have civil society organizations like the Martin Aboriginal Initiative which is helping in the reconciliation and renewal process, through its focus on education, health and social justice issues for the Indigenous communities. The collective initiatives give hope to the communities that there is light at the end of the tunnel.

INCREASING THE NUMBERS OF INDIGENOUS PARLIAMENTARIANS

How recent diversity management theory can be applied to the goal of increasing the number of Aboriginal and Torres Strait Islander Parliamentarians in the CPA Australia Region.

Dr Chris Bourke, MLA is a Member of the Legislative Assembly of the Australian Capital Territory. He is a Government Whip, Assistant Speaker and Chair of the Standing Committee on Health, Ageing, Community and Social Services. First elected in 2011, he has served as ACT Minister for Education and Training, Industrial Relations, Corrections, and Aboriginal & Torres Strait Islander Affairs. Prior to entering politics, he ran a successful dental practice and graduated from Melbourne University as the first Aboriginal to complete a dental degree.

Introduction

This article considers contemporary diversity management theory and how it could be used to support calls for more Aboriginal and Torres Strait Islander Parliamentarians in Australia.

Despite making up 3% of the Australian population, only 17 of the 822 MPs in Australia's Parliaments are Indigenous (*Gobbett 2015*). This significant underrepresentation is a poor outcome for Indigenous peoples who are entitled to a fair go in our democracy. It is also a poor outcome for Australia as our political parties and Parliaments miss out on the input of Indigenous perspectives on public policy and administration.

The New South Wales deputy opposition leader, Linda Burney, has listed respect, grace, the capacity for narrative and a desire for consensus as the qualities she took into the New South Wales Parliament as an Aboriginal woman. Indigenous MPs can also leverage their impact by advocating for cultural capital to develop better services for Indigenous and non-Indigenous Australians through the use of Indigenous social concepts.

An example is the Aboriginal Medical Service, which was founded more than 40 years ago to tackle the medical aspects of disease in a comprehensive and holistic manner, they also engaged with the social determinants of ill health. The recent development of Medicare Locals and Super Clinics emulate this Indigenous approach to holistic health.

Diversity management theory and evidence

Diversity management research looks at diverse and inclusive workplaces and their effect upon organisations. A diverse workforce can provide competitive advantage to an organisation by improving reputation, enabling access to culturally diverse clients or customers, and improving effectiveness (*Kramar et al. 2013, p. 293*).

Recent evidence supports the theory that diversity management delivers strategic benefits. In the US, managerial racial diversity delivered better outcomes for companies with a bigger market share and above average stock returns (*Andrevski et al. 2014*).

Workforce diversity was found to be '*particularly valuable in complex environments, such as diverse communities*' in a study of 56 US chain restaurants (*Gonzalez 2013*). Public servants in the Netherlands improved their performance with increased affective commitment and organisational citizenship behaviour when management diversity increased (*Ashikali & Groeneveld 2015*).

The literature also indicates that poor implementation of diversity recruitment can lead to problems. Organisations with inclusive processes do well. Leadership that is committed to supporting inclusion, individual employee empowerment, and an organisational culture focused on results, improve performance with diverse workforces (*Sabharwal 2014*). Culturally diverse teams are effective when they work together to achieve a common goal with low interpersonal competition (*Pieterse, Van Knippenberg & Van Dierendonck 2013*). It is important to clearly link diversity efforts to the strategic goals of the organisation (*Wyatt-Nichol & Antwi-Boasiako 2012*).

Recruitment for diversity

The largest hire car company in the world, Enterprise Rent-A Car, has 74,000 employees in 12 countries. When Enterprise wanted to improve capability by recruiting and retaining a diverse workforce it asked three questions.

1. How do we attract applicants from all walks of life?
2. How do we reach out to different people and retain them?
3. And, how do we make sure all of our employees on the ground remember to do this with each and every new appointment?

Enterprise created a diversity scorecard to highlight that diversity was 'a critical element of our business success' to all employees (*Lafever-Ayer 2013*).

Other organisations have not been so adept. In New York, the city's administrative departments were found to be inefficient in recruiting diverse employees (*Guajardo 2015*). Fragmented implementation is common and is usually unsuccessful (*Martins 2015*). Differences between policy rhetoric and implementation in a larger Australian Government

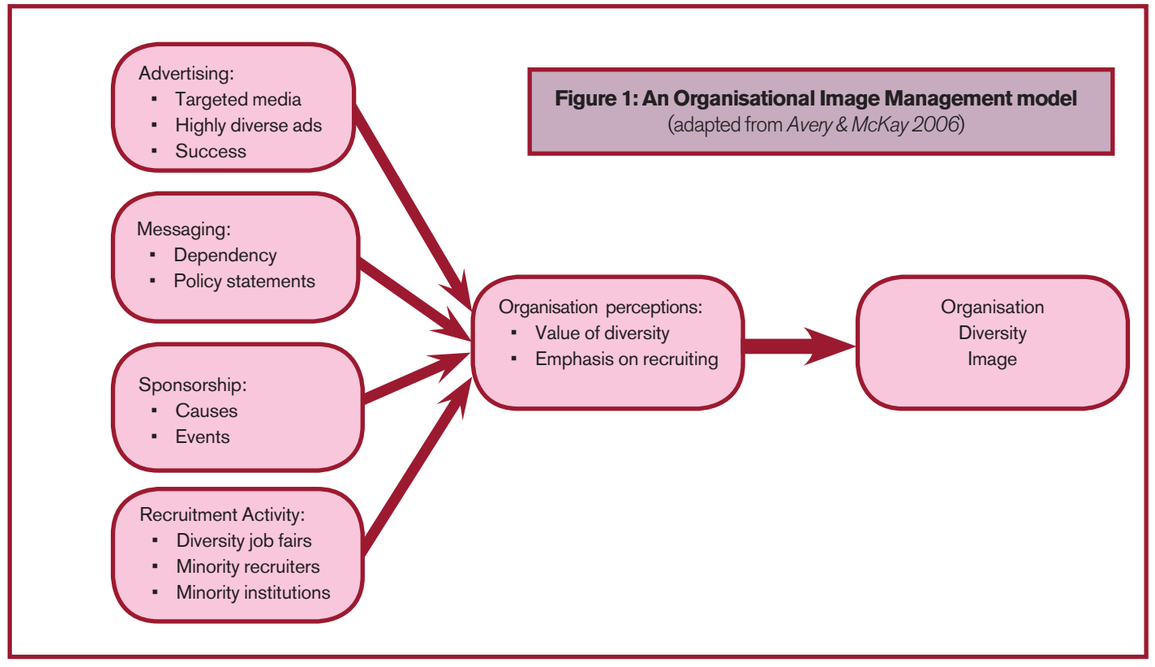

Figure 1: An Organisational Image Management model
(adapted from *Avery & McKay 2006*)

department were due to:

- a lack of manager training or accountability;
- no engagement of line managers in diversity policy development;
- negative attitudes persisting after diversity training;
- borrowing a best practice model rather than a bespoke solution;
- failing to consider after placement needs (*Soldan & Nankervis 2014*).

The Organisational Impression Management model can be used to help targeted recruitment by conveying to minorities that an organisation values diversity (*Avery & McKay 2006, p. 165*).

This model (Figure 1) proposes advertising that is targeted to minority media, uses images of a highly diverse workplace and celebrates success. The promotional messaging must convey that the organisation needs minority employees to achieve its goals along with clear statements about its diversity policy. Sponsorship and support for minority causes and events as well as attendance at diversity job expos, employing minority recruiters and looking for recruits at minority institutions are also effective.

An accurate portrayal of the workplace in recruitment activities with an emphasis on the real advantages for minority employees builds trust in contrast with a too-rosy picture that breeds resentment and mistrust and leads to separation (*McKay & Avery 2005*).

Retention and diversity

Better retention can also sustain workforce diversity (*Guajardo 2015*). Poor racial conditions within an organisation will undermine successful recruiting (*McKay & Avery 2005*). Auditing for diversity can be used to uncover prejudice and resistance and learn from minority employees about workplace discrimination (*McKay & Avery 2005*). Diversity training can expose covert discrimination by employees who consciously espouse equality and fairness but show negative nonverbal behaviours; behaviours that are perceived as mistrust by minority employees (*McKay & Avery 2005*). A positive workplace climate, where it is perceived that diversity is valued and actively promoted, improves retention (*Kaplan, Wiley & Maertz 2011*). In contrast a poor workplace climate has the opposite effect as illustrated by a study of large US law firms where African-American associates received less contact and mentoring by partners – the result was high dissatisfaction levels and high resignation intentions (*Payne-Pikus, Hagan & Nelson 2010*).

Conclusion

The diversity management literature supports the argument that a diverse workforce brings benefits to organisations. The recurrent themes within successful diversity management are:

1. Leadership
2. Organisation specific policy
3. Promotion of dependency on diversity
4. Diversity auditing and training
5. Manager training and accountability
6. Highly diverse advertising in targeted media
7. Celebrating success
8. Team orientation with low interpersonal competition and clear goals
9. Sponsorship or support for causes and issues

Case Study - Australian Labor Party

The recent efforts within the Australian Labor Party (ALP) to address Indigenous underrepresentation will be considered as an example of current Australian political practice as well as how they align with diversity management theory and evidence.

At its 2015 National Conference the ALP passed *Resolution 23* that enabled State and Territory branches to implement affirmative action for Aboriginal and Torres Strait Islander pre-selection candidates.

The resolution was strongly supported by party leader, Bill Shorten, in an opinion piece where he said *"as the party not only of social justice and a fair go but as one that seeks to represent all Australians, we must address this matter. That is why I raised the need for Labor to increase Indigenous representation during the 2013 leadership contest"* (*Shorten 2015*).

The resolution builds upon the ALP's previous initiative in 2005 to establish Indigenous Labor Networks within State and Territory branches which are connected by a National Indigenous Labor Network.

Furthermore, the ALP National Platform was amended in 2015 to place a strong statement about the status of Aboriginal and Torres Strait Islander people at the beginning of the platform.

The Australian Labor Party's success in the election of two Indigenous national party presidents and the election of a Senator has been celebrated.

The diversity management literature supports Australian Labor Party actions in leadership, organisation specific policy, celebration and support for causes. There is more work to be done in diversity training, auditing, accountability, and advertising.

Increased representation of Aboriginals and Torres Strait Islanders in public office: Resolution 23: The ALP is committed to increasing the representation of Aboriginals and Torres Strait Islanders in public office positions the party holds. To achieve this, National Conference empowers state branches to make affirmative action rules, in consultation with their state Indigenous Labor Network, for the preselection of public office holders that require a minimum of relevant positions to be held by Aboriginals or Torres Strait Islanders. The minimum level that can be set by such affirmative action rules is 5%. To support state branches in the implementation of this strategy, National Conference requires state branches to:

- ensure that application and renewal forms ask prospective and existing ALP members whether they are Aboriginal and/or Torres Strait Islander; and
- maintain a contact list of Aboriginal and Torres Strait Islander members that can be provided to their Indigenous Labor Network.

(*Australian Labor Party 2015*)

Indigenous Labor Network: Resolution 12: That each state branch form an Indigenous Labor Network. Membership should be open to all Indigenous people who are members of the ALP. Non-Indigenous ALP members can nominate to be associate members.
(*Australian Labor Party 2015*)

Structure of party organisation: Resolution 14 (g): The National Indigenous Labor Network shall function in accordance with the rules that may be approved from time to time by the National Executive and subject to its control and jurisdiction. The network's goals will be to:
(i) attract and support Indigenous ALP members;
(ii) increase the involvement of Indigenous people at all levels of the ALP;
(iii) provide a focus for the identification, training and support of Indigenous candidates; (iv) increase awareness of Indigenous issues throughout the ALP;
(v) increase commitment of Party members to greater representation of Indigenous people throughout the Party; and
(vi) encourage the employment of Indigenous people in staff and Party positions.
(*Australian Labor Party 2015*)

Chapter 1: Labor's enduring values:
1. We pay respect to the traditional owners of our ancient continent – the Aboriginal and Torres Strait Islander peoples – their continuing connection to this land, and their right to a place of honour in our constitution and a full and equal share in our nation's future.
(*Australian Labor Party 2015*)

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COMMITTEE ON PUBLIC ADMINISTRATION: 20 YEARS OF PROGRESS IN ACCOUNTABILITY IN QUÉBEC

Hon. Sylvain Gaudreault, MNA is the Chairman of the Committee on Public Administration at the National Assembly of Québec. He has represented the electoral district of Jonquière since 2007 and he served in the Québec Government as Minister of Transport and Municipal Affairs (2012-2014).

The National Assembly of Québec's Committee on Public Administration (CPA) celebrates its 20th anniversary this year. Following in the footsteps of Québec's first Parliamentarians, who as early as 1792 demanded that the Governor or his administration give an account of his expenses, the Committee on Public Administration continues to set new boundaries. This article explains how the Committee on Public Administration works and presents the practices and functions that set it apart from other Public Accounts Committees of the Commonwealth.

Spurred by the idea of mandating a standing committee to examine government management, Québec Parliamentarians adopted a series of amendments to the Standing Orders of the National Assembly on 10 April 1997. One of these divided the Committee on the Budget and Administration into two separate committees: the Committee on Public Finance and the above-mentioned Committee on Public Administration.

First established on a trial basis, the Committee on Public Administration became a standing committee five months later. In May 2000, the Committee on Public Administration's mandate was broadened with the passing of the *Public Administration Act*, which, by making the Administration accountable to the National Assembly, recognised the role played by Parliamentarians with respect to government action and improving public services. The new Act facilitated oversight by requiring government departments to establish objectives, measure achievement of those objectives and disclose their results in an annual management report.

The Standing Orders list a number of functions for the Committee on Public Administration, two of which are particularly challenging. Deputy Ministers or Chief Executive Officers of public bodies must appear before the Committee to discuss their administrative management when it is reported on by the Auditor General or by the Public Protector, an ombudsman appointed by the National Assembly. In addition, the Act stipulates that the Committee on Public Administration must hear deputy Ministers and Chief Executive Officers at least once every four years to discuss their administrative management.

Other Committee on Public Administration functions include hearing the Auditor General on his or her annual management report and examining the annual report on the implementation of the *Public Administration Act*. The Committee on Public Administration is also mandated to examine the financial commitments of government departments and bodies, which is a unique mandate in the world of British Parliamentarism. In addition, the Committee on Public Administration may examine any other matter the Assembly refers to it. Its sole role is to hold the Administration accountable; it does not examine Bills.

In carrying out its mission, the Committee on Public Administration relies on the close collaboration of the Auditor General of Québec. When the Committee on Public Administration examines one of his or her reports, the Auditor General participates in both preparatory deliberative meetings and public hearings, presenting the findings of his or her audit to committee members to inform them of the main issues.

Committee proceedings are carried out in a non-partisan, collaborative environment. Committee observations, conclusions and recommendations are the result of a consensus among its members.

The Committee on Public Administration is chaired by a Member of the Official Opposition who, with the Steering Committee, plans Committee on Public Administration proceedings so as to ensure continuity in the cycle of parliamentary oversight and accountability. Committee proceedings are the subject of a bi-annual accountability report.

Overseeing implementation of the Public Administration Act

Some of the Committee on Public Administration's functions set it apart from other Commonwealth Public Accounts Committees. First, it has the obligation to examine the annual report on the implementation of the *Public Administration Act*.

Passed in 2000, this Act established new accountability mechanisms to promote results-based management centred on transparency. Every year, the Chair of the Conseil du trésor (Québec Treasury Board) must table a report on the implementation of the Act within the Administration. Appointed as the guardian of the Act, the Committee on Public Administration hears the Secretary of the Conseil du trésor on that report in the context of a public hearing.

To mark the 10th anniversary of the *Public Administration Act*, the Committee on Public Administration and the Secretariat of the Conseil du trésor organized a day of reflection on the Act. A total of 175 Parliamentarians, deputy Ministers, Chief Executive Officers and managers discussed its implementation over the previous ten years and what the future might hold.

Above: A recent session of the National Assembly of Québec's Committee on Public Administration takes place.

Regular and systematic controls to ensure accountability

In legislatures based on the Westminster parliamentary system, Public Accounts Committees rarely examine the annual reports of government departments and bodies. However, the Committee on Public Administration does precisely that over a four-year cycle. Although the National Assembly's sectorial committees share some of the load, the Committee on Public Administration takes on the lion's share of reviewing the annual management reports of some one hundred departments and bodies subject to the *Public Administration Act*.

Under the Standing Orders of the National Assembly, sectorial committees have the power to initiate oversight and accountability mandates and examine, on their own initiative, the management performance of departments and bodies in their respective areas of competence. In exercising that power, they ease the Committee on Public Administration's burden. In order to coordinate its work with that of the sectorial committees, the Committee on Public Administration must inform them when it initiates the examination of a matter in one of their areas of competence. If a sectorial committee wishes to take over a mandate, it has 10 days to notify the Committee on Public Administration.

To help it meet its obligations, including its duty to examine all the annual reports every four years, the Committee on Public Administration has adopted a three-step procedure and an assessment grid.

First, Committee on Public Administration Members examine the annual management reports during deliberative meetings, send comments to the departments and bodies concerned and determine which entities they wish to hear in a public hearing. At this stage, the Members can count on the support of the National Assembly's Research Service, which performs a preliminary analysis. Using criteria determined by the Committee on Public Administration, each entity's performance is assessed in four areas: fulfilment of its mission, achievement of its strategic objectives, quality of its public services and optimal use of its resources.

Second, the Committee on Public Administration holds public hearings. Committee members question the deputy Ministers and Chief Executive Officers who appear before it. The Committee on Public Administration then holds a deliberative hearing to establish its conclusions and make recommendations.

Third, the Committee on Public Administration tables a report before the National Assembly containing a summary of its work, including all observations, conclusions and recommendations made over the course of the sessional period concerned. Such a report is tabled twice a year and, since the beginning of the 41st Legislature

(March 2014), has varied in length from 7 to 11 chapters. Each year, the Committee on Public Administration examines an average of 15 annual reports in deliberative meetings, but only about 5 of them are the subject of a public hearing.

A unique monitoring mechanism

The Committee on Public Administration attaches great importance to the follow-up given to its work by government departments and bodies. Every entity whose resource use has been the subject of a performance audit has four months after the Auditor General's report is tabled to devise and table an action plan in response to the Auditor General's recommendations. If called to appear before the Committee on Public Administration, it must send its action plan to the Committee two weeks before the hearing.

The Committee on Public Administration has put in place a mechanism to monitor implementation of its recommendations. Subsequent to each hearing, whether convened following a report by the Auditor General or to examine administrative management, the Committee on Public Administration determines the conclusions and recommendations it will make to the entity concerned. It keeps track of the recommendations it makes and each entity's response using a dashboard-format Word chart. The Auditor General also verifies the implementation of some of the Committee on Public Administration's recommendations when doing the same for his or her own recommendations, and then determines whether the progress made on each recommendation examined is satisfactory or not.

A priori financial controls

Contrary to prevailing practice in most Westminster-style parliamentary legislatures, the Committee on Public Administration does not examine the consolidated financial statements of government departments and bodies. Instead it examines government financial commitments of $25,000 or more, meaning expenditures authorized by the entities but not made. Each year, over 20,000 financial commitments are authorized by the Conseil du trésor, Conseil exécutif (Executive Council) and government departments.

To carry out this mandate, the Committee on Public Administration extracts lists of commitments from the Québec government's electronic tendering system. It performs sample controls, targeting certain types of financial commitments it wishes to examine more closely. The Committee on Public Administration systematically examines the financial commitments of the departments and bodies whose deputy Ministers and Chief Executive Officers are summoned to appear before it regarding their administrative management.

Conclusion

The Committee on Public Administration performs regular and systematic controls to ensure the accountability of deputy Ministers and Chief Executive Officers. The follow-up mechanism it has developed to ensure implementation of its recommendations, the examination of government financial commitments of $25,000 or more that it is empowered to conduct on its own initiative and its unique status under the Public Administration Act set it apart from other Public Accounts Committees.

Over its 225 years of parliamentary history, Québec has made significant strides in the area of parliamentary oversight. By formalizing this important function, the Committee on Public Administration has played an essential role. As the Committee with some of the broadest powers in terms of oversight of the Administration, the Committee on Public Administration will no doubt continue to hone its approach and shine as one of the most dynamic committees of the Commonwealth.

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Left: A recent session of the National Assembly of Québec's Committee on Public Administration takes place.

WHY ARE ELECTIONS AND THEIR OBSERVATION IMPORTANT AND WHAT ARE THE CHALLENGES THEY FACE?

Dame Audrey Glover, DBE is an expert in election observation and has headed 18 election observation missions on behalf of the Organisation for Security and Co-operation in Europe (OSCE) including the presidential elections in the USA (2016), Albania (2015), Spain (2015), Hungary (2014), Bulgaria (2014), Ukraine (2012) and Azerbaijan (2011). Dame Audrey was called to the Bar to practice law before joining the UK Foreign and Commonwealth Office as a legal adviser. From 1998-2004, she was the Leader of the UK Delegation to the UN Human Rights Commission.

The Fascination of Elections

In a world of the 24-hour news cycle, elections rouse increasing interest – often the conduct as much as the outcome. On the face of it elections are straight forward. They come around every few years; the voter puts a cross on a piece of paper or presses a button; and at the end the votes are counted and someone or a party is elected.

But if they are just run of the mill technical events, why are some people in certain parts of the world willing to go to prison or suffer an even worse fate by insisting that elections should take place? And furthermore, why are people willing to spend long hours in the cold, rain or hot sun to vote?

Let's unpack all this and look at the contents more closely.

The Role of Elections

Although an election cannot bring about democracy by itself, it is not possible to have democracy without elections. They enable people to express their preference for those they would like to govern them and thus bring security and stability. Furthermore, elections are a celebration of human rights because they embrace the right to association and assembly, freedom of the media, freedom of expression and the right to vote. In addition, electoral procedure should ensure that there is no discrimination between voters and that women, members of minority groups, prisoners and the disabled are allowed to participate.

There are already various international instruments, provisions and commitments relating to elections – the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, the African Charter on Democracy, Governance and Elections and the Commonwealth's Commitments contained in the 2013 Commonwealth Charter. To them add the European Convention on Human Rights 1958 and the OSCE Copenhagen Commitments of 1990, which cover equal and universal suffrage. In addition, there is national legislation.

But how can one judge whether or not an election has been carried out and conducted properly? This is where observation comes in. There are various organisations and groups that observe elections around the world. Indeed, the Commonwealth has its own eminent body and there is also the African Union. In addition, so does the Organisation and Cooperation in Europe which has 57 participating State members. The value of observation by outsiders is unquestionable.

OSCE Election Observation

The reason I am using the OSCE as an example is because I have been involved with its Office of Democratic Institutions and Human Rights (ODIHR) since 1994. In fact, I helped, along with others to start the observation methodology of the Organisation. In some respects, its approach today has become a template for meaningful election observation

Let me put this in context. When the Soviet Union broke up following the fall of the Berlin Wall in 1989, there was a raft of elections in the countries which were formerly part of the Soviet Union. A great deal was done in that period to reconnect some countries with democracy and to introduce it to others. In response to this, the CSCE (its original name) held a conference in

Copenhagen in 1990 which drew up commitments on elections – the so-called Copenhagen Commitments. The participating States pledged themselves to observe the commitments and to hold each other accountable for the standards that they had set by inviting international observers to their elections

Thus, election observation was born in the CSCE region. Initially, the practice was that some election experts would go to a country to watch the Election Day process and write a report. But gradually the participating States realised that there was more to an election than just Election Day and they charged the ODIHR to draw up procedures to observe the entire electoral process.

That is how comprehensive observation began. It enabled observation missions to look at issues and practices which could have profound effects on the election, such as voter and candidate registration, identification, training of members of the local election commissions, the candidates' campaign, operation of the media and seeing if the candidates had equal access to the media and whether it was state owned and also whether there was an effective complaints and appeals system in place.

The norm setting nature of the organisation and its commitments has been reconfirmed on frequent occasions by the participating States. The reports on elections receive international attention, because they are objective, comprehensive and based on a strong methodology.

Yet, despite these standards, the ultimate responsibility for the conduct of an election is the government of the country concerned. The OSCE are not election police but are there to assist states in improving the conduct of elections so that they are in line with the commitments.

Image: Commonwealth Secretariat Election Observation.

How do OSCE Election Observation Missions work in practice?

Before an election observation mission can begin there has to be an invitation to the ODIHR to observe by the appropriate government. The ODIHR responds and sends a Needs Assessment Mission to the country to determine the type of observation mission and its size. The mission will decide whether it will be an Election Observer Mission (EOM) with a core team, long-term and short-term observers; or a mission with a core team and long-term observers only or an assessment election mission with just a core team.

Composed of people who applied for the job and who are selected and paid for by the OSCE, the core team will comprise a political adviser, an election adviser, a lawyer, a media expert, a statistician, a campaign finance expert and a new voting technology expert, logisticians as well as a head of mission and deputy. Long-term and short-term observers are provided and paid for by the participating States who have their own methods of selection.

The core team will establish itself in the capital and start seeing all the relevant interlocutors – the contesting parties, the candidates, the Election Commission, NGOs, the complaints and appeals system and relevant government departments, those responsible for registration of candidates and voters and establish a media observation unit. A week later the long-term observers arrive. They are briefed and dispersed in pairs around the country to find out what is happening at the grass root level and to report daily to the core team. There will be at least one Interim Report before Election Day when the mission explains what it has been doing and highlights any concerns that it might have about the electoral process.

A few days before the election the short-term observers arrive and are briefed, dispersed in pairs around the country and attached to LTO teams who will brief them on matters relevant to their area. It is their job to observe Election Day proceedings in different polling stations, as well as the count and the tabulation of results. They stay in a polling station for at least half an hour and complete various forms. They are expected to visit about 10 polling stations in a day. The completion of these forms is crucial because they give a detailed picture of what happened during the voting in polling stations. These forms are then analysed by experts in the core team and are fed into the Preliminary Conclusions which are announced the day following the election at a press conference.

The short-term observers are debriefed when they return to the capital. They leave shortly after Election Day and the long-term observers a few days later. The core team remain a little longer and, among other things, follow up on the complaints and appeals that might have been lodged during the election process.

In addition, Members of different Parliaments such as the OSCE, Council of Europe, European Parliament and NATO sometimes join the Mission as short-term observers just before Election Day.

Finally, there will be a Final Report which will be released about 8 weeks after the election. There will of course be no negotiation whatsoever with the country concerned over the drafting of the Report because the ODIHR prides itself on the neutrality and impartiality of the members of the Election Observer Mission in the preparation of the document. One important element of the Report comprises the Recommendations which suggest ways in which the country can improve in areas where they might not be fulfilling their electoral commitments.

This all seems quite straight forward but are things as simple as they appear?

Not always. Observers face various challenges to discover exactly what is happening during the electoral process. This is because some states, where there are still semi authoritarian regimes, are adept at keeping up the appearance of fulfilling their international commitments while subverting the integrity of the election process. This of course is true of elections all over the world not just in the OSCE area.

Challenges to Election Observation

Perhaps the biggest challenge is the insufficient funding the ODIHR receives from the participating States. Because the Organisation runs on consensus however there is little chance that situation will change. The ODIHR therefore often has the task of deciding which elections they will observe because there is insufficient funding to observe them all.

An equally large challenge is the 'politics' of election observation. Despite the fact that the participating States agreed in 1990 to hold democratic elections and invite participating States to observe, the 'politics' of election observation is not settled within the OSCE. One State in 2007-2008 attempted unsuccessfully to totally undermine the whole process. While election observation is necessarily technical, it seems to arouse impassioned politics and politicking.

Another challenge is that participating States are not sending the requested number of long and short-term observers to Election Observer Missions. This shortfall applies particularly to election missions in participating States in Western Europe, in contrast to missions in Eastern States, thus conveying a 'them' and 'us' atmosphere which sometimes generates resentment. One reason for this may be lack of money but the basic issue is one of credibility for the OSCE. It is important that elections in all regions of the OSCE are observed for various reasons. One is transparency of the electoral system in the country concerned for its voters. Another is that no elections are perfect and States can learn from each other and from each other's mistakes.

In addition, press coverage is often biased, particularly state controlled media. Sometimes editions of particular newspapers are prevented from being distributed. There should be equitable access to the media for all the candidates. Also, the ownership of a newspaper is sometimes not clear. This links with another challenge of opaque funding regulations – who is financing political parties behind the scenes?

Although ballot box snatching is by and large a thing of the past, vote manipulation is more sophisticated these days. Pressure can be put on civil servants, teachers, students and the military to vote in a particular way or else lose their jobs or not receive a degree. Vote buying still exists. Some voters find that their names are no longer on the voter register when they go to vote, whereas others are able to vote twice and dead people vote. The homebound and disabled can be disenfranchised unless special provisions are made for them. In addition, voter identification is an area where irregularities can occur when supporting documentation is rejected.

Another challenge is that some States do not invite the ODIHR to observe their elections at all (although States are bound to do so) or if they do issue an invitation to the ODIHR they try and insist on having fewer observers than the number requested or even who should or shouldn't head the mission. Obviously, there should be no attempt to influence the composition of a mission as that

strikes at its independence and the way that it operates.

A more recent challenge to elections is the introduction of new technologies. They should of course be confidential but are not always so. There is little point for example in being able to vote from abroad if you have to fax your vote thereby destroying its secrecy. The use of electronic voting and counting has raised concerns about possible manipulation unless there is a paper trail against which to check the results and also access to the programmes. Without it, it is not possible for observers to know whether or not the programmes have been tampered with.

Ensuring that voters have trust in the system is another important challenge. This is vital because basically elections are for the voters. They need to be able to make a decision freely as to which candidate they wish to support. The voter needs to be confident that he or she can vote in secret, that their vote will be kept securely and that it will be correctly counted.

Finally, there is the challenge that there is often little implementation of the Recommendations in the Final Report after an election. It is unfortunate if none of the suggested changes are introduced because that defeats the object of observation in the first place. It has been suggested that there should automatically be reports on the steps that States have taken to implement the Recommendations six months after a report had been published. But there is as yet no agreement to do so.

Conclusion

Despite these challenges, OSCE reports are impartial, factual and attention is paid to them. What is encouraging is that frequently suggested Recommendations are implemented. Some participating States voluntarily make statements in the Permanent Council explaining what they have implemented. But it is important that participating States continue to hold each other responsible for fulfilling election commitments in order to maintain the three basic principles underlying the Copenhagen document – accountability, transparency and voter confidence.

The election observation practise that the OSCE has adopted is a reflection of efforts in other international bodies to advance the same objective of secure and free elections. The label may be different but the aspirations the same.

IN DEFENCE OF DEMOCRACY

The 20th anniversary of the Universal Declaration on Democracy

Martin Chungong is the Secretary-General of the Inter-Parliamentary Union (IPU) and made double history by becoming the first-ever African and the first non-European to be elected in the organisation's 125-year history. Following a 14-year career with the Cameroonian Parliament, Mr Chungong has spent more than 20 years at the IPU. As Chair of the Management Committee on Accountability of the OECD Governance Network, Mr Chungong has further contributed to establishing governance benchmarks to strengthen democracy.

Since it was established in 1889, the Inter Parliamentary Union (IPU) – the world organisation of Parliaments - has been staunchly committed to promoting stable and diverse democratic traditions by fostering parliamentary dialogue.

September 2017 will be the 20th anniversary of one of the IPU's unique achievements in this regard – the Universal Declaration on Democracy it adopted in Cairo in September 1997. Ten years later, in 2007, the United Nations General Assembly reaffirmed the IPU's initiative by instituting the International Day of Democracy on 15 September each year. Since then, the Day has been celebrated by more than 100 Parliaments. Both anniversaries are an opportunity to celebrate the successes of democracy and to face up to its challenges.

The Universal Declaration lays down the principles of democracy, deals with the exercise of democratic government and stresses the international dimension of democracy. It is considered as the first comprehensive definition of democracy, and represents a landmark because it was the first time that State institutions, Parliaments, from so many different countries had come together to agree on the constituent elements of democracy.

The Universal Declaration on Democracy makes it clear that democracy is a universal aspiration, based on a set of common values shared by peoples around the world. Those values include the primacy of the law, the exercise of human rights, free political competition and a genuine partnership between men and women in conducting the affairs of society.

The starting point of the Universal Declaration, and also of democracy itself, is that the authority of government can derive only from the will of the people as expressed in genuine, free and fair elections. IPU membership includes 173 countries, with often very different political systems. Yet they share a belief that dialogue between different perspectives is necessary, indeed it is the only way to move forward.

Challenges

One of the greatest challenges to democracy today is the gap that exists between citizens and their representatives. In all parts of the world, levels of trust are particularly low, and participation in elections is falling, especially among young people. With participation representing a fundamental tenet of democratic practice, these low levels of trust are a barrier to encouraging active participation of citizens. New efforts need to be made to engage citizens in the political process, at local and national level.

In a number of countries, the emergence of a strong civil society has been observed. It does not come without some level of discomfort: as civil society organisations are now protesting intensely and frequently, efforts to contain them are also on the increase.

Nevertheless, an active civil society is an essential element of democracy. Democracy is based on the fundamental rights of the individual. Freedom of expression and freedom of assembly, including the right to organise political activities, are part of this set of fundamental rights. Any restrictions that are placed on these rights must be justified by a clear imperative and be proportional to the intended purpose.

In some cases, democracy is put to the test, with attempts to restrict democratic space, and crackdowns on NGOs working to further democracy in society. Some governments seek to control the Internet by passing laws, while others narrow the democratic space for civil society by restricting their ability to operate and raise funds vitally required by their organisations.

These issues can be witnessed in all parts of the world, and in countries with diverse experiences of democracy. Where this is the case, those countries are asking the fundamental question whether in fact we do have a shared value regarding democracy.

Furthermore, there is no shortage of international crises to distract from the agenda of the promotion of democracy. From famine and disease to terrorism and armed conflict, to name a few, many issues demand the immediate attention of policy makers and global leaders. Democracy, then, is perceived as a constant effort, one which is often forced to take a back seat to the issue of the day.

The formidable challenges democracy faces today have led some to coin the phrase 'democracy in decline' or 'democratic decline'. Is democracy really in decline though, or have the challenges to democracy simply multiplied and evolved? In any event, in some cases, the argument that democracy is in decline is difficult to counter.

The role of Parliaments

Parliaments can contribute robustly to addressing some of these challenges. They can, for instance, use their legislative mandate to ensure that there is a conducive environment and framework to allow civil society to operate. Civil society is, after all, not the enemy, but on the contrary can be a useful ally on sector specific issues; and, most importantly, forms a part of the very constituency Parliament is supposed to serve, by way of its representative function. A constructive partnership between Parliament and civil society would go some distance in restoring the trust between citizens and their representatives.

Furthermore, Parliaments can exercise their oversight mandate to ensure that the promotion of democracy remains at the forefront of the parliamentary agenda, while at the same time resisting those who would wish to see democracy undermined.

Finally, Parliaments can also exercise their budgetary mandate to ensure adequate resources are allocated for initiatives that seek to promote democracy. Often, these kinds of initiatives are left to development partners, when in fact Parliament can, and ought to lead from the front. The cumulative effect of the exercise of Parliaments' core mandates, executed effectively, is the creation of ideal conditions for democracy to flourish.

Home truths

In the face of manifold challenges, the Universal Declaration offers a number of 'home truths' about democracy, all of which remain relevant today. I share just a few of those here.

1. *"Democracy is both an ideal to be pursued and a mode of government to be applied according to modalities which reflect the diversity of experiences and cultural particularities without derogating from internationally recognised principles, norms and standards."*[1]

2. *"As an ideal, democracy aims essentially to preserve and promote the dignity and fundamental rights of the individual, to achieve social justice, foster the economic and social development of the community, strengthen the cohesion of society and enhance national tranquility, as well as to create a climate that is favourable for international peace. As a form of government, democracy is the best way of achieving these objectives; it is also the only political system that has the capacity for self-correction."*[2] Therefore, as an ideal, democracy seeks to safeguard the fundamental rights of the individual while at the same time strengthening cohesion and a sense of nationhood within a global context.

3. *"The achievement of democracy presupposes a genuine partnership between men and women in the conduct of the affairs of society in which they work in equality and complementarity, drawing mutual enrichment from their differences."*[3] While some progress has been made on this front, much work remains to be done.

The aspirations of the Universal Declaration of Democracy, and the values articulated therein are just as valid today as they were in 1997 when it was adopted, if not more so. In a world beleaguered by uncertainty, in a world facing the ever-present reality of terror, in a world struggling to make peace with itself, one of the few certainties that remain is that democracy is the 'best way' of achieving fundamental freedoms of all peoples.

Perhaps the most significant marker of democracy is the level of tolerance in society, where the existence of different political views is accepted as the normal expression of citizens' diverse opinions. Government and politicians have a key responsibility to display political tolerance towards their opponents.

I have always maintained that democracy is only worth its name if it delivers benefits to society by increasing people's social and economic well-being. Populations are, quite rightly, demanding results. In the wake of these challenges, there is no better opportunity to come together than in the defense of democracy. In this sense, democracy cannot be perceived as an option. It is an imperative that every country, irrespective of political system, has to live up to.

References

[1] Universal Declaration on Democracy, Art 2
[2] Ibid, Art 3
[3] Ibid, Art 4

DEMOCRACIES IN TRANSITION

A case study from Pakistan

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Democratic systems of governance thrive only when countries entrust the power of election to the public through free and fair means. History and geography are key to understanding difficulties in dealing with the factors of stabilizing democracy anywhere around the world.

Pakistan has had its fair share of upheavals before entering into the realm of freedom, democracy and parliamentary governance. Pakistan's democratic journey suffered continuous setbacks that caused a drastic loss of political direction. From thereon, power-hoarding dictators repeatedly disrupted Pakistan's democratic evolution, leaving the federating units at the mercy of the undue powers amassed in the centre, and particularly, in their own office. Fortunately, the coup of 1999 that ended in 2008 has been the last of the successful military coups.

The most significant moment in recent years was perhaps the 18th Constitutional Amendment, passed in 2010 that drastically altered the course of Pakistan. The present Chairman of the Senate, Mian Raza Rabbani became the chief architect of the 18th Constitutional Amendment that granted the much-awaited autonomy to the provinces. This was a crucial step needed to strengthen the bicameral legislative system, thus providing governing security to the democratically elected governments in the country.

The Senate of Pakistan has progressed in all directions to strengthen democracy, parliament and international relations. To strengthen the House, the Senate invested its focus on a number of initiatives for transparency in the Parliament.

Restoration of the majesty and transparency in Parliament was one such initiative that conceded the centralised powers of the Chairman of the Senate and devolved it to the House Business Advisory Committee (HBAC).

This openness has created a new culture of transparency and accountability in the Senate of Pakistan. In addition to various initiatives to improve the House and its functioning, other efforts include the creation of an in-house think tank called the Senate Forum for Policy Research; the establishment of a user-friendly Public Petitions Table; and a number of informative publications for public consumption. Moreover a mural has been etched in a Parliament corridor called the '*Gali-e-Dastoor*' (Constitution alley) that depicts the political struggle of Pakistan amidst military regimes and dictatorial suppression; and a Monument Wall in the Parliament gardens that pays tribute to the unsung heroes who made great sacrifices in Pakistan's democratic journey.

The Senate, during the last two and a half years, made unprecedented endeavours internationalizing Pakistan's vision and agenda of peace, democracy, friendship, cooperation and people's welfare through various fora like the United Nations, Inter Parliamentary Union (IPU), Commonwealth Parliamentary Association (CPA), Asian Parliamentary Assembly (APA), and others. Pakistan delegations participated in around 60 international events outside of Pakistan during 2015 - 2017. During this time, at the regional and global level, the Pakistan Senate was able to break diplomatic ice and stagnancy, dispel negative vibes about Pakistan's security situation, and reach out to even those nations in its immediate neighbourhood with whom Pakistan was having difficulties reaching through conventional diplomatic channels.

Apart from major breakthroughs at forums like the UN, IPU and CPA, Pakistan also turned into one of the leading nations at the APA forum.

The Asian Parliamentary Assembly (APA) is a parliamentary association of 42 countries, 16 Observer Parliaments and 10 International Organizations. During all APA plenary and sub-forum meetings held in Pakistan from December 2013 until March 2017, Pakistan achieved a solid footing in influencing the direction of the APA agendas for a strong Asia. The two-year Pakistan Presidency (2013 – 2015) and subsequent proactive engagements transformed APA from a dormant to a proactive forum, shaping Asian integration and unification for the common good of all.

The Senate of Pakistan's collaboration and participation with the CPA has seen an unprecedented rise since 2015. In May, 2015, the Senate of Pakistan in coordination with the CPA Headquarters Secretariat held a three-day Post-Election Seminar on Parliamentary Practice and Procedure for the newly elected Senators to enhance their knowledge regarding the role of Parliaments, Parliamentarians and House business activities.

It is a matter of immense pride that the CPA Secretary-General, Mr Akbar Khan, has visited Pakistan twice at the special invitation of the Chairman of the Senate of Pakistan, who also visited the CPA Headquarters to cement institutional linkages between the CPA and the Senate of Pakistan. As a result of these exchanges, the Senate of Pakistan hosted the CPA Staff Development Workshop for the CPA Asian Region in May 2016 and later the same year, hosted the launch of the CPA Regional Hot Topic Seminar series on the subject of '*Democracies in Transition and the challenges they face*' under the CPA's new strategic plan which calls for the strengthening the association at regional and international levels.

Above and below left: The Secretary-General of the Commonwealth Parliamentary Association, Mr Akbar Khan visits the mural that has been created in Parliament in Pakistan called the 'Gali-e-Dastoor' (Constitution alley) that depicts political struggles and recent events.

Pakistan has bravely battled against many odds that labelled it as a failed democracy over the years. It has emerged proving how mature and strong a nation it is in the face of external aggression, isolation and terrorism. The struggle emphatically manifests the turbulent times infested with internal and external crisis. Pakistan seized the challenges and continues to sail through the democratic eras that have helped bring value to its international face.

PARLIAMENTARY INDEPENDENCE AND THE SEPARATION OF POWERS

An analysis of the Commonwealth Latimer House Principles

Jon Breukel is Coordinator of Research and Inquiries at the Parliamentary Library and Information Service at the Parliament of Victoria in Australia, where he has provided extensive research to Members for 27 years. He also coordinates the Parliamentary Internship Program, involving assigning university interns to Members, as well as the Parliamentary Fellowship Program, in which academics undertake research on topical issues, delivering their report to Members at a parliamentary seminar. He was lead author in a recent paper on the Independence of Parliament.

Much of the discussion on the *'independence of parliament'* has focused on the importance of the separation of the legislature, executive and judiciary. This is to limit the arbitrary excesses of executive power to protect our democratic systems. Where did this notion come from and why has it been so staunchly preserved within our Westminster system of government?

To answer this, one must understand the importance of good governance and the key political theories surrounding the separation of powers: the independence of the executive, legislature and judiciary in Westminster systems; the Commonwealth Latimer House Principles; and parliament's fundamental role of holding the executive to account.

Modern democratic systems of government are based on several essential elements: representative government; rule of the majority; free and fair elections; citizen participation; protection of human rights and minorities; rule of law; and the separation of powers - a system whereby checks and balances are in place to ensure that power is not vested in any single person, institution or branch of government.

To guarantee this balance, it is essential that the parliament or legislature remains independent and does not become a tool or appendage controlled by the government. Through a proper separation of powers, abuses of power, such as tyranny or oppression experienced under a dictatorship or undemocratically elected government, are prevented from occurring.

The three branches of government - the legislature, executive and judiciary - act as separate checks and balances on each other to prevent one branch of government overreaching its power or infringing on the rights of citizens. In the Westminster system, these checks and balances exist between the executive and legislature. For example, Ministers are subject to the scrutiny of Members of Parliament and the opposition, and the executive is not always able to control both Houses of Parliament.

To protect and preserve the democratic system, the three branches of government must remain separate and independent and be respected for their independent status. Any incursions of power by one body over another diminishes the fabric of democracy. An independent parliament is considered a necessity for the protection of democracy, just as an independent judiciary is needed to apply a check upon the powers of the executive and the legislature.

What is remarkable is that the Westminster system of parliamentary democracy, which has existed for hundreds of years, has remained so resilient in the face of a rapidly changing world. This system of government has survived revolutions, a gunpowder plot, hung parliaments, executive dismissals and a host of other threats, and yet the essential elements that have ensured its continuation have remained steadfast and strong. The separation of powers, which has been maintained between the legislature, executive and judiciary, has undoubtedly played a significant role in preserving our Westminster democracies.

Commonwealth Latimer House Principles

In June 1998, a group of distinguished Parliamentarians, judges, lawyers and legal academics joined together at Latimer House in Buckinghamshire, England, at a Colloquium on Parliamentary Sovereignty and Judicial Independence within the Commonwealth. The Colloquium endorsed what is known as the *Commonwealth Latimer House Principles on Parliamentary Supremacy and Judicial Independence*.[1]

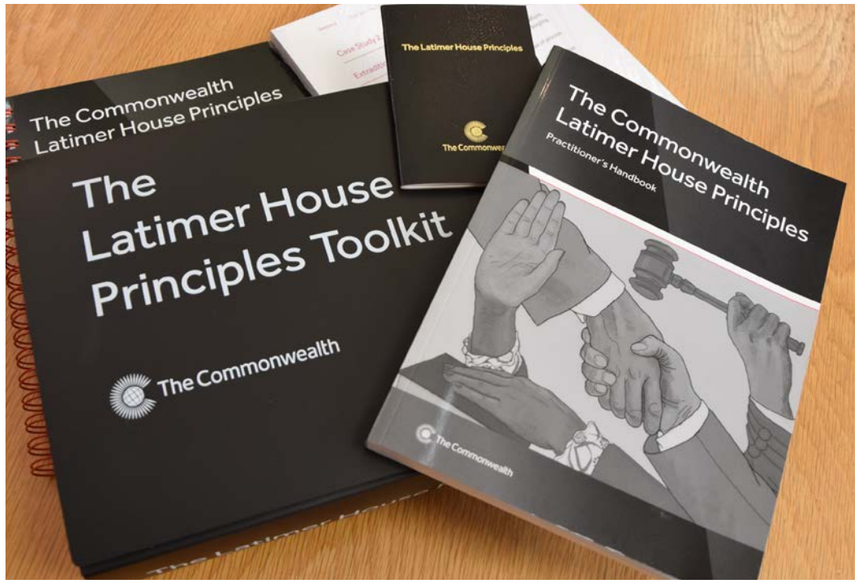
After substantial debate by Commonwealth law ministers, legal experts and judges, the Principles were endorsed by Commonwealth Heads of Government in 2003, who recognised a balance of power between the executive, legislative and judiciary as being an integral part of the Commonwealth's fundamental political values.

The Commonwealth Latimer House Principles are a set of 'agreed Commonwealth of Nations principles on the accountability of, and relationship between, the three branches of government'.[2] They underline the fundamental values that should govern the relationship between the three branches of government. The objective of the principles is to provide, in accordance with the laws and customs of each Commonwealth country, an effective framework for the implementation by governments, parliaments and judiciaries of the Commonwealth's fundamental values.

The Principles state that: *"Each Commonwealth country's parliaments, executives and judiciaries are the guarantors in their respective spheres of the rule of law, the promotion and protection of fundamental human rights and the entrenchment of good governance based on the highest standards of honesty, probity and accountability."*[3]

The Principles play an important role in defining how the legislature can hold the executive to account. Executive accountability is described in the Commonwealth Latimer House Principles, in that parliamentary procedures should provide adequate mechanisms to enforce the accountability of the executive to parliament. These should include:

- a Committee structure appropriate to the size of parliament, adequately resourced and with the power to summon witnesses, including Ministers. Governments should be required to announce publicly, within a defined time period, their responses to Committee reports;
- Standing Orders should provide appropriate opportunities for Members to question Ministers and full debate on legislative proposals;
- the Public Accounts should be independently audited by the Auditor-General, who is responsible to and must report directly to Parliament;
- the Chair of the Public Accounts Committee should normally be an opposition Member; and,
- offices of the Ombudsman, Human Rights Commissions and Access to Information Commissioners should report regularly to Parliament.[4]



In July 2008, an important follow-up to the Commonwealth Latimer House Principles came in the form of the *Edinburgh Plan of Action*, which sought to give more practical guidance and meaning to the Principles. The Edinburgh Plan included a significant resolution on the *Independence of Parliamentarians*, which called for the following actions:

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

Action:

- Remuneration packages for Parliamentarians should be determined by an independent process;
- Parliamentarians should have equitable access to resources commensurate with their responsibilities; and,
- Parliaments should have control of and authority to determine and secure their budgetary requirements unconstrained by the Executive, save for budgetary constraints dictated by national circumstances.[5]

This final action reinforces the importance of parliaments managing and controlling their own fiscal arrangements and opens the door to parliaments introducing their own Appropriation Bill, rather than having their appropriation presented to them by the executive.

Both the Commonwealth Latimer House Principles and Edinburgh Plan of Action are extremely important in upholding the independence of parliament. They provide a set of specific guidelines, which allow Westminster governments to function effectively and responsibly. Importantly, the principles set in place mechanisms of accountability that are an attempt to ensure that no branch of government can dominate or apply disproportionate pressure within the governance system.

Parliamentary corporate bodies

Many Parliaments have constitutional or legislative constraints and are effectively at the mercy of executive financial initiative. The establishment of *parliamentary corporate bodies* (PCB) - similar to the House of Commons Commission, Scottish Parliamentary Corporate Body (SPCB), Canadian Board of Internal Economy and Australian Capital Territory's Office of the Legislative Assembly - can play an integral role, not only in determining and managing the parliamentary budget, but also in drafting the parliamentary Appropriation Bill, outside of executive control. This system could also include associated parliamentary bodies that are sometimes funded by the executive rather than the parliament, such as Independent Officers of Parliament and the Office of the Opposition.[6]

The Commonwealth Parliamentary Association and the World Bank Institute (CPA/WBI) Report in 2005 found evidence that the establishment of such PCBs to improve the resourcing and financial management of parliaments enhanced their independence from the executive.[7]

The CPA/WBI Report made the following recommendations:

- Parliaments should, either

by legislation or resolution, establish corporate bodies responsible for providing services and funding entitlements for parliamentary purposes and providing for governance of the parliamentary service;
- There should be an unambiguous relationship between the Speaker, the corporate body and the head of the parliamentary service;
- Members of corporate bodies should act on behalf of all Members of the Legislature and not on a partisan or governmental basis;
- The corporate body should determine the range and standards of service to be provided to Parliament, e.g. accommodation, staff, financial and research services;
- Corporate bodies should promote responsible governance that balances the unique needs of Parliament with general legal requirements, e.g. employment law, freedom of information and occupational health and safety.[8]

Parliamentary financial independence

Westminster Parliaments must be wary of governments wielding too much control over parliamentary funding. One need only look at the Parliament of Victoria in Australia, which currently has a funding model described by the President of the Legislative Council, Hon. Bruce Atkinson, MLC, as being *"radically unsuited to the funding of a separate and equal democratic institution."*[9]

In July 2016, the President and Speaker of the Parliament of Victoria, delivered their strongest rebuke of the Victorian Parliament's funding model to the Public Accounts and Estimates Committee's Inquiry into the 2016–17 Budget Estimates. Some of their criticisms were that:
- the Executive, by purchasing outputs from Parliament, was acting inappropriately as this was contrary to the Westminster principle of the separation of powers;
- Parliament was being forced to fit into the state funding model and its proxy output measures were unrelated to the core business of Parliament (making the law);
- section 40 of the Financial Management Act (FMA) requires the Treasurer to prepare annual budget estimates in estimation of the annual appropriation Bills, but separate budget papers are never tabled for the Parliamentary Budget;
- the Treasury had no regard for the fact that the Appropriation (Parliament) Bill was a separate Bill for constitutional reasons;
- parliamentary departments are not government service delivery departments, yet they are treated in the same manner - for example, Section 29 of the FMA is not applicable to the parliamentary departments as these are not departments within the meaning of the Public Administration Act 2004 - as parliamentary departments are statutorily prescribed departments of the Parliament;
- section 3 of the Appropriation (Parliament) Bill states, '*The Treasurer may issue out of Consolidated fund in respect of the financial year 2016–17 the sum of …*', the use of the word 'may' is frequently taken to mean that the allocation of the amount appropriated is entirely at the Treasurer's discretion 'up to' the amount specified. This has led to circumstances where Parliament's funding has been reduced after the appropriation has been passed by both Houses and assented to as law.[10]

This situation reflected in Victoria is not an isolated one. Many Westminster parliaments have found that their funding has been at the expense of a growing imbalance between the parliament and the executive.[11]

The Commonwealth Latimer House Principles, which were endorsed by nations, including Australia in 2003, were initiated and agreed to by the executive arms of governments. These Principles, among other things, formally set down the notion that a PCB, an all-party committee of parliament, should review and administer parliament's budget and should not be subject to amendment by the executive.

This paper is based on a longer research paper published by the Parliament of Victoria in May 2017, titled, Independence of Parliament. To access this paper please visit http://apo.org.au/node/90326.

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[1] Commonwealth Parliamentary Association (2009) *Commonwealth (Latimer House) principles on the three branches of government.*

[2] ibid., p. 10.

[3] ibid., p. 41.

[4] J. Hatchard & P. Slinn (1999) *Parliamentary Supremacy and Judicial Independence: A Commonwealth Approach*, London, Cavendish Publishing Limited, p. 24.

[5] Commonwealth Parliamentary Association (2009) *Commonwealth (Latimer House) principles on the three branches of government*, p. 42.

[6] This is currently the case at the Parliament of Victoria, Australia, where its Independent Officers of Parliament and Office of the Opposition are all funded by the Executive – see J. Breukel et al (2017) *Independence of Parliament, Melbourne, Parliament of Victoria*, pp 19–29, 38–39.

[7] Commonwealth Parliamentary Association (2005) *Administration and financing of parliament*, London, CPA.

[8] ibid., p. 13.

[9] B. Atkinson (2012) *Parliament: A law unto itself – Achieving financial independence for parliament*, 43rd Conference of Presiding Officers and Clerks, Honiara, Solomon Islands, July 2012, p.4.

[10] Public Accounts and Estimates Committee (2016) *Attachment 1: Parliamentary departments, answers supplied to questions taken on notice at PAEC hearings*, Parliament of Victoria, July, pp. 4–8.

[11] S. Prasser (2012) '*Executive growth and the takeover of Australian parliaments*', Australasian Parliamentary Review, 27(1), p. 48.

THE ROLE AND RESPONSIBILITIES OF THE GOVERNOR OF A STATE IN INDIA

The curious case of the Arunachal Pradesh Legislative Assembly

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The article reflects the personal views of the author.

The role of the Governors of the States in India has been a matter of public discourse and debate as well as judicial scrutiny in recent times. The exercise of discretionary powers by the Governors to invite the leader of a political party, particularly when none of the parties represented in the State Assembly enjoys a clear majority, has been in the eye of the storm. It happened in quick succession in the States of Goa, Manipur and Bihar during 2017. However, it was in Arunachal Pradesh during 2015-16 that the Governor did not quite cover himself with glory.

According to the Constitution of India, the executive power of the State is vested in the office of the Governor. The Governor is not elected but appointed by the President of India on the advice of the Prime Minister. The Governor holds their office at the pleasure of the President. The standard tenure of a Governor is five years. Normally, there is one Governor for each of the 29 States of India; however, occasionally a Governor may be given charge of more than one State.

The powers of the Governor have been well defined in the Constitution of India. Their executive powers include power to appoint the Council of Ministers, including the Chief Minister; the Advocate General; and the Members of the State Public Service Commission. The Governor also nominates members of Anglo-Indian community to the Legislative Assembly and certain members to the Legislative Council in States which have bicameral legislature.

The legislative powers of the Governor broadly comprise summoning, proroguing and dissolving the State legislature as well as right to address and send messages to the State legislature. The Governor can also promulgate ordinances (temporary legislation by the executive in special circumstances) as well as reserve a Bill for the consideration of the President.

Their judicial powers consist of granting pardons, reprieves, respite or remission of punishments or to suspend, remit or commute the sentence of any person. They are also consulted by the President of India in the appointment of the Chief Justice and the judges of the High Court. Unlike the President, the Governor has no emergency powers; however, they can make a report to the President whenever they are satisfied that a situation has arisen in which the government of the State cannot be carried out in accordance with the provisions of the Constitution.

It must, however, be noted that several of their powers cannot be exercised unilaterally since, in terms of the provisions of the Constitution, in most cases, the Governor is required to perform their functions in consonance with the advice of the Council of Minister, except in circumstances wherein they are required to exercise their functions at their discretion.

In respect of certain States, the Governor exercises certain additional discretionary functions. Thus, for example, according to para 9 (2) of the 6th Schedule of the Constitution of India, the Governor of Assam determines the amount payable by the State to the District Council as royalty accruing from licences for minerals. Further, the Governor discharges certain special responsibilities in the States of Maharashtra, Gujarat, Nagaland, Manipur, Sikkim and Karnataka. In the discharge of such special responsibilities, the Governor has to act according to the directions issued by the President from time to time, and subject thereto, they are to act 'at their discretion'.

That brings into focus the exercise of so-called discretionary powers of the Governor in practice. Most importantly, in case there is no clear majority in the Legislative Assembly, the Governor is required to exercise their discretion in inviting a party or a group of parties to form the government. Normally, they are expected to invite the party which has obtained the largest number of seats in the Assembly to form the government. But, as mentioned above, on three occasions recently, the Governor gave an opportunity to a coalition or alliance of parties to form the government and prove their majority, which they did. This leads us to the logic behind the exercise of the discretionary power of the Governor to invite a party or a group of parties to form the government. It all boils down to formation of a stable government, a government which will last. In all the three instances cited above, the discretion exercised by the Governor to invite a group of parties to form the government has result in the formation of a stable government so far.

The case of Arunachal Pradesh

Actually, the situation was not unique. The constitutional experts and observers of the Indian polity had a sense of *déjà vu*. Since the Constitution of India came into operation in 1950, the President of India has assumed the functions of the State Governments (*President's Rule*) more than 120 times (50 times during the Prime Ministership of Indira Gandhi alone). *So why worry about Arunachal Pradesh or Uttarakhand for that matter?*

But what was interesting and perhaps a little unprecedented in recent memory was the fact that three states were placed under the President's Rule during the first quarter of the year 2016. First was Jammu and Kashmir in the unfortunate context of the death of a serving Chief Minister; then came the ill-fated case of Arunachal Pradesh; and finally it was Uttarakhand, just a day before the floor test to decide the fate of the State government was scheduled to take place. According to the Constitution of India (*article 356*), the President (in actual practice the Union Government) can assume all the functions of the Government of the State if they are satisfied that the Government of the State cannot be carried out in accordance with the provisions of the Constitution.

As far as Arunachal Pradesh is concerned, looking at the entire series of developments over a period of about three months from December 2015 to February 2016, there were three major questionable decisions taken by different authorities. First and foremost was the preponement of the sixth Session of the Legislative Assembly by the Governor. Then came the disqualification of certain members of the Legislative Assembly by the Speaker, who himself was facing a motion for his removal. And finally there was the imposition of the so-called President's Rule by the President of India. The root cause of the problem was, of course, the manner in which the Governor of the State unilaterally undertook to assume the power to summon the Legislative Assembly earlier than the date already fixed following the prescribed procedure. It ultimately led to the historic judgment (in the case of *Nabam Rebia and Bamang Felix vs. Deputy Speaker and others*, dated 13th July 2016) of a five-judge constitutional bench of the Supreme Court to turn the clock back and declare all the happenings in the State polity unconstitutional, starting with the first step of advancing the date for the summoning of the Legislative Assembly by the Governor of Arunachal Pradesh.

For a better understanding of the saga of Arunachal Pradesh, let us take a look at the bare chronology of events. On 3 November 2015, in accordance with the advice of the then Chief Minister of Arunachal Pradesh (Nabam Tuki), and in consultation with the Speaker of the Legislative Assembly, the Governor issued an order whereby, in terms of Article 174 (1) of the Constitution of India, the Legislative Assembly was summoned to meet from 14 to 18 January 2016.

On 19 November, notice of a motion for removal of the Speaker was received in the Secretariat of the Legislative Assembly. A copy of this motion was made available to the Governor by the signatories with a request to advance the date of the Session. By an order issued on 9 December 2015, the earlier order dated 3 November was modified by the Governor on the ground inter alia of his constitutional obligation to ensure that the motion for removal of the Speaker is expeditiously placed before the Legislative Assembly. The order modified the date '14 January' to read '16 December' and '18 January' to read '18 December'. Effectively, the Governor not only modified the dates of the meeting of the Assembly but also cancelled or revoked the dates of the Session of the Assembly earlier decided upon by him in consultation with the Speaker and the Chief Minister.

On 14 December, the Council of Ministers met and *inter alia* recorded that the order dated 9 December issued by His Excellency the Governor of Arunachal Pradesh was in contradiction of Article 174 read with Article 163 of the Constitution of India and Rule 3 and 3A of the Rules of Procedure and Conduct of Business of Arunachal Pradesh Legislative Assembly. The Cabinet resolved to advise the Governor to recall and cancel the Order dated 9 December 2015. The Speaker too reportedly urged the Governor through a communication dated 14 December to uphold and preserve the sanctity of the constitutional framework and let the House function as per its original schedule without any undue interference.

Inaction on the part of the Governor on these requests led to the shutdown of the Legislature at the behest of the Chief Minister and the Speaker, who, in the meanwhile on 15 December 2015, disqualified 14 of the 21 dissenting Congress MLAs. On 16 December, the 21 Congress dissidents, 11 BJP MLAs and 2 independent MLAs met in a special session of the Assembly at a hotel and voted to remove the Speaker. On 17 December, the leader of the dissenting congress MLAs (Kalikho Pul) was elected as the Chief Minister.

On 5 January, the Gauhati High Court stayed the decision of the Speaker disqualifying certain Congress MLAs. On 26 January 2016, the Arunachal Pradesh government was dismissed and President's Rule was imposed. On 19 February, the President's Rule was revoked and Kalikho Pul was sworn in as Chief Minister on 20 February. On 25 February, he won the vote of confidence. (He was later found dead on 9 August 2016 under mysterious circumstances.)

The Supreme Court, in its judgment dated 13 July 2016, has observed that it does appear that the Governor acted unilaterally in issuing the modification order dated 9 December 2015 and did not consult either the Chief Minister or the Speaker. The Governor also ignored the resolution of the Council of Ministers adopted on 14 December 2015.

The Court has further observed, that though summoning the Legislative Assembly might be an executive function of the Governor, that function can, however, be exercised by him only after such a proposal is seen by the Chief Minister and sent to the Governor. The Chief Minister, in turn, can make a proposal to the Governor for summoning the Legislative Assembly only in consultation with the Speaker, who is, in a sense, the master of the House. In other words, the Governor has no independent discretion or authority to summon the Legislative Assembly in terms of the Rules of Procedure and Conduct of Business in Arunachal Pradesh Legislative Assembly framed under Article 208 of the Constitution. Article 371-H of the Constitution, under the misconception of which the Governor mistakenly acted, provides for the Governor exercising 'his individual judgment' in discharge of his functions but it is limited to issues of law and order only.

Rule 3 of the Rules of Procedure aforementioned clearly provides that the Chief Minister shall, in consultation with the Speaker, fix the date of commencement and the duration of the Session, and advise the Governor for summoning the Assembly under Article 174 of the Constitution. It is obvious that the Governor can summon the Assembly only if the Chief Minister (in consultation with the Speaker) so advises him. The discretion thus given to the Governor in respect of their relations with the Legislative Assembly is not only circumscribed by the Constitution per se but also by the Rules of Procedure framed by the Legislative Assembly under Article 208 of the Constitution.

The Supreme Court, therefore, came to the conclusion that: *"The order of the Governor dated 9 December 2015 is violative of Article 163 read with Article 174 of the Constitution of India and as such is liable to be quashed. All steps and decisions taken by the Arunachal Pradesh Legislative Assembly, pursuant to the Governor's message dated 9 December 2015 are unsustainable."* It accordingly ordered that: *"The status quo ante as it prevailed on 15 December 2015 is ordered to be restored."*

In totality, the Judgment of the Supreme Court decreed the following propositions: (1) the Governor has no power to unilaterally summon an Assembly Session unless the government has, in their view, lost its majority; (2) the Governor cannot take steps related to disqualification of the Speaker; (3) the Governor has no authority to interfere in the Speaker's powers under the anti-defection law; and (4) a Speaker facing a motion for his own removal cannot exercise their powers under the disqualification law (the Tenth Schedule of the Constitution).

The judgment, however, raises serious issues relating to the doctrines of separation of powers as well as checks and balances against the backdrop of the scheme for them prescribed in the Constitution of India. It appears to be based on the assumption that the power of judicial review is all-pervasive, irrespective of what the Constitution actually provides. The last word in this episode has perhaps not yet been written.

Recent examples

Three times in the course of 2017, the Governors of different states were called upon to exercise their discretion in inviting one of the two claimants to form the government and to prove their majority on the floor of the House.

On all these occasions, the Governors did not mechanically

THE ROLE AND RESPONSIBILITIES OF THE GOVERNOR OF A STATE IN INDIA

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invite the leader of party with the maximum number of Members in the House to form the government. In the case of Goa and Manipur, the second largest party approached the Governor with a list of Legislative Assembly Members from a group of parties, which added up to a majority; and the Governor invited the leader of that coalition to prove his majority and he did. In the Case of Bihar, the existing ruling coalition broke up. The Chief Minister, who belonged to a party which had less Members than another coalition partner, resigned and then presented the Governor with another configuration of coalition partners for the formation of the government. The Governor did not consider it necessary to give an opportunity to the party with the largest number of Members in the Legislative Assembly to form the government. He agreed to the request of the out-going Chief Minister and invited him to form the government, albeit with a different set of partners since their numbers added up to a majority. This time too the person invited to form the government was able to prove their majority on the floor of the House.

In July 2017, the Governor of Nagaland exercised his discretion in directing the Chief Minister, Dr. Shurhozelie Liezietsu, to prove his majority on the floor of the house (popularly known as the 'floor test') after his predecessor T. R. Zeiliang staked claim to form the government on the basis of alleged support of 41 MLAs in a 60 Member house (one of the seats of which was vacant). Events have moved thick and fast in Nagaland during 2017. In February 2017, Liezietsu (not a Member of the Nagaland Assembly then) had taken over as Chief Minister after Zeiliang resigned following violent protests over 33% quota for women in civic election. However, Liezietsu was accused of 'nepotism' when he appointed his son as an advisor with cabinet rank.

On 8 July 2017, Zeiliang wrote to the Governor to invite him to form the government since, according to him, most of the Legislators wanted Liezietsu to resign. The Governor then asked Liezietsu to prove his majority in the Assembly before Saturday 15 July. Liezietsu challenged the order of the Governor before the Kohima Bench of Guwahati High Court, upon which the Court stayed the Governor's order. In its verdict pronounced on Tuesday 18 July, the Court dismissed the petition of Liezietsu for failing to turn up in the Assembly to face the floor test, while the Governor appointed Zeiliang as the Chief Minister. On Friday 21 July, Zeiliang won the trust vote securing 47 (including 36 of the ruling Naga People's Front) of the 59 votes of the House. The exercise of his discretionary powers by the Governor of Nagaland thus stood vindicated.

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Parliamentary Report

NEWS AND LEGISLATION FROM COMMONWEALTH PARLIAMENTS

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); Michael Dewing (Federal Parliament of Canada); Luke Harris (Parliament of New Zealand); Ayeesha Waller (Parliament of the United Kingdom); André Grenier (National Assembly of Québec), Tom Duncan (Legislative Assembly of Australian Capital Territory and Regional Secretary for CPA Australia Region).

UK POST-ELECTION LEGISLATION

Legislation following the election

The early general election and the unexpected loss of the governing Conservative party's majority has meant only a handful of sitting days since the last issue of *The Parliamentarian* in June 2017.

Following the election, the re-opening of Parliament and the Queen's Speech was delayed by prolonged negotiations to allow the Prime Minister to command a majority in the House of Commons. The Parliamentary archives quickly scotched rumors that the delay was exacerbated by the need to write the speech on vellum.

On 27 June, details emerged of a '*confidence and supply*' agreement between the Conservative Party and the Democratic Unionist Party of Northern Ireland. Under this agreement the DUP's 10 MPs will support the government on a range of issues including confidence motions, the Queen's Speech and legislation relating to Brexit. In return, £1 billion in extra support for Northern Ireland will be made available over the next two years.

When Her Majesty The Queen made the journey to Parliament for the delayed State Opening of Parliament, she announced 27 new Bills for this session of Parliament. Eight of these Bills are to address the legislative challenges posed by the UK's withdrawal from the EU. To allow additional time to address this, described by some as the UK's largest peacetime challenge, the Government announced a double (two year) session of the UK Parliament.

The 'Great Repeal' Bill

Only one of the eight 'Brexit' Bills in the Queen's Speech was introduced before UK Parliamentarians departed for their summer recess. The 'Great Repeal' Bill, now progressing under the more formal title of the EU (Withdrawal) Bill, was introduced on 13 July.

In the Queen's Speech debate, the Secretary of State for the Department for Exiting the EU, **Rt Hon. David Davies, MP** said: *"Nothing is more central to this than the so-called Great Repeal Bill. The principle is straightforward: it is to repeal the European Communities Act 1972 and to transfer existing European Union law into UK law."*

As indicated by the Secretary of State, the primary purpose of the Bill is to: (1) repeal the European Communities Act 1972 which brought into effect the UK's membership of the EU; (2) bring EU law as it stands on the day of EU withdrawal on to the UK statute book; and (3) to modify and give Ministers the power to modify that retained law.

'Henry VIII' powers

The Great Repeal Bill almost immediately attracted controversy due to the extensive powers that the Bill gives the Executive to change primary legislation through secondary or delegated legislation. These are known as 'Henry VIII' clauses after the former monarch's fondness for changing the law by proclamation. The Government argues that these powers are necessary to correct deficiencies and prevent statutory lacuna.

Critics are concerned that changes will be made with little or no opportunity for parliamentary scrutiny. At the most extreme, the Bill contains provision for some changes to be made with no parliamentary procedure at all during a limited to a one month period. Most changes will be through statutory instruments which, under the mechanism proposed in the Bill, will only be debated if a specific objection is lodged.

Even before the Bill's introduction, **Rt Hon. Sir Kier Starmer, MP**, the Shadow Secretary of State for Exiting the EU warned that his party could not support a Bill which contained *"sweeping powers for the Executive, with no enhanced safeguards."* It remains to be seen whether these clauses will make it through both Houses of Parliament intact.

Devolved governments' views

The devolved governments of the United Kingdom expressed their deep unhappiness with what they saw as a failure to devolved repatriated powers. In a joint statement, the First Ministers of Scotland and Wales, **Rt Hon. Nicola Sturgeon, MSP** and **Rt Hon. Carwyn Jones, AM** stated that the Bill: *"does not return powers from the EU to the devolved administrations, as promised. It returns them solely to the UK Government and Parliament, and imposes new restrictions on the Scottish Parliament and National Assembly for Wales… On that basis, the Scottish and Welsh Governments cannot recommend that legislative consent is given to the Bill as it currently stands."*

Whilst legislative consent of the devolved institutions to relevant law is a convention and not a legal requirement, for the UK Parliament to override it would be unprecedented and take the UK into unchartered constitutional waters.

Parliamentary dress

The State Opening of Parliament this year took place with '*reduced ceremonial elements*'. This was due to a clash – which was known before the election - with the Queens' Birthday Parade which meant the Household Cavalry were not able to support both events. For only the second time in her reign, Her Majesty The Queen attended the State Opening in day dress and the crown travelled in a car and was carried rather than worn.

Meanwhile in the House of Commons itself, whose Clerks have agreed to dispense with full court dress, the Speaker of the House of Commons, **Rt Hon. John Bercow, MP**, relaxed the dress code for male MPs. Mr Speaker stated that he considered he had the discretion to decide what was seemly and proper and that ties were not a pre-requisite to being called upon by the Speaker to speak in the House: *"it seems to me that as long as a Member arrives in the House in what might be thought to be business-like attire, the question of whether that Member is wearing a tie is not absolutely front and centre stage."*

Whilst **Hon. Peter Bone, MP** suggested that the ruling would reduce the *"esteem of parliament"*, **Hon. Jared O'Mara**, the new MP for Sheffield Hallam, was one of those helped by the move. Mr O'Mara has cerebral palsy and in an interview shortly after the election explained that due to the weakness in his right side he *"can't wear a shirt and tie because I can't do up the buttons."*

MCGEE PARLIAMENTARY PRACTICE LAUNCHED

Launch of 4th edition of McGee

On 23 May 2017, the 4th edition of Parliamentary Practice in New Zealand was launched. Affectionately known as *"McGee"*, Parliamentary Practice in New Zealand is the owner's manual and definitive work for all things procedural in the New Zealand Parliament.

The first three editions were written by former Clerk of the House, David McGee in 1985, 1994 and 2005 respectively. Incredibly, the first edition was written by hand. The latest version was edited by former Clerk of the House, Mary Harris, and current Clerk of the House, David Wilson, and was typed on a computer, being 2017.

Also reflective of the time, this edition is the first to be available as an e-book. It is hoped this will facilitate quick browsing and searching, and offer the ability to incorporate amendments at more regular intervals.

As noted by the current Clerk, David Wilson, *"Capturing the changes in how Parliament works is vital. It's really important to provide the best advice to MPs about up to date practice, and give the public access to that information to help them interact with the House and Select Committees."*

In particular the new edition reflects the changes brought by the Parliamentary Privilege Act 2014, changes in committee conduct and the use of extended sittings.

GLOBE New Zealand report debated in the House

GLOBE New Zealand is a cross-party working group of 35 MPs. Chaired by Green MP, Dr Kennedy Graham, it is the New Zealand Chapter for the Global Legislators Organisation for a Balanced Environment, encouraging the implementation of laws in pursuit of sustainable development.

In response to New Zealand's ratification of the Paris Agreement, GLOBE New Zealand commissioned a report into long-term low emission pathways and scenario analysis. The report, Net Zero in New Zealand, was released in March 2017. The report had nine recommendations and concluded that net zero emissions can only be achieved in 2100 by altering land use patterns and adopting new technologies.

On 13 April, the House held a special debate to discuss the report, arrangements for which were made through the Business Committee. Dr Graham acknowledged the report reflects an unprecedented level of cross-party collaboration and hopes the report will help clarify the debate around climate change.

Taxation (Budget Measures: Family Incomes Package) Bill

The Taxation (Budget Measures: Family Incomes Package) Bill was a central piece of legislation arising from the Budget 2017. The Bill, passed under urgency, sought to simplify the tax system, improve incomes for those with young children, and incentivise work by increasing and aligning the family tax credit across previous age categories, repealing the independent tax credit, and adjusting tax thresholds. The Bill received broad support, including from two parties that opposed the Budget: the Green Party and New Zealand First.

Mr Chris Bishop, MP (National) opined that the Bill was a sign of greater opportunity in an improving economy: *"After years of deficits built up through the aftermath of the global financial crisis and the Christchurch earthquake, peaking at $18 billion at 2011, we now have surpluses and we now have choices."* **Ms Eugenie Sage, MP** (Green) indicated that her party would support the Bill *"because of the support that it gives to those families who are enduring the most - particularly families where parents are not in paid work and are on a benefit."*

Mr Richard Prosser, MP (NZ First) said it was not right to *"stand up and say that they are going to deny a person in that situation that amount of an increase, on the vague promise that after the election, at some point, at some time, should they be in a position to do something better, they might do something better."*

All parties agreed with the bulk of the changes to the family tax credit. **Mr Grant Robertson, MP** (Labour) said: *"All New Zealanders understand that people on modest incomes with one, two, three, four children are doing it tough at the moment. They have seen their rents go up. They have seen their cost of living go up … They are finding it hard to make ends meet, and we, as a Parliament, at a time when the Government is running large surpluses, should be doing something about that. A portion of what is in this Bill today does that."*

However, **Mr Michael Wood, MP** (Labour) expressed concerns about the sufficiency of targeting, saying it was *"about as well targeted as a bacon butty at a bar mitzvah"* and that *"If you add up the tax gain for the top 10% of New Zealanders in this Bill, it's about $373 million; if you add up the tax gain for the bottom 50% of earners in New Zealand, it is about $380 million - basically the same."*

Mr James Shaw, MP (Green) commented: *"One thing that we on this side of the House are uncomfortable with is the changes to the tax threshold that were outlined. If those changes had changed in line with inflation, the quantum of that would come to about $900 million. There is an additional billion dollars … which would have been much better spent not on tax cuts but, actually, on supporting the Working for Families changes."*

Mr Brett Hudson, MP (National) defended rate adjustment as being distinct from a traditional tax cut: *"If you change the rate … then those on even higher incomes would receive even more back into their hands. But under changes to a threshold, someone receiving $52,000 will get $20 a week extra, and someone who receives any amount more than that … still only gets the same $20 a week extra in their hand."*

Mr Alistair Scott, MP (National) commented: *"They have earned it, the Government has facilitated and used it effectively and efficiently, and now - due to the surpluses, due to the strong economy - we are able to return what is taxpayers money."*

The Bill passed its third reading with 86 votes to 31.

Outer Space and High-altitude Activities Bill

The Outer Space and High-altitude Activities Bill, read for a third time on 4 July 2017, aims to facilitate the development of a space industry whilst providing the necessary protections to manage the risks associated with space activities and meeting international obligations.

THIRD READING: NEW ZEALAND

It establishes a new law that will govern and regulate the launching of space objects such as rockets and satellites, as well as other activities such as the use of high-altitude balloons.

The Minister in charge of the Bill, **Hon. Simon Bridges, MP** (National), described the Bill as *"a very significant and exciting piece of legislation. It creates opportunities for New Zealand to be part of a global space economy that will generate real economic benefits for New Zealanders. The Bill captured the imagination of Members of Parliament. We heard about the possibilities that a New Zealand-based space industry will create, such as high-value jobs, exciting career paths, and a more diversified economy."*

Hon. David Parker, MP (Labour) explained that according to Venture Southland, a space tracking station south of Invercargill, co-funded by the European Space Agency, *"if New Zealand is going to be regulating this space, we have to make it clear to people that our intentions are peaceful … We are not trying to increase armaments out in outer space. We are not intending to put into space things that could shoot down other satellites. Our objectives are entirely peaceful."*

Stuart Nash, MP (Labour) discussed the anticipated effects of the Bill, stating: *"This will redefine space. It will redefine how data is transmitted. Our kids - or our grandkids, anyway; some of our great-grandkids - will not believe that there were points in time where we did not have mobile coverage. They will not believe that you used to go to the top of a hill and wave your mobile phone around to try to get reception …"*

Gareth Hughes, MP (Green) discussed the management of waste in space, stating: *"an area close to my heart in the Green Party, is the issue of orbital debris. There are 20,000 objects out there orbiting in space that are larger than a baseball. There are 500,000 objects larger than the size of a marble. If you have seen the film Gravity, you will understand the Kessler effect, where we can see potentially catastrophic impacts of these space objects. Already there is quite a huge cost involved in space junk, as it is called, but it could cause a catastrophic change, literally, to our world's use of technology if in fact it did go all pear-shaped, as we saw in the film Gravity."*

Dr Shane Reti, MP (National) noted the benefits of the Bill and the resulting growth in space technology: *"When we look at the value chain of what is a $300 billion space economy, we see that the upstream actors are responsible for 5% of that economy, satellite operators 10% of the space economy, and the companies that actually utilise space communications are 85% of the space economy."*

The Bill passed its third reading on 4 July 2017 with unanimous support.

Care and Support Workers (Pay Equity) Settlement Bill

The Care and Support Workers (Pay Equity) Settlement Bill passed its third reading with unanimous support on 8 June 2017, raising the wages of an estimated 55,000 care and support workers in New Zealand's aged and disability residential care and home and community support services by between 15 and 50% over the next 5 years. The estimated cost of this increase will be $2 billion, with workers' pay increasing to between $19 and $27 per hour from 1 July this year.

The settlement originates from a pay equity claim in 2012 under the Equal Pay Act 1972 by the then Service and Food Workers Union on behalf of care worker Kristine Bartlett. A settlement was agreed between the Crown, Crown agencies and relevant unions in 2017, establishing a matrix of pay rates linked to qualifications. The parties agreed that elements of the settlement would be legislated, resulting in this Bill.

The proceedings claimed that there was historic and systemic undervaluation of care and support work because it was predominantly performed by women.

As **Ms Poto Williams, MP** (Labour) said in the Bill's first reading: *"care and support workers are paid less than a man performing work involving similar skills, responsibility, conditions, and degree of effort would be paid."* A 2015 workforce survey by the Ministry of Health indicated that the average wage rate was between $15 and $16 an hour.

The legislation provides for agreed pay rates and the facilitation of training, and the terms of the settlement agreement are applied to all workers, regardless of whether they are union members.

Members from all parties acknowledged the importance of the work done by care and support workers and the fairness of rewarding their compassion, with the Minister of Health, **Hon. Jonathan Coleman, MP** (National) stating: *"This predominately female workforce cares for some of our most vulnerable people, helping them to live with dignity and with as much independence as possible."*

The stages of the Bill were passed through very quickly, as the Act had to come into force and be operable from 1 July, the start of the next financial year for the Government. The Bill's introduction, first reading, and referral to Select Committee were carried out under urgency. The Select Committee process was shortened and the Health Committee presented its recommended amendments as a supplementary order paper, tabled in the House by the Minister of Health. The Bill was introduced on 25 May, was reported back from the Select Committee on 6 June, and had its third reading on 8 June, obtaining Royal assent 6 days later. Several Members acknowledged the hard work of officials that contributed to this expedited process.

Many speakers praised the collegial cross-party approach to the legislation. At its third reading, **Iain Lees-Galloway, MP** (Labour) said: *"The unions, the employers, and the Government got around a table. A settlement was reached, and now this House is enacting that settlement with legislation. That is a fantastic model. It is the model that has been used to solve this claim, but it is absolutely a model that could be used to solve low pay across a number of sectors in the future."*

Hon. Michael Woodhouse, MP (National), in the Bill's third reading, concluded: *"this is a very important milestone on the journey. We have got a long way to go to achieve the outcome we all want, which is equity without bias, without discrimination. I am confident that we are going to be able to get there."*

CANADA FEDERAL LEGISLATION

New Leader of the Official Opposition

At a convention on 27 May 2017, the Official Opposition Conservative Party elected **Andrew Scheer, MP**, of Saskatchewan as its new leader. He was first elected as MP in 2004 and served as Speaker of the House from 2011 to 2015. The leadership election was conducted using a ranked-ballot method, and it took 13 ballots for Mr. Scheer to surpass the 50% threshold required to win.

Prior to the convention, Interim Leader, **Hon. Rona Ambrose, MP**, had announced that she would be leaving politics. She resigned as an MP on 4 July.

On 19 June, **Hon. Denis Lebel, MP**, the Deputy Leader of the Opposition, announced his retirement. First elected in 2007, he served in a number of ministerial posts in the government of Stephen Harper.

Legislation

Prior to the summer recess, the government introduced a number of Bills and several Bills received Royal Assent.

On 31 May, the Minister of Democratic Institutions, **Hon. Karina Gould, MP**, introduced Bill C-50, An Act to amend the Canada Elections Act (political financing). The Bill aims to make political fundraising more transparent. It received second reading on 15 June and was referred to the Standing Committee on Procedure and House Affairs.

On 19 June, the President of the Treasury Board, **Hon. Scott Brison, MP**, introduced Bill C-58, which would amend the Access to Information Act and the Privacy Act. The Bill would grant the Information Commissioner the power to order the release of records. Currently, the Information Commissioner can only make recommendations. The Bill would also require the Senate, the House of Commons, parliamentary entities and ministers' offices to proactively publish their travel expenses, hospitality expenses and contracts.

On 20 June, the Minister of Public Safety and Emergency Preparedness, **Hon. Ralph Goodale, MP**, introduced Bill C-59, An Act respecting national security matters. This Bill would create a civilian review body to oversee security and intelligence agencies, as well as other departments and agencies involved with intelligence. It would also amend a number of Acts to revise provisions dealing with threat reduction, information sharing, the "no-fly" list, and other security-related issues.

On 19 June, Bill C-16 received Royal Assent. Known as the transgender rights bill, it adds gender identity and gender expression as prohibited grounds of discrimination under the Canadian Human Rights Act and amends the Criminal Code to protect trans and gender diverse Canadians from hate propaganda.

Another bill to receive Royal Assent on 19 June was Bill C-6, which amends the Citizenship Act. Among other things, it repealed provisions under which dual citizens convicted of crimes against the national interest could have their Canadian citizenship revoked. The Bill also reduced the length of time permanent residents need to be in Canada before applying for citizenship.

On 22 June, Bill C-22, the National Security and Intelligence Committee of Parliamentarians Act received Royal Assent. This new Committee will review the government's national security and intelligence activities. In evaluating these activities, members of the Committee will have access to certain classified information.

In late June, there was some wrangling between the Senate and the House of Commons over C-44, Budget Implementation Act, 2017, No. 1. This Bill contained a number of measures, including making the Parliamentary Budget Officer (PBO) an Officer of Parliament. In early June, the House adopted a number of amendments that addressed concerns raised by the PBO regarding the independence of the Office.

Then, on 19 June, the Senate voted narrowly against dividing the Bill to create a separate Bill establishing the Canada Infrastructure Bank.

On 21 June, the Senate passed the Bill with amendments that would have removed escalator clauses for excise taxes on alcohol. In response, by unanimous consent the House sent a message back to the Senate in which it disagreed with the amendments because they "*infringe upon rights and privileges of the House*." The next day, the Senate voted to not insist on its amendments, but also to send a message to the House confirming the Senate's privileges, immunities and powers to amend any legislation. Bill C-44 received Royal Assent on 22 June.

Committee reports

Before the summer recess, House of Commons Committees tabled a number of reports on subjects that included:

- the mental health of veterans (Veterans Affairs);
- debt in the agriculture sector (Agriculture and Agri-Food);
- Canada's media landscape (Canadian Heritage);
- the ability of the Canadian steel industry to compete internationally (International Trade);
- the plight of LGBTQ+ refugees (Citizenship and Immigration);
- the situation in South Sudan (Foreign Affairs and International Development);
- the suicide crisis in Indigenous communities (Indigenous and Northern Affairs); and
- Canada's Naval Forces (National Defence).

In June, the Senate Committee on Legal and Constitutional Affairs tabled a comprehensive report on the subject of court delays. It recommended considering other remedies when there are unreasonable delays, as well as better case management and the prompt filling of judicial vacancies.

The issue of court delays was brought to a head by a 2016 Supreme Court decision that imposed time limits for cases to avoid breaching the constitutional rights of the accused. This led to some high-profile cases being stayed and concerns that a further 6,000 criminal cases could eventually be stayed.

Soon after the Committee tabled its report, the Supreme Court confirmed its position on time limits in another case on similar issues.

Other Senate Committees tabled reports on subjects that included:

- decarbonizing transportation (Energy, the Environment and Natural Resources);
- a Northern transportation corridor (Banking, Trade and Commerce); and
- cooperation between Canada and Mexico (Foreign Affairs and International Trade).

Clerk of the House of Commons

On 20 June, the House of Commons approved the appointment of **Charles Robert** as the Clerk of the House of Commons. Prior to his appointment, Mr. Robert was Clerk of the Senate and Clerk of the Parliaments.

The Senate

On 16 May, **Senator Hon. Stephan Greene** left the Conservative Caucus to sit as an Independent Reform senator. On 22 June, Yukon **Senator Hon. Daniel Lang** announced that he would retire in August. He was appointed to the Senate in 2008.

On 17 May, the Senate adopted a recommendation of the Modernization Committee removing the requirement that a caucus must be made up of members of a political party registered under the Canada Elections Act. This allows the formation of caucuses other than those of recognized political parties. Until then, the only caucuses were those of the Liberal Party and the Conservative Party.

Following the appointment of Mr Robert as Clerk of the House of Commons, on 10 July, **Nicole Proulx** was appointed Clerk of the Senate and Clerk of the Parliaments on an interim basis. She is the first woman to serve in the position.

As at 17 July, the standings in the Senate were: Conservative Party 38; Independent Senators Group 35; Liberal Party 18; non-affiliated 7; vacancies 7.

Announcement of new Governor-General

On 13 July, the Prime Minister of Canada, **Rt. Hon. Justin Trudeau, MP**, announced that Her Majesty The Queen had approved the appointment of **Julie Payette** as the next Governor-General of Canada. Ms. Payette is an astronaut, engineer, broadcaster and corporate director.

THIRD READING: QUÉBEC, CANADA

The National Assembly of Québec passed 15 public Bills (introduced by the government) between February and June 2017, six of them unanimously.

Environment (Wetlands) Legislation
The National Assembly of Québec passed Bill 132, An Act *respecting the conservation of wetlands and bodies of water*, on 16 June 2017. It sets out to reform the legal framework for such environments. Changes include recognition of the ecological contributions of wetlands and hydric environments (lakes, rivers, marshes, peat bogs and so forth).

The research group Ouranos submitted a short brief to the public hearings on the Bill held by the Committee on Transportation and Environment. It summed up the essential environmental role played by wetlands.

The following passage from the brief was taken up by the Member for Jonquière and Official Opposition critic for environment and the fight against climate change, **Hon. Sylvain Gaudreault, MNA** during the debate over the Bill's adoption in principle: *"Wetlands are an integral part of our 'green infrastructure' and are increasingly advocated for big cities as a climate change adaptation measure. Studies have shown that wetlands significantly improve a watershed's surface- and groundwater quality, providing cities with better drinking water and reducing water treatment costs."*[1]

The Act respecting the conservation of wetlands and bodies of water targets 'no net loss' as a way to keep wetlands and bodies of water from disappearing. It also grants the government the power to establish programs to fund restoration and the creation of new environments of this type.

It includes provisions to ensure that certain activities subject to government approval, such as backfilling, be accompanied by measures to minimize environmental impacts. It also provides for authorization of such projects to be conditional on payment of compensation (paid into the Fund for the Protection of the Environment and the Waters in the Domain of the State). The government may however authorize applicants, on their own request, to provide compensation in kind (restoration or wetland creation) in lieu of payment.

Lastly, the Act assigns to regional county municipalities and local municipalities the task of drawing up and implementing regional plans for wetlands and bodies of water, with the support of watershed organizations.[2] Plans must be approved by Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques and reviewed at least once every ten years.

Environment (Environment Quality) Act
On 23 March 2017, the National Assembly of Québec passed Bill 102: *An Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund.*

The first version of the *Environment Quality Act* dates back to 1972. Substantial amendments were also made in 1978. A Green Paper was tabled in 2015 to prepare for the revision. The main purpose of the amendments were to streamline the approval process and make it clearer, more foreseeable and more flexible (without compromising Québec's environmental protection standards).[3] The Act establishes a system based on risk management and identifies four levels of risk: high, moderate, low and insignificant. The Act also reduces the time it takes to study projects submitted by businesses, particularly when new environmental technology is involved.

The Minister of Sustainable Development, Environment and the Fight against Climate Change noted at the sitting for the Bill's adoption in principle (called the 'second reading' in some assemblies) that the amendments would reduce the number of approvals required by 30%, by eliminating most for low- and insignificant-risk projects.

Justice (Child Adoption)
On 16 June 2017, the National Assembly of Québec passed a Bill to reform adoption procedures in Québec (Bill 113: *An Act to amend the Civil Code and other legislative provisions as regards adoption and the disclosure of information*). The Bill followed up on similar Bills introduced in the National Assembly in 2012 and 2013 that failed to pass the first step in the legislative process.

The new legislation allows a child to be adopted while recognizing (instead of breaking off) pre-existing bonds of filiation. It is designed for older children adopted through child protection services who want to continue identifying with their family of origin. No rights or obligations are created for the family of origin in question.

The Act also provides for the disclosure of information to allow adoptees or their biological parents to find out each other's identity and contact each other. This replaces the practice of strictly sealing the identity of both parties. The parents of origin[4] or adoptee will still be able to order that there be no identity disclosure or contact.

The Act makes it easier to disclose medical information on adoptees, parents of origin or family members. It should also make it easier to find brothers and sisters.

The Act also provides for recognition of Aboriginal customary adoptions in the *Civil Code of Québec*, as practised in certain indigenous communities and nations in Québec.

Health (Mistreatment of Seniors and other Vulnerable Persons)
The National Assembly of Québec passed Bill 115: *An Act to combat maltreatment of seniors and other persons of full age invulnerable situations* on 30 May 2017. The legislation makes it mandatory for all Québec health and social services institutions to have a policy to fight maltreatment not just of seniors but also for adults whose ability to seek help is restricted by their physical, cognitive or psychological condition. The maltreatment policy applies both to people receiving services in healthcare institutions or at home.

The policy also applies (subject to any adjustments necessary) to private seniors residences and bodies delivering services on behalf of healthcare system institutions. Section 3 of the Act states that maltreatment may occur at the hands of a person working for the institution or *"any other person."*

Health and social services professionals and members of Québec professional orders are required to report maltreatment of anyone housed in a residential and long-term care centre (CHSLD) or under tutorship or curatorship in the sense of the *Civil Code of Québec*. Reports are to be filed with the local service quality and complaints commissioner of the health institution or with the police.

The Act also provides for the government to make regulations governing the use of cameras (or other means of surveillance) by health services patients or their legal representatives. The government of Québec has indicated that the future regulation will take into account the needs of families to look out for their loved ones' safety, the privacy and integrity rights of seniors, as well as the protection of relationships with staff and staff reputations.

The National Assembly held its final sitting of Spring 2017 on 16 June and was adjourned until Tuesday 19 September 2017. Parliamentary Committees will resume proceedings in mid-August as usual.

References:

[1] Ouranos (Consortium on Regional Climatology and Adaptation to Climate Change), Milieux humides et changements climatiques : le rôle important des milieux humides dans l'adaptation, Montréal, May 10, 2017, p. 2.

[2] Watershed (or drainage basin or catchment area) refers to a land area in which all waters drain off towards a particular outlet or point.

[3] Speech by the Minister for Sustainable Development, the Environment, and the Fight Against Climate Change, Hon. David Heurtel, MNA, 1 December 2016, 12:20 p.m.

[4] Vetoes of disclosure by parents of origin will be void on their deaths.

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PARLIAMENTARY NEWS FROM AUSTRALIAN STATES AND TERRITORIES

AUSTRALIAN CAPITAL TERRITORY

Ordering documents to be tabled and independent legal arbiter process invoked

The 9th Assembly of the Australian Capital Territory has seen an increase in the number of motions moved requiring the Executive to table documents. On 28 March 2017, an Opposition MLA moved that the Executive table, pursuant to standing order 213A, various documents in relation to health data matters. The motion was agreed to by the Assembly on the voices. On 11 April 2017, the Executive provided the documents to the Clerk (the Assembly was not sitting but they were circulated to all MLAs) and were tabled by the Clerk on Tuesday 9 May 2017.

On 11 May 2017, an Opposition MLA moved a motion calling on the Executive to table documents relating to a risk assessment report on infrastructure at the Canberra Hospital, and that motion too was passed on the voices. Subsequently, the Executive claimed executive privilege and the Speaker, in accordance with standing order 213A, appointed Hon. Keith Mason, AC as an independent legal arbiter. On 16 June 2017, the arbiter provided a report to the Clerk which did not uphold the claim of privilege. Subsequently two Members of the Assembly were provided with copies of the documents.

On Tuesday 7 June 2017, an Opposition MLA moved a motion calling on the Executive to table documents relating to Public Housing Steering Committee matters, and that motion was passed on the voices. Subsequently the Executive claimed executive privilege and the Speaker appointed Hon. Richard Refshauge, SC as an independent legal arbiter. On 12 July 2017 the arbiter provided a report to the Acting Clerk which upheld the claim of privilege.

NEW SOUTH WALES

A Parents' Room for Parliament House

On 11 May 2017, the Presiding Officers opened a new parents' room located on Level 12 of Parliament House. The parents' room has a range of facilities for Members and staff, including:

- two cot beds fitted with mattresses, sheets and blankets;
- chairs, ottomans and a day bed;
- a baby change table, nappy disposal bin and side table;
- a play area with books, toys and a television;
- a kitchenette and microwave; and
- a workstation for the convenience of Members on busy sitting days.

Trial of committee announcements via video

As part of the New South Wales Legislative Assembly's digital strategy, in May 2017, Committees administered by the Assembly commenced a trial of using videos to make Committee announcements. The videos are accessible via the Parliament's YouTube channel and are promoted through the Assembly's Twitter feed and the Parliament's Facebook page. The videos are intended to complement other means of Committee engagement, such as engaging with the media and contacting stakeholders directly.

Renaming General Purpose Standing Committees as Portfolio Committees

The New South Wales Legislative Council's General Purpose Standing Committees (GPSCs) are responsible for overseeing specific ministerial portfolios and for conducting the annual Budget Estimate hearings. The GPSCs were first established in 1997, and have been an integral part of the Council's Committee system in each Parliament since that time.

On Tuesday 7 March 2017, the House resolved to rename the six GPSCs as Portfolio Committees in keeping with a recommendation made by the Select Committee on the Legislative Council Committee System in November 2016.

The report of the Select Committee found that the name General Purpose Standing Committee did not adequately describe the remit of the Committees and that a more apt title that would enhance citizens' understanding of the legislature should be identified. Each GPSC has now been renamed as a Portfolio Committee, followed by a brief description of the key portfolios overseen by each Committee. For example, the former GPSC No. 1 has become Portfolio Committee No. 1 - Premier and Finance.

Other recommendations of the Select Committee on the Legislative Council Committee System, which go to issues such as scrutiny of legislation and regulations by Committees, the budget estimates process and take note debate arrangements, are still under active consideration.

QUEENSLAND

Redistribution

As foreshadowed previously, the Queensland Redistribution Commission, on 26 May 2017, released its final report and has redistributed Queensland into 93 electoral districts. According to the commission's website, no appeals were made during the 21 day appeal period and as a result, the boundaries are considered final and are not subject to change until the next state redistribution. The Attorney-General tabled a copy of the report on 16 June 2017.

The 93 electoral district boundaries will come into place when the writ is issued for the State General Election which is due sometime in the next 12 months. Work has now commenced to identify new electorate office premises as a result of the redistribution.

Citizen's Right of Reply

On 16 June 2017, the Speaker advised that he would ask the Committee of the Queensland Legislative Assembly to consider whether the Standing Orders dealing with citizen's right of reply should be amended as the current rules restricted right of reply submissions to the term of the Parliament in which the person was adversely referred to.

The Speaker noted that *"if a member of the public feels aggrieved by a comment that a Member of Parliament has made, once the Premier calls an election that member of the public has no further right in the next parliament to a right of reply."* In the Speaker's view, an aggrieved citizen should have a maximum of four years from when the Member referred to the citizen, and the calling of an election should have no impact on their right of reply.

Later that day, the House agreed to a motion moved by the Leader of the House amending Standing Order 280(3) to provide that:

(3) A person shall ensure a submission is received by the Speaker within four years from the date on which the person has been adversely referred to in the Legislative Assembly or a Committee.

SOUTH AUSTRALIA

Bumper Question Times

During the current Fifty-Third Parliament, it has been the Speaker's practice to enable the Opposition to ask a large number of questions (including supplementary questions) in quick succession during Question Time.
More recently, an informal agreement negotiated between the Speaker and the Leader of the Opposition has enabled many more questions from the Opposition benches. In exchange, the Opposition has agreed to keep all questions factual, brief and to refrain from seeking leave to explain the question.

This practice is a marked departure from previous Parliaments where the Opposition was guaranteed only ten questions and where each Opposition question was followed by a Government (Dorothy Dixer) question.

On Tuesday 11 April 2017, at the end of a busy Question Time, the Speaker advised the House that the Opposition had asked over 50 questions (53 in fact) during the allotted hour. During the following sitting days, Opposition questions asked have fluctuated between 24 and 65, and on average have numbered just under 43 for each Question Time period.

At a time when the Government was under intense scrutiny over its handling of the Oakden Mental Health Facility, the arrangement with the Speaker has provided the Opposition with the opportunity to ask 385 questions in 9 sitting days, the vast majority of which were directed at the Minister for Disabilities, Mental Health and Substance Abuse, who was responsible for managing the Oakden facility.

While the practice to provide unlimited questions to the Opposition continues, on the last sitting day, before Estimates Committee hearings, only 15 Opposition questions were asked.

Joint Committee on Findings of the Nuclear Fuel Cycle Royal Commission

The Motion to establish this Joint Committee was moved in the House of Assembly by the Premier, **Hon. J W Weatherill MP**, on 18 May 2016 in response to the Royal Commission on the Nuclear Fuel Cycle. It was concurred with in the Council on 24 May 2016. The Legislative Council became the administering House for this Joint Committee in accordance with the practice of alternating Joint Committees between the two Houses.

The Committee was charged with examining and providing advice on the findings of the Royal Commission.

The Royal Commission had recommended that a deep geological repository be constructed in South Australia to receive high-level nuclear waste from countries running nuclear power generation programs. It proposed a facility twice the size of any other like facility currently under construction, with the aim of providing an eventual annual revenue stream in the vicinity of $1b.

The Joint Committee held public hearings on 17 occasions, taking evidence from 40 individual witnesses, representing 26 different groups, agencies and NGOs.

Further to the evidence heard locally, the Committee travelled internationally in August-September 2016 to conduct site visits and meet with experts in the field. This was made possible by special funding provided by the Treasury for the purpose. In Finland, the Committee met with the Finnish radioactive waste regulatory body, STUK and Greenpeace Finland.
It then travelled to Eurajoki province to tour the site of the Finnish Onkalo deep geological repository and meet with builders/operators POSIVA.
The Committee then spent two days in France, meeting with the OECD's Nuclear Energy Agency and Areva Energy in Paris, before heading east to tour the Cigeo deep geological repository under construction at Bure. The Committee met with the International Atomic Energy Agency in Vienna before travelling to the US where it met with various legislators, regulators, interest groups and industry professionals in New Mexico and Nevada. The Committee's Report is imminent.

VICTORIA

Parliamentary Budget Officer established

Legislation has finally passed in the Victorian Parliament to establish a Parliamentary Budget Officer (PBO). There has been debate about the need for a Victorian PBO for several years and there were two failed attempts to establish one in the previous Parliament. In September 2013, the Labor Opposition sought to introduce a Bill but its introduction was defeated by one vote. The Liberal Government then introduced its own Bill in December 2013, but that Bill lapsed when a reasoned amendment was agreed to, again by one vote.

The current Labor Government revisited the idea, and introduced legislation in February 2016. The Bill passed the Assembly unamended in March 2016 but then stalled in the Legislative Council. It was eventually returned with amendments 12 months later in March 2017. The Assembly agreed to the Council's amendments in June 2017, and the Act came into operation on 1 July 2017.

Under the legislation, the Parliamentary Budget Office is established as a permanent administrative office of the Parliament and the PBO is an independent officer of the Parliament employed under the Parliamentary *Administration Act 2005*. It is now the role of the Public Accounts and Estimates Committee to recommend to the Minister the appointment and terms and conditions of appointment of the PBO.

Robot gives evidence to Parliamentary Committee

In what may be a parliamentary first, a robot gave evidence at a public hearing of the Family and Community Development Committee at the Victoria Parliament. The robot, named NAO, appeared with representatives from a company named the Brainary as part of its inquiry into services for people with autism spectrum disorder (ASD).

NAO is specifically designed to support children with ASD and help them engage with

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others. Children can engage directly with NAO and ask NAO questions, which NAO is able to respond to; they can also play games with NAO and direct NAO to dance.

At the hearing, the Committee asked NAO questions to which it responded, and NAO also showed the Committee some of its dance moves.

Government report: Claim of Executive Privilege used to withhold information from Committee

The Legal and Social Issues Committee of the Victoria Legislative Council is conducting an Inquiry into Youth Justice Centres in Victoria. Part of the Inquiry process includes viewing previous reports relevant to this issue.

A 2016 report prepared for the Department of Health and Human Services (DHHS) by consultant Mr Peter Muir entitled *Review, critical incidents at Parkville Youth Justice Centre*, was partially leaked to the media in late 2016.

On 9 February 2017, the Committee wrote to the Secretary of the Department requesting a copy of the report. In response, the Committee was verbally advised that DHHS was concerned about releasing information containing personal details to the Committee.

The Committee was subsequently made aware of a 2015 report prepared by Mr Muir, *A review of the approach to the prevention of occupational violence in secure services*. It also learnt that several organisations and individuals were provided with the Muir reports. A number of submissions to the Inquiry quote Muir and several witnesses at public hearings also quoted parts of the reports to the Committee.

On 2 June 2017, **Jenny Mikakos**, the Minister for Families and Children and Minister for Youth Affairs, wrote to the Committee claiming executive privilege over both reports. The Minister referred to an April 2015 letter from the Attorney-General to the Acting Clerk of the Legislative Council stating what it believed to be limits on the Parliament's power to call for documents. The Committee was of the view that, as the Executive is responsible to the Parliament, the correct procedure would be for the documents to be provided to the Committee with a claim of executive privilege. The Committee would then assess that claim. As such, on 8 June 2017, the Committee summonsed both reports from the Department pursuant to Legislative Council Standing Orders 17.06 and 23.19.

The Secretary replied to the Committee on 16 June, informing the Committee that she had been directed by the Attorney-General to abide by the claim of executive privilege.

On 22 June 2017, the Committee wrote to Minister Mikakos stating that *"a valid claim of executive privilege has not been made"* and requested the documents by 27 June 2017. The letter included examples of individuals and organisations, including the media, who had been provided with access to the documents.

At a public hearing on 27 June 2017, the Committee was informed that the reports had been provided by DHHS to the Department of Justice and Regulation, and to both Professor James Ogloff and Penny Armytage who conducted a review of the youth justice system.

WESTERN AUSTRALIA

March 2017 State General Election

On 11 March 2017, Western Australia went to the polls to decide the complexion of the 40th Parliament. Political commentators widely believed that the incumbent Liberal-National alliance government would experience a swing away from them, and that the result of the election would mean that the numbers in the Legislative Assembly would be very close.

As it transpired their predictions were wide of the mark, with Labor enjoying a massive swing towards them, sweeping to power in a landslide victory. The final confirmed tally of seats saw Labor winning 41 of the chamber's 59 seats, the Liberals winning 13 seats, and the Nationals winning 5 seats.

This means that Labor have a massive working majority on the floor of the Assembly, while the Opposition are stretched in covering shadow portfolios. The outcome of the election also saw the Legislative Assembly experience a record increase in women in the House, with 18 of the 59 seats (30%) occupied by female members.

The complexion of the Legislative Council, by contrast, is vastly different. The proportional representation electoral system used to elect members of that chamber means that traditionally Labor governments struggle to hold a majority in the Council. So it proved at this election, with Labor winning 14 of the Council's 36 seats, with the Liberal Party holding 9, the Nationals and Greens four each, Pauline Hanson's One Nation three, with one Shooter, Fisher and Farmer and one Liberal Democrat. Given that the Labor Presiding Officer, **Hon. Kate Doust, MLC**, Western Australia's first female President, has only a casting vote, the government has some significant negotiation ahead of it, if it is to pass its legislative agenda through the House.

The new configuration of the Western Australia Legislative Assembly post-election has also had an impact on the make-up of Committees in the 40th Parliament. While the government are more than able to supply enough Members to fill their share of the 33 Committee positions available, the Opposition faced the prospect of spreading its Members too thinly. Traditionally Opposition Members in key leadership positions would refrain from also adding Committee work to their workload; however their numbers have necessitated that all Members (with the exception of the Leader of the Opposition, Deputy and the ex-Premier) serve on least one Committee.

Membership of Committees was also topical in the first few weeks of sitting for a different reason. The Joint Standing Committee on the Corruption and Crime Commission, the Parliament's Oversight Committee to its anti-corruption watchdog, is established by statute but its membership is not set out in the Standing Orders of the Legislative Assembly. The Committee comprises two Members from each house, and it has been practice that one Member from each of the two major parties is appointed from each House. In appointing its Committee membership, the Legislative Council broke with this practice, appointing one Green Member and one Liberal. This had implications for the Assembly, where the government's desire to ensure it had at least equal representation on the Committee necessitated that it appoint two government Members. The motion to appoint these Members was subject to vigorous debate, with the Opposition arguing that it would have no Members in the Assembly to speak to reports of the Committee or represent the workings of the Committee during the inquiry process. The Opposition also raised legal questions over a section of the *Corruption, Crime and Misconduct Act 2003*, which confers some functions upon that Committee, with reference to government and non-government Members. Owing to the numbers in the Assembly the motion prevailed, with the issue likely to be revisited during the remainder of the sitting year.

The first few weeks of parliamentary sittings were dominated by the necessity to pass a Loan Bill in order to *"provide public services and infrastructure investment."* The government sought authorisation of $11 billion in order to meet estimated borrowing requirements of the consolidated account until 30 June 2021. This is the single largest Loan Act authorisation on record in this state, and it prompted vigorous debate in both Houses. Interestingly, in the Assembly the National Party moved a reasoned amendment at the second reading stage, in an attempt to frustrate the government. The amendment resulted in the motion *"that the Bill be read a second time only after the Treasurer agrees to amend the Loan Bill 2017 during consideration in detail to authorise the borrowing of $3.8 billion for public purposes"* being put to a vote. Given the Nationals hold only five seats and did not have the support of the Liberal Party, the amendment was defeated.

The start of the 40th Parliament has seen a dramatic rise in the number of questions on notice being submitted in the Legislative Assembly. The bulk of these questions have come from one new Opposition Member. In the first five full sitting weeks, 1,654 questions on notice were asked, which averages to 331 written questions per week. In contrast, in 19 sitting weeks last year 1,123 questions on notice were asked for an average of 59 per sitting week, and in 2015, 1,492 were asked over 21 sitting weeks for an average of 71 questions per sitting week.

The Member responsible for this spike in questions has devised a novel approach to formulating questions by crowdsourcing them, asking his constituents, via his website, to submit suggested questions. If he deems them fair and reasonable, he will submit them to Ministers and post their responses on his website. For this practice he has coined the phrase *'BYO Parliamentary Question'* (BYO = Bring your own). It remains to be seen whether questions will continue to be submitted at this rate, but what is certain is that 2017 will hold the record for most questions on notice asked in Western Australian parliamentary history.

A new beginning

In what now seems a distant memory, the year began with Western Australia Legislative Council officers undertaking necessary tasks and projects in anticipation of the new Parliament.

While the election held on 11 March 2017 returned a new Government (ALP) with a clear majority in the Legislative Assembly (41 of 59 seats), the Government won 14 of the 36 seats in the Legislative Council. Members from 7 political parties were elected to the Legislative Council. The Liberal Party won 9 seats, the Greens 4 seats, the National Party 4 seats, Pauline Hanson's One Nation 3 seats, with one member each elected from the Shooters, Fishers and Farmers Party and the Liberal Democrats.

On 11 May 2017, Her Excellency **Hon. Kerry Sanderson AO**, Governor of Western Australia, opened the 40th Parliament, commencing what may be an interesting and unpredictable session in the Legislative Council. This was the first time a female governor had opened the Parliament. In another first for Western Australia, the Council elected the first female Presiding Officer when **Hon. Kate Doust, MLC** was elected President of the Legislative Council.

Madam President said: *"As the first female President of the Legislative Council, and my own experience as a working mother, I am very keen to make sure that we look at ways to make Parliament much more family friendly. I am also very keen, given my passion for technology, to investigate ways in which we can incorporate technology into the Council in a range of areas, to not only make us more productive, but also open up opportunities for better engagement with the community."*

Western Australia also has the first female leader of the government in the Legislative Council with **Hon. Sue Ellery, MLC**, Minister for Education and Training, in that role. With 13 of the 36 Members being new Members, House and Committee induction seminars were well attended.

The first two months of sitting was dominated by debate on the Address-in-Reply, Loan Bill 2017 (seeking a record $11 billion), Supply Bill 2017 and the passage of the Constitution Amendment (Demise of the Crown) Bill 2017 which, if enacted, will ensure that the demise of the Crown has no legal effect in Western Australia.

Committees are identifying potential inquiries and sessional priorities. The Uniform Legislation and Statutes Review Committee has already undertaken two inquiries and the Public Administration Committee has self-referred an inquiry into WorkSafe WA (the Government agency responsible for the administration of the Occupational Safety and Health Act 1984). The next few months may see the commencement of further inquiries, the establishment of joint and/or Legislative Council Select Committees and perhaps more surprises in this 40th Parliament.

AUSTRALIA

PRIME MINISTER IN DAMAGE CONTROL

Prime Minister Turnbull in damage control

The Prime Minister, **Hon. Malcolm Turnbull, MP**, has faced further attacks from former Prime Minister, **Hon. Tony Abbott, MP**. Mr Turnbull, a moderate, rested control of the Liberal Party from Mr Abbott, a conservative, in September 2015. But Mr Abbott has not gone quietly. The Liberal Party is a marriage between conservative and moderate members. In the past the policy tensions between these two factions were often kept under wraps but not now. The disputes are public and increasingly damaging the electoral prospects of the government.

The policy divide in the Liberal Party is most evident in the debates over marriage equality and climate change. The moderates support marriage equality and the right of the Parliament to decide this matter by conscience vote. The conservatives oppose marriage equality and will only support a plebiscite by the people first to decide the matter. Moderate members support more progressive action on climate change. The conservatives are opposed to an emissions trading scheme and some still support coal fired power stations.

In June, the battle within the Liberal Party became ever apparent. Leading moderate and Leader of the House, **Hon. Christopher Pyne, MP**, was caught on a leaked tape boasting about the power of the moderates. Mr Pyne commented that *"we have done very well as a group of people over many decades when people said the party was swinging to the Right and we were finished."* In particular, he raised the ire of the conservatives by claiming that marriage equality could become a reality *"sooner than everyone thinks."* These comments were widely reported and predictably generated a robust response from the conservative members who called for Mr Pyne to be sacked as Leader of the House.

Mr Abbott raised tensions further when at a Liberal Party forum on 1 July he commented that for *"too long the party hierarchy has expected the rank and file to turn up, to pay up and to shut up. Let's take our party back and then we can win the next election."*

The Leader of the Opposition, **Hon. Bill Shorten, MP**, chimed in commenting that the row between Mr Turnbull and Mr Abbott was becoming intolerable. He said that *"they need to decide one of them has got to stay, one of them has got to go. I don't really mind which it is, but I think for this nation, they need a government which is focused on the needs of everyday people, not just some argument between two silly older blokes."*

On 2 July, Mr Turnbull took a hard-line stance to the factional infighting by threatening to leave parliament if he is removed as leader. Normally this would have little meaning except that the government holds power with a one seat majority and a by-election could be problematic for the government's slim hold on power.

The Minister for Finance, **Senator Hon. Mathias Cormann**, commented in relation to Mr Abbott that *"some of his interventions in the past sadly have been somewhat destructive were able to be interpreted as undermining our efforts to provide strong and effective government."*

The infighting and disunity is causing considerable damage for the government. A House and half Senate election can be held from August 2018 to May 2019. So between now and then the government needs to turn around its position if it is to hold on to government.

Senate Estimates

Senate Budget Estimates were held between 22 May and 1 June. Additional estimates are held in February and supplementary budget estimates are held in October. Estimates hearing are one of the most effective means by which the Parliament scrutinises and holds executive government to account. Through the estimates process, the Senate Committees scrutinise the performance of the public service and its administration of government policy and programs. During estimates, various Senate Committees hold hearings at which the responsible Minister, or representative, and officers are called to answer questions on their respective programs. These hearings are held in public and Committees performing their estimates functions do not receive confidential material.

During the two weeks of scrutiny a range of issues were examined. In particular, the Senate Economics Committee scrutinised the Australian Taxation Office (ATO) over an alleged conspiracy to defraud the ATO over an estimated $130 million. The allegations are particularly troubling because two of the alleged conspirators are the son and daughter of a Deputy Commissioner of Taxation, Mr Michael Cranston. Mr Cranston was not suspected of being involved in the conspiracy but telephone intercepts between him and his son implicated him in an alleged lesser offence of abuse of public office. This related to Mr Cranston's attempt to get other officers to access relevant tax file information.

The Commissioner of Taxation, Mr Chris Jordan explained that *"people tried to get access and that, in itself, is the offence. You are not allowed to try to get access to information that you are not supposed to look at. So that was the offence of the other officers being asked by Michael Cranston to have a look at this, but they could not find anything."* Mr Cranston later resigned and is facing charges in relation to this matter.

During the estimates hearing, Mr Jordan was examined in relation to these events commenting that *"in February 2016, as part of our routine monitoring, we identified a small number of entities that went into liquidation owing pay as you go withholding and GST payments, and the matter was referred to our tax evasion and crimes area for review and potential audit action. Our initial review showed the presence of a syndicate that appeared to be promoting phoenix arrangements to the labour hire industry in the construction and IT sectors. Because some potential criminal links were identified, covert audits and reviews were commenced. Over the year, we progressively uncovered a complex web of suspected tax evasion involving a multitude of entities and individuals. The identities and details of those involved are not all apparent to start with."*

The Chair of the Committee, **Senator Jane Hume** asked Mr Jordan at what point did they lock down Mr Cranston's access to various ATO files. Mr Jordan commented that *"the AFP specifically asked me not to change anything around Michael Cranston, because they did not want that to tip-off the syndicate that something might be wrong. He did not have suspicions. He had normal access to our systems right up until the time of the execution of the raids. However, as with me, even though he is in charge of the area, it is on a need-to-know basis. He could not access the files around the alleged fraudulent activity in which his son was allegedly involved. He could not access that. Once that audit team knew for certain that Adam Cranston was not only involved but apparently a principal in the syndicate and that he was Michael's son, it was further locked down. Our systems are very much on a need-to-know basis."*

Two Senators resign and a Minister stands down over dual citizenship status

On 14 July, Deputy Greens Co-Leader, **Senator Scott Ludlam** announced that he was resigning as a Senator because he was in breach of the dual nationality provisions in section 44 of the Australian Constitution. Section 44(i) of the Constitution states that *"any person who is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power shall be incapable of being chosen of or sitting as a Senator or a Member of the House of Representatives."*

Senator Ludlam advised that he holds dual citizenship of Australia and New Zealand and therefore he was ineligible to hold elected office. Senator Ludlam stated that *"I apologise unreservedly for this mistake. This was my error, something I should have checked when I first nominated for preselection in 2006. I have no wish to draw out the uncertainty or create a lengthy legal dispute, particularly when the Constitution is so clear. I am resigning as Senator for Western Australia and Co-Deputy Leader of the Australian Greens, effective today."* He explained that *"I was born in Palmerston North, New Zealand, left the country with my family when I was three years old, and settled in Australia not long before my ninth birthday. I was naturalised when I was in my mid-teens and assumed that was the end of my New Zealand citizenship."*

There have been previous cases where Senators and Members have been removed under section 44. For example, in 1998 the election of Senator Heather Hill was challenged in the High Court on the grounds that she held dual citizenship of Australia and the United Kingdom. The High Court agreed and found that her dual citizenship made her election invalid under section 44(i) of the Constitution.

Senator Ludlam's case is unusual because he has brought attention to his ineligibility and taken the step to resign. Senator Ludlam's resignation was not the end of the story. It is estimated that over 20 Federal Parliamentarians were born outside of Australia or have parents that through their origins could confer entitlements to citizenship of another country.

On 18 July, the other Deputy Greens Co-Leader, **Senator Larissa Waters**, in a devastating blow to the Australian Greens, announced that she also was in breach of section 44(i) of the Constitution and would be resigning. Senator Waters stated that *"I left Canada as a baby, born to Australian parents studying and working briefly in Canada before they returned home. I have lived my life thinking that as a baby I was naturalised to be Australian and only Australian, and my parents told me that I had until age 21 to actively seek Canadian citizenship. At 21, I chose not to seek dual citizenship, and I have never even visited Canada since leaving at 11 months old. However after Scott's shock discovery, I immediately sought legal advice, and was devastated to learn that because of 70 year old Canadian laws I had been a dual citizen from birth, and that Canadian law changed a week after I was born and required me to have actively renounced Canadian citizenship."*

The fallout from these resignations has raised a series of questions about the relevance of section 44(i) of the Constitution which was enacted in 1901 and whether this provision remains relevant in the 21st century. The Deputy Prime Minister, **Hon. Barnaby Joyce, MP**, lamented that the Constitution is the Constitution and must be followed. The Australian Constitution can only be changed by the Australian people where in a majority of States a majority of electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law. It is an extremely high hurdle and there is little interest by senior leaders for seeking to change section 44(i).

The Prime Minister, **Hon. Malcolm Turnbull, MP**, entered the debate by criticising the Greens for their sloppiness. Mr Turnbull commented that *"it is pretty amazing, isn't it, that you have had two out of nine Greens Senators didn't realise they were citizens of another country. It shows incredible sloppiness on their part. You know, when you nominate for Parliament, there is actually a question - you have got to address that Section 44 question and you've got to tick the box and confirm that you are not a citizen of another country. It is extraordinary negligence on their part."*

Mr Turnbull, however, would soon regret his comments. On 25 July one of Mr Turnbull's senior Cabinet Ministers, **Senator Hon. Matt Canavan**, resigned from Cabinet because there were doubts raised about his eligibility under section 44(i). Senator Canavan did not resign as a Senator because there is some doubt about his circumstances which will require the High Court to adjudicate on. The Attorney-General, **Senator Hon. George Brandis** noted that Senator Canavan had received advice from the Italian Embassy that he was registered as an Italian citizen. This arose because in 2006, Senator Canavan's mother registered herself and Senator Canavan with the Italian Consulate in Brisbane as an 'Italian Resident Abroad' which is a form of citizenship. Senator Canavan, however, did not authorise this to be done. Senator Brandis stated that *"it is the Government's preliminary view that, because the registration was obtained without Senator Canavan's knowledge or consent that he is not in breach of section 44 of the Constitution.*

Nevertheless, in view of the legal uncertainty concerning the matter, when the Senate convenes on Tuesday week, the government will move to refer the matter for determination by the High Court."

Senator Canavan commented that *"to my knowledge, until this week I have not received any correspondence from the Italian authorities about my citizenship status and they have not been able to provide any such records. In the short time available, I have not been able to obtain definitive legal advice as to whether my registration as an Italian citizen, without my knowledge or consent, was valid under Italian law. I am seeking to obtain that advice presently. On the basis of the advice the Government has obtained, and that George outlined, it is not my intention to resign from the Senate."*

Senators Ludlam and Waters were both born outside Australia. In contrast, Senator Canavan was born in Australia but is brought into the scope of section 44 as a result of bloodline. To comply with section 44, elected representatives would have to demonstrate that they had taken decisive action to renounce a foreign nationality.

To replace Senators Ludlam and Waters will be by count back and should be relatively straight forward. The Government does not have a majority in the Senate. However, in the House of Representatives, the Turnbull Government has a slender one seat majority. If the election of a government member in the House of Representatives was contested on the grounds of section 44(i) and upheld then this would require a by-election to fill the vacancy. This is the biggest danger for the Turnbull Government because if it lost a by-election it would be very difficult for it to govern.

THIRD READING: AUSTRALIA FEDERAL

Major Bank Levy Act 2017

The Major Bank Levy Act implements the Australian government's commitment to introduce a new six-basis point levy on the big banks' liabilities starting on 1 July. The Treasurer, **Hon. Scott Morrison, MP**, during his Budget speech, commented that the levy *"represents an additional and fair contribution from our major banks, is similar to measures imposed in other advanced countries, and will even up the playing field for small banks."*

The levy will only affect the five largest banks with assessed liabilities of $100 billion or more and does not apply to superannuation funds or insurance companies. The five banks affected include the Commonwealth Bank (CBA), Westpac, the Australian and New Zealand Banking Group (ANZ), the National Australia Bank (NAB), and the Macquarie Bank.

The Treasurer, as part of his second reading speech, commented that *"Australia's five largest banks are highly profitable - earning more than $30 billion a year after tax - and benefit from a regulatory system that has helped to embed their dominant position in the market. For example, the major banks are accredited to use internal ratings-based models that allow them to reduce the amount of capital that they must hold, lowering their funding costs relative to the smaller banks who rely on standardised risk weights. They also contribute to systemic risk through their scale and concentration to the financial system - risks that ultimately fall on the broader Australian community."*

Mr Morrison noted that *"unlike the previous bank deposits tax measure, which was abolished by this government, smaller banks will not be liable to pay the major bank levy." The Treasury estimates that the levy is expected to raise around $1.5 billion a year. Mr Morrison noted that "this represents a fair contribution by the banking sector to the Australian community and contributes to a long-term balanced budget."*

Mr Morrison commented that *"the House of Representatives Economics Committee's review of the four major banks, commissioned by the Prime Minister and myself last year, concluded that Australia's banking sector is an oligopoly and that Australia's largest banks have significant pricing power which they have used to the detriment of everyday Australians. This is not a situation that I or the government are willing to accept."*

Mr Morrison cautioned the banks that the levy is not an excuse to charge customers more. He commented that *"following the introduction of the levy, it is my expectation that, in setting their prices, banks will effectively balance the needs of borrowers, savers, shareholders and the wider community."*

During a debate in the Senate, the Shadow Minister for Small Business and Financial Services, **Senator Katy Gallagher** indicated that Labor supported the legislation. She commented that *"from the outset, Labor will be supporting the Bill. We do have a lot of fights with the government about many things, but we resolved quite early on that we would not stand in the way of the government on this measure. The state of the budget and the need for this measure in relation to budget repair has certainly assisted us in coming to this conclusion. Thanks to this government's budgetary mismanagement, gross debt smashed through the half a trillion mark last week, for the first time in the nation's history. With debt and the deficit blowing out under this government's watch, it would be irresponsible of Labor to take an alternative position. But that does not mean we are going to provide a leave pass for the incompetence of the government and the Treasurer."*

Senator Gallagher criticised the government for believing that the banks will not pass on to customers some of the cost of the levy. She commented that when the Treasurer *"introduced the concept of a bank levy, at least Labor was honest about the effect it would have on consumers. This is in stark contrast to the approach the government has taken on this levy."* Senator Gallagher noted that when the banks were examined by a Senate Committee *"they all said that the bank tax will not simply be absorbed."*

Senator Peter Whish-Wilson, Australian Greens, commented that *"I am very glad to say that Greens policy now for nearly a decade has been to put a levy on the big banks here in this country. This levy is not quite as big as we would like to have seen, and it may have been structured differently under our policy. Nevertheless the principles are the same.' He noted that 'the banks have not done themselves any favours in this country. There has been scandal after scandal, which a number of us have heard the evidence on. We have heard from the victims of financial crime, and I have no doubt that the threat of a royal commission will help."*

Senator Nick Xenophon, Nick Xenophon Team NXT, noted that the NXT supports the broad principles of the bank levy. He commented that *"one of the main reasons is that this will give a leg-up to those regional banks, those community owned banks, and a chance to compete more fairly and more effectively, because they have been at a competitive disadvantage since the GFC, when the Rudd government - quite appropriately, I believe - put up a package of measures to ensure the safety of the banks."* Senator Xenophon went further than the government's proposal by suggesting that foreign banks *"should also be hit with this levy, because this could raise some $750 million to $800 million over the forward estimates."* Senator Xenophon commented that by excluding the foreign banks, *"this has the perverse impact of according a preferred status to foreign banks over Australian banks in the latter's home market. Three of the banks in question are global in size. Some of them have assets or liabilities in the trillions of dollars. They have global size and reach, and they compete in precisely the types of lending that is targeted by the levy - in particular, lending to large companies and institutions, as well as lending in the home loans in the case of HSBC and ING. They are significant lenders."*

Senator David Leyonhjelm, Liberal Democratic Party, was opposed to the levy commenting that *"some of the $6.2 billion that the government hopes to collect from this bank tax would come from bank customers who will receive reduced interest on their deposits and pay higher interest rates on their borrowings. Banking is not a sin that warrants a new sin tax. The welfare recipients and public servants that this $6.2 billion is earmarked for do not deserve the money more than the banks' shareholders, employees and customers."*

Australian Education Amendment Act 2017

The Australian Education Amendment Act provides for far reaching reform of education funding and the way funding is allocated through a needs-based approach.

The Assistant Minister for Vocational Education and Skills, **Hon. Karen Andrews, MP**, commented that *"on 2 May, the Turnbull government announced an extra $18.6 billion in recurrent schools funding on top of already record and growing funding for Australian schools over the next 10 calendar years."* Ms Andrews noted that *"we will move to a truly needs-based approach that means that the same student with the same need attracts the same amount of Commonwealth funding in each state, territory and school sector."*

The funding approach is based on a review conducted by David Gonski, AC. In his 2011 report he noted that *"the current funding arrangements for schooling are unnecessarily complex, lack coherence and transparency, and involve a duplication of funding effort in some areas."* In particular, Gonski stated that *"Australian Government funding arrangements for government schools, and for non-government schools under the socio-economic status funding model, are based on an outdated and opaque average cost measure, the Average Government School Recurrent Costs. As such, the funding that is provided to schools does not directly relate to schooling outcomes, and does not take into account the full costs of educating students to an internationally accepted high standard of schooling."* The then Gillard Labor Government implemented its own version of Gonski.

Ms Andrews stated that we *"will truly implement the Gonski needs-based approach, delivering the Schooling Resource Standard that provides a base amount plus six loadings for disadvantage."* The government's adoption of the Gonski funding model was generally referred to as Gonski 2.0.

Ms Andrews advised that *"as the Australian Education Act 2013 currently stands, Commonwealth recurrent funding varies considerably depending on negotiated arrangements by the former Labor government with state and territory governments. This means students with the same need in the same sector are treated differently because of the state in which they live."* She cautioned that *"if the current legislation continued without amendment, the transition to any form of more consistent needs-based funding is not guaranteed, not even within decades, or even within 150 years in some instances."*

The Minister commented that the legislation *"delivers a robust, needs-based system addressing the unfairness in the current funding model by removing the special deals made by the former government that have resulted in students with the same need within the same sector being treated differently just because of the state in which they live."*

The Opposition Labor Party was opposed to the revised funding model. The Shadow Minister for Education, **Hon. Tanya Plibersek, MP**, commented that the government's proposal *"takes us from a sector-blind, needs-based funding model established under Labor to the exact opposite - a sector-specific system which cuts support from some of our neediest students. This Bill would entrench a system that is not fair, that is not needs based, that is not sector-blind, and our practical objection is that it rips $22 billion from our schools over the decade. It continues to leave students who have a disability with uncertainty, it abandons important reforms and it surrenders our ambition to improve Australian schools."*

With the government and opposition clearly divided on the Gonski 2.0 reforms, it would again be the non-government controlled Senate that would decide whether the reforms would proceed.

Senator Pauline Hanson, One Nation, indicated that her party would be supporting the legislation. She commented that *"the Labor Party have been talking about there being a cut under this Bill of $22 billion. My understanding is that it is a lie. There is no cut of $22 billion. It is like Labor have gone out there and promised: 'We were going to be putting an extra $30 billion into the educational funding. Now the government is bringing it back to $18.6 billion, so therefore Australians have lost $22 billion.' No, you can have your wish list; you can go out there and say, 'We're going to give you this money,' but unless it is actually there on paper, in black and white - I can go out and say, 'I'm going to give you $1,000,' when I only have $500 to give. Unless you produce it, don't go out there telling lies to the public. That is exactly what they are doing now."*

Senator Derryn Hinch, Derryn Hinch's Justice Party, indicated that he would support the legislation and was critical of Labor's scare campaign. Senator Hinch stated that *"frankly, the $22 billion Labor scare campaign was a lie. I do not like either side when you lie to me. I watched those TV commercials and talked to various people on the opposition bench. It was like me coming in here today and making a promise that, in 2045, I will give $60 billion to gambling casinos - because I am in favour of gambling - and then a new government comes in and decides they will cut $50 billion of that $60 billion and will not give it. So I then run a TV campaign saying the government are bastards; they have cut $50 billion from James Packer's coffers - $50 billion that was not there in the first place."*

INDIA

INDIA ELECTS ITS PRESIDENT

India elects its President

Shri Ram Nath Kovind was sworn in as the 14th President of the Republic of India by the Chief Justice of India, Justice Jagdish Singh Khehar on 25 July 2017 in a special function at the Central Hall of Parliament. He was the ruling National Democratic Alliance (NDA) candidate for the office of President and emerged victorious against the Opposition candidate, Smt. Meira Kumar, a former Union Minister and former Speaker of Lok Sabha. Shri Kovind received 2,930 votes (valued 7,02,044) and Smt. Kumar got 1,844 votes (valued 3,67,314). There were a total of 4,774 valid ballot papers representing 1,069,358 votes.

Born on 1 October 1945, in Uttar Pradesh's Kanpur Dehat, Shri Ram Nath Kovind is an Advocate by profession. He became a Member of Rajya Sabha from Uttar Pradesh in 1994 and served as an MP for two consecutive terms until 2006. He was Chairman of the House Committee of Rajya Sabha. Shri Kovind was appointed as the Governor of the State of Bihar in August 2015 and had resigned from the post to contest the Presidential Election.

Under the Constitution of India, there shall always be a President of India. They hold the highest elective office in the country and the executive power of the Union is vested in the President. The supreme command of the Defence Forces is also vested in them. A Bill passed by Parliament becomes an act only after receiving their assent. The President holds office for a period of five years from the date on which they enter upon their office. They shall, however, continue to hold office notwithstanding the expiry of their term, until their successor enters upon their office. The President is elected in accordance with the provisions of the Constitution and the Presidential and Vice-Presidential Elections Act, 1952. The said Act is supplemented by the provisions of the Presidential and Vice-Presidential Elections Rules, 1974, and the said Act under Rules form a complete Code regulating all aspects of conduct of elections to the Office of the President.

Election Procedure

The President of India is elected by an Electoral College, consisting of the elected Members of both Houses of Parliament and the elected Members of the Legislative Assemblies of all the States and also of National Capital Territory (NCT) of Delhi and the Union Territory (UT) of Puducherry. Nominated Members cannot vote in this election. As per the Constitution of India, the election of the President is held in accordance with the system of proportional representation by means of single transferable vote and the voting is held by secret ballot. Every elector can mark as many preferences, as there are candidates contesting the election. Members of the Electoral College can vote according to their wish and are not bound by any party whips. The voting is by secret ballot. Therefore, the party whip does not apply in this election. By convention, the Secretary-General of Lok Sabha or the Secretary-General of Rajya Sabha is appointed as the Returning Officer, by rotation. For the 2017 Presidential Election, the Secretary-General of Lok Sabha, Shri Anoop Mishra was the Returning Officer.

Normally Members of Parliament vote in New Delhi and the Members of the State Legislative Assemblies, including the Members of the Legislative Assemblies of NCT of Delhi and UT of Puducherry vote at the place fixed in each State/UT capital. Facilities, however, are provided by the Election Commission of India for any MP to vote in the capital of a State and similarly an MLA may vote at the polling booth set up in the Parliament House, New Delhi if he is in Delhi on the date of poll. However, the MP or MLA who opts to vote in a place other than the place where the Member is designated to vote is required to intimate the same to the Election Commission well in advance to make the necessary arrangements. In exceptional circumstances, MPs and MLAs may also be permitted by the Commission to vote at other State capitals.

The ballot papers are printed in two colours - in green for use by Members of Parliament and in pink for use by the Members of the State Legislative Assemblies. The ballot papers are printed in Hindi and English for use by MPs and in the official language(s) of the State and in English for use by the MLAs of the State concerned.

The value of votes of MLAs differs from State to State. However, the value of votes of all MPs is the same. The value of votes of electors is basically determined on the basis of population of the States in accordance with the manner laid down in the Constitution. The Constitution (Eighty-fourth Amendment) Act, 2001 provides that until the population figures for the first census to be taken after the year 2026 have been published, the population of the States for the purposes of calculation of value of the votes for the Presidential Election shall mean the population as ascertained at the 1971 census.

The value of the vote of each Member of a State Legislative Assembly included in the Electoral College is calculated by dividing the population of the State concerned (as per 1971 census) by the total number of elected Members of the Assembly, and then further dividing the quotient by 1,000. If the remainder, while so dividing is 500 or more, then the value is increased by '1'. The total value of votes of all Members of each State Assembly is worked out by multiplying the number of elective seats in the Assembly by the number of votes for each Member in the respective State.

The total value of votes of all the States worked out as above in respect of each State and added together is divided by the total number of elected Members of Parliament (Lok Sabha 543 plus Rajya Sabha 233) to get the value of votes of each Member of Parliament. The total value of votes of all 4,120 elected Members of all Legislative Assemblies is 5,49,495. The total value of votes of all the 776 elected Members of Parliament (Lok Sabha 543 and Rajya Sabha 233) is 5,49,408. The total value of votes of 4,896 electors for the Presidential Election in 2017 was 10,98,903 (5,49,495 + 5,49,408).

After his swearing in as the President of India, Shri Kovind addressing the distinguished gathering assembled in the Central Hall expressed his gratitude to the 125 crore citizens of India and promised to stay true to the trust they have bestowed on him. Recalling that India would be completing 70 years of its Independence soon, the President said *"we need to build an India that is an economic leader as well as a moral exemplar. For us, those two touchstones can never be separate. They are and must forever be linked."*

Emphasizing that the key to India's success is its diversity, he said *"Our diversity is the core that makes us so unique. In this land we find a mix of states and regions, religions, languages, cultures, lifestyles and much more. We are so different and yet so similar and united."*

He said: *"The India of the 21st century will be one that is in conformity with our ancient values as well as compliant with the Fourth Industrial Revolution. There is no dichotomy there, no question of choice. We must combine tradition and technology, the wisdom of an age-old Bharat and the science of a contemporary India."* He said as the Gram Panchayat (village level local self-government body) must determine India's consultative and community based problem solving, the Digital Republic must help India leapfrog developmental milestones. These are the twin pillars of national endeavour.

The President of India mentioned that nations are not built by governments alone. The government can at best be a facilitator, and a trigger for society's innate entrepreneurial and creative instincts. He said each citizen of India is a nation builder and each one of them is a custodian of India's well-being and of the legacy that will be passed on to coming generations.

Shri Kovind pointed out that people elect their representatives from the Gram Panchayat to Parliament; they vest their will and hopes in these representatives. In turn, the people's representatives devote their lives to the service of the nation. He said *"but our endeavours are not for ourselves alone. Down the ages, India has believed in the philosophy of Vasudhaiva Kutumbakam (the World is My Family). It is appropriate that the land of Lord Buddha should lead the world in its search for peace, tranquility and ecological balance."*

Shri Kovind said: *"India's voice counts in today's world. The entire planet is drawn to Indian culture and soft power. The global community looks to us for solutions to international problems – whether terrorism, money laundering or climate change. In a globalised world, our responsibilities are also global."*

This links us to our global family, our friends and partners abroad, and our diaspora, that contributes in so many ways across the world. It brings us to the support of other nations, whether by extending the umbrella of the International Solar Alliance or being first responders following natural disasters.

While India has achieved a lot as a nation, there should be relentless effort to do more, to do better and to do faster. This is especially so as India approaches the 75th year of its independence in 2022. The President said: *"What must also bother us is our ability to enhance access and opportunity for the last person and the last girl-child from an under-privileged family if I may put it so, in the last house in the last village. This must include a quick and affordable justice delivery system in all judicial forums."*

Shri Kovind said: *"We need to sculpt a robust, high growth economy, an educated, ethical and shared community, and an egalitarian society, as envisioned by Mahatma Gandhi and Deen Dayal Upadhyay ji. These are integral to our sense of humanism. This is the India of our dreams, an India that will provide equality of opportunities. This will be the India of the 21st century."*

Earlier, on 23 July 2017, the Members of Parliament bid farewell to the outgoing President of India, **Shri Pranab Mukherjee** in a function held in the Central Hall of Parliament House. The Vice-President of India and Chairman of Rajya Sabha, **Shri M. Hamid Ansari**; Prime Minister, **Shri Narendra Modi**; Speaker of Lok Sabha, **Smt. Sumitra Mahajan** were also present at the function.

Speaking on the occasion, Shri Pranab Mukherjee said he was a creation of the Parliament – an individual whose political outlook and persona has been shaped by this temple of democracy. Recalling his first entry in to the portals of Parliament, 48 years ago, at the age of 34, he said that his 37 year parliamentary career as a Member of Lok Sabha and Rajya Sabha had been instructive and educative. He recalled that during those days, both the Houses of the Parliament used to reverberate with animated discussions and illuminative and exhaustive debates on social and financial legislations.

Shri Mukherjee mentioned that the recent passage of Goods and Services Tax and its launch on 1 July 2017 was a shining example of co-operative federalism and spoke volumes of the maturity of Indian Parliament. Shri Mukherjee said that he had the privilege of being a witness and a participant in the unfolding scenario of the emergence of a great India. He was concerned that there was a decline in parliamentary time devoted to legislation. He suggested that with the heightened complexity of administration, legislation must be preceded by scrutiny and adequate discussion. He stressed that when the Parliament fails to discharge its law-making role or enacts laws

Right: Shri Ram Nath Kovind (right) being sworn in as 14th President of India by the Chief Justice of India, Shri J. S. Khehar (left) in the Central Hall of the Parliament of India on 25 July 2017.

without discussion, it breaches the trust reposed in it by the people. Shri Mukherjee said that he had greatly benefitted from the advice and co-operation extended by Prime Minister Shri Narendra Modi at every step.

The Vice-President of India and Chairman of Rajya Sabha, Shri M. Hamid Ansari said that Shri Mukherjee's contributions in enriching the national life, parliamentary institutions and political discourse are highly regarded along with his unshakable belief in the idea of India. Lauding the contribution of Shri Mukherjee as a Parliamentarian, Shri Ansari said that he strove to raise the level of debates and discussions in Parliament by erudite articulation on issues of public importance.

The Speaker of Lok Sabha, Smt. Sumitra Mahajan observed that Shri Mukherjee always held the institution of Parliament and its traditions in the highest regard and upheld the dignity and decorum of both the Houses. He earned the respect of all with his disarming persuasive skills, intellectual farsightedness and unwavering commitment to the basic tenets of parliamentary democracy and political pluralism. She praised Shri Mukherjee for possessing impeccable knowledge of constitutional and parliamentary rules and procedures and exemplary memory of events and precedents. She said that Shri Mukherjee had been a guru from whom generations of Parliamentarians have received lessons on the operational dynamics of our parliamentary polity. With his thoughtfulness and wisdom, he brought dignity and respect to the august office of the President.

The Vice-President of India, Shri Ansari and the Speaker of Lok Sabha, Smt. Sumitra Mahajan presented memento to Shri Mukherjee on the occasion.

THIRD READING: INDIA

The Constitution (Scheduled Castes) Orders (Amendment) Bill, 2017

In pursuance of the provisions of clause (1) of article 341 of the Constitution of India, Presidential Orders were issued specifying Scheduled Castes in respect of various States and Union territories. These Orders had been amended from time to time by Acts of Parliament enacted under clause (2) of article 341 of the Constitution.

The State Government of Odisha had proposed for inclusion of synonymous communities in respect of entry 79 of the list relating to Sabakhia community in the Scheduled Caste list. The Registrar General of India and the National Commission for Scheduled Castes had conveyed their concurrence to the proposed modifications.

Consequent upon the change of name of the Union Territory of Pondicherry to Puducherry, the reference of Pondicherry appearing in the Constitution (Pondicherry) Scheduled Castes Order, 1964 is required to be changed, as a consequential amendment.

The Government accordingly brought forward the Constitution (Scheduled Castes) Orders (Amendment) Bill, 2017 to give effect to the above, accordingly brought forward the following two Constitution (Scheduled Castes) Orders, namely:

(i) the Constitution (Scheduled Castes) Order, 1950; in respect of Odisha; and

(ii) the Constitution (Pondicherry) Scheduled Castes Order, 1964.

The measures got unanimous consent from all sections of both Houses of Parliament. The Bill was passed by Lok Sabha on 23 March 2017 and by Rajya Sabha on 10 April 2017. The Bill as passed by both Houses of Parliament was assented to by the President of India on 28 April 2017

The Employee's Compensation (Amendment) Bill, 2017

The Employee's Compensation Act, 1923 provides for payment of compensation to the employees and their dependants in the case of injury by industrial accidents including certain occupational diseases arising out of and in the course of employment resulting in death or disablement.

The Law Commission of India, in its 62nd Report of 1974 and 134th Report of 1989, recommended to review or amend or repeal various provisions of the Employee's Compensation Act, 1923. Some recommendations made by the Law Commission of India had already been implemented.

The Government thereafter decided to carry amendments in the Employee's Compensation Act, 1923 to bring into effect the recommendations of the Law Commission. The Government accordingly brought forward the Employee's Compensation (Amendment) Bill, 2017 with following amendments:

- making it obligatory on the employer to inform the employee of his rights to compensation under the Act, in writing as well as through electronic means;
- to enhance the penalty amount for various violations under the Act from the existing amount of five thousand rupees to fifty thousand rupees which may be extended to one lakh rupees;
- to make the employer liable to penalty for failure to inform the employee of his rights to compensation under the Act;
- to revise the minimum amount involved in the dispute for which appeal can be filed to the High Court, from the existing three hundred rupees to ten thousand rupees or such higher amount as the Central Government may, by notification, specify;
- to omit section 30A of the Act which empowers the Commissioner to withhold payment to an employee of any sum in deposit with him where an appeal is filed in the High Court by an employer. This omission will provide relief to the employees as the amount can now be withheld only when there is a stay or order to that effect by the High Court in cases where the appeal has been filed by the employer.

Debate: The Minister-in-Charge of the Bill while piloting the legislation inter alia stated that labourers or the workers play a significant role in building the nation. In the Amending Bill, there were four proposals in regard to injury, industrial accident, death or disablement. The Minister further stated that it also addresses occupational diseases. Provision has been made for increasing the penalty from Rs. 5,000/- to Rs. 50,000/-. There is also a penalty for failure to display in the measure. Finally, there is also provision for payment of compensation.

The Bill was welcomed by Members as it would help all sections of the community, basically the employees working in the industry. It also recognises the importance of workers and employees. It would go a long way to take care of the interest of the workmen.

There were also proposals that workers employed in the organised and unorganised sectors, sustaining injuries at their workplace, need to be made eligible for higher compensation from employers. There is a need for recognition of the dignity of labour. Some Members expressed concern over the delay in introducing the Minimum Wages (Amendment) Bill.

The Minister in his reply assured to address the concerns expressed by Members. The Bill was passed by Lok Sabha on 9 August 2016. Rajya Sabha passed the Bill with amendments which were mainly technical nature such as change in year etc., on 22 March 2017. Lok Sabha agreed to the amendments made by Rajya Sabha on 5 April 2017. The Bill as passed by both Houses of Parliament was assented to by the President of India on 12 April 2017.

The Human Immune Deficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Bill, 2017

At present, India is estimated to have 2.39 million people living with HIV/AIDS (PLHIV), the third highest number after South Africa and Nigeria. Currently, the epidemic is 'concentrated', i.e., the Human Immunodeficiency Virus (HIV) is more prevalent in high risk groups such as female sex workers, men-who-have-sex-with-men and injecting drug users. It was, therefore, felt important for these groups to access services such as treatment of sexually transmitted infections, HIV testing, condoms, clean needles and syringes to prevent transmission of HIV to the general population.

As the route of transmission is primarily sexual, there is a stigma arising out of HIV infection and those affected by it leading to discrimination which includes denial of, and access to, healthcare and treatment; discrimination against admission or continuance of their children in schools; denial of, and/or removal from, employment and denial of various services including insurance, medical benefits, etc., in both public and private establishments.

Given this situation, it was felt necessary to address the issue of the stigma faced by those infected by HIV and AIDS, to ensure confidentiality and privacy while providing HIV and AIDS related services and to strengthen the existing National AIDS Control Programme by bringing in legal accountability. It was felt important that existing establishments, both private and public, recognise the need to safeguard the rights of people infected with HIV/AIDS, particularly, women and children.

The Government, therefore, proposed, inter alia, to prohibit certain specific acts of HIV-related discrimination, provide for informed consent for undertaking a HIV test or treatment and also for disclosure of HIV status to ensure confidentiality and privacy, obligation of the establishments to provide for a safe working environment, to safeguard the rights of people infected with HIV/AIDS, particularly women and children, and establish formal mechanisms for redressing grievances and inquiring into complaints.

Towards this end the Government brought forward the Human Immuno Deficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Bill, 2017.

Salient Features of the Bill: Some of the key terms defined in the definitely clause are as under:-

- 'AIDS' has been defined to mean Acquired Immune Deficiency Syndrome, a condition characterised by a combination of signs and symptoms, caused by Human Immunodeficiency Virus, which attacks and weakens the body's immune system making the HIV-positive person susceptible to life threatening conditions or other conditions, as may be specified from time to time;
- 'capacity to consent' means the ability of an individual, determined on an objective basis, to understand and appreciate the nature and consequences of a proposed action and to make an informed decision concerning such action;
- 'child affected by HIV' means a person below the age of eighteen years, who is HIV-positive or whose parents or guardian (with whom such a child normally resides) is HIV-positive or has lost a parent or guardian (with whom such a child resided) due to AIDS or lives in a household fostering children orphaned by AIDS;
- 'discrimination' has been defined to mean any act or omission which directly or indirectly, expressly or by effect, immediately or over a period of time: (i) imposes any burden, obligation, liability, disability or disadvantage on any person or category of persons, based on one or more HIV-related grounds; or (ii) denies or withholds any benefit, opportunity or advantage from any person or category of persons, based on one or more HIV-related grounds, and the expression "discriminate" to be construed accordingly.

It has been further provided that HIV-related grounds for discrimination include:

(i) being an HIV-positive person;

(ii) ordinarily living, residing or cohabiting with a person who is a HIV positive person;

(iii) ordinarily lived, resided or cohabited with a person who was HIV-positive.

- 'healthcare provider' has been defined to mean any individual whose vocation or profession is directly or indirectly related to the maintenance of the health of another individual and includes any physician, nurse, paramedic, psychologist, counselor or other individual providing medical, nursing, psychological or other healthcare services including HIV prevention and treatment services.
- 'informed consent' means consent given by any individual or his representative specific to a proposed intervention without any coercion, undue influence, fraud, mistake or misrepresentation and such consent obtained after informing such individual or his representative, as the case may be, such information, as specified in the guidelines, relating to risks and benefits of, and alternatives to, the proposed intervention in such language and in such manner as understood by that individual or his representative, as the case may be;
- 'significant risk' has been defined to mean: (a) the presence of significant-risk body substances; (b) a circumstance which constitutes significant risk for transmitting or contracting HIV infection; or (c) the presence of an infectious source and an uninfected person.

In the Explanation it has been clarified that:

- 'significant-risk body substances' are blood, blood products, semen, vaginal secretions, breast milk, tissue and the body fluids, namely, cerebrospinal, amniotic, peritoneal, synovial, pericardial and pleural;
- 'circumstances which constitute significant risk for transmitting or contracting HIV infection' are: a) sexual intercourse including vaginal, anal or oral sexual intercourse which exposes an uninfected person to blood, blood products, semen or vaginal secretions of an HIV-positive person; b) sharing of needles and other paraphernalia used for preparing and injecting drugs between HIV-

positive persons and uninfected persons; c) the gestation, giving birth or breast feeding of an infant when the mother is an HIV-positive person; d) transfusion of blood, blood products, and transplantation of organs or other tissues from an HIV-positive person to an uninfected person, provided such blood, blood products, organs or other tissues have not been tested conclusively for the antibody or antigen of HIV and have not been rendered non-infective by heat or chemical treatment; and e) other circumstances during which a significant-risk body substance, other than breast milk, of an HIV-positive person contacts or may contact mucous membranes including eyes, nose or mouth, non-intact skin including open wounds, skin with a dermatitis condition or abraded areas or the vascular system of an uninfected person, and including such circumstances not limited to needle-stick or puncture wound injuries and direct saturation or permeation of these body surfaces by the significant -risk body substance.

Section 3 of the Bill contains provisions regarding the prohibition of certain acts. It has been provided that no person shall, by words, either spoken or written, publish, propagate, advocate or communicate by signs or by visible representation or otherwise the feelings of hatred against any protected person or group of protected person in general or specifically or disseminate, broadcast or display any information, advertisement or notice, which may reasonably be construed to demonstrate an intention to propagate hatred or which is likely to expose the protected persons to hatred, discrimination or physical violence.

In Chapter III provisions have been given in regard to informed consent for those undertaking HIV test or treatment. It has been provided that no HIV test shall be undertaken or performed upon any person or no protected person shall be subjected to medical treatment, medical interventions or research, except with the informed consent of such person or his representative and in such manner, as may be specified in the guidelines. The informed consent for HIV test shall include pre-test and post-test counselling to the person being tested or such person's representative in the manner as may be specified in the guidelines.

It has also been provided that informed consent not required for conducting HIV tests in certain cases. It seeks to provide that informed consent for conducting a HIV test shall not be required where a court determines, by an order that the carrying out of the HIV test of any person either as part of a medical examination or otherwise, is necessary for the determination of issues in the matter before it, for procuring, processing, distribution or use of a human body or any part thereof including tissues, blood, semen or other body fluids for use in medical research or therapy and where the test results are requested by a donor prior to donation, the donor shall be referred to counselling and testing centre and such donor shall not be entitled to the results of the test unless he received post-test counselling from such centre and provide for epidemiological or surveillance purposes where the HIV test is anonymous and is not for the purpose of determining the HIV status of a person and the persons who have subjects of such epidemiological or surveillance studies shall be informed of the purposes of such studies and for screening purposes in any licensed blood bank. Certain guidelines have been provided for testing centres.

Chapter IV contains provisions in regard to disclosure of HIV status. It has been provided that no person shall be compelled to disclose his/her HIV status except by an order that the disclosure of such information is necessary in the interest of justice for determination of issues in the matter before it and no person shall disclose or be compelled to disclose the HIV status or any other private information of other person imparted in confidence or in a relationship of a fiduciary nature, except with the informed consent of that other person or a representative of such another person obtained in the manner as specified and the fact of such consent has been recorded in writing by the person making such disclosure and in case of a relationship of a fiduciary nature, informed consent shall be recorded in writing. It has also been provided that no healthcare provider except a physician or counselor, may disclose the HIV-positive status of a person under his direct care to his or her partner.

Chapter V contains provisions in regard to obligations on Establishments. The key provisions in this regard are:

- Every establishment needs to keep records of HIV-related information of protected persons.
- The Central Government is required to notify model HIV and AIDS policy for establishments.

Chapter VI contains provisions regarding Anti-Retroviral Therapy and Opportunistic Infection Management for people living with AIDS.

In Chapter VII detailed provisions have been laid down in regard to Welfare Measures by the Central Government and State Governments. Central Government have also been obligated to promote HIV and AIDS related information, education and communications programmes. Further, Central Government have also been required to lay guidelines for care, support and treatment of children with HIV or AIDS.

Provisions have also been made in regard to a 'Safe Working Environment' dwelling upon the obligation of establishments to provide safe working environments; general responsibility of establishments; and grievance redressal mechanism.

Strategies have also been laid down for reduction of risk. It has been provided that any strategy or mechanism or technique adopted or implemented for reducing the risk of organizations in the manner as may be specified in the guidelines issued by the Central Government and shall not be restricted or prohibited in any manner, and shall not amount to a criminal offence or attract civil liability. An explanation has been provided to define 'the strategies for reducing risk of HIV transmission'. Illustrations have been provided in this regard.

In Chapter X provisions have been enumerated for the appointment of an Ombudsman. Every State Government has been required to appoint one or more Ombudsman (a) possessing such qualification and experience as may be prescribed, or (b) designate any of its officers not below such rank, as may be prescribed by the Government. Provisions have been detailed in regard to the powers of an Ombudsman procedure for compliance, the orders of an Ombudsman, and authorities to assist an Ombudsman.

Chapter XI deals with 'Special Provisions', which dwell upon right of residence; HIV-related information, education and communication before marriage; persons in care or custody of state; recognition of guardianship of an older sibling, and living wills for guardianship and testamentary guardianship.

Finally, provisions have also been made for Special Procedures in Court and Penalties.

The Bill was welcomed as a much needed and awaited legislation by Members from both Houses of Parliament. The Bill was passed by Rajya Sabha on 21 March 2017 and by Lok Sabha on 11 April 2017. The Bill as passed by both Houses of Parliament was assented to by the President of India on 20 April 2017.

Editorial Advisory Board for *The Parliamentarian*

The recently established Editorial Advisory Board for *The Parliamentarian*, the Commonwealth Parliamentary Association's flagship quarterly publication and the Journal of Commonwealth Parliaments is published here for the first time.

At the CPA Executive Committee, Mid-Year Meeting in April 2016 in London, the Committee approved the creation of the Editorial Advisory Board to advise the Editor of *The Parliamentarian* and the CPA Headquarters Secretariat on the journal's direction and editorial content for the years ahead.

Following a recruitment selection, consultation and approval process, the final membership of the Editorial Advisory Board was approved at the CPA Executive Committee Mid-Year Meeting in Darwin, Australia in April 2017.

In June 2017, the CPA Headquarters Secretariat finalized the recommendations of the Executive Committee and established the Editorial Advisory Board which includes members from the CPA's nine regions, a representative from the CWP, a youth representative and an international law specialist.

The current members of the Editorial Advisory Board commenced their term on 1 July 2017 with the terms of members on the board staggered over one and two year terms to ensure continuity on the Board over the coming years.

For further information about the work of the Editorial Advisory Board or to find out how to apply for future positions on the board please contact the Editor via email **editor@cpahq.org**.

Editorial Advisory Board for *The Parliamentarian*
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The composition of the Editorial Advisory Board is:
- Minimum of nine members of the Editorial Advisory Board from each of the nine regions of the CPA
- 1 representative for the Commonwealth Women Parliamentarians (CWP)
- Additional Members can be appointed to represent youth, eminent persons and other specialist areas – up to three additional Members.
- Two members from the CPA Headquarters Secretariat (Ex-officio)
- Total of *up to* 15 Members.

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Portrait of The Queen © John Swannell/Camera Press

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Executive Committee Members' dates of membership are indictated below each name. Correct at time of printing.

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