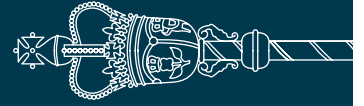


# TheParliamentarian



Journal of the Parliaments of the Commonwealth

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# Moving forwards

## Towards Sustainable Development Goals

### PLUS ▶

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# CPA STATEMENT OF PURPOSE

The CPA exists to connect, develop, promote and support Parliamentarians and their staff to identify benchmarks of good governance, and the implementation of the enduring values of the Commonwealth.





# Calendar of Events

Confirmed as of 4 March 2015

## 2015

### April

- |            |   |
|------------|---|
| 8-10 April | Codes - Benchmarks Meeting, Victoria, Australia             |
| 8-10 April | Parliament and Media Law Conference, Andhra, Pradesh, India |
| 27-3 May   | Mid-Year Executive Committee Meeting, Sabah, Malaysia       |

### May

- |           |  |
|-----------|--|
| 4-6 May   | Regional Trade Workshop with World Trade Organisation – Mauritius  |
| 4-8 May   | International Executive Training Course for Parliamentary Staff – World Bank and McGill University, Canada |
| 17-21 May | 26th Commonwealth Parliamentary Seminar, Dhaka, Bangladesh   |

The publication of a Calendar of CPA events is a service intended to foster the exchange of views between Branches and the encouragement of new ideas. Further information may be obtained from the Branches concerned or the Secretariat. Branch Secretaries are requested to send updates of this material to the Information Officer ([pirc@cpahq.org](mailto:pirc@cpahq.org)) to ensure the Calendar is full and accurate.





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Acting Secretary-General

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Promoting sustainable forest management



# OUR DIVERSITY HIGHLIGHTS SHARED CONCERNS

## The Editor's note

Development is the focus of issue one of *The Parliamentarian* for this year. The 15-year target for the original Millennium Development Goals (MDGs) was 2015, making this an appropriate time to reflect on the progress made, and to consider the route forwards as the new Sustainable Development Goals (SDGs) are finalised and agreed.

Inside, Paul Foster-Bell MP (New Zealand) and Mr Justin Bundi (Kenya) give us perspectives on the development agenda from two very different parts of the world. But, as often is the case across

the Commonwealth, there are many common areas of concern, and much to be gained from the sharing of knowledge amongst parliamentarians.

Mr Bundi links the slow progress on the MDGs to the lack of engagement of parliaments in the development agenda. "The process remained, and still is very much an executive agenda with very little engagement (if any) of parliaments," he says. This is a point that has been made very clearly in many CPA conferences, events and workshops. It is also a

shortcoming that the CPA and parliamentarians throughout the Commonwealth have been addressing as the SDG process has evolved.

Mr Foster-Bell's article emphasises the importance of New Zealand's regional role in the development process along with the key role of local communities.

"A key strength of our approach has been engaging with local communities to develop tailor-made solutions to problems, rather than simply imposing our plans upon others," he says.

He also highlights the issue of access to natural resources.

"Around US\$4 billion of tuna is harvested in Pacific waters each year. Yet only about 10% of that amount, by value, makes its way back to the Pacific nations – the rightful owners of the resource," he says.

Development is a topic never far from the surface in many of the articles you will find in this issue. In her 'View' the Rt Hon. Rebecca Kadaga, MP, Chairperson of the Commonwealth Women Parliamentarians and Speaker of the Parliament of Uganda, emphasises that gender equality is an issue for all – inequalities hinder economic development for everyone.

"The importance of achieving gender equality cannot be overstated," she says. "Research studies show that economic stability and growth for developing countries is greatly boosted by improved gender equality."

The 'View' from the Chairperson of the CPA Executive Committee and Speaker of the Bangladesh Parliament, Dr Shirin Sharmin Chaudhury, is based on the text of a speech the Hon. Speaker made at Westminster Abbey on Commonwealth Day.







The Sabah State Assembly

The theme of Commonwealth Day was 'A Young Commonwealth' and I pick up on that topic in my 'View' – written as Acting Secretary General and Director of Finance of the CPA – where I highlight the profound importance of primary education in national development.

This issue of our magazine also includes a number of articles from Sabah, Malaysia, which hosts the CPA Mid-Year Executive Committee Meeting in May. In his contribution, Joniston Bangkuai focuses on the state's decision to push forest conservation to the top of its agenda. This included making the initially painful decision to forego income from logging to move towards a sustainable harvest approach together with an emphasis on tourism.

"Switching from conventional logging to sustainable harvesting was perhaps one of the most difficult decisions the state government had

to make," he says. "Sabah was hugely dependent on timber for revenue, and opting for sustainable forestry management meant making sacrifices such as losing short-term monetary gains."

These are just a few highlights from what is an extremely broad range of topics in this issue. You can also read a contribution from Chairman of the Home Affairs Select Committee in the United Kingdom, Rt Hon. Keith Vaz MP who writes a particularly timely article on the phenomena of individuals travelling overseas to fight for terrorist organisations, including the major problem of what to do when they return.

"What motivates someone to leave their life in the West to fight for a group which wishes to establish a medieval, brutal caliphate thousands of miles away, is the question which haunts intelligence officials."

Mr Vaz writes. "What haunts them more, is what to do with them if they return."

That topic, along with financial scrutiny, empowering indigenous peoples, trade-union accountability, the role of women parliamentarians, codes of conduct and much else besides are all tackled inside. There is also our usual selection of parliamentary reports from around the Commonwealth.

*The Parliamentarian* exists to support the CPA in its stated purpose of developing, promoting and supporting parliamentarians and their staff to identify benchmarks of good governance and to implement the enduring values of the Commonwealth. We trust you will find this opening issue for 2015 to be both interesting and informative.

Mr Joe Omorodion  
Acting Secretary-General and  
Director of Finance

**"In her 'View' the Rt Hon. Rebecca Kadaga, MP, Chairperson of the CWP and Speaker of the Parliament of Uganda, makes a point that gender equality is an issue for all – inequalities hinder economic development for everyone."**





# COMMONWEALTH OBSERVANCE DAY SPEECH

*This is a speech given by Dr Shirin Sharmin Chaudhury, MP at the Observance of Commonwealth Day at Westminster Abbey, London on 9 March, 2015.*

It is indeed a great honour and very rare privilege for me to be here this afternoon, before this august gathering, as the Speaker of Bangladesh Parliament and Chairperson of the Executive Committee of the Commonwealth Parliamentary Association,

joining the celebration of the Commonwealth Observance Day. The Commonwealth, a family of nations, stands the test of time in upholding the cherished values of democracy, rule of law, human rights and sustainable development.

The Commonwealth Parliamentary Association (CPA), a unique platform of premier representative institutions of Commonwealth countries, plays an instrumental role in bringing the voices of the people of Commonwealth



**Dr Shirin Sharmin Chaudhury, MP, Chairperson of the CPA Executive Committee**

to the centre of discourse of democracy and development. The CPA is a forum that works with more than 175 member-parliaments in nine regions to bring in convergence of diverse perspectives, which is the beauty and strength of Commonwealth. It allows all members an equal voice, ensuring greater inclusiveness.

The theme of the year, 'A Young Commonwealth', resonates with a commitment to build future leaders. It acknowledges a promise to mobilize resources of member countries for providing best opportunities for young people. 'A Young Commonwealth' ushers prospects, offers a promising future and shines as a beacon of hope for a better tomorrow.

'A Young Commonwealth' denotes that it is always prepared to meet new challenges with innovative responses. It is at all times open to embrace ideas and timely initiatives that mark new beginnings and opportunities for the welfare of its people.

Echoing the theme, CPA works to empower young parliamentarians by creating space for them to air their issues. It believes that the 'digital natives' of



**Commonwealth Day visitors take a trip on the London Eye ferris wheel**



**Left, Ms Jingjing Wang from New Zealand has her say on Commonwealth Day; above, Mr Joe Omorodion, Acting CPA Secretary-General and Director of Finance hands a certificate of attendance to Ms Robyn Sim from St Helena, on Commonwealth Day**

this generation are equipped to draw upon the scope of the existing structures to create effective forums for nurturing democratic practices, achieve the goals they set for themselves and deliver results.

The CPA is committed to promote women's political leadership and gender equality in parliaments.

As we assemble here, we are in a phase of transition, moving away from Millennium Development Goals (MDGs) to Sustainable Development Goals (SDGs), effectuating a shift in the development agenda framework. The CPA aims to empower member parliaments

to deal with the changing economic orders, coupled with prospects and uncertainties, emerging trade and economic patterns, deepening interdependence, peace and security issues, creating greater economic opportunities for human development and social inclusion and to allow member parliaments to have greater voice and representation in the multilateral decision-making process. It aims to equip parliaments to address the common challenges of poverty eradication, food security, health, energy crisis, gender equality, climate change.

The surge of globalization

**“The theme of the year, ‘A Young Commonwealth’, resonates with a commitment to build future leaders. It acknowledges a promise to mobilize resources of member countries for providing the best opportunities to the young people.”**

presents us with emerging challenges. It is time for the CPA to adopt new ideas, instil fresh perspectives to cope with the rapidly changing world order. This requires proactive parliaments and vigilant parliamentarians. Let us embrace this opportune moment, turn it to our advantage, allowing the voices of the people from all corners of the globe to predominate the discourse of democracy. Let us herald in an era of the people. It is only through our concerted efforts that the CPA can make a positive difference in realizing the common aspirations of the people of Commonwealth.





# SUSTAINABLE DEVELOPMENT GOALS

I would like to associate myself with the focus of the first 2015 issue of *The Parliamentarian*, which is the United Nation's Sustainable Development Goals. I am glad that the publication identified this very important subject as the central issue. With most targets of the Millennium Development Goals concluding at the end of 2015, it was vital to have goals that set the stage for an ambitious future development agenda albeit in a sustainable framework.

I am confident that the UN's Sustainable Development Goals (SDGs) will offer the perfect platform for a comprehensive post-2015 development agenda. The Rio+20 outcome document *The Future We Want* resolved to set up an all-encompassing and transparent intergovernmental process on SDGs that is open to all stakeholders, with a view to developing global sustainable development goals to be agreed by the United Nations General Assembly. I was thrilled that the outcome document mandated the formation of an inter-governmental Open Working Group that will submit a report to the 68th session of the General Assembly containing a proposal for sustainable development goals for deliberation and suitable action. The outcome document specifies that the process leading to the SDGs needs to be coordinated and coherent with the processes considering the post 2015 development agenda and that initial input to the work of the Open Working Group will be provided by the UNSG in consultation with national governments.

As aptly illustrated in the Sustainable Development Solutions Network (SDSN) Action Agenda for Sustainable Development (SDSN 2013a), the SDGs will be complementary to the tools of international law, such as legally binding global treaties and conventions, by providing a common normative framework that fosters collaboration across countries, mobilizes all stakeholders, and inspires action. I envisage the following advantages to be realized with the advent of these well-crafted development goals:

- Help guide the public understanding of complex sustainable development challenges, including neglected ones;
- Support long-term approaches towards sustainable development;
- Unite the global community and inspire coherent public and private

action at local, national, regional, and global levels;

- Promote integrated thinking and put to rest the futile debates that pit one dimension of sustainable development against another;
- Define responsibilities and foster accountability;
- Inspire active problem solving by all sectors of society;



**Rt Hon. Rebecca Kadaga, MP**  
**Chairperson of the**  
**Commonwealth Women**  
**Parliamentarians and Speaker**  
**of the Parliament of Uganda**

As Chairperson of the Commonwealth Women Parliamentarians (CWP), I am most specifically concerned with the component of addressing women's plight globally. Suffice to say that I was deeply pleased to find my well captured under SDG No. 5: achieve gender equality of all women and girls. The CWP continues to strive to propagate ways of increasing female representation in Parliament and work towards mainstreaming of gender considerations in all CPA activities and programmes. As such, SDG No. 5 is very much a component of our work. Throughout my leadership journey, from the first time I assumed elective office to date, I have always passionately fought to end the marginalization of all women and girls.

I would therefore like to comment more specifically on the dynamics of the efforts of ensuring gender equality of all women and girls.

Creating a world where the equal dignity and worth of every individual is respected and valued is simple to articulate, but difficult to deliver. The Universal Declaration of Human Rights (1948) was a powerful statement of intent, and in the intervening years attempts were made in every jurisdiction to create legislative, administrative, and judicial mechanisms to ensure these values were upheld. In the process a genuinely universal standard has emerged that countries across the world subscribe to, and communities across the world aspire to.

However, human rights mechanisms thus far have tended to focus primarily on civil and political rights, instead of the full spectrum of human rights, including socio-economic and cultural rights. I would like to emphasize that it is important that the post-2015 agenda focuses on guaranteeing fundamental equalities, and goes beyond non-discrimination. In the short term, there is a need to create full, decent productive employment opportunities for women and access to finance, as well as to continue to provide social protection, and





more importantly promote and value women as capable of flourishing in financial investments. The promotion of women's economic rights is critical for economic growth and this entails promoting a range of women's rights: their sexual and reproductive rights and rights to education, to mobility, to voice, to ownership, and to live free from violence.

Equality, women's rights and women's empowerment is a very critical standalone goal. Coupled with this goal are three similarly important target areas.

### **Freedom from violence against women and girls**

The scourge of violence against women and girls threatens the basic security of the world. Violence against women and girls not only affects women, their families and communities, but it also undermines the stability and prosperity of whole societies. The World Health Organization reported in 2013 that 35% of women worldwide have experienced some type of violence in their lifetime. This violence can have serious and long-lasting effects on women's mental, reproductive, and sexual health. This issue is addressed in the UN Millennium Development Goals, and for all intents and purposes, it must be captured in the post-2015 development agenda.

### **Gender equality in the distribution of capabilities**

This area involves women's access to education, healthcare, and opportunities such as land or work with equal pay. I am proud to note that all indicators show that progress is being made in all of these areas, but this progress varies by region and demographic dispersion. For example, there is evidence in some areas to show that women tend to hold less secure jobs than men in developing regions. I get disheartened when reports on education reveal that in Northern Africa, sub-Saharan Africa and western Asia, the gender disparity in education still remains high and yet we are all aware of the invaluable role of education in achieving gender equality.

Education is very important for every child whether boy or girl. It is sad that some communities still discriminate against the education of girls.

### **Gender equality in decision-making power structures**

This issue is about women holding positions of influence both in public spheres and government, but also within their own homes and families. The number of women that hold parliamentary seats has increased in almost every world region since 2000, mostly due to the creation of legislative or voluntary quotas that require a certain number of female members. However, women's decision-making power at home remains significantly lower than men's in many regions of the world. These types of decisions range from money-related choices, to women's ability to visit friends and family, to decisions about women's own health. Family dynamics are greatly influenced by societal and institutional norms, and the hope of many organizations is that by increasing women's access to education and work opportunities, these norms will begin to change in a direction that is less discriminatory.

The importance of achieving gender equality cannot be overstated. Research studies show that economic stability and growth for developing countries is greatly boosted by improved gender equality. As such, if women and girls can gain access to improved education, they will eventually get better jobs and be able to better contribute to the economy. Including women in political decision making leads to more effective governance, since women's presence in government brings greater diversity and different experience to the process. This makes the problem all the more pressing and important. Gender equality is not only a significant concern from a human rights standpoint, but it will allow for the economic and political growth that developing nations need to make them competitive in world markets.

Dear readers of *The Parliamentarian*, let us continue to share experiences in the next issue of our Journal.

**Women need empowerment  
both in the political process  
and within their own homes**



# THE ROLE OF PRIMARY EDUCATION IN SUSTAINABLE ECONOMIC DEVELOPMENT

The focus of the articles in this Issue of *The Parliamentary* is on the progress made towards the Millennium Development Goals (MDGs) that were outlined at the Millennium Summit of the United Nations in 2000. These include the goals to achieve universal primary education, ensure environmental sustainability, and the underlying need to invest in our young Commonwealth.

A great deal has been achieved in these last 15 years but there remains a long way to go. We are now looking at building upon these achievements with the Sustainable Development Goals (SDGs).

Long before the establishment of the MDGs, the Universal Declaration of Human Rights was adopted by the United Nations General Assembly on 10 December 1948. It provides for a fair and considered framework for a decent, democratic and just approach to society, especially Article 26 of the declaration which focuses on the right to education. Specifically, Article 26(2) states that "... Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of



**Mr Joe Omorodion**  
*Acting Secretary-General  
of the Commonwealth  
Parliamentary Association*

the United Nations for the maintenance of peace."

Article 26 stressed the importance of education, especially at the fundamental and elementary stages, more than half a century before Millennium Summit of the UN in 2000. Education is the principal catalyst for human development. As the saying goes, the childhood shows the man or leader as the morning shows the day.

As I visit the many great countries throughout the Commonwealth, some of the key questions I often ask myself are:

- Why do some countries seem to be more dedicated towards the common good, than others?
- Why have some democracies evolved faster than others, especially when you compare countries that gained their independence in just about the

same period and had similar economic features at the time of independence?

- Why are some countries more politically and religiously stable than others?

One possible answer to these questions is that successful countries in the Commonwealth, believe in, and genuinely implement, the Universal Declaration of Human Rights, in particular Article 26.

Another possible answer is that such countries have supplemented Article 26 with their desired national economic development needs in mind. One major developing country, for example, has identified some of the following as the major objectives of primary education. These are to:

- prepare the children for good citizenship;
- develop in them a love for their country, its tradition, its culture and national symbols;
- inspire in them a sense of service and loyalty;
- develop in the children the spirit of international understanding and universal brotherhood;
- inculcate scientific attitude; and
- inculcate a sense of dignity of labour.

Another developing Commonwealth country's national policy on primary education includes:

- character and moral training.

Realising the importance

and impact of primary education on a nation's development capability, the national objectives of primary education have, therefore, continued to attract ongoing attention in developing and developed countries alike, in both Commonwealth and non-Commonwealth countries. In the Netherlands, for example, a major restructuring of primary education was undertaken in 1985. This stipulated that the main aim of primary education should be to cater for pupils' emotional, social and cognitive needs. While in a survey of the aims and values of primary education in England, Germany, Scotland, New Zealand and Sweden in 2008, it was found that citizenship education was vital if countries are to produce participative citizens for the future.

With a well-developed primary education curriculum, including the key objectives identified in this article which have proved successful in some major developing countries, it is arguable that systemic corruption could be stemmed; terrorism rooted out; poverty alleviated and democracy embedded, while producing better informed leaders with their nation's interests at heart, ready to take their nations forward.

With the implementation an effective primary education curriculum, I wonder who would ever wish to hurt their country and its image, or contemplate





harming the interests of other countries. When people are well grounded in the fundamentals of citizenship, love for their country and culture, with a sense of dignity of labour, good character and moral sense of being, the answer would be very few indeed.

A good starting point in addressing the social-economic problems that may be holding many emerging and developing countries of the Commonwealth back is to ensure the design or redesign of their primary education curriculums to meet their future economic and social development needs.

The policymakers in these countries can scan around the Commonwealth to identify those nations that are steaming ahead in terms of political and economic stability and an unbreakable national sense of purpose and direction, and examine closely their primary educational objectives and how they are being implemented and funded. They can then make a conscious decision to learn from them. It is never too late: for as we know, a house that is not built on a solid foundation is bound to collapse sooner or later!

While there is evidence in the literature of the relative impact

primary, secondary or tertiary education can have on a nation's economic development, my view is that primary education is, perhaps, the most important of all, because it is the foundation upon which all else is built.

Placing the role of primary education high on the future SDGs, especially for the marginalised, is essential for the future of the Commonwealth.

A fundamental rethink is called for in those Commonwealth countries where there is the shared belief that the education system is not meeting their economic, social and political development

needs. This can be achieved through effective legislation and a renewed awareness of the important role of primary education in delivering a country's sustainable economic development needs.

#### Reference

1 Cited in Aims and Values in Primary Education: England and Other Countries (2008), Shuayb, M. and O'Donnell, S., National Foundation for Education Research, University of Cambridge and Esmée Fairbairn Foundation, Research 1/2.



**Education, especially  
primary education, is  
vital to development**





# SHIFTING GEARS TO ENHANCE PARLIAMENTARY ENGAGEMENT

**Kenya was one of the first signatories to the Millenium Declaration and has done much to strive towards the Millenium Development Goals, but lessons have been learned – including that parliamentarians must be involved in the development agenda right from the start.**

**Mr Justin Bundi** became the Clerk, East African Legislative Assembly Arusha – Tanzania, in 2004. A position he held up to March 2009 when returned to Kenya National Assembly as Deputy Clerk. In October 2012 he was appointed the Clerk of Kenya National Assembly. He has wide experience in Public Administration and legislative Management. He is a member of the Society of Clerks-at-the Table, and the Institute of Directors. He is married with five children.

Rapid globalization, advancement in information technology, and democracy buoyed by liberalized and open market economies have, over time, exposed developing countries to diverse development perspectives. The gains are, however, slowed down by the wide disparities in development levels between industrialized and developing countries. Emerging challenges posed by climate change have also held to ransom the gains of the past three decades.

Various interventions including external aid assistance, debt relief and prescription of structural adjustment programmes in the 1980s and the 1990s did not bring the sustainability global development partners sought to achieve with many of the developing countries. In the year 2000, therefore, world leaders came together to sign



**Mr. Justin N. Bundi**

the Millennium Declaration which gave birth to the Millennium Development Goals (MDGs). The MDGs, which are an internationally agreed development framework, were adopted to rally international and national support in dealing with development challenges. These goals, developing countries are guided towards the attainment of the eight goals by the 21 targets and 60 quantifiable indicators by which a country

can maintain focus and measure progress

Adoption of and the wide appeal of the Millennium Declaration constituted the greatest foundation of optimism for a better future to the world's poorest and acknowledged the special needs for developing countries – especially in Africa for poverty suppression, consolidation of democracy and sustainable development through among others, the attainment of basic human desires of food security, maternal health, schooling, fight against diseases, environmental sustainability and global partnerships.

The MDGs gave governments a common framework for structuring policies and practices to fight poverty and also brought clarity to the shared and individual roles and responsibilities of various actors. These helped



Lessons learned from the MDGs include that there was undue emphasis on national averages at the expense of regional inequalities

governments to put in place MDG-friendly policies and programmes with reasonable donor support, including debt cancellation, improved market access, enhanced official development assistance and increased flows of direct foreign investment.

#### **Kenya's experience with the Millennium Development Goals**

The signing and endorsement of the Millennium Development Goals by World leaders epitomized the importance of the time-bound global vision for

development. Kenya was among the first signatories of the Millennium Declaration and has since then focused its policy and development planning towards achievement of the goals by the set timeline.

Nonetheless, the millennium development targets for reducing poverty were not entirely new in Kenya. Indeed, since independence in 1963, Kenya's economic development focused on alleviation of poverty, improvement of literacy levels and reducing incidence of disease.

**“Kenya was among the first signatories of the Millennium Declaration and has since then focused its policy and development planning towards achievement of the goals”**

In 1965, barely 18 months into independence, the country adopted the landmark Sessional Paper number 10 of 1965, *African Socialism and its application to planning in Kenya*. The sessional paper targeted rapid economic development and social progress for all citizens. It aimed at reducing poverty levels in rural areas through commitment of more funds to the agricultural sector and the identification of new markets and new areas for technical cooperation. In the education sector, it





gave priority to increased primary school enrolment and expanded secondary school education. Sufficient resources were equally committed to the development of health facilities in rural Kenya. The policy direction adopted by the sessional paper resonates well with much of the content of the MDGs.

National Development Plans, anchored on the sessional paper, continued to focus on rural development, with the most notable ones being the 1974-79 National Development Plan, the Poverty Reduction Strategy Paper (PRSP) of 2001 to 2004 and the Economic Recovery Strategy for Wealth and Employment Creation (ERSWEC) that was implemented between 2003 and 2007. Development programmes implemented under the PRSP and the ERS were consolidated under the Kenya Vision 2030 in 2008. The Vision is implemented through sectoral flagship projects and programmes spread across the country, with the main aim of turning Kenya into an industrialized country with a high standard of living by the year 2030.

Despite Kenya being among the first signatories of the Millennium Declaration, the MDGs only became entrenched in Kenya in 2004 when the Government of the Republic of Kenya issued a cabinet memo directing all Government ministries, departments and agencies to mainstream MDGs into policy, planning and the budget-making process. MDGs were incorporated into major policy documents including sector plans and the Kenya Vision 2030. The Constitution of Kenya 2010 also gives prominence to some of the MDGs' indicators including the right to clean, healthy environment (*Article 42*), right

to adequate food of acceptable quality and right to education (*Article 43*).

Kenya continued to devote more resources to the attainment of Millennium Development Goals through a shift of public expenditure to the social sectors, physical infrastructure development and expansion of agriculture. The agricultural sector witnessed efforts aimed at ensuring food and nutritional security for all Kenyans.

To alleviate the adverse economic conditions occasioned by the worldwide financial recession, the Government of Kenya committed more funds through 'the economic stimulus strategy' that facilitated the development of health facilities, classrooms, irrigation and food security initiatives, and water distribution infrastructure in the rural areas. The economic stimulus package was expected to support development projects in rural areas through a raft of government interventions including the Constituency Development Fund (CDF), Local Authority Transfer Fund (LATF), the Women Enterprise Fund (WEF) and the Youth Enterprise Fund (YEF). These grassroots-based development programmes continue to influence the MDGs' achievement rates especially for education, health and women empowerment.

While substantial progress has been made in the implementation of the MDGs, it is clear that the complete achievement of the goals by the year 2015 has been elusive. There was remarkable achievement in some of the areas such as education, child health, HIV/AIDS, malaria and tuberculosis, while progress of others is still low and remains off-target. The table opposite gives a summary of implementation status.

Given the progress so far, it is safe to argue that MDGs

facilitated the attainment of critical milestones in National development efforts in Kenya.

### Enhancing parliamentary engagement – lessons from the MDGs

The slow progress of the MDGs can partly be attributed to the long-delayed uptake of the MDGs by many parliaments in majority of developing countries across the world. The process remained, and still is very much an executive agenda with very little engagement (if any) of parliaments.

Whilst it is governments that sign up to internationally agreed goals and targets, as was the case with Millennium Development Goals and will be for the Sustainable Development Goals on behalf of their respective countries, and ultimately have the responsibility to deliver on targets, there is a growing appreciation for active engagement of the different stakeholders at the global, regional and national levels during the negotiation and subsequent implementation of such internationally agreed goals. Parliament is one such institution that has an important role to play in guaranteeing development goals are leveraged in the national agenda especially their domestication and ensuring adequate resources are channelled to the cause. Indeed, attempts to project the central role parliaments can play in reducing poverty and attaining the MDGs is well documented and was further reinforced in the Paris Declaration on Aid Effectiveness in 2005, and the Accra Agenda for Action in 2008.

From the Kenya perspective, parliamentary engagement with MDGs, as in many other jurisdictions, took long to materialize. Initial steps towards active engagement can be

traced back to the year 2008. This initiative by a group of 21 Members of Parliament led to the formation of a Parliamentary Caucus on Poverty and the MDGs in 2009, by a resolution of the National Assembly. This action proved to be a bold initiative in filling the vacuum that existed between Parliament and the executive in ensuring participatory handling of MDGs.

The Caucus was conceived with the following broad objectives:

- (i) To reinforce the role of parliamentarians in holding the government accountable for its commitments and progress in achieving the MDGs.
- (ii) To build MPs' understanding of the MDGs and to inspire them to pressurize the government to deliver on them by 2015.
- (iii) To advocate for the mainstreaming of MDGs in local and national development plans and budgets.
- (iv) To increase the visibility of the Parliamentary Caucus on Poverty and MDGs through advocacy.

Country-specific successes with parliamentary engagement with the MDGs to date remain mixed. However, for the Parliament of Kenya, the formation of the Caucus and subsequent awareness creation among Members proved instrumental in ensuring that Parliament mainstreamed MDGs in its various mandates to propel Kenya into delivering on the MDGs by the deadline of 2015.

In addition to policy and awareness creation, the formation of the Caucus opened a critical link for non-state actors to engage Members of Parliament on the MDGs. Through efforts of the Caucus, in collaboration with the then Ministry of Planning, National



Millennium Development Goal	Implementation Status
Eradication of extreme hunger and poverty	Through various interventions in the agricultural sector and financial empowerment programmes, Kenya has achieved significant reduction in the number of people living below the absolute poverty line, from 52% in the year 2000 to 45.2% in 2009.
Achievement of universal primary education	Due to continued funding for free primary education and recruitment of more teachers, Kenya has witnessed a steady increase in the primary school gross enrolment rate from 110% in 2009 to 115% in 2011. Net enrollment rate increased from 67.8% in 2000 to 95.3% in 2012, while transition increased from 66.9% in 2009 to 73.3 in 2011.
Achievement of gender equality and empowering women	The government of Kenya continues to encourage girl child education and socio economic empowerment of women. This has seen the increase of the girl to boy ratio from 0.95 in 2000 to 0.98 in 2012. The number of women in leadership and management positions has increased from 32.4% in 2008 to 38% in 2012.
Reduction of child mortality rates	The MDG influenced commitment of extra resources to the health sector, resulting in the infant mortality rates reducing from 77 deaths per 1000 live births in 2003 to 52 deaths per 1000 live births in 2009.
Reduction of maternal mortality rates	Kenya implemented bold measures including abolishing maternity charges in Government hospitals and an aggressive health campaign aptly named beyond Zero, Headed by the first Lady H.E. Margaret Kenyatta. The maternal mortality rates however increased from 414 per 100,000 live births in 2003 to 495 deaths in 100,000 live births in 2010.
Combating HIV and AIDS and other diseases	HIV prevalence for youth aged 15- 24 witnessed a reduction from 3.8 in 2007 to 2.1 in 2009. There has been a sustained effort to reduce new infections. The fight against other diseases has seen Kenya reach the world Health Organization (WHO) targets in tuberculosis and the proportion of Kenyans using Insecticide Treated Mosquito nets rise from 6% in 2003 to 56% in 2009.
Ensuring environmental sustainability	The proportion of Kenyans drawing water from clean sources rose to 52.6% while that of Kenyans with access to improved sanitation rose to 61.2%
Development of global partnerships Kenyans for development	Kenya has made great progress in the area of information technology, with about 64% of owning mobile phones.

*Source: Ministry of Devolution and Planning, 2014.*

**MDGs' status in Kenya**

Development and Vision 2030, and the United Nations Development Programme (UNDP), Members of Parliament, House committees, and staff of Parliament were sensitized on their role in the MDGs process. Further, the Caucus and the Departmental Committee on Health had a working relation with the Inter-Parliamentary Union (IPU) targeting mainly MDGs 4 and 5, on child and maternal mortality.

An important legislative breakthrough of the Caucus was the motion passed by

Parliament in 2011 which compels the ministry, under which the MDGs falls, to table a report in the House every six months on the government's progress with the MDGs. Unfortunately, a similar forum has not been formed in the 11th Parliament. This has reversed most of the gains achieved by the Caucus, especially in advocacy and awareness creation among parliamentarians, and more so as we transit to the Post-2015 Development Agenda articulated in the SDGs.

### **The shift to Sustainable Development Goals**

As the target date for the MDGs framework is reached, a number of countries including Kenya recorded mixed results. It became necessary therefore, for the international community to adopt post-2015 international development framework. In this regard, the United Nations conference on sustainable development held in Rio de Janeiro in 2012 (RIO+20), agreed to develop future development goals. Subsequently, the General

Assembly's working group on SDGs developed a set of 17 goals with 169 targets, covering a wide array of sustainable development matters including ending poverty and hunger and improving health and education. The SDGs are envisioned to be action oriented, concise, easy to communicate, limited in number, aspirational, global in nature and universally applicable.

Governments are expected to drive the implementation of SDGs with the active involvement of all relevant stakeholders. To this end,





Kenya is undertaking a broad rural and urban consultation, involving a variety of interest groups, in developing a response to the SDGs



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the government of Kenya demonstrated enthusiasm to participate in the international development agenda as fronted in the SDGs framework. Besides participating in a number of international post-2015 processes, Kenya has held county and national forums to help in formulating its own position on the proposed post-2015 development agenda. Parliament however continued to be sidelined in the consultative process.

Under the leadership of the Ministry of Devolution and

Planning and with support from development partners, including the United Nations Development Programme (UNDP) and the embassy of the Republic of Finland, Kenya held the first meeting on the post-2015 schema in 2012. Several follow-up meetings were held at the national and county level, involving government agencies, development partners and civil society organizations.

**County level consultations**  
The Government organized

12 stakeholder consultation forums at county level, targeting urban- and rural-based counties like Nairobi and Kakamega respectively. Individual participants included the young, women's group members, school and health facility management members, persons with special needs and government officers.

The participants discussed the implementation status of the MDGs and the post-2015 development agenda under broad sub topics including agriculture and food security, employment, health and

universal education. Gender and environmental issues were also addressed. Overall, the county forums identified the following priority areas:

- i. Fast tracking and accelerating the gains on the implementation of the MDGs;
- ii. Creation of employment opportunities for the young and women;
- iii. Tackling climate change;
- iv. Ensuring peace and security;
- v. Provision of social protection to vulnerable groups;
- vi. Early childhood development facilities and improve on



- primary school education quality control;
- vii. Provide real time data on development;
- viii. Incorporate resilience measures in the post 2015 development agenda;
- ix. Address retrogressive development agenda;
- x. Establish markets for farm produce and improve access to financing.

#### National civil society consultations

In June 2013, the line ministry organized forums for consultations with civil society organizations carrying out various programmes in a wide range of sectors in Kenya. A total of 54 civil society organizations attended the meeting held at the coastal town of Mombasa. A similar meeting involving civil society organizations representing the 47 counties was held in Nakuru. The civil society organizations prioritized the following areas for the post 2015 development agenda:

- i. Infrastructure development;
- ii. Inclusion of the special needs of people with disabilities, the youth and the aged;
- iii. Need to address gender based violence;
- iv. Governance;
- v. Identify the role of special knowledge, particularly in the area of traditional medicine;
- vi. Adoption of the rights-based approach do development across all sectors.

#### National stakeholders meeting

To consolidate the views from county and civil society organizations, the government organized a conference with government ministries, development partners, private sector representatives, civil society organizations and media as participants. The conference identified weaknesses in the MDGs' implementation framework, including inadequate

**“A major mainstreaming mechanism that has been applied with good results for the MDGs is the active engagement of parliamentarians in the budget process, and the Parliament committee system.”**

participation of stakeholders – including Members of Parliament – in the implementation framework and a strong focus on social sectors that crowded out investments in agriculture, infrastructure and industrial development. Other weaknesses included the undue focus on national averages at the expense of regional inequalities and the fact that key issues related to development such as climate change, conflicts at region, the place of good governance, and the value of good planning data, were absent.

#### Recommended areas of focus

The national stakeholder meeting therefore encouraged the government to target five key areas including the following:

##### (i) Agriculture and food security

For agriculture to play its role in poverty reduction in the post 2015 development agenda, adequate attention must be paid to climate change and agricultural produce marketing. These require a shift toward climate smart agriculture to reduce the impacts of climate change on agriculture.

##### (ii) Employment and enterprise

#### development

The participants appreciated the role of a strong economy in the provision of employment opportunities, particularly to the youth. It was agreed that it would be prudent for the government to invest in the agricultural sector based industries to develop the rural areas and provide gainful employment.

##### (iii) Education and gender

The consultative meetings came to the conclusion that it was necessary to emphasize the need for universal education for all including people living with disabilities, while at the same time ensuring provision of quality education. On gender, the government needs to bring on board measures to address gender based violence.

##### (iv) Health

The health sector needs to focus on reducing the impact of non communicable diseases such as cancer, diabetes and blood pressure and emphasize the role of traditional knowledge in health management. The government was urged to maintain focus on the gains made in maternal and child healthcare.

##### (v) Environment

There is still a high proportion of Kenyans lacking access to clean water sources and sanitation. The Government must therefore focus on urban waste management, increase national capacity for disaster preparedness and accelerate reforestation.

#### Conclusion

The relationship between MDGs and SDGs cannot be gainsaid. Sufficient positive gains have been achieved in the implementation of the Millennium development goals, especially in the areas of universal primary education and the fight against HIV/AIDS and other diseases. The shift towards the post 2015 development agenda

– the SDGs has provided an opportunity for the consolidation of the MDGs gains and a line of attack for better development outcomes if the views of the stakeholders are incorporated and implemented with adequate commitment from Government and Development partners.

From the foregoing, the transition to the SDGs without a proper framework and mechanisms of mainstreaming parliamentary engagement may orchestrate another catch-up situation for Parliament in Kenya and perhaps in other jurisdictions as witnessed with the MDGs. Country domestication process has largely sidelined Parliament. Sporadic on and off consultations in Kenya to entrench the engagement has not been sustained. This is likely to reverse the gains so far made in terms of mainstreaming the goals into such game changing poverty alleviation and development initiatives of parliamentarians such as the Constituency Development Fund (CDF).

Experience with the MDGs has proved that sensitization and other awareness creation initiatives for parliamentarians guarantee considerable success in the mainstreaming of any developments agenda – local and global. A major mainstreaming mechanism that has been applied with good results for the MDGs is the active engagement of parliamentarians in the budget process, and the Parliament committee system. The presidential system in place today in Kenya adds impetus to the role Parliamentary committee system in the realization of the SDGs. This requires concerted efforts and political goodwill to bring on board the relevant stakeholders, Parliament included.





# POST-2015 SUSTAINABLE DEVELOPMENT GOALS AND THE PACIFIC: NEW ZEALAND'S PERSPECTIVE

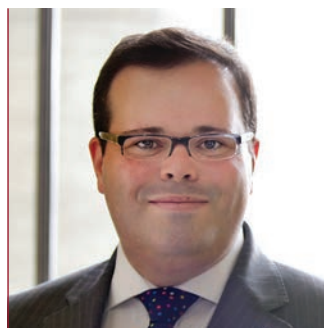
While three out of the eight millennium development targets – on poverty, slums and water – have been met ahead of the 2015 deadline, much work remains to be done, especially on the environment

## Paul Foster-Bell MP

has been a List Member of Parliament based in Wellington Central for the governing New Zealand National Party since May 2013. He is currently Deputy Chair of the Education and Science Select Committee and a member of the Local Government and Environment Select Committee. He was elected a Pacific Regional Representative on the Executive Committee of the Commonwealth Parliamentary Association in late 2014.

New Zealand is a proud member of the Commonwealth of Nations, and is active in the international community. We punch above our weight when it comes to supporting developing nations, especially our small island Commonwealth friends of the Pacific, of which there are twelve (including the Cook Islands, Niue and Tokelau – all part of the Realm of New Zealand) leaving Australia and New Zealand aside.

In recent years, New Zealand has refocused its aid efforts and made major investments into sustainable economic development partnerships throughout the Pacific. Practical initiatives aimed at supporting economic development now make up over half of all our aid spending. There is not a complicated intervention logic behind New Zealand's approach – indeed it is very simple – we are working around



Paul Foster-Bell MP

the Pacific to fund and support critical infrastructure, grow burgeoning private sectors, and help Pacific countries make the most of their natural resources in a well-managed and sustainable fashion.

It is not just an accident of geography that we feel connected to the Pacific – our people-to-people linkages are strong. Over 7% of New Zealanders identify as being of Pasifika descent (Pasifika is a

term used in New Zealand to describe people living in New Zealand who have migrated from the Pacific Islands or who identify with the Pacific Islands because of ancestry or heritage), and over 60% of our aid budget is invested in the region. My Maori ancestors traced their origins, through whakapapa (lineage) and the sagas of the great Polynesian voyaging canoes, to the Pacific.

And while three out of the eight millennium development targets – on poverty, slums and water – have been met ahead of the 2015 deadline, much work remains to be done, especially in the environmental area where often low-lying Pacific island states remain vulnerable. A key strength to our approach has been engaging with local communities to develop tailor-made solutions to problems, rather than simply imposing our plans upon others.

### Sustainable oceans

The Pacific Ocean is New Zealand's backyard. It connects us to our neighbours, and forms a major economic resource for all. Our trade all passes through it. And its sparkling waters attract international tourists in their millions and provide habitats for unique flora and fauna.

We give priority to projects targeting economic and environmental sustainability, such as our support for sustainable fisheries management. Tuna provide a good example of this. The Western and Central Pacific Ocean is home to the world's last thriving tuna stocks – and the larger part of the fishing of these stocks takes place

in the zones of small island states. Fish resources are under growing pressure as tuna elsewhere become much harder to access. This brings a challenge, but also an opportunity for Pacific nations.

The challenge is that the fishing fleets of Asia, the Americas, and Europe are now interested in exploiting these resources – and fishing activity is already at levels that could threaten the sustainability of some stocks. Around US\$4 billion of tuna is harvested in Pacific waters each year. Yet only about 10% of that amount, by value, makes its way back to the Pacific nations – the rightful owners of the resource. Some of the wealthiest countries on the planet are profiting at the

expense of some of the poorest.

The opportunity for Pacific nations is to take advantage of the competition for a scarce resource to increase their long-term returns, without compromising the sustainability of the fishery. This will mean building and strengthening fisheries management regimes, tackling the problems of overfishing; illegal, unreported and unregulated fishing; and improving monitoring and surveillance.

The New Zealand Government is doing its part to assist our island neighbours in this regard. Since 2009, licence and access fees paid to Pacific nations have nearly trebled to \$245 million. And a recently appointed Pacific Economic

Ambassador, former New Zealand Member of Parliament Hon Shane Jones, has already started working with many small islands states to look for more opportunities to grow the value of this resource.

We have committed over \$70 million for fisheries management and development in the Pacific. Sharing and analysing fisheries data is vital for monitoring and enforcement. Our funding will implement national fisheries information management systems in all Pacific Forum Fisheries Agency countries, setting up electronic reporting and monitoring of catch and stocks, and facilitating better co-ordination across the Pacific region.

Recently New Zealand





signed the Niue Treaty Subsidiary Agreement on regional fisheries. This valuable tool enhances cooperation in the areas of fisheries surveillance, enforcement, and information sharing in the Pacific. Pacific nations cannot succeed alone. Sustainable fisheries in the region will be achieved only with the support of the nations whose fleets harvest these seas.

The New Zealand view is that parliaments in those nations must confront the entrenched interests, weak policy-making and vast bureaucracy that allows fishing subsidies to continue. Subsidies have been promoting overcapacity and overfishing. This, in turn, encourages illegal and unreported fishing, which can contribute to the destruction of healthy fisheries that has occurred all too often in other parts of the world.

### **Growing tourism and safer sea lanes**

As well as a great economic resource, the ocean is the avenue of international trade for Pacific nations and a source of significant tourism income. Tourism contributes to over half of the GDP of the Cook Islands and around a quarter in Fiji. New Zealand is investing over \$38 million directly into the Pacific tourism sector, with an extra \$82 million in tourism-related infrastructure, particularly in the area of safety in navigation and aviation services.

Shipping services are the primary means of shifting goods and passengers between islands. The Pacific is one of the fastest growing markets for the cruise ship industry. In 2012, the cruise ship industry generated earnings of US\$640 million in direct passenger expenditure for the region.

Ensuring that ships can continue to ply Pacific waters safely is vital for the future prosperity of the region. New



Zealand is leading a new regional programme to improve navigational charts for the region, by investing \$5 million in a five-year programme to be executed by our Land Information NZ and the Secretariat of the Pacific Community to carry out hydrographic survey and charting work. This builds on a successful pilot project in Vanuatu, and its initial focus will be on Tonga, the Cook Islands, Niue, Samoa, and Tokelau, with a view to extending it to cover the rest of the Pacific.

This work is critical for the economic future of the Pacific. From July 2016 all vessels operating in the region will need to use electronic navigation charts which meet international standards. Our support ensures that cargo and cruise ships will continue to be able to operate in the Pacific, by bringing charts up to this standard. We are glad to be able to share our expertise in hydrographic survey work and technical know-how with our closest neighbours, thus improving the safety and reliability of shipping routes in the region.

### **Renewable energy**

Diesel generators currently

provide about 80% of the Pacific's energy and Pacific nations spend 10% of their GDP on imported fossil fuels. So, moving to renewable energy will lower generation costs and reduce import dependency.

This is an area where the Pacific has been let down by a lack of practical action for many years. There has been much talk about climate change and the importance of renewable energy, but this has not been matched by funding and assistance for projects that will deliver this clean energy.

New Zealand is committed to changing this. In 2013, we hosted the Pacific Energy Summit in Auckland. Pacific Governments came to the summit with clear roadmaps and ambition for developing their energy sectors. Donors and partner Governments rose to the challenge, and the summit exceeded all our expectations. Donors committed \$635 million to renewable energy initiatives. This funding is drastically accelerating the Pacific's shift to renewable energy – over

50 projects are now underway across the region. The Pacific is close to achieving 50% renewable electricity.

For our part, New Zealand has committed at least \$80 million to 25 renewable energy projects around the Pacific in countries including the Cook Islands, Tuvalu, Kiribati, Samoa, Papua New Guinea, Tonga and Vanuatu. We are already seeing results: for instance, the atolls of Tokelau have gone from 100% reliance on diesel to generating all of their electricity renewably as a result of our project. We are working with the European Union on photovoltaic systems for the outer islands of Tuvalu and the Cook Islands. These systems will provide around 90% of the islands' power needs this year.

By adopting a broker role, New Zealand is able to bring together Pacific states and some of the world largest donors to achieve far more than we could by working alone. We want to use this approach beyond energy to get donors working on all Pacific issues – sharing our expertise, but also open our 'contact book' to



help launch innovative projects which deliver tangible results.

### **Building resilience**

In such a vast ocean, Pacific nations tend to be very distant from their neighbours and, therefore, far from help when natural disasters strike. New Zealand has a proud history of assisting in such challenging situations. For example, in the aftermath of the 2009 Samoa earthquake, a devastating tsunami destroyed several communities in Samoa and Tonga. We spearheaded the relief operation with military aircraft, emergency supplies, naval vessels, and health workers, providing substantial financial aid during the recovery period.

Recently, New Zealand announced a new partnership aimed at helping Pacific Island nations prepare for and manage natural disasters. The region is particularly vulnerable to tsunamis, earthquakes and cyclones. Over the last three years, our Ministry of Civil Defence and Emergency

Management and Ministry of Foreign Affairs and Trade have been working together with Pacific Island governments to help them prepare for natural disasters.

This co-operation has delivered practical improvements in disaster readiness across the Pacific – including the installation of 23 tsunami warning sirens along Samoa's south coast. A new partnership agreement builds on this investment and will enable us to support the Pacific in other areas. Under the arrangement, our ministries will share expertise, pool resources, and work together on prevention measures and rapid response to disasters.

A focus of this work has been on helping Pacific nations better protect children and young people in the event of major emergencies, allowing island nations to strengthen their own national capability in readiness, response and recovery. We continue to provide expert emergency management support.

### **Supporting communities**

This constructive approach can also be seen in other areas of social services, like healthcare. An example is our contribution of \$3.8 million to the Fred Hollows Foundation for a new regional eye care centre in the Solomon Islands. Around 80,000 people in the Pacific are blind, and four out of five of these people could have their sight restored through a simple operation. In addition to robbing people of their sight, avoidable blindness also negatively impacts on employment opportunities for individuals and causes hardship for families and communities.

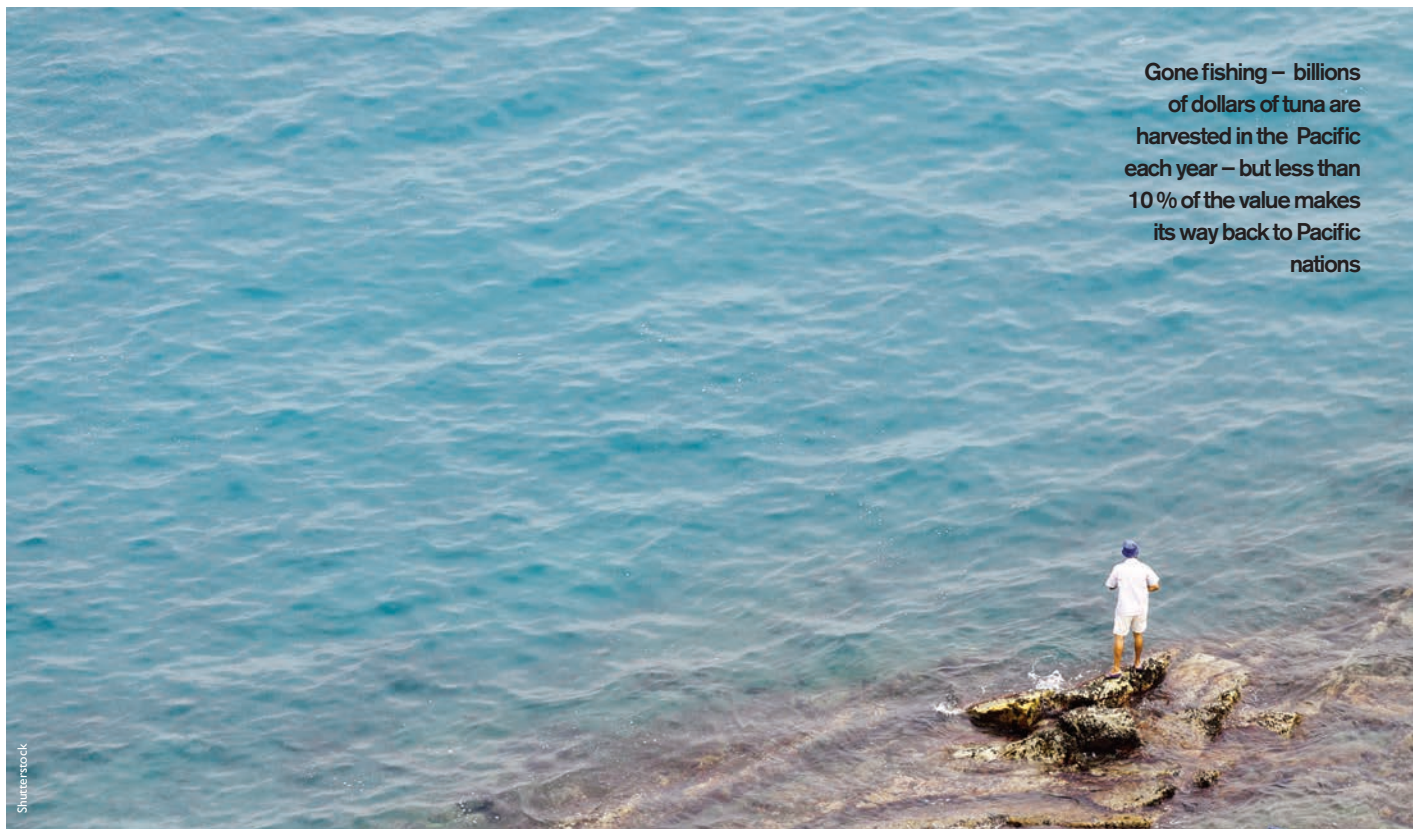
The new regional eye care centre will deliver 1,900 eye surgeries a year and allow 11,000 people to have eye treatment for a range of conditions. The centre will also provide training to optical healthcare professionals and develop the local workforce in the Pacific. The building, which opens later this year, has been designed in New Zealand to achieve high levels

**“By adopting a broker role, New Zealand is able to bring together Pacific states and some of the world largest donors to achieve far more than we could by working alone”**

of sustainability, including solar panels which generate more than 90% of its energy needs.

### **The future**

Looking ahead, I have no doubt that New Zealand will continue to place emphasis on practical projects which deliver real outcomes for sustainability in every sense of the word - environmental, economic and social – for our Commonwealth Pacific neighbours and beyond.



**Gone fishing – billions of dollars of tuna are harvested in the Pacific each year – but less than 10 % of the value makes its way back to Pacific nations**



# CROSS-BORDER TERRORISM: FOREIGN FIGHTERS AND LOCAL THREATS

Just why do individuals leave the Western world to enlist as 'foreign fighters' for extremist organisations in Syria, Iraq and Yemen? Acting to prevent further attacks is key, but so is tackling the problem at its root

**Rt Hon. Keith Vaz MP** was first elected to Parliament in June 1987 and was the first person of Asian origin to sit in the House of Commons since 1922. He was Britain's Minister for Europe under Tony Blair, and now serves as the Chairman of the Home Affairs Committee. He also chairs the All Party Parliamentary Group on Yemen.

Terrorism, is an old and well-known means by which groups attempt to achieve their political objectives through violence. However, an interlinked globalisation and localisation of groups such as Al Qaeda and its offshoots, has evolved our understanding of terrorism in recent months and years.

This seemingly contradictory process is witnessed in the phenomena of 'foreign fighters', individuals who leave their lives in the Western world to join Islamist groups in places like Iraq and Syria.

We are also seeing zones of control being carved into the Middle East by groups like Islamic State. The imposition of a 'caliphate' across borders which in recent decades have been under the cast-iron grip of dictators, is a startling development.

These factors, combined with the widespread use of



**Rt Hon Keith Vaz MP,  
Chairman of the Home  
Affairs Committee**

the internet, social media and the 'dark web' to promote and disseminate extremist materials is rapidly changing how Western police and intelligence services protect us from terrorist acts.

## **At home**

A distressing series of events has shaken us all in recent months.

- In October 2014, a clearly warped individual shot and

killed a soldier on ceremonial sentry duty at the Canadian Parliament.

- In December 2014, a radicalised asylum seeker from Iran, known to the authorities for repeated criminal offences, took 18 people hostage in an Australian café. Two hostages were tragically killed.
- In January 2015, two brothers, heavily armed and trained in Yemen by Al Qaeda in the Arabian Peninsula, stormed the offices of a Parisian satirical magazine, killing 12 people. After the initial attack, the perpetrators and a third assailant committed further acts of terror, ending in two hostage crises. 17 innocent people died in total.

In all three cases, the individuals were known to the authorities, they had all read and absorbed extreme Islamist literature and undergone



The Abdullah X cartoon, made by a former extremist, is an example of a peer-led project playing a positive role



radicalisation. Learning from these shocking events will be a significant challenge for our security services.

Preventing individuals from being lured by extremism in the first place is the greatest and most important of those challenges. Stopping the spread of extremist and insular ideologies and people being attracted to fight for groups in the Middle East, are concerns both home and abroad.

#### Engaging communities

As the Home Affairs Select Committee has consistently been told, unless you get communities on your side, counter-terrorism efforts will be extremely challenging.

Quite simply, no amount of money spent on counter-terrorism can replace the significant impact that engaging with groups, individuals, religious organisations and other community sources can

have. To underestimate this is to ignore the importance of peer pressure in matters related to extremism, both as a positive or negative force.

To only look at authority figures is a blinkered view of engagement, though they will obviously have some influence. Examples of peer-led groups playing a positive role in tackling extremism are very promising. A good example is Abdullah X, a cartoon made by a former

extremist aimed at stopping Britain's young Muslims from leaving for Syria.

There are certain areas where people can be particularly susceptible to radicalisation. In prisons particularly, there are multiple examples of young men coming out radicalised or further radicalised, who may have been jailed on non-violent sentences. The *Charlie Hebdo* killers had both been incarcerated on terrorism-related offences



several times. How we engage with individuals in prison, and monitor them afterwards, is a big question to be addressed.

One method to identify and deter possible threats at an early stage, are initiatives like France's 'Green Line'. This is a hotline where people can seek advice or report possible terrorist activity. When I met with Nathalie Goulet, Chair of the French Senate Committee inquiry into the struggle of jihadi networks in France and Europe, she said this has helped to prevent over 200 people going to fight in Syria and Iraq.

Our equivalent in the UK is the 'anti-terrorism hotline', but we perhaps do not have the balance quite right. For example, Majida Sarwar, a mother who informed the authorities her son Yusuf had travelled to Syria to "do jihad", felt betrayed by the police when he was subsequently arrested and given a 12 year, eight month sentence. She and others believe examples like this discourage others from reporting their loved ones to the authorities.

If we are clumsy and ham-handed when approaching communities in terrorist prevention, we risk being hoist by our own petard. It is very difficult to get this balance right, but we need to engage, and not alienate people in these difficult situations.

### The internet

The internet, and particularly the 'dark net', presents a constantly evolving challenge for intelligence services.

Groups like Islamic State have used social media as platforms for recruitment, where those who have already left the West are used as recruiting tools, directly communicating with individuals in the United Kingdom, France, Australia etc, to convince them to join them in the Middle East.

There has also been a very public 'gamification' of violence,

where very real acts of horror in the Middle East are promoted by mimicking popular video games or television shows. It has been common for hostage-taking or acts of violence to be revealed through slick, high quality videos posted on popular social media sites. This chillingly demonstrates the very deliberate intention of these groups to target and attract young men.

The 'dark web' presents another new threat. This hidden part of the internet, estimated to be anything up to 500 times the size of the surface web, is used to buy weapons, drugs, fund terrorism, spread training manuals for weapons and bomb making, and many other illicit purposes.

Procyse, a US Cybersecurity and Intelligence Firm, found over 50,000 extremist websites, over 300 terrorist forums and clear sources of financing for terrorist groups on the dark net. Most worryingly, when a site is shut down (and in November 2014 alone, 400 sites were closed), it will often re-appear within weeks. The Institute for National Security Studies states that the dark net operates as "a virtual terror network".

There is clear evidence that groups like Al Qaeda in the Arabian Peninsula, one of the most dangerous organisations in the world, use these services to facilitate their actions. In 2013, US Intelligence intercepted communications between Al Qaeda chief Ayman al-Zawahiri and Nasir al-Wuhayshi, the head of Al Qaeda in the Arabian Peninsula, the contents of which led them to shut 21 US embassies across the Muslim world.

For these groups to co-opt so many people in the West is the greatest threat to our way of life in decades. Increasingly however, this problem also requires us to tackle these groups at their root, in parts of

Africa and the Middle East.

### Abroad

At this time, parts of Nigeria, Somalia, Yemen, Syria, Iraq, Pakistan and Afghanistan have become havens for extreme Islamist organisations, all of which count violence and terrorism as part of their repertoire.

These areas may be hundreds, if not thousands of miles away, but the desire of these organisations to specifically target the West, and recruit people in our towns and cities, makes them a clear and severe threat.

Terrorist attacks across the world are orchestrated by groups operating from these remote areas, through individuals such as the Kouachi brothers. The territory under their control provides an area where potential terrorists can be trained, where propaganda can be projected to the West and regions to which foreign fighters are lured to.

### Foreign fighters

Many experts have highlighted the increasing danger posed by foreign fighters. There are now more foreign nationals fighting in the Middle East than in any conflict since World War Two. From the UK at least 600 people, and up to 2,000, have left to fight in Iraq and Syria.

According to intelligence estimates, Islamic State alone may have up to 15,000 foreign fighters in their ranks. In addition to those from the UK, this may include up to 900 from France, 550 from Germany, 300 from China, 250 from Australia, 100 from the United States and 1,000 from Turkey.

What motivates somebody to leave their life in the West to fight for a group which wishes to establish a medieval, brutal caliphate thousands of miles away, is the question which haunts intelligence officials.

What haunts them more, is what to do with them if they return.

The unimaginable brutality committed by Islamic State in Syria and Iraq is shocking. This group kills indiscriminately and cruelly. If people who have partaken in such violence are able to return to the UK, the threat they pose is staggering.

Some of those who leave to fight for these groups have realised their error after arriving and witnessing first-hand what they have gotten themselves into. Just before Christmas in 2014, 100 foreign fighters were reportedly killed when tried to return home.

Once it gets to that point, it is already too late. Removing the passports of these individuals may be necessary. It is more important to prevent them from leaving in the first place.

### Regional instability

Just as worrying for our security is the toxic influence groups like Al Qaeda and Islamic State have in their areas of control.

In Yemen, Al Qaeda in the Arabian Peninsula have sown instability and chaos for years, playing a major role in the recent political crisis. Suicide bombings and attacks occur on a daily basis, as the group gets bolder and more aggressive.

As Chair of the All Party Parliamentary Group in Yemen, I have a particular concern for the people of that country, and its future. I also have no doubts that if Al Qaeda gains in strength there, we will suffer the consequences, and the front line will be the streets of Birmingham, London and Leicester.

Recently, a particularly shocking bombing at Yemen's Police Academy killed just under 50 people, mainly young cadets. There was no consideration of bystanders. As the government in Yemen has struggled and





found its power reduced, this incredibly dangerous offshoot of Al Qaeda has carved enclaves of the country for itself.

For this Al Qaeda offshoot to have territory is no small threat. This group is considered the most dangerous organisation in the world by the CIA, it has been responsible for numerous terrorist attacks and attempted attacks in the West, including the *Charlie Hebdo* massacre. We cannot allow such groups to thrive in Yemen, and prey on the people there.

#### Local terror, global threat

In a clear example of this danger, the brothers responsible for the massacre at *Charlie Hebdo* in Paris, Saïd Kouachi and Chérif Kouachi, had received military training in Yemen by Al Qaeda. Despite the United States providing this information to the French authorities, and subsequent intelligence gathering in France, this did not prevent the brothers from acquiring weapons on the black market, and using their training

to launch their vicious attack.

What is also very concerning, is that these two individuals were on the US 'no-fly list'. How then, did they both fly to Yemen to receive this training in the first place?

Intelligence sharing between countries, particularly with regard to no-fly lists, needs to be practised more widely or we risk these individuals falling through the cracks. In this case, the brothers' inclusion in a no-fly list was irrelevant, and they travelled to Yemen unabated. Such cases undermine all of our security.

If one considers that 3,200 British passport holders travelled from the UK to Yemen last year, against all Foreign and Commonwealth Office advice, we should be working with Yemeni authorities to track these individuals, and establish why they are visiting in the first place.

We can often forget the harm suffered by people in the countries these groups operate in. This is clear in the political crisis in Yemen, the mass-kidnappings by Boko Haram in Nigeria, and the stonings, torture and sexual

violence in Iraq and Syria.

Take the recent Peshawar massacre. Nine gunmen affiliated with the Taliban attacked a school in Northern Pakistan. 145 people were killed, 132 of which were schoolchildren. All of the men were foreign nationals. This is one of the most horrifying acts one can imagine.

I can only hope we can play a role in stopping similar tragedies from occurring in the future.

#### Conclusion

The globalisation of terror groups, and their ability to project force, procure members and spread information across the globe, is an ever complicated and evolving challenge. We know the scope of the challenge and we know the danger that we face.

Learning from past events and acting decisively to prevent further attacks is our first job. Tackling the problem at its root will be a longer process, but a vital one, against what is now the greatest threats to our way of life.

**“The ‘dark web’ presents another new and hidden threat. This hidden part of the internet, estimated to be anything up to 500 times the size of the surface web, is used to buy weapons, drugs, fund terrorism, spread training manuals for weapons and bomb making, and many other illicit purposes.”**



# CELEBRATING BC'S FIRST 100 WOMEN MEMBERS OF THE LEGISLATIVE ASSEMBLY

The upcoming centenary of the election of Mary Ellen Smith, British Columbia's first woman Member of the Legislative Assembly in 1918, provides an opportunity to reflect on the remarkable contributions of the province's female MLAs

## The Honourable Linda Reid

has served as Speaker of the Legislative Assembly of British Columbia since her election to the position in June 2013. Previously, she served as Deputy Speaker from 2009 – 2013. Ms. Reid served as Minister responsible for early childhood development (2001 – 2005) and child care (2005 – 2009). First elected as a Member of BC's Legislative Assembly in 1991, Ms. Reid is BC's longest-serving current MLA.

In April 2013 British Columbia achieved an important milestone. With 11 women elected as first-time Members of the Legislative Assembly in the province's 40th general election, British Columbia elected its 100th woman MLA. We are also approaching the 100th anniversary of the by-election victory of Mary Ellen Smith, the first woman elected to BC's Legislative Assembly, in 1918.

Between 1891 and 1914, 16 women's suffrage bills were introduced, and defeated, in British Columbia's Legislative Assembly. Following a referendum on the issue undertaken in conjunction with the province's 1916 general election, in April of 1917 British Columbia became the fourth province in Canada to grant women, who qualified as British subjects, the right to vote in provincial elections and to stand for provincial office. While this legislation heralded a great step forward for women's rights, the voting franchise would not become universal in BC until 1949, when it was finally broadened



**Hon. Linda Reid, Speaker of the British Columbia Legislative Assembly**

to include First Nations women and men, and women and men of Japanese descent.

I would like to take this milestone as an opportunity to celebrate the strength, character, and contributions of some of these remarkable provincial leaders.

Born and raised in England, Mary Ellen Smith immigrated to British Columbia with her husband in 1891. Smith had been a passionate activist on the drive for women's suffrage in the province in the decades leading up to the successful 1916 referendum, so it was perhaps fitting when she was called upon

to run in her husband's vacated seat following his sudden death in 1917. First elected as an 'Independent Liberal', she ran for re-election in 1920 and 1924 under the banner of the Liberal party of the day.

As an MLA, Smith continued her advocacy work on behalf of women, children and the underprivileged, introducing a Bill calling for a minimum wage for women that remained in effect until 1972. She is additionally recognized as the first female member of cabinet and the first woman to preside over parliamentary proceedings as an acting Speaker anywhere in the British Empire.

In 1950 British Columbia marked another first when Nancy Hodges was appointed as Speaker of the House – the first woman Speaker in any jurisdiction in the Commonwealth. Hodges grew up in London, England, before relocating to Kamloops, BC, in 1912 to facilitate her husband's tuberculosis convalescence. The couple moved to Victoria in 1916, where she served as women's editor for the *Victoria*





*Times* newspaper and developed an increasing reputation as a women's rights advocate.

Hodges won a seat in the Legislative Assembly 1941 and served as a Liberal member of the Liberal-Conservative coalition that governed the province until 1951. She campaigned for the rights of women workers and women's property rights before her appointment as Speaker. After losing her seat in the 1953 provincial general election, Hodges was appointed to the Senate of Canada, becoming the first BC woman to sit in Canada's upper chamber.

A generation later, another pioneering immigrant arrived in Montreal. Rosemary Brown emigrated from Jamaica to attend McGill University in 1951. After moving west, she served as ombudswoman for the Vancouver Status of Women Council before becoming the first African-Canadian woman elected to a provincial legislature in Canada, as the New Democratic Party MLA for Burrard in 1972.

In addition to being recognized as the first visible minority woman elected to the BC Legislative Assembly, Brown was also the first African-Canadian woman – and only the second woman, after Mary Walker-Sawka in 1967 – to run for the leadership of a national party in Canada, finishing second in the 1975 New Democratic Party leadership campaign. In 1986, after serving three terms as an MLA, Brown left provincial politics, returning to work in academia, with international aid organizations, and as head of the Ontario Human Rights Commission.

MLAs Jenny Wai Ching Kwan and Ida Chong were both first elected in BC's 1996 general election, almost 50 years after a 1947 law extended the voting franchise to women and men of Chinese and South Asian backgrounds.

Kwan and Chong became the first Chinese-Canadians elected to BC's Legislative Assembly, as well as the first and second Chinese-Canadian cabinet ministers in the province.

Born in Hong Kong in 1967, Jenny Wai Ching Kwan moved to Vancouver with her family when she was nine years old. She became Vancouver's youngest city councillor in 1993 before campaigning to become the New Democratic Party MLA for Vancouver-Mount Pleasant in 1996. During her first term in office, Kwan became BC's first Chinese-Canadian cabinet minister, holding portfolios in Municipal Affairs; Women's Equality; and Community Development, Cooperatives and Volunteers.

A daughter of a Chinese immigrant mother and second-generation Chinese-Canadian father, Ida Chong grew up in Victoria, BC. She spent close to 20 years as senior partner in an accounting practice and one term as a municipal councillor prior to her successful 1996 campaign to represent Oak Bay–Gordon Head as an MLA for the Liberal party.

The novice MLA was appointed official opposition critic for small business and deputy critic for finance during her first term. After the 2000 general election resulted in the Liberal party forming government, she held a variety of cabinet positions, including community, sport and cultural development; science and universities; healthy living and sport; and small business.

In recent decades BC women have proven themselves as leaders in virtually all of the province's top posts. Women have led all of the province's major provincial parties. Four women have been elected Speaker of the House, two have been appointed Lieutenant Governor, and two have served as Premier of the province,

with women also maintaining a substantial and increasing presence at the cabinet table.

Canada's first woman premier, Rita Johnston, was born in Saskatchewan and raised in BC's Lower Mainland. Prior to entering politics, she spent years operating a successful small business in Surrey, BC, and served two terms as a Surrey municipal councillor – experience she would later put to good use as Minister of Municipal Affairs. Johnston was first elected as a Social Credit party MLA for Surrey in 1983. In addition to serving as Minister of Municipal Affairs, where she received plaudits for her competent administration from colleagues across the political spectrum, she also spent time as Minister of Transportation and Highways, Minister of State for the Kootenay Region, and Deputy Premier. Johnston was appointed Premier on April 2, 1991, after the Social Credit caucus selected her to succeed Bill Vander Zalm.

In 2003 the BC New Democratic Party elected its first woman leader, Carole James, who also made history by being the first woman to serve as provincial Leader of the Official Opposition. James has dedicated much of her life to public service, holding positions with the Greater Victoria School Board and as vice-president of the Canadian School Boards Association, and she also served an unprecedented five terms as President of the BC School Trustees Association. She was Director of Child Care Policy in the BC government for two years, and served on the Greater Victoria Region Social Planning Council, the City of Victoria Parks and Recreation Committee, and the Task Force on Violence prevention.

British Columbia's current Premier, Christy Clark, was first elected to the BC Legislative

Assembly on May 28, 1996 as a Liberal MLA. She served in Opposition until 2001; following the general election of that year she was appointed Deputy Premier and held portfolios in Education and Children and Family Development, before deciding to take time away from public life to focus on her family. In 2011 she returned to politics and was victorious in the Liberal Party leadership race following the departure of Liberal Party leader and Premier Gordon Campbell. Clark was sworn in as Premier on March 14, 2011. In 2013 she surpassed another milestone, becoming the first woman in BC to lead a party to victory in a provincial general election. She currently serves as BC's second and longest-serving woman Premier.

Today, 31 of BC's 85 MLAs are women, including eight of 20 cabinet ministers. At the Legislative Assembly, four of eight active committees (including the Legislative Assembly Management Committee) are chaired by women. I am honoured to serve as Speaker, and the longest-serving current MLA, at a time when the Speaker, the Lieutenant Governor and the Premier are women, and when both parties with official status in the Legislative Assembly have been led by women.

One of my greatest privileges as an elected MLA is to meet with students and young people and speak with them about how they can contribute to making BC a more prosperous and secure province. Our first 100 woman MLAs provide a rich diversity of role models of leaders who have worked hard to make BC a better place. Their record and achievements serve to inspire young people – and all of us – to continue their work to make a positive difference in our communities.



# STRENGTHENING FINANCIAL SECURITY

The Commonwealth Association of Commonwealth Public Accounts Committees (CAPAC) aims to strengthen PACs across the Commonwealth, contributing greatly to the promotion of good governance.

**Hon. Tonio Fenech MP** is chairman of Malta's Public Accounts Committee. Currently in opposition, he served as Minister of Finance, Economy and Investment until 2013.



**The Hon. Tonio Fenech of Malta**

**Hon. Sen. Raziah Ahmed** is Minister of State, Ministry of Gender, Youth and Child Development in Trinidad and Tobago and President of the Senate. She was a member of the Public Accounts Committee until March this year.

At their November 2013 meeting in Sri Lanka, the Commonwealth Heads of Government emphasised the critical importance of the institution of the Public Accounts Committee (PAC) to good governance and healthy democracy. Clause 46 of their communiqué read: "Heads of Government further reaffirmed that strong and independent Parliamentary oversight plays an important role in preserving

the trust of citizens in the integrity of government, through Public Accounts Committees that are effective, independent and transparent."

The institution of the Public Accounts Committee is over 150 years old – the first having been created in the UK Parliament as part of Gladstone's reforms in 1861 – and is now a hallmark feature of the Westminster system shared by Commonwealth parliaments. Each parliament's PAC will, since its creation, have developed and operated against a backdrop of huge expansion in the concept of public service spending. In order to keep pace with this fast-changing landscape of public administration, PACs must constantly adapt and improve performance to continue to realise their purpose of good governance and accountability. Furthermore, parliamentarians



**The Hon. Sen. Raziah Ahmed of Trinidad & Tobago**

know that in all our countries too many members of the public distrust politicians; increased transparency and rigorous scrutiny of government expenditure by Parliament, with findings that are then given due weight by executive departments, are one method we can use to try to restore public confidence in politics.

These challenges and so many others we face are mutual. An uncooperative





Rigorous scrutiny of expenditure is vital to increase trust in the political process

executive government; an under-resourced supreme audit institution; an inadequate statutory framework; unresponsive media; these are issues with which we know many of our PAC colleagues across the Commonwealth will be painfully familiar. Sharing best practice and personal experience of these common challenges can hugely improve our ability to respond to them and thereby enhance our work as PAC members.

The Westminster Workshop series, organised by the CPA UK branch and now entering its fifth year, has demonstrated the practical value of knowledge-sharing and capacity-building programmes for PAC Members. At the most recent Westminster Workshop in London in June 2014, an informal steering committee of PAC members

and clerks interested in these issues, of which we are co-chairs, met to initiate a Commonwealth Association of Public Accounts Committees (CAPAC). We envisage that CAPAC will, among other things, provide support to existing regional PAC networks, produce learning resources for dissemination to parliaments, produce technical co-operation programmes specifically aimed at PACs and arrange regular contact between PACs.

Still in its nascent stages, CAPAC's steering committee met again in January 2015 in London to scope in greater detail the objectives, functions, as well as organisational structure and membership for the association. The outcomes of the discussions will form a basis for a draft CAPAC Constitution to be presented

for endorsement by national PAC representatives attending the fifth Westminster Workshop later in the year. These representatives will also elect a new Executive Committee to replace the steering group and lead the future development of CAPAC.

We hope that by the time of the CHOGM, in November 2015, in Malta, the Heads of Government will reaffirm their November 2013 declaration, recognising that effective steps are being taken through CAPAC to strengthen PACs across the Commonwealth. We believe CAPAC will be a vital tool for realising the Heads of Government's declaration on PACs, and that it can contribute greatly to the promotion of good governance in Commonwealth countries.

**“In order to keep pace with this fast-changing landscape of public administration, PACs must constantly adapt and improve performance to continue to realise their purpose of good governance and accountability.”**



# ALL INDIA CONFERENCE OF WHIPS: CODE OF CONDUCT

The 16th All India Conference of Whips was held in Goa on 13 and 14 October 2014



**Vivek K. Agnihotri**  
is a former Secretary-  
General of Rajya Sabha,  
Parliament of India.

In the parliamentary form of government, the Whips constitute a vital link in the internal organization of political parties in the legislatures. The term Whip is derived from the expression 'Whipper-in' employed by a huntsman to keep the hounds within the field. In this context, the Oxford Dictionary defines a Whip as a member of a particular party whose duty is to secure the attendance of the members of her/his party in the parliament on the occasion of a vote after a discussion, say, on a Bill, or a division, as it is technically described.

In view of the important role played by the Whips in the smooth functioning of the Parliament, the Indian government decided to provide a forum for periodical meetings and mutual exchange of views among the Whips of Parliament as well the State



**Vivek K. Agnihotri**

Legislatures. Accordingly, the first Conference of Whips was held as early as in 1952, the year in which the first elections to the Indian Parliament were held after India gained independence in 1947. All India Conferences of Whips have been organized thereafter from time to time at intervals of one to 12 years. These conferences are organized by the Ministry of Parliamentary Affairs, Government of India.

The conference usually makes a number of recommendations for smooth and efficient functioning of the Parliament and the State Legislatures, in the light of the experience gained by the Whips.

The 16th All India Conference of Whips was held from 13 to 14 October 2014 in Goa. The eight-point agenda for the conference included: Codification of Privileges, Taking up Private Members' Bills and Resolutions for a full day every week, Code of Conduct for Legislators, Ensuring Discipline and Decorum in the Houses, Floor Management in the House and the Increased Role and Accountability of Whips, Ways and Means of Ensuring Continued Presence of Members in the Houses and Increasing the Volume of Transaction of Business, Professional Training and Research Assistance for Legislators and e-Parliament/





Legislatures through Increased Use of Information and Communication Technology.

On the opening day of the conference, the headline in a prominent Indian newspaper screamed: 'Modi Government to formalize code of conduct for MPs'. Actually, the functioning of the Indian Parliament, in recent times, has been a matter of concern with all stakeholders. I shall, therefore, discuss the Agenda Item of the conference relating to the 'Code of Conduct for Legislators', which subsumes several issues such as ensuring discipline and decorum and presence of members in the Houses, among others. The media has reported that the Whips' conference expressed concern over the growing indiscipline and lack of decorum in the Houses and recommended that some sort of Code of Conduct was considered desirable for maintaining discipline and decorum.

In a study conducted by the Rajya Sabha Secretariat in 2009, it was pointed out that instances of interruptions and disruptions, leading sometimes even to adjournment of the proceedings in the House have increased in recent times. It bemoaned that instances of disturbances and pandemonium have become a regular phenomenon, resulting in wastage of resources. However, as far as seeking a solution to this problem is concerned, there is no dearth of resolutions, rules, regulations and guidelines, and even a so-called Code of Conduct, for this purpose. Actually, the Code of Conduct goes beyond the conduct of Hon'ble Members of Legislatures within the precincts of the House.

Let us first look at the rules and guidelines in this regard. As reported, the 'Handbook of Members' of the two Houses

**“In a study conducted by the Rajya Sabha Secretariat in 2009, it was pointed out that instances of interruptions and disruptions, leading sometimes even to adjournment of the proceedings in the House have increased in recent times. It bemoaned that instances of disturbances and pandemonium have become a regular phenomenon.”**

details the Guidelines. For example, 'The Handbook of the Rajya Sabha' (The Council of States or the Upper House) has three sections (2.2 to 2.4) entitled Parliamentary Customs and Conventions (14 items), Parliamentary Etiquette (43 items), and Code of Conduct for Members (14 items). These guidelines are broadly based and expand on the Rules and Procedures prescribed by the 'Rajya Sabha Rules of Procedure and Conduct of Business in the Council of States' and the rulings given by the Chair from time to time ['Rulings and Observations from the Chair (1952-2008)']. Thus there is a modicum of codification already. The Rajya Sabha Rules mentioned above

have very specific provisions, *vide* Rule 235 (Rules to be observed in Council) and Rule 238 (Rules to be observed while speaking). *Inter alia* they prescribe that a Member shall not obstruct proceedings, hiss or interrupt and avoid making running commentaries when speeches are being made in the Council, shall maintain silence when not speaking, shall always address the chair, shall not use his right to speech for the purpose of obstructing the business of the Council, shall not utter treasonable, seditious and defamatory words and so on.

The Rajya Sabha Rules further have a section titled Committee on Ethics (Rules 286-303). This Committee on Ethics is *inter alia* required to oversee the moral and ethical conduct of Members and prepare a Code of Conduct for Members. The Committee has accordingly prepared a Code of Conduct, which was adopted by the Rajya Sabha as far back as in 1999. It is a 14-Point Code, which has two omnibus and comprehensive provisions, namely:

- “(i) Members must not do anything that brings disrepute to the Parliament and affects their credibility.
- “(xiv) Members are expected to maintain high standards of morality, dignity, decency and values in public life.”

The other items of the code address issues such as conflict of interest, illegal gratification, gifts, disclosure of confidential information, secular values, fundamental duties enumerated in the Constitution of India etc.

The Committee on Ethics is empowered to examine cases concerning the alleged breach of the Code of Conduct by Members as also cases concerning allegations of any other ethical misconduct by Members. A detailed procedure for conducting the inquiry

by the Committee has been prescribed, at the end of which the Committee can recommend any of the following sanctions: (i) censure; (ii) reprimand; (iii) suspension from the House for a specific period; and (iv) any other sanction determined by the Committee to be appropriate. In the past, the Committee has recommended expulsion of a Member from the House. The Report of the Committee is placed before the full House for adoption through a motion for its consideration.

The Rajya Sabha Rules also empower the Chairman to direct a Member to withdraw from the House or even to suspend him/her for a period not exceeding the remainder of the session, in case he/she indulges in grossly disorderly conduct.

Rules of Procedure and Conduct of Business in Lok Sabha (the House of the People or the Lower House) too have similar provisions, more or less. Its Code of Ethics lists nine General Ethical Principles, namely accountability, honesty, integrity, objectivity, openness, public interest, responsibility, selflessness and leadership. However, so far the Lok Sabha does not have a permanent Ethics Committee. In case a complaint of misconduct by a Member is received by the Speaker, he/she may appoint a Committee to examine and investigate the matter and submit a report. Unlike the Rajya Sabha, the Rules do specifically provide for expulsion as a punishment. Moreover, in addition to the power of the Speaker to direct a Member to withdraw or to suspend him/her for disorderly conduct, there exists a provision for automatic suspension in the event of grave disorder occasioned by a Member coming into the well of the House etc. If the circumstances so warrant, “such member shall, on being



The gates to Parliament in New Delhi



named by the Speaker, stand automatically suspended from the service for five consecutive sittings or the remainder of the Session, whichever is less" (Rule 374A of the Rules of Procedure and Conduct of Business in Lok Sabha). Even though this Rule was added to the Rule book through an amendment as early as in 2001, it was invoked first time in 2013.

Against this backdrop, it is not quite clear as to what more is sought to be achieved by the recommendation made by the Whips' Conference held recently with regard to 'Ensuring Discipline and Decorum in the Houses', and 'Code of Conduct for Legislators'. As a matter of fact, in the past too the Whips' Conferences and other parliamentary forums have, on various occasions, passed several pious resolutions. For example, as early as in 1992,

the First All India Conference of Presiding Officers, Leaders of Parties, Ministers of Parliamentary Affairs, Whips and Senior Officers of Parliament and State Legislatures adopted a resolution which *inter alia* stated that "Members should scrupulously observe the Rules of Procedure in order to maintain order and decorum in the House" and that "the political parties evolve a code of conduct for their legislators and ensure observance by them". Almost ten years later, a similar conference held in 2001, adopted a resolution which spelt out in detail the need for adopting and enforcing a Code of Conduct for Legislators to be incorporated in the Rules of Procedures of the respective Houses and duly punishing those found to be violating or breaching the Code of Conduct.

In 1997, the Rajya Sabha

adopted a Resolution on the occasion of the Golden Jubilee of Independence, which stated that Members should refrain from "transgressing into official areas of the House, or from any shouting of slogans, and invariably desist from any effort at interruption or interference with the address of the President of the Republic". The prescription speaks volumes about the malady itself.

Finally, the Rules of Procedure of the Parliament and Legislatures, including the Code of Conduct of parliamentarians and legislators, are matters to be decided by Parliament and the State Legislatures as autonomous institutions of a democratic system. It is, therefore, not at all clear as to what the government proposes to do in the matter. It can, of course, in order to give a more formal structure to the existing

provisions, bring a legislative proposal in the shape of a Bill to be passed by the Parliament. But, would it be desirable or acceptable?

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# SABAH

Host to the 2015 CPA Mid-Year  
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 **CPA** COMMONWEALTH  
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# UNITY IN DIVERSITY

National unity in Malaysia has encountered some setbacks but, looking forward, The 1Malaysia concept introduced by Prime Minister Dato' Seri Najib Razak is widely seen as a great progression to further strengthen integration of different cultures

**Hon. Datuk Dr Johnson Tee JP** is a Chartered Logistician/ Maritime Lawyer. He holds a PhD degree in Maritime Law from St George's University, UK Branch Campus and a Master of Laws degree (LLM) from the University of Wales, Cardiff, UK. He is a Fellow of the Chartered Institute of Logistics and Transport (or CILT) London, UK and a qualified Corporate Trainer validated by the Australian Government and Yayasan Pelajar Malaysia. Johnson is a lecturer in logistics management courses and motivation

When we speak of unity in Malaysia, we will be thinking of all races living together hand-in-hand in harmony. To most Malaysians, the spirit of fraternity amongst the many races is merely one speck of the larger spectrum of unity.

Unity must be galvanized with sincerity and supported by the likes of unity in education, cultural appreciation, socio-economy, political and regional matters. Indeed the need for all those sort of unity is imperative in Malaysia's current situation. Malaysia is not only made up of the Malays, Chinese, Ibans, Kadazandusuns and Indians. It includes the Peninsular and East Malaysia, the rich and the poor, the government and the opposition, the educated and those who are not, white-collar and blue-collar workers, the young and the old, urban dwellers and village folks, to name the few.

Malaysia takes pride in the fact that ever since our Nation secured



**Hon. Datuk Dr Johnson Tee**

independence in August 1957, it has remained peaceful without facing major security threats that could jeopardize its stability, peace and harmony except for the 13 May 1969 racial riots and the recent Lahad Datu, Sabah terrorist incursion.

Today, we stand out in the world as an example of how different ethnic communities can live in peace and harmony and work together for the progress and well-being of the nation.

As a country of diverse races, cultures and religions, Malaysia is unique in proving how its diversity can be united and harnessed for nation building. Despite the different political ideologies and contrasting view and opinions, we have been able to respect and appreciate one another. We were able to conduct 13 general elections peacefully without bloodshed.

Despite the fact that we have been a harmonious society, we cannot simply rest on our laurels on the issue of national integration. It is necessary for us to further enhance and strengthen our inter-racial understanding and trust for one another notwithstanding whatever differences exist. We shall continue with greater fervour and determination to strive towards building our multi-racial nation into a united Malaysian nation with a sense of common and shared destiny.





National Integration, a positive aspect is a very broad statement and vital for our survival. It reduces socio-cultural and economic differences or inequalities and strengthens national unity and solidarity, which is not imposed by any authority. People share ideas, values and emotional bonds. It is the feeling of unity within diversity. Being a pluralistic society, it is normal that different interest groups may start identifying themselves, and pressing their cases for a better place in the society. Sometimes the political circumstances can widen the sphere of such thinking making an interest among the division wanting to know more about the roles they are playing. To achieve its ideal, the country has to pool resources, via human capital, cultural, religious, scientific and natural resources to achieve oneness in all spheres of life of the citizens of the country so that the progress can be realized. With the progress, Malaysians can enjoy fruits of prosperity and happiness, living in harmony irrespective of the race, creed, language, religion and cultural leanings professed by each one of them as individuals.

Malaysia is a federation of 13 states and three federal territories. The development so far has been rather imbalanced with most of the wealth centred on certain urban areas. Many other states register significant numbers still living under the poverty line. In order to obtain better distribution of national wealth, the relationship between state and federal government needs to continuously and significantly improve. Political differences between the political leaders should not hinder the best interests of the people.

To most Malaysians, national unity centres on the feeling that we all belong in every sense of the word. Equally, and

without discrimination, we are Malaysians first and foremost before we are anyone else. That means we celebrate our cultural, racial, language, food and other diversities, knowing fully well that we are inextricably linked and belong to one nation, in spite of our various backgrounds. We not only accept our differences, we recognize that as our strength.

What has prevented national unity strengthening further is that we have stressed our differences as divisive forces and failed to cultivate it as strengths? Not only do we not celebrate our differences we have become intolerant of them. Many differences have been raised in the media to such an extent that we negotiate for everything based on race, language and religion. If that is not enough, quotas, jobs opportunities and education, equity stakes – all of these are being split up on the basis of race with political parties representing, basically, races. Where have we gone wrong?

Malaysians should not be thinking as Sarawakians or Kelantanese or Sabahans, instead, we should be thinking and moving forward as Malaysians. The policy should promote greater co-operation between our regions and improve on the integration of the people. Arts and other cultural aspects of



Malaysia should also be enriched by the merger of the myriad of cultures available in Malaysia. That means performance arts and music must be concertedly encouraged to portray the essence of unity of Malaysian race tries to achieve.

Since 1955 when we successfully established the government of Malaya, our leaders firmly believed political cooperation and understanding to be crucial to ensuring stability and national unity. Hence political cooperation through a consensus within the alliance of several political parties, expanded with the establishment of the Barisan National (BN) or National Front in 1971. Today BN represents the various ethnic interests in the ruling government.

The 1Malaysia concept introduced by Prime Minister Dato' Seri Najib Razak is a brilliant step to further

strengthen national integration. The principles of 1Malaysia Foundation encourage public discussion and participation in critical social development, public issues and programmes. Essentially, 1Malaysia Foundation takes every step possible to help achieve a truly united Malaysian nation.

The gap between the more affluent urbanites and the seemingly hard up rural folks also needs attention. The disparity between the two categories of people could be redressed by means of certain revamps in areas of education and economy. Many Malaysians agree to the suggestion that the teaching of English must be more thorough and progressive in rural areas. This is to give the students a better footing in competing with their urban peers. Economic opportunities in villages and other rural areas should also be increased as it will help to raise the living standards of villagers without having to move to the city.

We share our similarities, and at the same time celebrate our differences. We believe that this is the best monument we can erect for a greater Malaysia nation.

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# SABAH'S TOURISM AND FOREST CONSERVATION

Sabah is turning to the tourism sector to replace forestry as one of the main contributors to the economy

**Hon. Datuk Joniston Bangkuai** is a first-term Sabah State Legislative Assembly member representing the constituency of Kiulu. He is deputy chairman of the Sabah Legislative Assembly Back Benchers Club and sits on the Public Accounts Committee. He is also chairman of the Sabah Tourism Board

Recognising that protecting the forest is crucial, and runs parallel with efforts to promote tourism, the Sabah Government has put forest conservation at the top of its agenda.

With its timber revenue declining as it focuses on reversing the trend of deforestation, Sabah is turning to the tourism sector to replace forestry as one of the main contributors to the economy.

Sabah is well aware that discerning tourists will prefer places where environmental conservation is given top priority.

Sabah's revenue from timber production has plunged from more than a billion Malaysian ringgit a year at its height to less than 100 million ringgit a year, as production from natural forests has drastically declined.

Between 1970 and 2000, the state depended heavily on timber revenue to support development, which resulted in



**Hon. Datuk Joniston Bangkuai**

the reduction of the productive capacity of forests.

Such dependence, coupled with past logging practices that were not environmentally friendly and compounded by forest fires, resulted in the degradation of Sabah's forests and prompted the enforcement of strict management of the forest using proper methods, including practices certified by international organisations.

Sabah is committed and

determined to ensure that 53 per cent of the 3.9 million hectares of land in Sabah will remain under forest cover. The protected areas include forest reserves, parks, wildlife sanctuaries and wildlife conservation areas.

All these efforts have helped placed Sabah on the global map, with international non-governmental organisations acknowledging the state's seriousness in protecting its forests and conserving the environment.

This, in turn, has generated interest from foreign visitors, as evident from the increasing number of tourist arrivals. In 2013, Sabah recorded more than 3.3 million visitor arrivals, generating tourism receipt of 5.56 billion ringgit.

It is heartening to note that the success boils down to the fact that the tourism industry in Sabah follows the direction



Sabah's commitment to forest conservation has drawn global interest

Sabah Tourism

of 'Responsible Conservation Tourism', a concept that allows tourists to re-discover and experience nature and wildlife.

Widely known as 'the Land Below the Wind', (because it is below the typhoon belt), Sabah has unique nature-tourism qualities as the state is rich in biodiversity, contributing to

**“Illegal logging activities in Sabah have been greatly reduced, and completely stamping out the problem is a top priority of the government.”**

Malaysia being noted as one of the 12 mega-biodiversity hot spots in the world.

As a rapidly developing state, Sabah is aware and concerned about environmental protection and ensures that these aspects are taken into consideration and integrated in development planning and exploitation of natural resources in line with sustainable development principles.

Credit goes to the Chief Minister of Sabah Datuk Seri Musa Aman, who has been the driving force in galvanising an all out effort to protect forests and the natural environment.

#### **Sustainable harvest**

Switching from conventional logging to sustainable harvesting was perhaps one of the most

difficult decisions the State government had to make.

This was due to the fact that Sabah was hugely dependent on timber for revenue, and opting for sustainable forestry management meant making sacrifices such as losing short-term monetary gains, and doing away with old ways of logging.

Despite uncertainties when the state embarked on the bold decision to push for a sustainably harvested forest, it has passed the litmus test and has proven the doubters wrong.

The leadership of the state government deserves commendation for its political will and action in implementing programmes and initiatives to protect and conserve the environment.

To date, Sabah has more

than 840,000 hectares of forest under some form of certification, including recognition from the Forest Stewardship Council (FSC) certification scheme.

It is also worth noting that, through strict enforcement of the laws, illegal logging activities in Sabah have been greatly reduced. Completely stamping out the problem is a top priority of the government.

The state is also placing great emphasis to the protection of High Conservation Value Forests, which are home to diverse wildlife and plants, and also serve as watersheds.

The Sabah Government has gazetted 240,000 hectares in Ulu Segama Malua Forests Reserve specifically for wildlife. The area is noted for its large population of Orang Utan and elephants.



# SABAH STATE LEGISLATIVE ASSEMBLY NEEDS TO MOVE FORWARDS

Greater resources for the opposition and a role for the State Assembly in the appointment of the Speaker and Deputy Speakers would benefit the parliament and the people

**Hon. Dr. Edwin @Jack Bosi** is Assemblyman N. 19 Kapayan in the Sabah State Legislative Assembly

It is an honour to be able to contribute an article to *The Parliamentarian*. As one of 12 opposition lawmakers, I was excited to have been chosen to share my views and experience as a lawmaker in Sabah. The assurance that I could write without restriction as an opposition Member of the House is proof that we in the Sabah State Legislative Assembly practise the very tenet of democracy as we see it.

I won the State seat of N.19 on 5th May 2013 in the 14th State Election under the Democratic Action Party (DAP), a national multiracial political party established in 1965. DAP made history when, in 2008, the party's candidate



**Hon. Dr. Edwin @ Jack Bosi**

Jimmy Wong Sze Phin won the N.57 Sri Tanjung seat which sent him to the Assembly as the sole opposition lawmaker. History was made when I won and entered the Assembly as the first native Kadazan DAP lawmaker in Malaysia. Today DAP has three legislative

member in the Sabah State Legislative Assembly with me as the Party whip. The other opposition lawmakers are from Parti Keadilan Rakyat (PKR) with five seats, and one from State Reform Party (STAR).

As first term assemblymen, we do not have much knowledge or experience with the working of the Sabah State Legislative Assembly. But, as the Party secretary, I took time to follow my Party Chairman and lone opposition assemblyman Jimmy Wong to the Assembly sittings. By sitting and watching the Assembly in sessions I picked up many points, which put me in a comfortable position when I became a lawmaker, and I would certainly like to





recommend those who are keen to be lawmakers to attend the Assembly sessions.

The briefing by the Assembly Secretary before the start of the first sitting on the rules and procedures under the Standing Orders of the Legislative Assembly was a good start. The materials given to us were helpful especially the Standing Orders of the Sabah Legislative Assembly. Knowing the Standing Orders is compulsory, and it can differentiate the quality of one lawmaker to another. I have a feeling of satisfaction when I can prove lawmakers' errors as far as the standing orders are concerned.

As an opposition member, I would like to see changes in the Sabah Assembly through the appointment of government lawmakers or political party leaders. This is especially to do with the appointment of the presiding officer or Speaker or Deputy Speakers. To this effect, changes to the State Constitution are necessary whereas, at the moment, the

appointment of the Speaker and Deputy Speaker is carried out by the Tuan Yang Terutama Yang di Pertua Negeri, who is the governor of the State of Sabah. It would better if both the positions of the Speaker and Deputy Speakers were to be cast by votes in the State Legislative Assembly soon after each general election. By this procedure the Speaker and Deputy Speakers would be directly responsible to the State Legislative Assembly. The position of the Speaker must be separate from that of the lawmaker/member. In other words, they should be either a Speaker or a lawmaker/member and not both.

I can see that being a lawmaker and a Speaker at the same time could mean that one may not be able to raise issues affecting his or her constituency during assembly sittings. I also see the same when lawmakers are Ministers or Assistant Ministers where they do not raise

issues of their constituencies during the sessions. What it means is that the problems or the requests from their constituencies will not be heard or raised in the House. It might also be fairer if the Deputy Speaker of the Sabah Assembly was not from any political party. This would avoid conflicting statements made outside and within the House by the Deputy Speaker.

The Sabah State Legislative Assembly should provide more facilities to opposition lawmakers now that the opposition lawmakers are larger in number. There is a need for a proper office for the opposition leader. Other amenities such as an official vehicle for the opposition leader and a permanent opposition meeting room, for the opposition members to discuss issues before sessions start, are something that needs to be considered. Development funds should also be given to opposition members in order for them to serve and service

their constituencies better. We are not provided with research assistants or funding for our service centres. In short, the opposition should be given the same treatment as their counterparts in the government. This is to ensure equal respect and fairness to all members irrespective of their political belief. After all, at the end of the day it is the people who benefits from the service of an effective lawmaker/member.

I believe this will change as the opposition gathers more lawmakers. After all, the opposition today is a government tomorrow. It is in the best interest of the people and the state if the opposition members play the role expected of them. The State Legislative Assembly is where laws are made, amended or even removed. I would like to see more time spent and more lively debate in the Assembly. I will contribute as best I can, knowing that my legacy is recorded and kept in perpetuity in *Hansard*.

The Sabah State Legislative Assembly



# THE EVOLUTION OF THE SABAH STATE LEGISLATIVE ASSEMBLY

Sabah is the second largest state in the Federation of Malaysia with a legislative assembly whose origins can be traced back to 1883

**Datuk Bernard J. Dalinting** is Secretary of The Sabah State Legislative Assembly

## Introduction

The state of Sabah is synonymous with the phrase "Land Below the Wind" a term used by sailors in the 1930's and made famous in a book by author Agnes Keith of the same title to describe the then British North Borneo as that area of land South of the typhoon belt. Geographically, it is located at the Northern portion of the island of Borneo the third largest island in the world at 5° 15' and 117° 0'E bordering to the east the Philippines and the South the rich oil nation of Brunei, Sarawak and Indonesian Kalimantan.

With a total area of 73,631 KM (28,429 sq. miles) Sabah is the second largest state in the Federation of Malaysia after the state of Sarawak.



**Datuk Bernard J. Dalinting**

Comparative to its land size, Sabah is considered to be sparsely populated with the most populous areas in and around the capital city of Kota Kinabalu in the west coast, the municipality towns of Sandakan and Tawau in the east of the state. Its population of 3,206,742 million people

(2010 census) is relatively small compared to the national population of 30,267,367 (2014 estimation) but is the third most populous state in Malaysia after Selangor and Johor. Sabah has about 35 ethnic groups such as the kadazandusun, bajau, Chinese, Murut, Brunei Malays, and others each with their distinct different languages, customs and traditions but living harmoniously with each other. Sabah is blessed with diverse landscape of tropical forest, rugged mountains, green flatlands and pristine seas teeming with indigenous flora and fauna of which can only be found in this part of the world. Mount Kinabalu the highest mountain in South-East Asia stands at 4,093 meters above sea level. Sabah has a tropical





Mount Kinabalu the highest peak in South East Asia.

climate, hot and humid. However at higher elevation especially the Mountain along the Crocker range the interior districts of Ranau and Tambunan the temperature is refreshingly cool and cold at night. Mount Kinabalu has its own climate and temperatures can drop to freezing point at night.

### The Assembly

The history of the current State Legislative Assembly can be traced back to the earlier part of 1883 when Sir W.H. Treacher the first Governor of North Borneo (1881 – 1887) formed what was called the council of the East Coast. The reasons for the formation of the Council was that the East Coast Residency was rapidly progressing and with the formation of the Council it would

assist in his responsibilities. Initially an Advisory Council was mooted which was to consist of native representation. The Governor had other ideas and instead formed a Legislative and Executive Council similar in format to the existing in the crown colonies. So not surprisingly the council of the East Coast consisted mainly of ex-officio members with the governor as chairman of the council. In 1885 a Consultative Council for the whole state was formed. However the Consultative Council functioned irregularly. The members consisted solely of Europeans namely the Governor, the Residents, Heads of Department and an unofficial representative from the China Bakes Company

In 1911, Sir Richard Dane

proposed that a more permanent body called the Legislative Council be established in Sabah to frame laws for the state. However there was no suggestion as to the inclusion of native representation in the Legislative Council. In 1912 a Legislative council consisting of six officials and three Europeans unofficial members was established met regularly for the purpose of Legislation. In the same year the Legislative Council was formed, an Advisory Council for Native affairs was also established as a means to actively involving the Native Chiefs in the administration of the respective districts. The establishment of the Advisory Council was an important step in the history of North Borneo as it provided for the first time

an opportunity to voice and address issues raised by the local communities. These issues would later be taken up to the Governor for consideration and deliberation.

Amongst the earliest laws that were passed by this legislative council that are worth noting are the Currency Ordinance of 1889, Shipping and Flags Ordinance of 1903, and Labour Contracts Ordinance of 1908 and many more. The first Land Ordinance was proclaimed in 1913 and was to form the basis and foundation of an improved Land Ordinance of 1930.

The administrative structure in the North Borneo which slowly took shape helped to formulate ideas and policies of how a piece of legislation was to be enacted and enforced. The administrative structure consisted of a European hierarchy at the top i.e. the Governor, the Legislative Council and the various government departments, and at the regional level, the Residents, the District Officers and Assistant District Officers. This administrative structure was to form the basis of the government of Sabah before and after independence on 31st August 1963 and thereof up to the formation of Malaysia on 16 September 1963.

### Legislative structure

The major transformation in the structure from a Legislative Council to a new Sabah State Legislative Assembly is very significant and apparently different from that of the Legislative Council. The new structure signifies a quantum leap departure from a Legislative Council dominated by appointed members who were non local to that of local elected members although members were only elected to the Sabah State Legislative





Assembly in April 1967 four years after the formation of Malaysia. For the first time in the history of the State of Sabah the people of Sabah were able and given the opportunity to vote for their leaders and representatives in the new State legislative Assembly. Initially the State legislative Assembly has 32 members but were increased to 48 in 1975. Today the Sabah State Legislative Assembly has 60 members (increase in 2002) representing the various political parties from the Barisan Nasional and the opposition. Under Article 14 (1)(c) of the state constitution the Tuan Yang Terutama Yang di-Pertua Negeri

may upon advice from the Chief Minister may appoint six people as nominated members of the State Legislative Assembly. These nominated members usually comes from the minority communities in Sabah. After the 13th state general election the Barisan Nasional coalition won 48 seats whilst the opposition has 12 seats. The Sabah State Legislative Assembly is a unicameral institution. The Legislative Assembly is presided by a Speaker and assisted by two Deputy Speakers. Whilst the members of the House are all elected Members, by convention as is the norm across the Commonwealth

Parliaments, the Speaker is always elected by members on the first sitting of its parliament soon after a general election. However, in the state of Sabah the Speaker is not elected by the House but appointed by the Yang di-Pertua Negeri i.e. the Governor under Article 15 of the State Constitution. This applies to the appointment of the two Deputy Speaker who are also like the Speaker, hold office for a term of 5 years. Their tenure therefore will not be affected by the dissolution of the State Legislative Assembly. This is a unique feature of our State legislative Assembly. This works well in the context

of democracy in Sabah as the Speaker is not subjected to the possibility of a non-confidence vote by members. His position in the Legislative Assembly is neutral although some critics questioned the appointment of the Speaker and Deputy Speakers as political. The Speaker is guided by the Standing Orders of the House and accepted conventions as practised by parliaments in the commonwealth. The notion that the Speaker should not be an elected member at the same time is not democratically accurate. Many Speakers in the commonwealth parliaments are elected members of the

Sabah has a tropical climate





House. In the United Kingdom, the Speaker of the British Parliament is also an elected member while at the same time representing a constituency. In Sabah, the current Speaker whilst being also an elected member of the Legislative Assembly enjoys the same privileges and treatments accorded to an elected member. He represents a constituency and as long as he reminds so he is entitled to represent and lead the people in his constituency.

Like all unicameral legislature, bills tabled and passed by the house after deliberations by members are not subjected to any further scrutiny by a upper house. Laws passed by the House are sent to the Tuan Yang Terutama Yang Di-Pertua Negeri who is the Governor of the State for his assent before they are enforced.

The Governor forms part of the State Legislative Assembly. His Excellency delivers the government policy speech during the yearly opening of the legislature. Members will then debate on the policy speech and the government has a right of reply to issues raised by Members. Members are free to debate and bring up any issues of importance affecting their constituencies. They are also at liberty to raise issues that affect the state, to question the Government on its policies and state budget, and to question its Ministers during sittings about the performance of government ministries and departments. In recent years Members began to raise issues of national interest that affect the State for example on security, education and health. In the 2013 general election more Young Members from both the government and Opposition are being elected by the people as the "Yang Berhormat" or the Honourable. However less than 3 percent of the Members are women

which is very low if compared to some Commonwealth countries where women made up as high as high 30 percent of Members in their respective parliaments. The current Chief Minister of Sabah The Right Honourable Datuk Seri Panglima Musa Aman had however said on several occasions that more women are will be given the opportunity to become the "Yang Berhormat" in the future now that more women are educated and actively involved in politics. This gender imbalance in the representation in the Sabah State Legislative Assembly is reflected in the government as there are only one woman full Cabinet Minister and two women Assistant Ministers. There is however more avenue for women to become Members in the Sabah State Legislative Assembly given the fact that nearly half of the voting population are females.

The role of Members in the Sabah State Legislative Assembly are two pronged namely as legislators and as representatives of their constituencies. As legislators they scrutinised, deliberate and vote on bills and actively participate on any business of the house when the house is sessions. But they do this only on of average 14 days a year when the House sits usually in the month of April, July and November. Most of their time are spent in their respective constituencies where they "turun padang" or to go to the ground literally to meet the people, attending to their needs and solving the many common problems and issues raised such as to provide and upgrade facilities like roads, community halls, supply of treated water to villages, inspection of small and big projects implemented by the government and many more. Members comes from a varied background such as lawyers, economist, doctors,

engineers, teachers, community leaders, businessmen etc. The law does not prohibit a Member from practising his or her profession as for example lawyers, doctors etc. This is true if a Member does not hold any government post such as Minister or Assistant Minister. In Sabah, about 90 percent of the constituencies are rural based. Therefore it is common for Members during their "turun padang" (to go to the ground) to spend days on end in their constituencies. Members in the Sabah State Legislative Assembly are also popularly referred to as "Wakil Rakyat" or the literal English meaning as the people's representative. As the people's representative, they are expected to be the bridge between the government and the people in all aspect of constituency life. One veteran "Wakil Rakyat" has often said and with full agreements from other Members that being one, people always believe that he or she is all powerful and can provide everything should the need arise at least in his or her constituency. For example if a calamity happened within his constituency he is expected to be amongst the first to arrive and to provide assistance.

Sabah has a Ministerial form of Government where there is a State Cabinet headed by a Chief Minister, 3 Deputy Chief Ministers and 7 Ministers. The Ministers are assisted by 18 Assistant Ministers assigned to the various ministries. The Cabinet Ministers and the Assistant Ministers sit on the Front Bench row of the Legislative Chamber whilst the government Members without government portfolios or Opposition Members sit opposite as Backbenchers. The sitting arrangement is a format close to that of the House of Commons of the British Parliament. The Standing Orders

that governs the proceedings of the Legislative Assembly was adopted directly from the Parliament of Singapore Standing Orders although the Sabah State legislative Assembly's Standing Order bears similarities to that of the Malaysian Parliament as well. Over the years the Sabah State Legislature's Standing Orders have been continually amended to suit the requirements of the assembly. Being a single Chamber Legislature, it is similar to that of the legislative assemblies found in all the states of Malaysia.

When the Federation of Malaysia was established on 16th September 1963 the Westminster model of parliamentary democracy was adopted as being most suitable for the new nation. This is not surprising given the historical ties that existed between Malaysia and the United Kingdom. The Parliament of Malaysia therefore has two chambers the House of Representatives (Dewan Rakyat) and the Senate (Dewan Negara) similar to the British Parliament which has two chambers the House of Commons and the House of Lord. Meanwhile, the state legislatures in Malaysia has only one chamber. Being a One chamber legislature works well with Sabah. Like the Malaysian Parliament Sabah State Legislative Assembly is a democratic institution where bills are debated and laws are passed, the government scrutinised during question time, Members raised issues affecting their constituencies etc. Democracy is alive in Sabah. This is enshrined in both the State and Federal constitutions. People are free to elect "Wakil Rakyat" of their choice in state general elections of which Sabah has had 14. The Sabah State Legislative Assembly has come a long way since the institution was first established about 100 years ago.

# PARTICIPATION AND THE EMPOWERING OF INDIGENOUS PEOPLE

The level of participation of Aboriginal peoples is one of the achievements to note as the Northern Territory Legislative Assembly celebrates its first 40 years of existence

**Mr Michael Tatham** is the Clerk of the Legislative Assembly of the Northern Territory, previously the Deputy Clerk, Statehood Committee Secretary, advisor to the NSW and Australian Governments and a solicitor. He has a specific interest in constitutional development and reform for sub-national jurisdictions in federations.

Celebrating its first 40 years in late 2014, Members of the Northern Territory Legislative Assembly reflected on the achievements and hallmarks of that period at a special open day at Parliament House in Darwin on Saturday 22 November 2014.

One of those achievements is the level of participation by Aboriginal people as members of the Assembly and candidates at Northern Territory general elections.

On 34 occasions in the Northern Territory, over 12 Assemblies, a person of Aboriginal heritage has been elected as a member of each Legislative Assembly, notwithstanding some consideration of quotas during the 1980s and 1990s which were not implemented.



**Mr Michael Tatham**

## **The Northern Territory in Perspective**

The Northern Territory is a jurisdiction of approximately 230,000 residents served by a Legislative Assembly of 25 members with a further two Representatives and two Senators totalling just four MPs in a Federal Parliament of 276.

At the national level, until 2014 there had been just three Senators (one each from

Queensland, New South Wales and the Northern Territory) and one Representative of Australian Aboriginal heritage elected in 114 years of the existence of the Australian federation. As of 2014, a Senator for Tasmania has also acknowledged her Aboriginal heritage.

The Northern Territory, which has just two senators, as opposed to 12 from each Australian State, has sent 20% of all Aboriginal people ever to be a parliamentarian in Canberra, the national capital. Remarkably, for 74 of those years, the Northern Territory had no Senate representation and has only had two members of the House of Representatives since 2001.

The Northern Territory, in its existing (12th) Assembly comprises six members with Aboriginal heritage of a total of



The Northern Territory has one sixth of the landmass of Australia, but just one percent of the population with close to 30 percent of them Aboriginal peoples

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25. While the Territory is one sixth of the Australian land mass, it is home to just one percent of the Australian population.

The proportion of Aboriginal peoples living in the Northern Territory relative to the entire Territory population is proportionally higher than in any other Australian jurisdiction at 29.8% (as at June 2011). However, at approximately 10% of all Australian Aboriginal people, it is arguable that a

disproportionate expectation rests on the shoulders of Northern Territory Aboriginals and those elected to public office to address so called Aboriginal matters .

There were an estimated 631,757 Aboriginal people in Australia as of 30 June 2011.

Of these, 202,674 were living in New South Wales (NSW), or 32.1 per cent of the total Australian Aboriginal population. Only Queensland has a

comparable population, with an estimated 164,557 Aboriginal peoples living in that state.

To put these results into perspective, there were more Aboriginal peoples living in NSW than the whole of South Australia, Western Australia and the Northern Territory (NT) combined (combined = 190,871, NT = 68,850).

While the Northern Territory is a jurisdiction with only four MPs in the Australian

Parliament, Australia's oldest (pre and post-colonial)

jurisdiction, NSW with 60 MPs (48 Representatives and 12 Senators) and a larger population of Aboriginal residents, has no Aboriginal representation in the Federal Parliament, and has only ever had one Aboriginal member of its State Parliament. The NSW colonial Legislative Assembly became fully elected as long ago as 1856.

While it is only in the 12th and 10th Assemblies where something like a mathematical equation of proportionality has emerged with 6 out of 25 being similar to the overall proportion in the NT population, this appears to be realised, not necessarily by design, but perhaps not by accident either.

Political parties arguably recruit candidates to appeal to their constituencies. A long tradition of Aboriginal candidates in so called 'bush seats' has been practised in the Northern Territory by different political parties.

According to Charles Darwin University historian David Carment, the population of seven of the 25 Legislative Assembly electorates was, in 2001 'over half indigenous'. Yet not always do we see these electorates voting for Aboriginal candidates.

At the 2012 election for example, not one candidate from the First Nations Political Party was elected to the Northern Territory Assembly.

The proportion of Aboriginal peoples in the Northern Territory is 29.8% as at June 2011, but there has also been a decline in the Territory's share of the national indigenous population from 12.4% in June 2006 to 10.3% in June 2011.

The development of Aboriginal participation was as follows:

#### **First Assembly - General Election 19 October 1974**

Enrolment and voting were voluntary for Aboriginal people from 1974 until 1977, when if enrolled (still voluntary), they were required to vote. From 1980 compulsory voting and enrolment applied to all citizens over the age of 18.

Labor did not win any seats in the Assembly at the election in 1974. It was not until 1977 that Labor won their first six seats,

**“Former Northern Territory Minister John Ah Kit said on this matter that the growth in the number of Aboriginal Members in the Northern Territory should be a source of pride to all Territorians and an indication that the Territory was moving beyond the politics of exclusion...”**

including with an Aboriginal candidate in the remote central desert seat of MacDonnell (now called Namatjira). This first Aboriginal Assembly member was Mr Hyacinth Tungutalum, Member for Tiwi.

- Aboriginal candidates five out of 65
- Members who are Aboriginal one out of 19

#### **Second Assembly - General Election 13 August 1977**

In the context of the 1977 election, analysts Dean Jaensch and Peter Loveday wrote: The Aboriginal vote was central to the election. A large number of the Aboriginal people of the Northern Territory were non-literate, isolated and politically uneducated and individuals and groups in the Northern Territory took steps to clarify the situation with the electoral office in relation to the non-literate voter. The major political parties were well aware of the value of the Aboriginal vote, and many allegations

have been made over the years relating to the 'abuse' of the Aboriginal vote.

The use of compulsory preferential voting was particularly contentious and the Central Land Council and Central Australia Aboriginal Congress stated that the Country Liberal Party in collusion with the government in Canberra had 'rigged the voting system' allegedly to stop Aboriginals having a full say in the democratic process.

The Country Liberals nominated two candidates in the seats of Tiwi, Arnhem and Victoria River. While two Labor candidates vied for Tiwi at this election.

- Aboriginal candidates three out of 72
- Members who are Aboriginal one out of 19

#### **Third Assembly - General Election 7 June 1980**

- Aboriginal candidates four out of 60
- Members who are Aboriginal one out of 19

#### **Fourth Assembly - General Election 3 December 1983**

Some 18 months ahead of the 1983 election there was talk of the formation of an Aboriginal political party to contest seats at the election. On 19 June 1982 the *NT News* editorially criticised the move as divisive. The proposal did not reach fruition in time for the election.

Mr Maurie Japarta Ryan, who in 2012 became the Chair of the powerful Central Land Council, stood for the Democrats at this election. Mr Ryan was a founder of the First Nations Political Party formed in 2009 and stood (unsuccessfully) for the seat of Stuart at the 2012 election.

A feature of past Northern Territory elections, which is no longer available to parties and candidates, was for there to be more than one candidate in

an electorate from the same political party. In this election the candidates for Arnhem, David Daniels and David Amos were both Country Liberals endorsed candidates. The idea being Mr Amos would pick up the non-Aboriginal vote at the mining lease at Groote Eylandt and Mr Daniels the Aboriginal vote elsewhere in the electorate. Neither of them won. Labor's Mr Wes Lanhupuy, a prominent Aboriginal man was the successful candidate.

- Aboriginal candidates six out of 67
- Members who are Aboriginal one out of 25

#### **Fifth Assembly - General Election 7 March 1987**

The fifth Assembly was the first time two Aboriginal people won seats.

- Aboriginal candidates five out of 84
- Members who are Aboriginal two out of 25

#### **Sixth Assembly - General Election 27 October 1990**

- Aboriginal candidates four out of 83
- Members who are Aboriginal two out of 25

#### **Seventh Assembly - General Election 4 June 1994**

- Aboriginal candidates 2 out of 61
- Members who are Aboriginal 2 out of 25

#### **Eighth Assembly - General Election 30 August 1997**

- Aboriginal candidates seven out of 63
- Members who are Aboriginal two out of 25

#### **Ninth Assembly - General Election 18 August 2001**

This election resulted in the first change of government in 27 years.

- Aboriginal candidates nine out of 88
- Members who are Aboriginal four out of 25



### Tenth Assembly - General Election 18 June 2005

This election saw Labor returned with an increased majority to win 19 of the 25 seats in the Assembly.

- Aboriginal candidates eight out of 79
- Members who are Aboriginal five out of 25
- Then six out of 25 from September 2006 (by election)

### Eleventh Assembly - General Election 9 August 2008

From a position of only four members at the previous election, the Country Liberals achieved a significant comeback with 11 members in this Assembly, the Labor government held 13 and there was one independent member.

Perhaps regrettably for them, the Country Liberals did not to field candidates in the seats of MacDonnell (now Namatjira) or Arnhem where the Labor Members were returned unopposed.

The Member for MacDonnell later left Labor and joined the Country Liberals giving the Opposition 12, the Government 12. The independent however supported Labor to retain government.

This was the first time that the number of Aboriginal candidates at a general election hit double figures.

- Aboriginal candidates 11 out of 67
- Members who are Aboriginal five out of 25

### Twelfth Assembly - General Election 25 August 2012

At this election, the First Nations Political Party ran candidates in the seats of Arafura, Barkly, Blain, Namatjira and Stuart but did not have any of their candidates elected to the Assembly.

The Country Liberals regained the 'bush seats' of Arnhem (lost to that party in 1977), Stuart (lost in 1983)

and won the seat of Arafura which had never been held by the Country Liberals since its creation in 1983 (Its predecessor seat of Tiwi had previously been held by the Country Liberals.)

As at January 2015, the Country Liberals Government retains 14 seats (two previous members – Arnhem and Namatjira, both Aboriginal Members – now sit on the cross bench), Labor has eight seats with one independent member making up the total.

Former NSW Senator Aden Ridgeway said in 2010 that it is not secret that indigenous people in this country do not vote in such numbers to make a difference to any side of politics.

However, in 2012, the political orthodoxy that the Northern Territory government's fortunes are based on the seats in the northern suburbs of Darwin was turned on its head as it was the change of vote in the bush seats which resulted in the change of government. Four previously Labor held bush seats went to the Country Liberals.

With 20 Aboriginal candidates at this election, it would appear that Aboriginal peoples are strongly engaged in politics in the Northern Territory making up 23% of the candidates and winning 24% of the seats.

- Aboriginal candidates 20 out of 86
- Members who are Aboriginal 6 out of 25

Looking at a cross section of all the existing 25 electorates, 15 of the existing seats and 16 of a total of existing and predecessor seats have been contested by Aboriginal candidates over the past 40 years.

### Policies or Aboriginality?

Do Aboriginal voters elect Aboriginal candidates? It becomes a moot point when all

of the candidates are Aboriginal as was the case in three contested seats at the 2012 NT general election.

On 21 June 2007, then Prime Minister Howard announced a significant intervention into the administration of welfare for Aboriginal recipients within 73 communities in the Northern Territory.

Aboriginal voters appear to have reacted strongly to the policy. Voting patterns in the Federal seat of Lingiari at the 2007 election are of interest because that electorate holds all of the 73 Aboriginal communities targeted by the policy. Votes in booths in those Aboriginal communities delivered votes in the 90 percentile range to the Labor party (the opposition party to the party of the then Prime Minister).

While the numbers of votes at the Lingiari booths do not change governments at the national level, of 723 voters at the Wadeye booth at the 2007 election only 26 voted for the candidate from the same side of politics as the then Prime Minister (Country Liberals). At Angkarripa in Central Australia 5 out of 503 votes went to the Country Liberals and at Yirrikala in Northern East Arnhem land of 266 votes cast at that booth, two went to the Country Liberal candidate.

However, five years later, the Northern Territory Assembly seats located within the boundaries of the federal seat of Lingiari were delivered to the Country Liberals who took Government at the August 2012 NT election. The candidate in the federal seat of Lingiari in 2007 is now the Chief Minister for the Northern Territory and, incidentally, is a person of Aboriginal heritage.

Perhaps the Loveday and Jaensch research from 1984 which indicates policies and not

Aboriginality *per se* are the key to electoral outcomes remains relevant today.

### Conclusion

Whether people of specific racial or ethnic backgrounds can address the specific aspirations or difficulties faced by those of the same background is another matter, however, participation is surely in and of itself important to finding solutions to a range of the problems that inspires people to be involved in representative politics.

It is often easy to group the Northern Territory with all other Australian jurisdictions when considering the history of under-representation of Aboriginal peoples in parliament, whereas the reality is different.

While such participation may not have been 'enough' or met expectations, there is an abundant and rich history of political activity amongst Aboriginal peoples in the Northern Territory in spite of the obstacles such as lower rates of literacy, language barriers and cultural matters.

Former Northern Territory Minister John Ah Kit said on this matter that the growth in the number of Aboriginal Members in the Northern Territory should be a source of pride to all Territorians and an indication that the Territory was moving beyond the politics of exclusion and towards an open and just society.

While challenges continue and representative democracy requires vigilance, for such a young jurisdiction, only 40 years old, the Northern Territory is a mature participant in regard to Aboriginal representation and the only jurisdiction in Australia to consistently elect Aboriginal members of its House of Assembly at every election since coming into existence.



# BENCHMARKS FOR CODES OF CONDUCT

Pioneering research shows that parliamentarians themselves recognise that rigorous codes of conduct and ethics make their institutions stronger

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**Hon. Dr Ken Coghill, PhD**

**Dr Abel Kinyondo** is a Senior Researcher at REPOA. He has also headed the Department of Geography and Economics at the University of Dar Es Salaam (DUCE) and previously worked for the United Nations Development Program in Tanzania.

A code for Members is the mark of modern Commonwealth parliaments, according to research which is leading to benchmarks to guide parliaments in the design or revision of codes of conduct. This research and development project began in mid-2014, funded by the CPA and conducted by a research team based at Monash University (Melbourne, Australia). The CPA's branches include around 200 houses of parliament (i.e. some are bicameral) which were surveyed as the first stage

of the project. A large majority responded; of those, about two-thirds reported that they have some form of code to guide the behaviour of the Members of their House.

Parliamentarians and Clerks from a large cross-section of houses were then interviewed at the 60th Commonwealth Parliamentary Conference (Yaoundé, Cameroon, October 2014) to get a deeper understanding of how codes operate in practice. This led to draft benchmarks which were published on Commonwealth Connects and circulated in February for comment by parliamentarians, clerks and other experts, leading to a workshop in April. This will be followed by publication of Recommended Benchmarks for Codes of Conduct.

### Key research findings

The first key observation is that a code forms an important part of the parliamentary integrity system (discussed in



**Dr Abel Kinyondo**

"Conduct, Ethics and Codes" *The Parliamentarian*, Issue One, 2014)

A second key finding was the strong view from parliaments with more rigorous codes that their parliaments were better as a result. The reasons for that seem to go to the very heart of democracy.

Parliament is a public office and members of any parliament are public officers. As such, parliamentarians have a fiduciary relationship with the people of the nation, province, state, or territory served by





their parliament. By fiduciary relationship we mean that parliamentarians must put the public interest – the interests of the people in aggregate – ahead of all personal interests or, for example, the interests of family, friends or business associates. Even political parties exist to serve the public interest. This responsibility to exercise power solely on behalf of the people is known as the public trust principle.

It follows from the public trust principle that each parliamentarian should have guidance and direction on which he or she can draw whenever doubt arises about the correct thing to do when faced with a decision or action. In the same way, the parliament should be able to intervene if and when it appears that the public interest and hence the parliament's constitutional role may have been subverted by a parliamentarian's action.

A parliament with a strong code of conduct that is rigorously enforced reduces the risk of unethical, illegal or otherwise corrupt behaviour by parliamentarians and is more likely to reflect the public trust principle in the decisions and actions of individuals and the institution. Conduct in accordance with the public trust principle supports the very concept of democracy.

### What do codes include?

Codes to guide the conduct of parliamentarians came in a variety of forms in different parliaments according to our survey and interviews. Titles and forms include: Code of Conduct (e.g. House of Commons, UK); Code of Official Conduct; Code of Ethics (e.g. Malta); Conflict of Interest Code (e.g. Canadian parliaments); rules of procedure (e.g. Standing Orders); and Act of Parliament.

Some of these differences

are important whilst others simply reflect the ways in which terms are used in those parliaments. For example, Codes of Conduct and Codes of Ethics are often distinguished in the study of codes.

In the case of codes of ethics, they: "are usually products of professional associations. They serve as a quality assurance statement to society and provide a set of standards for appropriate conduct for members of the profession that issues the code. Codes of ethics for those in government service challenge employees to identify with shared professional values that describe appropriate actions about acting rightly in the service of the public good," according to Willa Bruce (1996, p.23).

Willa Bruce argues that codes of conduct are quite different. They "... are more concrete and practical ... for they represent executive orders or legislatively defined and enforceable behavioural standards with sanction for violation. They contain a list of the kinds of behaviour required in a given set of circumstances and provide direction to those whose conduct they govern. Codes of conduct contain minimalistic prohibitions to unquestionably subversive or criminal acts. They are designed to protect the government employee, the client, and/or the public at large," (1996, p.24).

In practice, those distinctions have little significance. Some parliaments use the term code of ethics for codes that have similarities to codes of conduct.

Not only do the forms of codes vary, so does the manner in which they are made and their legal status. The weakest basis for a code is a simple resolution of the House. Unless determined otherwise, a resolution lapses when the parliament is prorogued or dissolved. At the other end of the spectrum, a code introduced by an act of

parliament is permanent and can be enforced according to processes and penalties incorporated into its provisions. Where an act of parliament is used, it is usually an act dealing with a number of parts of the parliamentary integrity system, such as also creating a commissioner's office. It typically includes the code as part of the main text of the act or as a schedule to the act.

An intermediate form is to include provisions within rules of procedure (e.g. Standing Orders). However, codes of conduct are much broader and about much more than rules for the conduct of debate and deliberation. As a result, if it forms part of the Standing Orders or other procedural rules, there is a risk a code will be limited to narrowly conceived matters related to procedure.

We find that codes are best developed as separate documents.

Whether a code should be an Act of parliament depends on several factors, one of the most important being whether the parliament is bicameral. If so, the Act would bind both Houses equally. However, the autonomy of each House would be compromised; neither House would be able to have a code with features specific to it, or at least could not avoid any of the provisions then applying to both.

It would of course be possible to supplement the common code with an additional code including provisions specific to only the House which adopted them. However, that would be a messy solution as parliamentarians and others would need to refer to two documents, one of which appeared to have lesser status.

The potential difficulties of a common code for a bicameral parliament were revealed in the Australian Parliament in 2011. After extensive deliberations in House of Representatives and Senate committees and

informal liaison between them, the provisions of a code of conduct were agreed to by the House of Representatives. However, the Senate Committee "was not convinced that an aspirational, principles-based code would necessarily improve perceptions of parliamentarians and their behaviour". Further consideration lapsed.

Life is simpler for unicameral parliaments; an Act of parliament is a simple, familiar and appropriate way for them to adopt a code.

However, there may be other reasons for adopting a code through a resolution rather than an Act. For example, a resolution does not require any action by the head of state. Even where established convention ensures that the head of state acts only as advised, the symbolism of the House alone determining the code regulating its members' conduct, as is the case with rules of procedure, may be important.

### Variety of provisions

Our research has found a wide range of provisions in codes affecting the conduct of members. These range from mild provisions more concerned with etiquette and treating fellow parliamentarians (and the House in session) with courtesy, respect, and dignity. Whilst these are of course desirable, they make little contribution to reducing the risks of improper, unethical or illegal conduct.

We have identified several key provisions believed to be important to a code contributing to an effective integrity system. The features include: underlying principles; defining of acceptable conduct; conflict of interest; providing advice for Members' complaints procedures; provision for investigation of facts, decision-making on allegations; sanctions and penalties; how to prepare, review and revise a code; and, a



culture of ethical conduct.

The underlying principles supported by the parliamentarians and Clerks whom we interviewed align with the standards in public life developed by the Nolan Committee. These reflect the fiduciary relationship between parliamentarians and citizens and the responsibilities of parliamentarians as public office holders and are widely respected. They provide:

1. **Selflessness** Members should act solely in terms of the public interest.
2. **Integrity** Members must avoid placing themselves under any obligation to people or organisations that might try, inappropriately, to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
3. **Objectivity** Members must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. **Accountability** Members are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
5. **Openness** Members should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. **Honesty** Members should be truthful.
7. **Leadership** Members should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs. The boundaries of acceptable

behaviour are clear from the research, but there is a range of views about some of the detail. There is general agreement that parliamentarians should to treat each other and the parliament with respect, dignity and courtesy. Some argue that a dress code should be incorporated but it seems this is rarely an issue. Few would argue against a provision that a parliamentarians must not assault, harass, or intimidate another person, sexually or otherwise.

It is also widely accepted that a Member should not accept any item, gift, hospitality or favourable treatment that a reasonable person might think could give rise to a conflict of interest. As this general proviso relies on an interpretation of 'reasonable', it is desirable to include some guidance on the threshold values (adjusted for inflation) of gifts etc. that a parliamentarian could accept.

Conflict of interest is one of the most important aspects of a code. It is widely accepted that sources of income, assets or liabilities could make a parliamentarian feel that his or her personal interests could suffer if he or she acted in the public interest or conversely, could be advantaged if personal interests were put ahead of the public interest. For that reason, many houses of parliament require parliamentarians to disclose their sources of income, their assets and their liabilities; these are published so that the public can check any allegations that a parliamentarian has failed to respect his or her obligations as a public officer.

A sensitive aspect is the values of interests. Ideally, these should be part of the disclosures. Whilst it may seem intrusive, it is genuinely in the public interest to know whether a parliamentarian's sudden, unexplained increase in the

value of his or her assets has been acquired legitimately (e.g. inheritance from deceased parent) or from some mysterious source at the time of say, a government grant to a business.

There should be continuous disclosure of each parliamentarian's sources of income, assets and liabilities (including updates), wherever suitable modern technology is available, in a similar way to disclosures by businesses whose shares, stocks or securities are publicly traded. Technically, it is simple for an adjustment to be advised and published on the business day on which it occurs, but it is reasonable to allow slightly longer period. Where such information technology is not available, the parliament should use the best technology it has to register and publish parliamentarians' interests (including updates) as quickly and as frequently as practicable.

These disclosures must respect the reality that interests held by a parliamentarian's spouse or children could also create a conflict of interest; they should likewise be disclosed. Whilst this may appear to intrude on the privacy of family members, the underlying principle is disclosure of interests with the potential to compromise the parliamentarian's performance of his or her public duty.

It goes without saying that no parliamentarian should accept, or offer another parliamentarian, a bribe or other inducement to cast a vote, ask a question or act on behalf of any person, whether a constituent or otherwise. Whilst there may be common law or criminal law covering bribery, etc. and parliamentarians should be subject to the normal operation of the law, it is desirable that the code also cover such matters.

### Advice on ethical conduct

Parliamentarians, new and long-serving, often find themselves facing dilemmas about the ethics of decisions or actions. Recently elected parliamentarians especially may find themselves faced with ethical questions quite different to the types of decisions they had to make in their previous occupations. Even for many of those who were public officers in the public service or elsewhere (e.g. teachers), it would have been rare to have to think about respecting the public trust principle. Likewise for those who previously worked in business or served in trade unions, the interests of their organisations, workforce or membership would have been their legitimate primary concerns rather than the public interest.

Ethics advice is valuable to parliamentarians and should form an integral part of a code of conduct. Some parliaments have successfully established positions and even whole offices to support parliamentarians in relation to meeting the standards of ethical behaviour expected under a code. However, the models vary widely, ranging from a single person appointed part time (e.g. New South Wales Ethics Adviser) to a full time commissioner with support staff responsible for not only ethics advice to parliamentarians but also the disclosure of parliamentarians interests and the investigation of complaints (e.g. UK Commissioner for Parliamentary Standards).

The scope and scale of an office providing ethics advice must have regard to the size and resources available to the parliament. That office's budget in some large parliaments in wealthy countries is larger than the entire budget for many smaller parliaments. For that reason our proposals





set out principles rather than recommending a specific model.

### Breaches of the Code

Proper investigation of complaints is a key to the effectiveness of a code. This must begin with the process for making a complaint where a breach is suspected.

The receipt and investigation of complaints is at severe risk of being compromised by partisan considerations if controlled by parliamentarians with a party-political interest in the outcome. For the reason, we have recommended that complaints should be automatically referred for independent investigation to determine the facts in almost all circumstances. The only exception would be where there is evidence that the complaint itself is an abuse of process, intended to tarnish the reputation of a falsely accused person.

The complaints process should enable such complaints to be rejected without publicity. This is crucial as the public can easily mistake an investigation with guiltiness rendering the final investigation decision (say not guilty) inconsequential and thus unfairly damaging.

Investigation must be separated from partisan influence but the precise mechanism will depend on local structures and circumstances. In some cases, there are existing, effective anti-corruption bodies well-suited to undertake the task in accordance with the code; in other cases, there may need to be a new provision.

Once the facts have been established, these should be presented to the parliament in a public report and must be referred for prosecution if the evidence suggests the accused could be convicted of a legal offence. If in other cases a breach has been found, the House should determine what

**“Parliamentarians, new and long-serving, often find themselves facing dilemmas about the ethics of decisions or actions. Recently elected parliamentarians especially may find themselves faced with ethical questions quite different to the types of decisions they had to make in their previous occupations.”**

sanction should be applied. The code should indicate the available sanctions and penalties which might range from a humiliating public reprimand to expulsion from parliament. In extreme cases, a serial offender could be debarred from contesting elections.

If a complaint is not upheld, the accused parliamentarian should be publicly exonerated from the allegation.

### Culture of ethical conduct

The extent to which a code is respected and observed depends on both its provisions and the attitudes towards it by ordinary parliamentarians and by leading members of the House. Note that types of codes range from permissive all the way to prohibitive, with some hybrids between the two. While some (e.g. Deloitte & Touche LLP, 2015) suggest that permissive codes are more likely to enhance compliance in organisations, our aim is to combine the best

features of both approaches. We nevertheless suggest several measures that could contribute to the code working in practice:

- All parliamentarians should be vigilant in detecting and acting to deter even minor breaches from which serious breaches may develop.
- Consultation with the ethics adviser should be routine and normal, with frequent informal contact between the ethics adviser and parliamentarians.
- Parliamentarians should offer fellow parliamentarians peer-support for ethical conduct and counsel against unethical conduct.
- The code should be published and readily available in print, and online (including via smartphone) if resources permit.
- Newly elected parliamentarians should receive induction, including in the code of conduct and self-assessment of their individual ethical competence.
- Every parliamentarian should participate in activities to enhance their ethical competence at least once annually. These activities could be online, if resources permit. He or she should sign a declaration or provide evidence confirming having done so.
- The code of conduct should be renewed following each general election, through debate of a resolution re-committing the House to the code and making any necessary updates.

### Does size matter?

Listening to parliamentarians talk about ethical conduct in their Houses, there seems to be a tendency for smaller Houses to believe that unethical conduct is less likely to occur as unethical sub-cultures are less likely to develop. The small size of these houses seems to make it easy for parliamentarians to monitor each other's conduct (which may act as a disincentive to

breaches). The lack of a party system in most of the smallest houses necessitates that parliamentarians work through consensus which allows them to identify with one another more closely. We don't want to over-emphasize this observation as it has yet to be thoroughly researched. However, it does alert us to a possible advantage that smaller Houses may have and to a factor which larger Houses may need to take into account in designing and implementing their codes.

### Making and re-making a code

Finally, how does a parliament, or a house, make or review a code? The code and any revisions must be the outcome of debate and deliberation in which all of the House's parliamentarians have genuine opportunities to participate.

In addition, we believe that it would be valuable to appoint an advisory panel comprised of retired parliamentarians and retired superior court judges to review the code from time to time and report to the parliament on its operation immediately following each general election, in response to requests by the Presiding Officer and at such other times as it wishes.

Whilst it is appropriate to look to other parliaments for inspiration, a code is essentially a matter for each individual House and a reflection of its commitment to enhancing the Integrity System of their nation, province, state or territory.

The Benchmarks now being recommended for codes of conduct are an important opportunity for every parliamentarian, Clerk or Secretary General and other member of staff to contribute to strengthening the integrity of their parliament and to improve its performance in serving the public interest.



# CANADA'S UNIONS: SHOULD TAX-FREE STATUS MEAN GREATER PUBLIC ACCOUNTABILITY?

A Private Members Bill now before a Senate Committee in Canada's Parliament seeks to enforce the same level of public financial disclosure upon labour organisations (trade unions) as is already imposed upon charities. The Bill's author Russ Hiebert MP explains why this is necessary

**Mr Russ Hiebert, MP** was first elected to Canada's House of Commons in 2004. He is a four-term Member of Parliament, and was elected to seven consecutive terms as Canadian Branch Chairman of the CPA. He currently serves on the CPA EXCO. Mr Hiebert served as Parliamentary Secretary to the Minister of National Defence, and has served terms on Commons Committees including Finance, International Trade, Natural Resources, Ethics, and International Human Rights.

Since coming to power in Canada in 2006, the Conservative Government of Prime Minister Stephen Harper has passed a number of transparency and accountability initiatives into law.

The key legislation in this area was the Accountability Act – passed in 2006 in the months immediately after first forming the government. This was the fulfilment of a key election campaign promise made in response to a scandal embroiling the previous Liberal government. The Accountability Act created a new conflict of interest code for all public office holders, including cabinet ministers and their staff, and essentially banned lobbying by such officials for five years after leaving office.

Other elements of the Accountability Act included the creation of an Office of



**Mr Russ Hiebert, MP**

Public Prosecutions and a Parliamentary Budget Officer, as well as strengthened protection for whistleblowers. The federal Access to Information Act, which allows any citizen to obtain internal government reports and correspondence, was also expanded to require public disclosure by several crown corporations. And, the class of recipients of grants,

contributions and loans into which the Auditor-General may inquire as to the use of public funds was also expanded.

A more recent act of Parliament, the First Nations Financial Transparency Act, which passed into law in 2013, requires the publication of the audited financial statements of indigenous tribal bands on the internet, along with full disclosure of the salaries and expenses of elected band councillors. In Canada, a substantial portion of the funding for aboriginal reservations comes from the federal treasury.

Even before these measures came into force, Canada had for a long time required the public disclosure of the salaries, benefits and expenses of parliamentarians. And there was a broad Access to Information regime that





Bill C377 seeks to amend the Income Tax Act (requirements for labour organizations) and was referred to committee on its Second Reading in Canada's Senate in November 2014

allowed any citizen to obtain most internal government documents. Government departments and agencies have also long been required to detail their spending in annual Public Accounts, and an independent Auditor-General – an officer of Parliament created not long after Canada's Confederation in 1867 – continues to audit departments and programs for best accounting practices and general efficiency.

At the federal level, partisan election campaign donors are the beneficiaries of very

substantial refundable tax credits, and the campaigns themselves receive rebates for spending. As such, campaign spending receives close public scrutiny: the names of all donors of C\$200 (£105) or more are published, and all spending is publicly disclosed.

Since 1977, Canadian charities – whose donors also benefit from significant federal tax credits – have been required to publicly disclose their spending divided into a number of relevant categories, including the disclosure of the number of

**“Public disclosure will create greater support for the valuable work that labour organizations do as the public learns how the benefits they provide are being used”**

employees earning more than C\$100,000 (£53,500) annually.

However, one group of institutions that receives substantial support from Canadian taxpayers surprisingly has no requirement to disclose anything about their spending to the Canadian public. This group is labour organizations, commonly known as trade unions in many nations. This is despite the ability of union members to discount from their taxable income the dues they pay, and the tax-free status that





the organizations themselves enjoy.

Labour organizations play a valuable role in Canadian society, promoting workplace health and safety, and good compensation for Canadian workers. In return the public provides the benefits through the tax system. Tax deductibility of union dues alone costs the treasury approximately C\$500 million (£270 million) annually.

Ironically, Canadian labour organizations internationally headquartered in the United States, of which there are many because of close trade ties between our nations, have been required to make disclosure to the US Labor Department since 1959. For the past decade, these filings have been posted on the internet, giving Canadians access to financial information about some, but not all Canadian labour organizations.

In fact, it was only because of these American filings that a scandal involving the federal New Democratic Party (NDP) – a party historically tied to organized labour – came to light. In Canada, donations to federal political parties by corporations and trade unions were banned in 2006. Yet filings made by US-affiliated Canadian unions to the US Labor Department revealed C\$350,000 (£187,000) in illegal contributions from unions to the NDP between 2006 and 2011. The NDP admitted its wrong-doing and was forced to return the cash.

Looking further afield, it is clear that many of Canada's key industrialized trading partners, such as Great Britain, France, Germany and Australia also require public disclosure by their domestic trade unions.

The lack of public reporting requirements for Canadian labour organizations led me to introduce a Private Members

**“Public disclosure is strongly supported by the Canadian public, including union members themselves. A recent survey by the Nanos polling firm indicated that 83% of Canadians and 86% of unionized Canadians support public financial disclosure by labour unions.”**

Bill in the autumn of 2011. The premise behind Bill C-377, is that the public has a right to know how the substantial benefits it provides to labour organizations are being used. Public disclosure will create greater support for the valuable work that labour organizations do as the public learns how the benefits they provide are being used.

Under C-377, every labour organization in Canada will file a standard set of financial reports each year. These will then be posted on the tax department's website, much as Canadian charities already do. With the financial information this bill provides, the public will be empowered to gauge the effectiveness, financial integrity and health of Canada's unions.

In addition to standard financial statements, C-377 will require labour organizations to provide details on spending in the areas of lobbying, political activities, conferences,

education and training activities, and gifts and grants. Related-party transactions, such as the sale of union property to a union executive, would require specific, detailed reporting, and any loans over \$250 (£134) to officers, directors, members, employees or businesses would also be itemized.

Compensation to officers and directors, including salary, benefits, gifts, bonuses and any other form of remuneration, would be fully reported. Likewise, disclosure would also include employees of the labour organization who earn more than \$100,000 (£53,500) annually.

Officers, directors and employees would also be required to provide a reasonable estimate of the amount of time they spend on political activities, lobbying activities, and other non-labour relations activities.

Some critics have suggested C-377 will place unions at a disadvantage in labour negotiations, given that management will know details about the union's finances and its ability to sustain a strike.

However, it is obvious the willingness of workers to withdraw their labour in a bargaining dispute is based on far more important considerations than simply the amount of money in the strike fund. The fact is, American and British unions, and for that matter a good number of Canadian unions which are already required to report in the US, have lived with financial transparency for a long time and it does not appear to have affected their ability to bargain effectively.

Public disclosure is strongly supported by the Canadian public, including union members themselves. A recent survey by the Nanos polling firm indicated that 83% of Canadians and

86% of unionized Canadians support public financial disclosure by labour unions.

Requiring public disclosure by private organizations receiving substantial public benefits is not a new concept, nor is it costly. Canadian charities, for instance, have not found their public reporting requirements cumbersome or expensive, nor has posting those figures on-line posed an expensive burden for the Canada Revenue Agency (CRA).

Indeed, in this era of electronic record keeping, a software upgrade is probably the only expense most union book-keepers may have to incur to file to the financial reports they already compile internally. However, such modest costs are far outweighed by the advantages to Canadian taxpayers of knowing how the benefits they provide to support the work of labour organizations are being used.

On the Government side of the reporting ledger, the CRA, which would be responsible for posting the labour organization financials on its website, should C-377 be made law, has estimated minimal costs. The CRA suggests costs of C\$1.1 million (£588,000) annually for the first two reporting years, mainly for the capital cost of establishing the on-line forms and reporting software, and just C\$800,000 (£428,000) annually after that: a small price to pay for bringing transparency to an institutional sector with revenues between \$4 billion and \$5 billion yearly (£2.1 billion to 2.7 billion)

Bill C-377 was passed in December of 2012 in a 147-135 vote at Third Reading by the House of Commons. It has passed Second Reading in the Senate and is currently being considered by a Senate committee.

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# NEW PRESIDENT PLEDGES TO SCALE BACK EXECUTIVE POWERS AND BOOST ROLE OF PARLIAMENT

The seventh presidential election of Sri Lanka in January ended the ten years of the ruling government, with the victor pledging to reduce the powers of the presidency and to strengthen the role of the country's Parliament.

The former president Mahinda Rajapaksa had prompted the election two years before the expiration of his term, declaring his intention to hold his office for a further term.

Nineteen candidates contested the ensuing national poll, held on 8 January. Mahinda Rajapaksa stood from the United People's Freedom Alliance (UPFA) which was also the previous ruling party. Maithripala Sirisena, the minister of health in that government broke away from the UPFA, and was chosen as the Common Candidate to contest from a new political party named New Democratic Front (NDF), of which the United National Party (UNP) is a main constituent.

After receiving 51.28% of the votes cast, Maithripala Sirisena was elected as the sixth Executive President of the Democratic Socialist Republic of Sri Lanka. The former president received 47.58% of the vote. And only just over 1% of voters chose other parties.

The turnout of more than 80% was a significant factor. Pre- and post-election violence was regarded as minimal and local and international observers affirmed that the election was conducted peacefully.



His Excellency the President  
Maithripala Sirisena

For the past few decades, removal of the Executive Presidency had been a popular election vow that, due to various reasons, none of the elected presidents could accomplish. The powers of the Executive Presidency were even strengthened by the 18th Amendment to the Constitution in 2010.

The establishment of a common opposition party was motivated by a desire to reduce the powers of the Executive President. The Common Opposition was led by the UNP

party, Jathika Hela Urumaya (JHU) – which was then a constituent of the UPFA – and several members of the Sri Lanka Freedom Party (SLFP), which is the main constituent of UPFA, and also the party of the presidential candidate.

The opposition's election manifesto, 'A Compassionate Maithri Governance – A Stable Country', contained a 100-day programme aimed at abolishing the Executive Presidential system with its unlimited powers. Other key election promises were to amend the electoral system and establish a mechanism to supervise good governance, while reducing the unnecessary expenditure of the then government and ensuring what was spent would percolate further through the general population.

Maithripala Sirisena had started his political career as a member of the SLFP youth organization in 1967. He joined mainstream politics in 1989 and has held several ministerial portfolios since 1994. He is the longest serving General Secretary of the SLFP.

He was serving as the Minister of Health when he was chosen as the Common Candidate for the election. As Minister of Health he had taken steps to re-introduce the Senka Bibile Drug Policy Act, with the aim of having a national drug policy for the nation. He also fought to introduce warning pictures on tobacco and cigarette packaging to make people aware of the effects of smoking.



The Prime Minister the Hon.  
Ranil Wickremasinghe

Eventually a court decision was given to display the pictorial warnings on on 80% of the surface of such packaging.

The incumbent's manifesto 'Mahinda's Vision – The World Winning Path' was an extension of his previous election manifesto 'Mahinda's Vision'. He promoted the idea that the country should now be raised to the 'developed' status among other countries through major industrial development under the achieved peace. He further pledged to introduce constitutional reforms with the participation of all the communities in the country.

Having received majority of votes, the new president was sworn in on the 9 January. Addressing the nation, he pledged that he would meet his election commitments and that the unlimited powers vested with the Executive Presidency would be transferred to Parliament, Cabinet, Judiciary and the public administrative mechanism. He further said that he would not contest for presidency for a second time.

By the date of the election, the opposition was already assured of the support of majority in Parliament. The new president appointed Hon. Ranil Wickremasinghe, MP as the Prime Minister, subject to Article 44(3) and 43(3) of the Constitution.



The Parliament chamber and the former President Mahinda Rajapaksa

In accordance with the 100-day programme, a cabinet of 28 cabinet ministers, 11 state ministers and 13 deputy ministers was appointed, representing all the political parties.

The foremost responsibility of the new government is to fulfil the pledges in the 100-Day Programme, which requires enactment of several Bills with

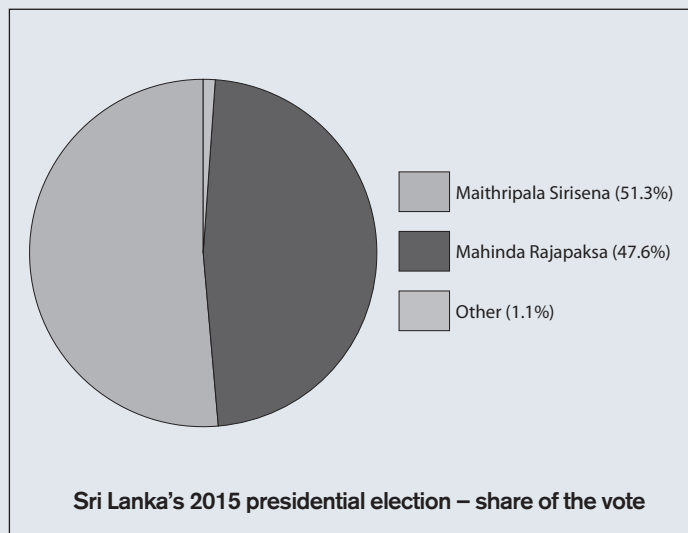
majority consent in Parliament. Parliament sat for the first time after the election on 20 January. The former ruling party became the opposition under the parliamentary leadership of Hon. Nimal Siripala De Silva .

The Prime Minister emphasized that all parties should work in unity despite their own political views, on occasions of national importance. He pointed out the legislation to be enacted by Parliament as tendered in the 100-Day Programme:

- To introduce a system of government with an executive which is linked with Parliament through Cabinet
- To pass the 19th Amendment to the Constitution, which would establish independent commissions and repeal the 18th Amendment
- To pass National Drug Policy, National Audit Act and the Right to Information Act

- Amending the Fisheries and Aquatic Resources Act
- The Prime Minister also informed Parliament about the plans in appointing Oversight Committees and further insisted the necessity of strengthening the Parliament to re-acquire the prestige it once had.

The leader of opposition agreed to extend their fullest and a fruitful contribution when those Bills are presented.



The former president Mahinda Rajapaksa



# CONCLUSION OF THE ADDRESS IN REPLY DEBATE

On 30 October 2014, the Address in Reply debate concluded after 19 hours of speeches over six sitting days. The debate was in response to the Speech from the Throne delivered by the Governor-General, **His Excellency Lieutenant General the Rt Hon. Sir Jerry Mateparae**, on 20 October at the State Opening of the 51st Parliament outlining the government's policy and legislative intentions. The debate concluded with the passing of a motion to present a respectful Address in Reply to His Excellency the Governor-General by 64 votes to 57, after the defeat of an amendment to the address proposed by the Acting Deputy Leader of the Opposition, **Ms Annette King, MP**.

A majority of the 121 Members of Parliament had participated in the wide-ranging debate about the government's plans and other current issues following speeches given by the leaders of all parties represented in the 51st Parliament – National, Labour, Green, New Zealand First, Māori Party, United Future, and ACT.

Of the 28 new members, 24 had the chance in the debate to make their maiden speeches, many of whom spoke in Te Reo Māori (the Māori Language), one of New Zealand's three



official languages alongside English and New Zealand Sign Language. **Mr Peeni Henare, MP**, (Labour) said: "Te Reo Māori is my first language. As one of the first children of kōhanga reo [Māori language immersion preschool] I am forever grateful for the hard work of many to ensure that the native language of this land is not lost." **Mr Nuk Korako, MP**, (National), **Mr Adrian Rurawhe, MP**, (Labour) and **Ms Marama Fox, MP**, (Co-leader – Māori Party) all gave substantial portions of their speech in Māori, and New Zealand First member **Mr Fletcher Tabuteau**, and National members **Dr Shane Reti**, **Ms Barbara Kuriger**, **Mr Jono Naylor**, **Mr Mahesh Bindra**, and **Mr Andrew**

**Bayly** opened their speeches in Māori.

Simultaneous translation of these speeches, and of all Māori spoken in the House, is available in the House and galleries, and on Parliament TV – a service provided since 2010.

## Countering Terrorist Fighters Legislation Bill

In a ministerial statement to the House on 4 November 2014, the Prime Minister, **Rt Hon. John Key, MP**, (National) spoke of the implications for the government's national security obligations in the face of the rapid rise of the Islamic State of Iraq and the Levant (ISIL), and referred to Cabinet's agreement to introduce law changes in

the short term ahead of a broader intelligence review in 2015: "I intend to seek broad political support to pass this very limited legislation, which I trust that other parties will see as narrow and responsible." The measures would restrict the movements of individuals intending to travel to become foreign terrorist fighters.

In the debate that followed Mr Key's statement, **Ms Annette King, MP**, (Acting Deputy Leader—Labour) said: "Labour broadly supports the provisions as outlined today, and we believe that they appear to be justified to ensure safety at home as well as meeting our international obligations." She supported the proposed legislation "going to the



select committee to enable New Zealanders to have a say ... even if the process is truncated.”

Legislation was introduced under urgency on 25 November. It passed its first reading by 107 votes to 14 and was referred to the Foreign Affairs, Defence and Trade Committee with a requirement that the select committee report the Bill back to the House by 2 December 2014.

On 9 December 2014 Parliament sat under urgency to pass the Countering Terrorist Fighters Legislation Bill through its remaining stages. Key provisions in the omnibus Bill as reported back from the select committee included extending the maximum cancellation period of a passport from 12 months to three years, where the passport-holder poses a danger to New Zealand or another country, and increasing Security Intelligence Service powers, including the ability to conduct surveillance without a warrant for 24 hours in situations of emergency or urgency.

Introducing the second reading, **Hon. Christopher Finlayson, MP**, (National), said that the Bill's amendments were very targeted and emphasised



Ms Annette King, MP

that it was temporary legislation. Speaking in support of the Bill, **Mr Andrew Little, MP**, (Leader of the Opposition) referred to changes made at the select committee: “Through Labour’s representatives on



Rt Hon. John Key, Prime Minister

the Foreign Affairs, Defence and Trade Committee... we challenged the need for the length of time for warrantless surveillance. It has been reduced to 24 hours... More important... are the safeguards that have now been built into any approval of surveillance without a warrant.”

Mr Little nevertheless criticised the truncated select committee process, saying: “when we are faced with legislation that erodes basic rights and freedoms, even in limited circumstances such as this Bill sets out, it is vital as a matter of public confidence that it is exposed to the fullest possible public scrutiny. That has not happened here.”

Opposing the Bill, **Dr Kennedy Graham, MP**, (Green Party) criticised both the Bill's intention and its process: “There is some cognitive dissonance between the excitable narrative and the official judgment. ... No legislation addressing constitutional rights ... should ever be

subjected to this procedural abomination.” **Rt Hon. Winston Peters, MP**, (New Zealand First), agreed, saying: “to bring in a Bill and in two weeks take it from first reading through the final reading ... is not good enough... It is against the democratic process of this House and against the right of New Zealanders to be properly consulted on and participate in legislation.”

**Mr Mark Mitchell, MP**, (National) who chaired the select committee, acknowledged that “it may not [have been] a perfect process but it is not a perfect world, and sometimes we have to react quickly to a changing security environment”.

**Mr David Shearer, MP**, (Labour) stressed the need to consult with ethnic communities when enacting such legislation. **Hon. Phil Goff, MP**, (Labour) agreed: “The real protections against



Rt Hon. Christopher Finlayson, MP

terrorism lie not [just] in legislation... but in having a harmonious and inclusive society; they lie in our moderate Muslim community, which is responsible and does the right thing; and they lie in our reputation internationally as a country that acts independently and has a sense of good international citizenship.”

At the third reading **Mr Finlayson** said: “I take those matters very seriously and I pledge to work with local Muslim communities over the next period, including during the period of the broader review.” Noting the brief time that the select committee had to hear public submissions on this Bill, he added: “Any new legislation [will] be the product of an independent review ... [and] will have a full hearing at the select committee.”

## Subordinate Legislation (Confirmation and Validation Bill)

The Subordinate Legislation (Confirmation and Validation) Bill passed its third reading without debate and with unanimous support on 4 December 2014 immediately after the second reading.

Introducing the second reading, the Attorney-General, **Hon. Christopher Finlayson, MP**, (National) said: “This legislation confirms or validates 13 orders or regulations made under eight different Acts... to avoid their lapsing.” He referred to a recent change in the Standing Orders to streamline the process for scrutinizing this type of legislation, saying that he “look[ed] forward to testing the new arrangements with the 2015 Confirmation and Validation Bill.”

Under the new Standing Order, there is no amendment to or debate on a first reading of this type of legislation and the Bill is referred to the Regulations Review Committee. Also Bills that confirm or validate subordinate legislation will normally proceed from second to third reading immediately, and there will be no debate on the third reading.

## THIRD READING: NEW ZEALAND

### Employment Relations Amendment Bill

The Employment Relations Amendment Bill changes the requirement in the Employment Relations Act for employers and unions to conclude a collective agreement unless there is good reason not to. It also changes existing entitlement rules to encourage employers and employees to negotiate rest and meal breaks.

**Hon. Peseta Sam Lotu-iga, MP**, (National) introducing the third reading on 30 October 2014 on behalf of the Minister for Workplace Relations and Safety, said: "At its core, this Bill is about ensuring employers have the confidence to compete and expand while maintaining key protections for employees."

Opposing the Bill, **Mr Iain Lees-Galloway, MP**, (Labour) said that it "works to undermine collective bargaining ... to undermine unions' efforts for industry standards. ... It says that employers can just walk away from collective bargaining." However, **Mr Jonathan Young, MP**, (National) said: "The Bill changes the duty of good faith, so that it no longer requires parties to conclude a collective agreement—but only under certain conditions." **Ms Marama Fox, MP**, (Co-leader—Māori Party) said: "Although we welcome the new measure that requires ... good faith, it is the fact that the principle of collective bargaining is threatened that we are particularly concerned about."

In response the Minister for Workplace Relations and Safety, **Hon. Michael Woodhouse, MP**, (National) said: "The Employment Relations Authority has to be satisfied that good faith has been undertaken before a decision to conclude the bargaining process is made, and that, of course, for 60 days at least, prevents the right to strike. It also prevents the right of an employer to lock workers out. It goes both ways."

Also opposing the Bill, **Mr Clayton Mitchell, MP**, (New Zealand First) said: "National is trying to reassure us that all workers will remain entitled to reasonable rest and meal breaks ... We remain unconvinced of that. Supposed safeguards ... ignore the reality that in many workplaces those affected are unaware of, or unable to assert, their rights". **Mr Woodhouse**

countered: "For generations, similar types of practical accommodations were able to be made where the circumstances required them."

The Bill passed its third reading by 62 votes to 58.

### Crimes (Match-fixing) Amendment Bill

The Crimes (Match-fixing) Amendment Bill had its third reading on 4 December 2014. The Bill amends section 240 of the Crimes Act 1961 to make explicit the criminal nature of match fixing.

The Minister in charge of the Bill, **Dr the Hon. Jonathan Coleman, MP**, (National) referred to "the important place that sport holds in the hearts of all New Zealanders", informing the House that "the economic, social, health, and personal benefits of sport and recreation to New Zealand have been estimated at \$12.2 million per annum." Dr Coleman also explained that "the Bill is part of a package of initiatives designed to address match-fixing risks." Speaking in support of the Bill, Labour member **Ms Carmel Sepuloni** added that "match fixing would significantly damage the integrity, value, and growth of New Zealand sport."

Both the government and the opposition stressed the need for the legislation to pass before the summer adjournment. "There are time constraints because on 14 February next year the Cricket World Cup will start in Christchurch," Labour member **Mr Kris Faafoi** explained at the second reading, on 27 November 2014.

The passage of the legislation did, however, draw some criticism from opposition members. **Hon. Trevor Mallard, MP**, (Labour) stated that although his party supported the Bill, the legislation "does not go as far as it should. It is badly inconsistent with the various sporting codes." Also, the wider issue of problem gambling was raised by the Green Party, with Greens member **Mr Kevin Hague** claiming the Bill "does not get to the heart of the problem" and **Ms Denise Roche, MP**, (Greens) stating that "sports betting is the latest gateway drug."

The Bill was passed unanimously.

### The Trade (Safeguard Measures) Bill

The Trade (Safeguard Measures) Bill was passed unanimously at the conclusion of its third reading on 4 November 2014. The Bill provides for emergency safeguard measures, including temporary duties, to be applied at New Zealand's border, in addition to existing trade remedies, against certain imports that may injure New Zealand industries.

The then Minister of Commerce **Hon. Craig Foss, MP**, (National) had introduced the third reading on 15 April 2014, prior to the dissolution of Parliament ahead of the general election, saying that the Bill "aims to provide for a more efficient process for taking safeguard action ... to allow time for structural adjustment by New Zealand manufacturers to sudden increases in competition from imported goods." Mr Foss also said that the Bill "provides a new safeguards regime that is consistent with World Trade Organisation (WTO) rules" and described the legislation as "an important safety mechanism" at a time when New Zealand's remaining tariffs are being further reduced by free-trade agreements.

When the debate resumed on 4 November, Greens member **Mr Steffan Browning** described the legislation as saying: "Yes, we will give you a little bit of a break, a little bit of an adjustment, but too bad. This stuff is coming in. Get ready, and adjust to it."

Although speaking in support of the legislation, opposition members commented on the length of time it took the government to move the legislation through the House. **Mr David Shearer, MP**, (Labour) stated that the Bill "was put forward by the Labour government back in 2008" and that despite its being "a pretty simple piece of legislation" and "agreed upon by just about everybody in this House" it sat on the Order Paper for a long time. **Mr Stuart Nash, MP**, (Labour) said: "It has taken a long time for New Zealand to recognise its WTO obligations ... There has been a National government, there has been a Labour government, and there has been another National government since the time that this was actually ratified in Marrakesh by the WTO in 1994."

# MISCONDUCT ALLEGATIONS

On 5 November 2014, Liberal Party leader **Justin Trudeau, MP**, suspended two MPs from caucus for alleged personal misconduct. The Party whip, **Judy Foote, MP**, sent a letter to the Speaker of the House of Commons, **Hon. Andrew Scheer, MP**, in which she said two MPs from another party had made allegations against **Scott Andrews, MP**, (Avalon, Newfoundland and Labrador) and **Massimo Pacetti, MP**, (Saint-Léonard – Saint-Michel, Québec). She pointed out there is no process for dealing with these kinds of situation. She asked for the Board of Internal Economy (BOIE), the House of Commons' governing body, to ensure that the cases are properly addressed and for a process to be put in place to address such cases. To complicate matters, the two MPs who made the allegations declined to make formal complaints.

In its response, the BOIE said it did not have a mandate to investigate Member-to-

Member conflicts. Saying it is ultimately up to the House to pronounce on the conduct of its Members, the BOIE asked the Speaker to write to the Standing Committee on Procedure and House Affairs requesting it seek an order of reference to review matters related to such allegations.

On 27 November, the House of Commons instructed the Standing Committee on Procedure and House Affairs to examine options for addressing complaints of harassment between Members, to make recommendations on a code of conduct for Members and a process for resolving complaints made under the code, and to make recommendations on training to ensure compliance with the code.

On 10 December, the BOIE adopted a harassment prevention policy. It applies to Members and House Officers as employers, their employees and Research Office employees. The policy addresses prevention, sets out a process for filing and investigating complaints, and outlines the rights and responsibilities of everyone involved in a complaint. The policy stresses the need to respect confidentiality and to ensure the process is impartial.

## Motion to compensate the survivors of thalidomide

On 27 November 2014, the House debated an opposition motion put forward by

**Libby Davies, MP** of the opposition New Democratic Party (NDP) offering support to the survivors of the drug thalidomide and urging the government to provide support to them. In the early 1960s, thalidomide was given to some pregnant women to combat morning sickness. Unfortunately, the drug had catastrophic side effects, and babies that survived suffered horrible defects, such as hands or feet growing immediately from the body.

On 1 December, the House of Commons voted unanimously in favour of the motion. The same day, the Minister of Health, **Hon. Rona Ambrose, MP**, met with a group of thalidomide survivors. She said the government would work with the survivors to determine how it can best support their health needs.

## Security

In the aftermath of the 22 October 2014 attack (see *The Parliamentarian*, 2014, Issue 4), Parliament reviewed

its security arrangements. These involve not only the security services of the Senate and the House of Commons, but also the Royal Canadian Mounted Police (RCMP). On 25 November, the Joint Advisory Working Group on Security, co-chaired by House of Commons Speaker **Hon. Andrew Scheer, MP** and **Hon. Vern White, Senator**, agreed to implement a unified security force for the Senate and the House of Commons. On 6 February 2015, the government tabled a motion calling on the Speaker to invite the RCMP "to lead operational security throughout the Parliamentary precinct and the grounds of Parliament Hill, while respecting the privileges, immunities and powers of the respective Houses, and ensuring the continued employment of our existing and respected Parliamentary Security staff"

On 11 December, the House held a special ceremony to thank its security personnel. They were invited onto the floor of the Chamber to receive Members' tributes. In particular, Speaker Scheer noted their many acts of bravery, kindness and generosity on 22 October.

## Use of House of Commons resources for political offices

On 3 February 2015, the BOIE announced it was seeking



Mr Justin Trudeau, MP



Hon. Andrew Scheer, MP



a total of \$2.75 million in remedies from 68 NDP Members stemming from the use of satellite offices that housed both parliamentary and political staff (see *The Parliamentarian*, 2014, Issue 3). The BOIE had determined that this was an inappropriate use of parliamentary resources. Some NDP Members challenged this ruling in court, but the court proceedings were suspended in November while the BOIE and the NDP discussed the possibility of a settlement.

## Cabinet shuffle

On 5 January 2015, the Prime Minister, **Rt. Hon. Stephen Harper, MP**, announced changes to his cabinet. **Hon. Julian Fantino, MP**, was replaced as Minister of Veterans Affairs by **Hon. Erin O'Toole, MP**, formerly the Parliamentary Secretary to the Minister of International Trade and once an officer in the Royal Canadian Air Force. Mr. Fantino, who previously served as Minister of International Cooperation and Associate Minister of National Defence, was named once again Associate Minister of National Defence, with responsibilities for Arctic sovereignty, information technology security and foreign intelligence.

## Budget delayed

On 15 January 2015, Finance Minister **Hon. Joe Oliver, MP**, announced he would not deliver the federal budget until at least April. The budget is usually delivered in February or March, but it was delayed because of the uncertainty caused by the rapid decline in petroleum prices, which will result in lower government revenue.



Rt. Hon. Stephen Harper, MP

## By-elections

On 17 November 2014, by-elections were held in the Alberta riding of Yellowhead and the Ontario riding of Whitby–Oshawa. The governing Conservative Party retained both ridings.

In Yellowhead, the by-election was held to replace **Hon. Rob Merrifield, MP**, who resigned in September. In the 2011 election, Mr. Merrifield, took 77% of the vote, the NDP candidate 13% and the Liberal candidate 3%. In the by-election, the Conservative candidate, **Jim Eglinski**, won with 63% of the vote, while the Liberal candidate took 20% and the NDP candidate took 10%.

In Whitby–Oshawa, the by-election was held to replace the late **Hon. Jim Flaherty, MP**, the former Minister of Finance who died suddenly in April. In 2011, Mr. Flaherty had taken 58% of the vote, the NDP candidate 22%

and the Liberal candidate 14%. In the by-election, the Conservative candidate, **Pat Perkins**, won with 49% of the vote. The Liberal candidate came second with 41% and the NDP came third with 8%.

Voter turnout was extremely low in both by-elections. In Yellowhead, merely 16% of the registered electors voted, while in Whitby–Oshawa, only 32% voted.

## Resignations

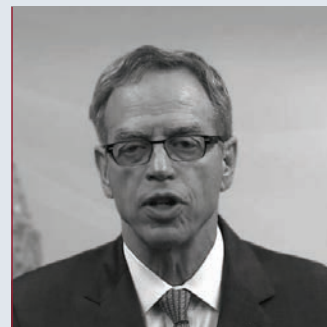
On 5 November 2014, **Dean Del Mastro, MP**, the Member for Peterborough, Ontario, resigned after being found guilty of violating the *Canada Elections Act*. A former Conservative MP, Mr. Del Mastro had been sitting as an independent since September 2013, when he was first charged.

On 16 December, **Glenn Thibeault, MP**, the NDP member for Sudbury, Ontario, resigned to run as the Ontario Liberal party candidate in a provincial by-election, which he won.

On 3 February 2015, the Minister of Foreign Affairs, **Hon. John Baird, MP**, resigned from cabinet and announced that he would be resigning as MP in the coming weeks.

## Legislation

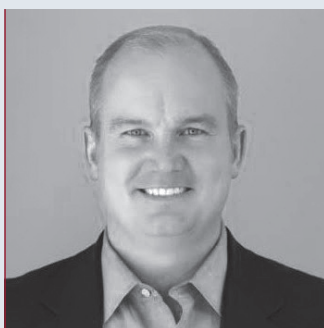
In the Senate, the government introduced Bill S-7, the Zero Tolerance for Barbaric Cultural Practices Act. The practices referred to include early, forced and polygamous marriage, and 'honour'-based violence. Among other things, the bill makes polygamy a ground for refusing non-citizens the right to live in and visit Canada, sets 16 years as the minimum age for marriage, and outlaws certain activities related to early and forced marriages.



Hon. Joe Oliver, MP

In the House of Commons, the government introduced a number of bills, including:

- C-46, the Pipeline Safety Act, which introduces measures related to prevention, preparation and response, and liability and compensation.
- C-48, the Modernization of Canada's Grain Industry Act, which allows the Canadian Grain Commission to establish a compensation fund and includes measures related to grain quality and grain safety.
- C-49, the Price Transparency Act, which allows the Commissioner of Competition to investigate why products cost more in Canada than in the United States.
- C-50, the Citizen Voting Act, which amends the Canada Elections Act to require voters living abroad to provide proof of identity, past residence and citizenship in order to vote from outside the country.
- C-51, the Anti-Terrorism Act, 2015, which includes a number of measures to counter terrorism, including criminalizing the advocacy or promotion of terrorism offences, providing for the removal of terrorist propaganda from the Internet and giving law enforcement agencies the power to disrupt terrorist activity.



Hon. Erin O'Toole, MP

In late 2014, Royal Assent was granted to 20 bills. Among these were Bill C-13, the Protecting Canadians from Online Crime Act, which deals with cyberbullying, and C-36, the Protection of Communities and Exploited Persons Act, which was introduced after the Supreme Court of Canada gave Parliament a year to come up with new prostitution laws.

## Committee Reports

The Standing Senate Committee on Energy, the Environment and Natural Resources tabled a report entitled 'Digging Safely – One-call Notification Systems and the Prevention of Damage to Canada's Buried Infrastructure.' The report looked at the damage caused by excavation to buried infrastructure such as pipelines, wires and water mains. It also examined the gaps in the provincial and territorial one-call systems for contacting the various utilities involved.

The Standing Senate Committee on Official Languages tabled a report entitled 'Seizing the Opportunity: The role of communities in a constantly changing immigration system'. It looked at the impacts of recent changes to the immigration system on official language minority communities – French-speaking communities in primarily English-speaking provinces and English-speaking communities in Quebec. The Committee urged the government to enhance the vitality of official language minority communities and to support and assist their development.

The House of Commons Standing Committee on Agriculture and Agri-Food

presented a report entitled 'Canadian Agriculture and the Canada-European Union Comprehensive Economic and Trade Agreement [CETA]'. The Committee made six recommendations, including the approval of CETA and the continued defense of Canada's supply-management system.

The House of Commons Standing Committee on Finance presented a report entitled 'Towards Prosperity: Federal Budgetary Priorities for People, Businesses and Communities'. It reported on the Committee's pre-budget consultations, in which it asked for submissions on the following topics: balancing the federal budget; supporting families by focusing on health, education and training; increasing business competitiveness; investing in infrastructure; improving taxation and regulatory regimes; and maximizing the number and type of jobs.

The House of Commons Standing Committee on the

Status of Women presented a report entitled 'Eating Disorders among Girls and Women in Canada', in which it examined this serious mental illness, the factors contributing to eating disorders and the obstacles in addressing them and seeking treatment.

The House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities presented a report entitled 'Renewal of the Labour Market Development Agreements', in which it looked at the funding agreements the federal government has with the provinces and territories for providing programs for the unemployed.

## Court ruling on physician-assisted suicide

On 6 February, the Supreme Court of Canada struck down the laws prohibiting assisted suicide in cases of physicians assisting in the death of competent adults who have

an irremediable disease that causes enduring, intolerable suffering and who have given their consent. The Court gave Parliament and the provincial legislatures one year to enact new legislation, if they choose to do so. After that, the current laws will become invalid.

## Court ruling on royal assent

In January 2015, the Federal Court ruled that the governor general's decision to grant royal assent cannot be reviewed by the courts. The applicants had argued the governor general should not have given royal assent to a bill that would allow the citizenship of those convicted of terrorism to be revoked. The judgement said the courts have the power to examine laws once they have been enacted, but cannot intervene in the legislative process. Therefore, because royal assent is the final stage in the legislative process, it cannot be reviewed by the courts.



Canada's Parliament

# OPPOSITION ASKS FOR PLEDGE TO BRING BACK BLACK MONEY TO BE HONoured

The Winter Session of Lok Sabha continued from 24 November 2014 to 23 December 2014. The first sitting held on 24 November was adjourned after paying tributes to the memory of two sitting and six former MPs.

Soon after the Lok Sabha met on 25 November 2014, the leader of the Congress Party in Lok Sabha, **Shri Mallikarjun Kharge (INC)** and some other members demanded suspension of the Question Hour to discuss the alleged violation of a promise given by the Prime Minister to bring back 'black money' from foreign banks within hundred days and distribute the money to the citizens of India. The Speaker, Lok Sabha, **Smt. Sumitra Mahajan** rejected the demand to suspend the Question Hour and asked the members to give proper notice for discussing the matter. Several members came to the Well of the House and started shouting slogans. Some Members were holding umbrellas with slogans written on them. The Speaker strongly objected to this conduct. Rules provide that while the House is sitting a Member shall not display emblems, placards or any exhibits in the House as it is unbecoming. As the Members continued to disrupt the proceedings, the Speaker adjourned the House for some time. Soon after the House reassembled, some opposition Members again asked for suspension of the

Question Hour to discuss the matter. The Congress party had given a notice for moving an adjournment motion to discuss the matter. The Speaker again expressed her willingness to allow a discussion on the issue under rule 193. The Minister of Urban Development, Minister of Housing and Urban Poverty Alleviation and Minister of Parliamentary Affairs, **Shri M. Venkaiah Naidu** said the government was ready to discuss it under whatever rule the Speaker might allow. He urged upon the opposition parties to cooperate in running the House properly and to have a proper debate on the issue. After lunch break, **Shri Kharge** pointed out that even when the House was not in order it was allowed to do certain business. The Congress party wanted to highlight the issue because the BJP had said they would bring back black money within 100 days and they should apologize for their failure to do so.



Lok Sabha Speaker  
Smt. Sumitra Mahajan

The next day, on 26 November, **Shri M. Venkaiah Naidu**, responding to the issue raised by several MPs, said the government was ready for discussion but it was up to the Speaker to decide the timing. The Speaker did not admit the adjournment motion on the ground that it was not a matter of urgent importance but said discussion under rule 193 would be held as it had been listed in the day's order paper.

Later, the Speaker made an observation regarding maintenance of decorum in the House. She observed: "In a democracy, everyone had a right to put forth one's view point. From the onset of the session, I have been repeatedly saying that we should not exhibit placards, shout slogans and resort to hooting in the House. I once again request you to not compel me to resort to strict measures. We are prudent enough and we represent the people. We set a role model for others. So, I urge upon you to follow rules and observe norms to facilitate smooth conduct of business in this House."

In the afternoon, the Lok Sabha took up the issue for discussion under rule 193 which does not entail voting. Initiating the discussion, **Shri Kharge** said a feeling had been created that despite adequate laws the previous UPA government did not invoke those laws to bring back the black money stashed abroad. Every leader

and every political party gave an astronomical figure. As a result, people felt that if so much money was there in foreign banks why then the government did not bring it back? People thought there was something fishy in it. The BJP election manifesto mentioned that they would bring back the black money, frame very stringent laws and use the money in the interest of the country. He wanted the government to tell the House what it had done to bring back the money as more than 100 days had already lapsed. He blamed the BJP for creating confusion in the minds of the youth and the people of the country. He wanted the government to put before the House the facts relating to the list of account holders submitted to the Supreme Court. **Shri Bhartruhari Mahtab (BJD)** said money that flowed out was getting rerouted and being invested in different forms in different fronts in the country itself. The efforts of the government to bring back black money seemed futile as these efforts did not bring back a single rupee or dollar stashed in foreign countries. The government's stand before the Supreme Court that the disclosure of the names would sabotage the investigation and benefit the guilty created a doubt about its integrity, sincerity and seriousness. The present government's swift action in constituting



Special Investigating Team (SIT) was a significant step. **Shri Anurag Singh Thakur** (BJP) said the BJP government took the decision to constitute a SIT in the first meeting of Cabinet held on 27 May after taking oath the previous day. **Shri T. G. Venkatesh Babu** (AIADMK) observed the government's focus on bringing back black money was premised on the assumption that illicit money was only parked in tax heavens. It did not consider the phenomenon of round tripping of black money in the form of investments. He suggested imposing economic sanctions on countries which refused to part with information. **Shri Sudip Bandyopadhyay** (AITC) wanted the government should fulfill its promise made during 2014 general elections to bring back black money within 100 days of its coming to power. The government made this promise and commitment knowing well about the Double Taxation Avoidance Agreements (DTAA) with many countries. **Shri Shrirang Appa Barne** (SS) said black money was not only stashed abroad but it was also within the country and effort should be made to unearth that also. **Dr Ravindra Babu** (TDP) congratulated the government for appointing a SIT to probe into black money. **Shri A.P. Jithender Reddy** (TRS) believed if the huge black money was brought back, no citizen of the country might have to pay taxes. He thanked the Prime Minister for raising the issue at the G20 meeting in Australia. **Shri M. Veerappa Moily** (INC) said curbing black money that was available inside the country and which had been stashed away either by tax evasion or by other methods for gain

was one thing and using the money for promoting illegal activities like terrorism and drug trafficking was another thing. The Prime Minister owed an apology to the nation and Parliament for his failure to bring back the black money.

Participating in the resumed debate on 27 November 2014, **Shri Mulayam Singh Yadav** (SP) said even six months after assuming office no effective work had been done in this matter. He wanted to know the names of the account holders and whether the list submitted to the Supreme Court was complete. **Shri P. Srinivasa Reddy** (YSR Congress) said most of the black money went out of India after India liberalized its economy. He appreciated the efforts being made by the government to bring back black money. **Shri M. Venkaiah Naidu** (BJP) was happy that the Prime Minister himself took up the issue in a big way in G20 meeting. He said the names of the accused had been obtained and their names would become public automatically when a charge sheet was filed.

**Shri Mohammad Salim** (CPI-M) said governments came and went out of power but the black money could neither be brought nor its generation checked. The Prime Minister would not be able to bring back the black money as those who had stashed black money abroad were hands in glove with the government. **Shri Tariq Anwar** (NCP) alleged since the government had failed to honour the promise made during elections to bring back black money, it owed an apology to the people. Even the Supreme Court stated



Shri E. T. Mohammad Basheer

that the matter could not be left to government as its attitude was not credible. **Shri Prem Singh Chandumajra** (SAD) asserted that the government had made the beginning by constituting a SIT and the intent of the government was above doubt. **Shri Rajesh Ranjan** (RJD) pointed out that black money was being invested in the real estate and by giving sops to this sector the government was promoting generation of black money. **Shri Bhagwant Mann** (AAP) said there was no difference between the replies submitted to the Supreme Court by the NDA government and the erstwhile UPA government. Stating that the previous governments did nothing on the issue of black money, **Shri Nishikant Dubey** (BJP) asked the opposition to give more time to the government so that it could pursue the matter effectively. **Shri Badruddin Ajmal** (AIUDF) believed both the opposition and the government should consider the matter seriously to bring back black money stashed both within and outside the country. **Smt. Anupriya Patel** (Apna Dal) suggested for circulating smaller currency notes once again and formulating policy to implement transaction based taxation system. **Shri E. T. Mohammad Basheer**

(IUML) claimed that a lot of things had been done in this regard during the UPA government and instead of mud-slinging, all should put their heads together to find out exactly what legal and practical action could be taken to curb the problem. As India was a party to various international treaties, a specific and clear-cut legal case must be made to bring back black money from abroad. **Shri Kaushalendra Kumar** (JD-U) also wanted to know when the black money would be brought back and distributed among the people as promised by the Prime Minister. **Dr Kirit Somaiya** (BJP) highlighted the need to stop further generation of black money and recover whatever black money was there inside or outside the country.

**Shri Asaduddin Owaisi** (AIMIM) asked for completely banning Participatory Notes as these posed the greatest danger to the security of the country. He wanted to know whether the government would enact a law or amend the Prevention of Money Laundering Act to include a provision that if an Indian opened accounts in any foreign country they would have to show it in their income tax return. **Shri N. K. Premachandran** (RSP) said black money had come back to India by way of foreign institutional investment through different routes and bringing it back was a litmus test for the NDA government. **Shri C.N. Jayadevan** (CPI) said the people of India had every right to know the names of all those with accounts in foreign banks. He added merely identifying the culprits was not enough; measures needed to be initiated to confiscate the

entire amount. **Shri K.C. Venugopal (INC)** alleged that the BJP government took no new initiative except constituting a SIT under the insistence of the Supreme Court. The government was not serious about bringing back the money as the Finance Minister was busy in explaining the long procedures and technicalities involved in bringing it back and the DTAAs which prevented disclosing the names of the holders of black money. **Shri Mekapati Rajamohan Reddy (YSR Congress)** believed all social welfare schemes and developmental schemes could be implemented if all the black money was brought back. **Dr Arun Kumar (RLSP)** said black money could be checked at national and international level by providing good governance at various levels. **Prof. Saugata Roy (AITMC)** wanted the Finance Minister to say whether he was prepared to revisit the confidentiality clause and work out the DTAA. **Shri Tathagata Satpathy (BJD)** feared illegal money could be easily used for terrorism and insurgency and was happy that the Prime Minister at least thought that black money needed urgent attention.

Replying to the debate, the Minister of Finance, Minister of Corporate Affairs and Minister of Information and Broadcasting, **Shri Arun Jaitley** said it was an irony that all the tax treaties India had signed, the laws of the other countries contained a confidentiality clause. It did not mean that such information would never come out. However, after getting the information, evidence had to be gathered, a case filed in court and

during the proceedings of the case, the information could become public from there. But prior to it, if the information was made public by the government, it was considered violation of the law or the treaty. After constitution of SIT the government provided all the details it had received about the account holders. Out of the total 627 who had accounts in the HSBC bank in Switzerland in between 2005-2007, the government had identified the names of most of them and they were being prosecuted. Criminal cases would be filed against the persons found guilty of holding illegal accounts and the SIT was taking action in this regard. India had 92 DTAAs with various jurisdictions and the government was trying to reach an automatic transmission of information agreement with all such countries where people might stash black money. The loophole in the law which was silent on the issue of bringing back the stashed money in case it was detected needed to be removed. The Money Laundering Act also needed attention. He assured the House that the government was treading on the correct legal path and soon the guilty people would be punished and they would be forced to bring back the black money.

#### Reported incident of religious conversion

On 11 December 2014, some members demanded the suspension of the Question Hour to take up discussion on the reported incident of religious conversion in the state of Uttar Pradesh. Some Members had given notices for adjournment motion. The Speaker refused to suspend

the Question Hour as there was no rule under which a member could ask for the suspension of the Question Hour. She also did not allow the notices of adjournment motion. The Speaker observed that though the matter was important enough, it did not warrant interruption of the business of the day and the matter could be raised through other opportunities.

Responding to the submissions made by Members, **Shri M. Venkaiah Naidu** said the issue was an important issue and the government had no problem discussing it. If the House wanted a central legislation, it could be done. The Speaker said she could allow a discussion once proper notice was received. Later in the day, some members made further submissions on the issue. The Minister of State of the Ministry of Skill Development and Entrepreneurship and Minister of State in the Ministry of Parliamentary Affairs, **Shri Rajiv Pratap Rudy** said that the government had already accepted the demand for a fully fledged discussion. However, a proper notice should be given. Later, Speaker, **Smt. Sumitra Mahajan**, after receiving notice, allowed a discussion under Rule 193 although the matter was not included in the day's order paper. In this context, the Speaker said she was allowing discussion as a special case, without any entry in the list of business. She felt happy that there was a consensus to take up the discussion in the House.

Initiating the discussion on the situation arising due to the reported incident of religious conversion, **Shri Jyotiraditya M. Scindia (INC)** said India was like a

bouquet with a variety of flowers, due to which the fragrance of India spread everywhere. Hinduism did not teach narrow mindedness and bitterness; it was a philosophy. He alleged that in Agra, Uttar Pradesh, several families belonging to a particular religion were forced to convert and were promised certain benefits. It was said that this was just a beginning and that they would convert people not only from one religion but from other religions also. He wanted the government to uphold the Constitution. **Shri Sumedhanand Saraswati (BJP)** complained that a small incident had been blown to very sensitive proportions while conversion was being forced on the entire eastern region by giving some allurements. The BJP was not in favour of conversion in this country. **Shri P. Kumar (AIADMK)** believed in equal respect for all religions and maintaining communal harmony. **Prof. Saugata Roy (AITC)** wanted the House to unanimously adopt a resolution endorsing that conversion was not the philosophy of the country and the whole House stood united against religious conversion. No one should be allowed to polarize society for political benefit. **Shri Bhartruhari Mahtab (BJD)** said all persons were equally entitled to freedom of conscience, and the right freely to profess, practice and propagate religion. But, if in this process somebody else was offended and public order was disturbed, it was the responsibility of the district magistrate to maintain public order. He mentioned that a Bill had been moved in the Odisha Legislative Assembly in 1959 to restrict

conversion as a large number of conversions were talking place, especially in the tribal areas.

**Shri Arvind Sawant** (Shiv Sena) complained why there was no discussion when the tribal people were converted. He believed the vested interest were criticizing *Hindutva* [the predominant form of Hindu nationalism in India] in order to gain the votes of a particular community. **Shri Mulayam Singh Yadav** (SP) observed that polarization was taking place in the name of caste and religion, but it could be stopped provided there was resolve. Everyone should take a pledge not to discriminate in the name of caste or religion or color and a resolution in this regard should be passed to send a positive message to the country. **Shri H.D. Devegowda** (JD-S) said as the agenda of the government was to take the country forward in all aspects, the division of society and its polarization was not going to help achieve this goal. **Shri Konda Vishweshwar Reddy** (TRS) was happy that every member was against forced or lured conversions. **Shri Mohammad Salim** (CPI-M) said Indian Constitution did not permit forced or lured conversion. Although conversion changed the way of worship it did not change the social, economic or cultural status of the converts. **Shri M. Raja Mohan Reddy** (YSR Congress) was of the view that nothing should be done by coercion or by taking advantage of somebody's backwardness or poverty. **Shri Tariq Anwar** (NCP) said the basic structure of the country was being attacked under a well-thought conspiracy. There was a feeling among the people

that political parties were doing politics at the cost of country's unity and integrity. **Shri M. Murali Mohan** (TDP) pointed out God did not belong to any religion, caste, group or discrimination and people should not fight in the name of religion. **Shri Rajesh Ranjan** (RJD) said India would not be able to make progress until people stopped fighting in the name of caste and religion. While **Shri Rajendra Agrawal** (BJP) emphasized the need to bridge the religious divide, **Shri Prem Singh Chandumajra** (SAD) pleaded for maintaining harmony in the country. **Shri E. T. Mohammad Basheer** (IUML) complained that the government was not discouraging communal hate. People should work together to put an end to agenda like forced conversion. **Shri Kaushalendra Kumar** (JD-U) remarked that harmony among the various castes and religions had been the cornerstone of the Constitution and it was unfortunate to see people fighting in the name of caste and religion. **Shri Bhagwant Mann** (AAP) appealed not to politicize religion. **Shri Asaduddin Owaisi** (AIMIM) wanted to know whether creating fear psychosis and causing communal strife would lead to growth and strengthening of India? **Shri N.K. Premachandran** (RSP) believed conversion in any form, whether conversion or re-conversion, was a crime if it was done with undue influence, coercion or force. For **Shri C.N. Jayadevan** (CPI) the problem was not which religion or God one believed; the problem was to think that the existence of other religions was going to hamper the growth of one's own faith. **Smt. Ranjeet Ranjan**



Smt. Ranjeet Ranjan

(INC) said it was unfortunate to see two faces of the government – one which showed rosy pictures to the poor and the other when their grassroots workers indulged in conversion. She hoped the youth of the nation would not be misled in the name of religion.

Replying to the debate, **Shri M. Venkaiah Naidu** said conversion or re-conversion was a national challenge and the entire country had to seriously introspect, look into this issue and come out with some sort of meaningful solution. Development and good governance were the agenda of the government but some people had tried to utilize the opportunity just to accuse the government. Since law and order was a State subject it was for the concerned State to decide on the course of action. While freedom of faith was a fundamental right of every citizen it could not be allowed to become a licence for sustained foreign-funded campaigns of proselytisation. The tribal people, Scheduled Castes and the poor belonging to other communities or classes seemed to be the target of proselytisation. Stating that there should be anti-conversion laws in the States and at the Centre, Shri Naidu said the Centre was ready to

help the States in maintaining law and order and communal harmony.

### Conference of Presiding Officers of Legislative Bodies in India

The two-day 77th Conference of the Presiding Officers of Legislative Bodies in India was inaugurated by the Speaker, Lok Sabha, **Smt. Sumitra Mahajan** on 31 January 2015, at a solemn function held in the Assembly Hall of the Uttar Pradesh Legislative Assembly in Lucknow. Inaugurating the Conference, the Lok Sabha Speaker and Chairperson of the Conference, Smt. Mahajan said the 94-year old organization provided a platform for exchange of ideas and thoughts. She observed that though India was the largest working democracy in the world the strength of the country was in the strength of the States. The Centre and the States would have to develop and move ahead together to ensure that the federal structure remained firm. There might be different governments, different parties but none of the parties was against development, and politics should not come in the way of development. She further stated that Members expected the Presiding Officers to guide them and help them and it was the responsibility of the Presiding Officers to nurture them to become more effective legislators.

Smt. Mahajan said it was desirable that the proceedings of the House were carried out in an amicable and cooperative manner. Although the rules and regulations were in place and the Presiding Officer enjoyed full powers



to suspend the member for unruly behaviour, it was an awkward task for the Presiding Officer to do so. The suggestion was that there should be automatic suspension of the Member for coming into the Well of the House without involving the Presiding Officer. She said citizens had become well informed and they were watching the proceedings of the House. Smt. Sumitra Mahajan stated that when the members were elected to any representative institution, they should come with the purpose to serve the people, irrespective of the fact that some of them might not have voted for them. The Speaker suggested members should listen to the speeches of distinguished parliamentarians and observe their functioning to learn and become more effective legislators.

The Chief Minister of Uttar Pradesh, **Shri Akhilesh Yadav**, addressing the inaugural session, said the serious deliberations that took place in these conferences had contributed significantly to the consistent growth of democracy. Such conferences not only helped in facilitating the process of deliberations on issues related to the procedural rules but also in bringing uniformity in the functioning of State legislatures.

The Speaker, Uttar Pradesh Legislative Assembly, **Shri Mata Prasad Pandey** delivered the welcome address at the inaugural function. The Chairman of Uttar Pradesh Legislative Council, **Shri Ganesh Shanker Pandey** proposed the vote of thanks.

Initiating the discussion on the first agenda item *the Role of Parliament in*



Shri Akhilesh Yadav

*Development the Speaker, Punjab Legislative Assembly, Dr Charanjeet Singh Atwal* said development had become the keyword in each and every political discourse including elections, all over the country. Legislatures had a significant responsibility for promoting, protecting and realizing human rights through their functions of law-making, oversight and representation. Only strong parliamentary institutions could help to build and solidify democracy, the rule of law and human rights. Emphasizing that legislatures which promote genuine development-oriented public life need to be applauded and followed. As many as 17 Presiding Officers participated and deliberated on the issue.

Initiating the discussion on the second subject of the Agenda *Paperless Parliament* on 1 February, The Speaker, Lok Sabha, **Smt. Sumitra Mahajan** observed the present-day was technology driven and most of the information was flowing through the internet. It was time for the legislatures to start using information and communication technology in their working with a view to usher in an era of transparency, faster communication and, ultimately, to reduce the use of paper and move towards paperless legislatures.

Talking about the numerous advantages of using computers and laptops, she observed that with these technologies, it was also possible to remain connected and do the work while on the move. Preservation of old records had also become easier. Various Presiding Officers participated in the discussion. The Speaker of Goa Legislative Assembly, **Shri Rajendra Vishwanath Arlekar** and Speaker, Himachal Pradesh Legislative Assembly, **Shri Brij Behari Lal Butail** informed the august gathering that their Legislative Assemblies had gone totally paperless in their functioning.

Some Presiding Officers, however, mentioned about the challenges and disadvantages in going totally paperless. It was pointed out that the technology needed to be constantly upgraded, training was required and there was need to maintain tight cyber security. Later, **Smt. Sumitra Mahajan** observed that all the Presiding Officers at least agreed upon the very basic idea of reducing the use of paper to the maximum extent possible, keeping in view that this would be eco-friendly as well as fiscally prudent initiative. There was a broad consensus among the participants to move towards using less paper and gradually make the legislatures paperless.

Addressing the concluding session of the conference, Uttar Pradesh Governor, **Shri Ram Naik** said that smooth functioning of the House was essential for a healthy democracy. He believed the conference would prove to be a milestone in many ways in the annals of parliamentary history.

In her concluding remarks, **Smt. Sumitra Mahajan**, said that it was a matter of immense satisfaction that within the limited time available, the Conference had very meaningful and constructive deliberations on both the items on the Agenda, namely, *Role of Parliament in Development* and *Paperless Parliament*.

Thirty-three Presiding Officers and 49 delegates from various states participated in the Conference.

The Presiding Officers' Conference was preceded by the 55th Conference of Secretaries of Legislative Bodies in India which was inaugurated by the Secretary-General, Lok Sabha, **Shri Anoop Mishra** on 30 January 2015, in the Vidhan Parishad Chamber of Vidhan Bhawan. The Secretaries' Conference was attended by the Secretary-General of Rajya Sabha, **Shri Shumsher K. Sheriff** as well as the Principal Secretaries and Secretaries from State Legislatures in India.

The conference discussed and deliberated upon various issues relating to practice and procedures of conduct of business in our legislative bodies. These included the need for a broad-based Question Procedure; Question of Privilege; whether ratification of a constitution amendment Bill under article 368 by State Legislatures may include a proposal for amendments also?; Prioritization of Notices to be done by ballots/lots or be left to the discretion of the Speaker?; Legislature and Information Technology; and Discussion of the Secretaries' Conference-Follow up mechanism generated much discussion among participants.

## THIRD READING: INDIA



Delhi airport: award winning architecture

### The School of Planning and Architecture Bill, 2014

The School of Planning and Architecture, New Delhi, India, a premier institution in the field of Planning and Architecture, was established in 1959 as an autonomous society, registered under the Societies Registration Act, 1860. In 1979, the School was conferred with the status of 'Deemed University'.

In light of the vast changes taking place in the urban, rural and industrial environment in the country and with a view to adapting to the ever evolving Planning and Architectural education system globally, two new Schools of Planning and Architecture one each at Bhopal (Madhya Pradesh) and Vijayawada (Andhra Pradesh), were established by the Central Government in 2008, as registered societies under the Societies Registration Act, 1860.

The Government brought forward The School of Planning and Architecture Bill to confer the status of 'institution of national importance' to all the three Schools of Planning and Architecture at New Delhi, Bhopal and Vijayawada, thereby enabling them to emerge as 'centres of excellence' with the objective of meeting the national and international standards of planners and architects in an ever increasing environment of urbanisation and industrialization.

### The Delhi Special Police Establishment (Amendment) Bill, 2014

Section 4A of the Delhi Special Police Establishment Act, 1946, as amended by the Lokpal and Lokayuktas Act, 2013 (1 of 2014), provided for a Committee for recommending a panel of officers to the Central Government for appointment of the Director of the Delhi Special Police Establishment. As per the existing provision in clause (b) of sub-section (1) of Section 4A, the Leader of Opposition in the House of People, Parliament of India is one of the members of the said committee.

In the absence of a provision as to how the selection might be made when there is no Leader of Opposition recognized as such in the House of People, it was considered appropriate to amend clause (b) of sub-section (1) of Section 4A of the Delhi Special Police Establishment Act, 1946 and make enabling provision for inclusion of the Leader of the single largest Opposition Party in the House of the People as a member of the said committee. Keeping in view the legislative practice followed in this regard, the Government proposed to provide that no appointment of a Director shall be invalid merely by reason of any vacancy or absence of a Member in the committee.

The Government accordingly brought forward the Delhi Special Police Establishment (Amendment) Bill, 2014. The Amending Bill effected an amendment to Section 4A

of Principal Act providing that the Leader of Opposition recognized as such in the House of the People or where there is no such Leader of Opposition, then, the Leader of the single largest Opposition Party in that House would be the member of the Selection Committee. It was further provided that no appointment of a Director shall be invalid merely by reason of any vacancy or absence of a member in the committee.

The Bill was passed by Lok Sabha on 26 November, 2014 and Rajya Sabha on 27 November, 2014. The Bill as passed by both Houses of Parliament was assented to by the President of India on 29 November, 2014.

### The Indian Institute of Information Technology Bill, 2014

1. Education is a key element for developing human resources and contributing to the growth of the society. From a relatively small beginning, the Indian Information Technology (IT) had emerged as a strong and credible force and is now recognized as a major constituent of the global IT services industry. In order to develop manpower for different areas of knowledge economy, education and training in Information Technology is a prerequisite.

2. A major objective in establishing Indian Institute of Information Technology (IIITs) is also to set up a model of education which can produce best-in-class human resources in IT and harnessing the multi-dimensional facets of IT in various domains. These are conceived as research-led institutions contributing significantly to the global competitiveness of key sectors of the Indian economy and industry with application of IT in selected domain areas. While the number of students produced by these IIITs might be small, the impact they are likely to create would be substantial.

3. The Government brought forward the IIIT (Amendment) Bill to provide the four existing IIITs funded by the Central Government independent statutory status with uniform governance structure and policy framework as also to declare them as Institutions of national importance and to enable them to grant degrees to their students in the academic courses conducted by these Institutes.

# THE CHANGING OF THE GUARD?

## The General Election

We are now in the final furlong of this Parliament. Under the Fixed Terms Parliament Act 2014, Parliament must be dissolved on 30 March 2015 and a general election must follow on 7 May. It is the first time that there has been this level of certainty about when the election will be. It used to be the case that the dissolution of Parliament was a prerogative power – that the Monarch would choose when to dissolve Parliament. In modern times this decision has effectively been taken by the Prime Minister of the day, guaranteeing months (even years) of speculation in the press about the date. Before that, the Monarch would exercise the power based on their own political priorities.

The upcoming election has inevitably focused minds on the high-profile political issues that the parties believe will swing the result in their favour. The first Prime Minister's Questions after the Christmas recess demonstrated the new tone. After some words of sympathy and solidarity following the shootings of 22 people at the offices of the *Charlie Hebdo* magazine in Paris, both sides of the House launched into a furious debate about the performance of the National Health Service (NHS), particularly in relation to Accident and Emergency Services (A&E). The Leader

of the Opposition, Rt Hon. Edward Miliband MP (Lab), argued that the NHS was facing a "crisis". He said "over 90,000 people in the last quarter waited on trolleys for more than four hours, at least ten hospitals have declared major incident status in recent days, and one had to resort to Twitter to appeal for medical staff". He accused the Prime Minister of breaking a promise not to "go back to the days when people had to wait for hours on end to be seen in A&E," and blamed two Government policies – the closure of a quarter of walk-in health centres and the reorganisation of the NHS under the Health and Social Care Act 2011.

The Prime Minister, Rt Hon. David Cameron MP (Con), responded, telling the House "We knew there was pressure on our NHS, and that is why, over the last year, we have seen 1,800 more doctors in our hospitals, 4,700 more nurses in our hospitals



Rt Hon. David Cameron, MP

and 2,500 more beds in our hospitals." He argued that the Government had put considerable extra investment into A&E and into social care services and stressed the importance of a strong economy in ensuring that the NHS was properly financed. Finally he rounded on the Leader of the Opposition for offering "no solutions" and said "the Leader of the Opposition apparently said to the political editor of the BBC, 'I want to weaponise the NHS'. That is what he said, and I think that is disgraceful. The NHS is not a weapon, it is a way we care for our families, it is a way we care for the elderly, it is a way we look after the frail."

Elsewhere, legislative business is beginning to wind up ahead of the election. Government Bills such as Infrastructure, Deregulation, Serious Crime and Courts, and Consumer Rights Bills are nearing the end of their Parliamentary passage. In past years the uncertainty around the date of the end of the Parliament led to a process called the "wash-up" in which outstanding government Bills were raced through their remaining stages before dissolution. This often involved large sections of the Bill being removed as compromises to ensure their passage. It remains to be seen whether a similar process is undertaken under the new timings.



Rt Hon. Edward Miliband, MP

## The Infrastructure Bill

The Infrastructure Bill in particular attracted a great deal of attention – primarily due to its provisions on unconventional petroleum and shale gas extraction, more commonly known as 'fracking'. The Bill provides for a 'right of use' – giving individuals and companies the right to undertake fracking deeper than 300m below a person's property without requiring their permission. The provision attracted a large number of amendments in Committee and at Report Stage. These ranged from an amendment to delete the provision entirely, tabled by Caroline Lucas MP (Green), through to amendments supported by the Chair of the Environmental Audit Committee, Joan Walley MP (Labour) to introduce a moratorium on the issue of fracking.

Opening the debate, the Minister, Amber Rudd MP (Con), said "Both shale gas



and geothermal energy are exciting new energy resources for the UK, with the potential to provide greater energy security, growth and jobs, while also playing an important role in the transition to a low-carbon economy.” She argued that the proposals in the Bill would ‘unlock’ the potential of these forms of energy. She noted that the Government had made a number of concessions to critics of the provision – bringing forward an amendment to require the Government to seek advice from the Committee on Climate Change on the impact of petroleum extraction on climate change targets. She also indicated that the Government would accept a New Clause tabled by the Opposition Spokesperson, **Tom Greatrex MP (Lab)**, introducing 13 conditions that would need to be met before fracking could take place. However, she indicated that the government would seek to amend one aspect of the clause, replacing the 300m limit with a 1,000m one, in the House of Lords to introduce a review process. She was not prepared to accept there should be a moratorium, arguing that “It is far more sensible to explore the potential of shale and assess the impacts along the way, while ensuring that development is regulated and risks managed.”

Speaking for the Opposition, **Tom Greatrex MP**, said that the Government’s position was “a shambles”. On New Clause 19 he said the Minister “seemed to suggest that she would accept that amendment but that she still disagreed with parts of it. I am afraid that is not good enough because the entirety of that amendment needs to

be agreed this afternoon, as it makes it absolutely clear that there will be no shale gas exploration or extraction until those conditions are in place. It is not a pick list from which she can decide which ones she likes and which she does not.” He criticised a lack of time to consider the Bill at Report Stage and said there was a lack of clarity over what the government’s position was. He said “Such issues demand a responsible approach on the part of government and regulators, not only for the sake of regulatory coherence, but to meet the higher public acceptability test and the legitimate environmental concerns that many people feel.”

**Tim Yeo MP (Con)**, was concerned that the Government was going too slowly on fracking. He argued against the “rather curious” idea that fracking would increase carbon dioxide emissions – observing it was primarily replacing an imported source of energy with a domestically produced one. He concluded by saying “I urge the government to ignore today the siren voices calling for delay; to look objectively at the facts, which have been analysed by many learned institutions as well as by my Committee and other bodies; and to recognise the huge potential benefits of fracking, without exaggerating their impact, as I am afraid some of our less well informed supporters have done.”

On the other side of the argument, **Caroline Lucas MP**, argued that providing for more extraction of fossil fuels undermined the Government’s commitment to its climate change objectives. She opposed the right of use in its entirety, saying “Some

360,000 people signed a petition opposing that change and 99% of those who responded to the Government consultation opposed it as well. To see the Government just flinging that back in people’s faces, simply not listening to the consultation, raises big questions about what the consultation is for and undermines the credibility of the process”.

The supporters of a moratorium were defeated by 308 votes to 52, but the Opposition’s New Clause 19 was passed unopposed. The Commons’ amendments to the Bill will now return to the House of Lords.

## New Bills

Alongside the Bills already underway, a number of new, smaller government Bills have been introduced late in the Session. The Lords Spiritual (Women) Bill results from the recent change to Church of England law allowing women to become Bishops. Under the existing rules 26 places in the House of Lords are reserved for Bishops. Five of those are reserved for the holders of the most senior Archbishoprics and Bishoprics. The remainder are allocated to bishops in order of length of service. The Bill would give priority for the next ten years to female bishops when filling these other roles. The Bill was passed with all-party support. Moving the Bill’s second reading, the Minister of State for Constitutional Reform, **Sam Gyimah MP (Con)** said:

“This is a modest but important Bill, and it has one simple aim: to bring female bishops among the Lords Spiritual sooner rather than later. Given how long women have waited to become bishops, that is right. The



Caroline Lucas MP

House of Lords should not have to wait for an unknowable period before its Lords Spiritual Benches reflect the new make-up of the episcopate.”

Another Bill looking to gain Royal Assent before the election is the Counter-Terrorism and Security Bill, a relatively short piece of legislation introducing a number of measures including restrictions on travel for individuals suspected of having travelled overseas to support terrorist organisation, new powers in relation to data retention and measures to prevent people being drawn into terrorism. This Bill passed the Commons with all-party support over the Christmas period. The Corporation Tax (Northern Ireland) Bill was another late starter, granting the Northern Ireland Assembly powers to vary certain rates of corporation tax. Finally, the Government will bring forward a short Bill to reform the role of the Clerk of the House of Commons before the end of the Parliament. This proposal arises out of the recommendations of the Committee on House of Commons Governance, set up following controversy over the appointment process for a new Clerk of the House to replace the retiring Sir Robert Rogers (now Baron Lisvane).

# SENATE CENSURES DEFENCE MINISTER

On 25 November 2014, the Defence Minister, **Senator the Hon. David Johnston**, during question time, responded to a question about the future tender process for Australia's submarine fleet. In responding, Senator Johnston made disparaging remarks about the government owned Australian Submarine Corporation (ASC). Senator Johnston stated that "ASC was delivering no submarines in 2009 for \$1 billion. They have now improved their output, thankfully, after two or three visits from Mr Coles to tell them how to do it properly. They are \$350 million over budget on three air-warfare destroyer builds. I am being conservative. It is probably more than \$600 million but because the data is so bad I cannot tell you. You wonder why I am worried about ASC and what they are delivering to the Australian taxpayer! Do you wonder why I wouldn't trust them to build a canoe?"

On 26 November, Senator Johnston sought and was granted leave to make a statement clarifying the critical comments he made about the ASC. He stated that "regrettably, in rhetorical flourish, I did express my frustrations in the past performance of the Australian Submarine Corporation. In these comments, I did not intend to cause offence. May I say on the record here and now that I regret that offence may have been taken. I of course was directing

my remarks at a legacy of issues and certainly not at the workers in ASC, who may have, to my regret, taken offence at those remarks. I consider them to be world class."

Notwithstanding these comments, the Senate later censured Senator Johnston for the damaging remarks he made about the ASC and in particular the comment that he would not trust them to build a canoe. The Leader of Opposition business, **Senator the Hon. Penny Wong** moved that the Senate censures the Minister for Defence for among other things "insulting the men and women of ASC Pty Ltd (ASC) by stating he 'wouldn't trust them to build a canoe'; and 'undermining confidence in Australia's defence capability.'" Senator Wong stated that Senator Johnston "made an extraordinary attack on the Australian Submarine Corporation yesterday, an attack that insulted the company and its workforce, undermined confidence in Australia's defence capability and jeopardised the integrity of one of the nation's biggest-ever Defence procurement contracts." Senator Wong further noted that "this minister needs to be censured. He has already been cut adrift by his own colleagues, from the Prime Minister down. The Prime Minister issued a statement last night which is nothing other than a statement of no



Senator the Hon. David Johnston

confidence in this minister, a statement which completely repudiates the minister's comments. The Assistant Minister for Infrastructure and Regional Development, Mr Briggs, said his comments were wrong"

The Leader of the Government in the Senate, **Senator the Hon. Eric Abetz**, in defending Senator Johnston, noted that "what I would say to those opposite and especially the crossbenchers is this: those that move censure motions need to come into this place with clean hands. When you see Senator Wong's past performance as a failed finance minister and as the failed climate change minister – remember, the greatest moral challenge of our time was climate change. Everything had to stop to fix it. And then, all of a sudden, it was just jettisoned like a used tissue, to be thrown away and forgotten about as though it had never previously existed. This is that sort of passion and commitment.

It is faux passion. It is faux commitment. It is just pretence on behalf of the Leader of the Opposition in the Senate."

The Leader of the Australian Greens, **Senator Christine Milne**, in support of the censure motion, noted that such a motion makes it clear that a minister is accountable and responsible to the Senate. Senator Milne commented that while Senator Johnston noted that he never intended to cause offence and that he regrets his comments, he did not apologise. Senator Milne stated that "he said he 'regrets'. In his statement to this Senate earlier today, before this happened, he did not say that he was sorry, just that he regretted that offence had been taken. Well, offence was taken, and offence was rightly taken, because it was a clear inference that the workers, the people at the Australian Submarine Corporation, were not up to the job."

Independent **Senator Jacqui Lambie**, in support of the motion, stated that "the government created the crisis surrounding Australian shipbuilding because of a failure of leadership by the defence minister and the PM. The defence minister should be sacked or, even better, should have enough integrity to resign for his incompetence and lack of honesty. That might buy the PM some time; however, we

should not have to remind government members how vitally important it is for Australia to be able to manufacture ships and weapons.”

The censure motion was carried with 37 votes to 31. The Senate Procedural Information Bulletin noted that “a censure motion expresses the view of the majority of the Senate but has no legal consequences.”

## New Ministry announced

On 21 December 2014 the Prime Minister, the **Hon. Tony Abbott, MP**, announced changes to the Ministry. Some of the notable changes include promotions for the **Hon. Scott Morrison, MP**, who becomes Minister for Social Security, and the **Hon. Sussan Ley, MP**, who was promoted into Cabinet as Minister for Health and Minister for Sport. The **Hon. Peter Dutton, MP**, moves from Health to Mr Morrison’s previous position as Minister for Immigration and Border Protection.

Mr Abbott commented that “Mr Morrison will devote all of his energy, policy skill and determination to this new portfolio which will have a renewed focus on families. In addition to responsibility for welfare, family support, seniors, aged care and the National Disability Insurance Scheme (NDIS), childcare will also be added to his portfolio.” Mr Abbott noted that “importantly, Mr Morrison will have carriage of the families package the Government will release next year to help ease the cost of living for Australian families by improving the affordability and accessibility of childcare.” In relation to Ms Ley, Mr Abbott commented that ‘I have been impressed

with Minister Ley’s transition into government and her excellent policy work in the education portfolio. Based in regional NSW with a varied life before entering politics that included stints as an air-traffic controller, farmer and a career with the Australian Tax Office, Sussan is a strong addition to my Cabinet team.’

In another significant move, the **Hon. Kevin Andrews, MP**, becomes Minister for Defence replacing Senator the **Hon. David Johnston**. Mr Abbott stated that “I record my gratitude to Senator the Hon. David Johnston who will stand down as Minister for Defence. Senator Johnston has done a fine job in restoring investment in the Australian Defence Force after six years of neglect and has effectively managed the deployment of Australian Defence Force personnel to Europe and Iraq.”

Other changes include the **Hon. Steven Ciobo, MP**, promoted to the position of Parliamentary Secretary to the Minister for Foreign Affairs, and the **Hon. Bob Baldwin, MP**, becomes Parliamentary Secretary for the Environment. Three new appointments to the Ministry include the **Hon. Christian Porter, MP**, as Parliamentary Secretary to the Prime Minister, **Ms Kelley O’Dwyer, MP**, as Parliamentary Secretary to the Treasurer and **Mrs Karen Andrews, MP**, as Parliamentary Secretary to the Minister for Industry and Science.

## New Year’s Honours – Prince Philip made a Knight in the Order of Australia

On 25 March 2014 the Prime Minister the **Hon. Tony Abbott, MP**, announced a

new Honour for pre-eminent Australians. Knights and Dames in the Order of Australia will be approved by Her Majesty on the recommendation of the Prime Minister. There may be up to four Knights or Dames created in any year. Mr Abbott noted that “this special recognition may be extended to Australians of ‘extraordinary and pre-eminent achievement and merit’ in their service to Australia or to humanity at large.” In particular, the serving Governor-General will be the principal Knight or Dame in the Order of Australia.

On 26 January 2015, as part of the New Year’s Honours, the Prime Minister – in a decision which polarised the Australian community and his own party – made Prince Philip a Knight in the Order of Australia. The Prime Minister, stated that “the Monarchy has been an important part of Australia’s life since 1788. Prince Philip has been a great servant of Australia. Here in this country, he’s the patron of hundreds of organisations. He’s the inspiration and wellspring of the Duke of Edinburgh’s Awards which have provided leadership training for tens if not hundreds of thousands of Australians over the years and I’m just really pleased that in his 90s, towards the end of a life of service and duty, we in this country are able to properly acknowledge what he’s done for us.”

The Prime Minister’s decision was criticised within the community and also within his own party.

The Leader of the Opposition, the **Hon. Bill Shorten, MP**, focused his criticism on Mr Abbott

commenting that “my concern is that the Australian Government, the Abbott government, couldn’t find an Australian to give one of these awards to. Labor doesn’t believe we should have gone back to Dames and Knights, but if we’re going to have the system, let’s give it to Australians. And I believe that this country has many volunteers and many distinguished people, so it’s a question not of Prince Philip, it’s a question of the priorities of this government, and who they think makes a good Australian.”

## Prime Minister Abbott faces leadership spill

On 9 February 2015 certain members of the Liberal Party moved a spill motion in an effort to have all leadership positions vacated. Mr Abbott is trailing in opinion polls with most polls indicating that the government would be defeated by the Labor opposition if an election was held.

Mr Abbott’s electoral standing together with an unpopular Budget has eroded his support within the party. The catalyst for the spill motion was the Prime Minister’s decision to Knight Prince Philip. Mr Abbott in arguing against the spill motion encouraged his party not to be like Labor and prematurely remove a recently elected Prime Minister.

The spill motion was lost 61 votes to 39 and Mr Abbott retained his position. Mr Abbott acknowledged that he needed to be more consultative and work harder at selling the government’s message in the next 18 months leading into the election.



Later in the day, the Leader of the Opposition the **Hon. Bill Shorten, MP**, moved that the House has no confidence in the Prime Minister commenting that “17 months ago the Prime Minister promised Australian voters a stable, mature and adult government. What has happened? There have been many promises broken by this government, but the promise to run a stable and mature government is arguably the biggest broken promise of this sad government’s last 17 months.” Mr Shorten further commented that “the problem with this government is that it brought down a budget which broke all the promises it made. They broke their promises. ‘No new taxes’. Tell that to the people paying taxes. ‘No cuts to education’. Tell that to the states losing their funding for schools. Remember the promise about no changes to health care? Tell that to the people paying the GP tax. This nation does not need a new Liberal leader; it needs a new government.”

In responding to the motion, Mr Abbott stated that “I will say this to the Leader of the Opposition: sure, this government has not got everything right. Sure, this government does not pretend to be perfect. But this is what this government has not done. We have not wasted billions of dollars. We have not put hundreds of lives at risk. And we have not jeopardised Australia’s vital international relationships. This is a good government which is getting on with the job of working for the Australian people.”

## THIRD READING: AUSTRALIA

### Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014

The Counter-Terrorism Legislation Amendment (Foreign Fighters) Act introduces measures that will enhance the capability of Australia’s law enforcement, intelligence and border protection agencies to protect Australian communities from the threat posed by returning foreign fighters and those individuals within Australia supporting foreign conflicts.

The Attorney-General, **Senator the Hon. George Brandis** noted that “the rapid resurgence in violent extremism and the participation in overseas conflicts by some Australians present new and complex security challenges for our nation. The ongoing conflicts in Syria and Iraq are adding to this challenge and the number of Australians who have sought to take part, either by directly participating in these conflicts or providing support for extremists fighting there, is unprecedented.”

Senator Brandis stated that “the risk posed by returning foreign fighters is one of the most significant threats to Australia’s national security in recent years. Our security agencies have assessed that around 160 Australians have become involved with extremist groups in Syria and Iraq by travelling to the region, attempting to travel or supporting groups operating there from Australia. While this is not the first time Australians have been involved in overseas conflicts, the scale and scope of the conflicts in Syria and Iraq, and the number of Australians presently involved, is unparalleled and demands specific and targeted measures to mitigate this threat.”

The key measures in the legislation include: broadening the criteria and streamlining process for the listing of terrorist organisations and clarify associated offences; preserving and enhancing key counter-terrorism measures due to expire; providing certain law enforcement agencies with the tools

needed to investigate, arrest and prosecute those supporting foreign fighters; updating the available criminal offences so they are relevant and address the modern foreign fighter threat; strengthening protection at Australia’s borders; and limiting the means of travel for foreign fighting or support for foreign fighters.

Senator Brandis concluded that “the Australian Government is committed to fulfilling its most important responsibility – to protect Australia, its people and its interests – and will do so while instilling confidence that our national security and counter-terrorism laws will be exercised in a just and accountable way. This Bill is an important step in the Government’s continuing efforts to strengthen Australia’s robust national security laws to proactively and effectively address the threat posed by returning foreign fighters.”

The Shadow Attorney-General, the **Hon. Mark Dreyfuss, MP**, advised that the opposition supported the legislation but that it was essential that it be subject to review by the Parliamentary Joint Committee on Intelligence and Security. Mr Dreyfuss noted that the opposition’s bipartisanship on matters of national security is never a blank cheque. Mr Dreyfuss commented that “bipartisanship on national security means that we share the government’s assessment of the current threat and that we will support necessary and effective measures to address the threat. As an opposition, it means that we will conduct our side of the debate and our negotiations with the government in a constructive fashion. But that does not mean we cannot be a constructive critic. It does not mean we will support every measure the government proposes. It does not mean that we will not advocate for improvements to those measures that we support, to ensure that they will be effective.”

Mr Dreyfuss noted that the opposition has fought hard to improve the Bill “both

by making sure that it actually assists our agencies in addressing the foreign threat and by insisting on necessary safeguards for the fundamental democratic freedoms which characterise our society and our way of life in Australia. We pursued these improvements in the committee, where Labor members and senators closely scrutinised the bill and tested the case for each new measure. In cooperation with the government members of the committee, we achieved 36 substantial recommendations for improvements to the Bill."

In particular, the committee recommended that sunset provisions in the legislation be reduced so that parliamentary scrutiny of key measures could be reviewed at an earlier time. Mr Dreyfuss noted that "control orders, preventative detention orders and the ASIO (Australian Security Intelligence Organisation) questioning and detention powers are each extraordinary and unprecedented powers introduced in the mid 2000s in response to the September 11 attacks and the Bali and London bombings.' Mr Dreyfuss indicated that 'the intelligence committee after robust debate concluded that these provisions should sunset two years after the next federal election. It is right and proper that the next parliament be obliged to grapple with these powers again and to decide on its own account whether their continuation is justified. Labor was not satisfied that the case had been made for a much more lengthy extension. It is not acceptable that these extraordinary powers could operate for two decades without being properly reviewed by the parliament."

## **Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Act 2014**

The Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Act gives effect to Australia's obligation under Chapter 3 of

the Japan-Australia Economic Partnership Agreement to enable goods that satisfy new rules of origin when imported into Australia from Japan to be given preferential rates of duty.

The Minister for Trade and Investment, the **Hon. Andrew Robb, MP**, noted that "the Japan-Australia Economic Partnership Agreement is a comprehensive agreement that substantially liberalises trade with Japan and creates significant new commercial opportunities for Australian businesses. Japan is Australia's second largest trading partner and the implementation of this agreement will significantly boost Australia's position in this major market, as this agreement is the most liberalising trade agreement Japan has ever concluded."

Mr Robb advised that "more than 97 % of Australia's exports to Japan will receive preferential access or enter duty-free on full implementation of the agreement.' At the same time, 'goods imported into Australia that meet the rules of origin, implemented through this bill, will be entitled to claim preferential tariff treatment in accordance with the agreement."

The Shadow Minister for Trade and Investment, **Senator the Hon. Penny Wong**, firstly noted that the opposition supported the legislation. She noted that Labor has a long history of supporting stronger trading relationships with our region and the world. She stated that "we in the Labor Party support trade because it is all about ensuring that we can try to create more jobs and build higher living standards for Australians. Fundamentally, Australia – given the size of our market – will not be able to do that if we sell only to ourselves. So it is a fundamental economic principle, and that has guided this trade liberalisation approach of the Labor Party over successive Labor governments."

Senator Wong discussed the adequacy and initial reaction of the free trade

agreement commenting that "I regret to say that this criterion of high-quality agreements has, certainly from the perspective of many stakeholders, been downgraded by the government in its quest to stage signing ceremonies to coincide with bilateral visits. Many Australian industries have expressed concern about being short-changed. We know that the announcement of the Japanese agreement was timed to ensure that it coincided with the Prime Minister's visit to Japan in April."

Senator Wong noted that "the public record records the disappointment of the National Farmers' Federation and of key export sectors. The NFF said the agreement falls far short of the mark and it does not improve, or marginally improves, market access and terms of trade for a number of sectors, such as dairy, sugar, grains, pork and rice. Australian Pork Limited described the agreement as 'substandard' and a 'missed opportunity'. Canegrowers called it 'yet another kick in the guts for Aussie cane growers'. The Ricegrowers' Association of Australia was extremely disappointed. The Dairy Industry Association of Australia observed, 'Our words fell upon deaf ears.' One wonders, given the litany of views that I have outlined from these industries, where the National Party was when these complaints were being raised with the government."

Senator Wong concluded that "Australia and Japan have a strong and stable relationship, a good relationship, and one that we do want to continue to build on. We welcome the opportunities provided by this agreement to further build on that relationship and to grow our economies and domestic employment. Labor do believe that the Abbott government should have secured a more comprehensive and inclusive agreement with Japan. However, we do recognise the agreement provides benefits to Australia. We support the bills before the chamber, which are critical to the implementation of the agreement."

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