



# Benchmarks For Democratic Legislatures

A Study Group Report

*With the Support of:*





## TABLE OF CONTENTS

ACKNOWLEDGEMENTS.....	3
THE COMMONWEALTH PARLIAMENTARY ASSOCIATION (CPA) .....	3
FOREWORD.....	4
ACRONYMS .....	6
I. INTRODUCTION.....	7
II. THE REPRESENTATIVE ASPECTS OF PARLIAMENT .....	10
III. ENSURING THE INDEPENDENCE, EFFECTIVENESS AND ACCOUNTABILITY OF PARLIAMENT .....	17
IV. PARLIAMENTARY PROCEDURES .....	27
V. PUBLIC ACCOUNTABILITY.....	31
VI. THE PARLIAMENTARY SERVICE.....	36
VII. PARLIAMENT AND THE MEDIA.....	39
VIII. CONCLUSION.....	40
ANNEX ONE - Recommended Benchmarks for Democratic Legislatures .....	45
ANNEX TWO - Collected Recommendations of CPA Study Groups .....	55



## **ACKNOWLEDGEMENTS**

The Commonwealth Parliamentary Association (CPA) would like to acknowledge the financial support and technical inputs from the United Nations Development Programme's (UNDP) Global Programme for Parliamentary Strengthening (GPPS) which made this Study Group possible. Launched in 1999 with the generous support of the Government of Belgium, the GPPS has played an important role within the UN system in developing knowledge and expertise on the topic of parliamentary development. CPA would also like to thank the World Bank Institute (WBI) for its support and continued collaboration in taking the work on benchmarks forward.

The CPA would like to acknowledge the CPA Members and resource people who contributed their time and expertise to the Study Group. A special thanks goes to the National Democratic Institute for International Affairs (NDI) for their draft discussion paper which formed a significant part of the basis for the Study Group's discussions. The CPA is grateful to the CPA Bermuda Branch for their kind agreement to host the Study Group and for their generous hospitality throughout. Members of the CPA Bermuda Branch contributed greatly to the discussion and the recommendations of the Study Group.

This report was written by Lisa Von Trapp, a consultant for the United Nations Development Programme and the World Bank Institute, and edited by Niall Johnston, CPA's Director of Programmes.

## **THE COMMONWEALTH PARLIAMENTARY ASSOCIATION**

The Commonwealth Parliamentary Association (CPA) is an Association of Commonwealth parliamentarians who, irrespective of gender, race, religion, or culture, are united by community of interest, respect for the rule of law and individual rights and freedoms, and by pursuit of the positive ideals of parliamentary democracy. Active CPA Branches now exist in over 170 national, state, provincial and territorial parliaments and legislatures, with a total membership in excess of 16,000 Parliamentarians.

The Association's mission is to promote the advancement of parliamentary democracy by enhancing knowledge and understanding of democratic governance. It seeks to build an informed parliamentary community able to deepen the Commonwealth's democratic commitment and to further co-operation among its parliaments and legislatures. This mission is achieved through a Strategic Plan which ensures CPA activities continue to meet the changing needs of today's parliamentarians.

CPA programmes provide the sole means of regular consultation among Commonwealth parliamentarians, fostering co-operation and understanding promoting the study of and respect for good parliamentary practice. This role is endorsed by Commonwealth Parliaments and Heads of Government. In 2003, Heads of Government bound the Executive themselves to an additional set of Commonwealth Principles based on a CPA initiative with Commonwealth legal professionals to define the proper relationships between the branches of government.

## FOREWORD

Over the years, the CPA has used Study Groups comprising small groups of legislators and parliamentary officials, as well as representatives from other organisations around the Commonwealth and further afield, to undertake in-depth analysis of key issues of concern in the quest to strengthen the capacity of legislatures to act as the principal institution of democracy in their countries.

Many of the recommendations from those groups are now recognised as key principles of democracy throughout the Commonwealth and in the wider international community. Examples of this wider recognition include the formal recognition, by the Commonwealth Heads of Government, of the work undertaken by a Study Group at Latimer House on the relationship between the Executive, Parliament and the Judiciary. Following the meeting of Heads of Government in Nigeria in 2003, this has become the 'Commonwealth Principles on the Three Branches of Government'<sup>2</sup>.

A further example is the work of a study group on Public Accounts Committees that lead to a publication called 'The Overseers'<sup>3</sup>. This has now become an internationally acclaimed textbook on the topic. Thirdly, and more recently, we have the recommendations of a Study Group that met in Zanzibar in 2005 to examine the Administration and Financing of Parliament<sup>4</sup>. This, too, has been ground-breaking work with its recommendations keenly followed by those countries wishing to achieve the appropriate independence for their parliament from executive domination.

The genesis for this latest Study Group on Benchmarks for Democratic Legislatures lies in the knowledge that so many parliamentary groups and development organisations are working on parliamentary capacity-building and democratisation projects with the same countries. It therefore seemed natural to look to where there might be a consensus on just exactly what the core benchmarks might be for a legislature to be called truly democratic.

An initial canvas which identified approximately nineteen parliamentary associations and development agencies working in the field of parliamentary democracy gave weight to the view that it should be possible to agree a set of basic minimum benchmarks of democracy that legislatures could check their own performance against and provide consistency for those working in the development field.

The CPA Executive Committee approved a work programme following a preliminary discussion panel at the CPA Annual Conference in Canada in 2004 and a meeting of fifteen of the interested parties was held in Washington DC on December 13-14, 2004, hosted by the World Bank Institute (WBI) and the CPA. Participants called for more substantive research including a review of literature on the subject and the results were considered by the Study Group that convened in Bermuda in November 2006.

This group brought together not only the experience of legislators from across the Commonwealth, but also that of parliamentary officials, a wide range of development agencies such as UNDP, WBI, and NDI, and a representative of the European Parliament. Thus there is a great deal of institutional knowledge brought to bear here on the subject of democratic practice.

Their deliberations are contained in this publication. These benchmarks are not intended to be exhaustive or perfect in any way but there are some 87 recommendations that not only legislators, but everyone interested in parliamentary development, can examine and consider where they might fit in with such a substantive list of practical benchmarks. The recommendations were reviewed by two very senior parliamentary officials, one a former clerk and the other still serving. Their extensive experience over many years was invaluable in assisting the Study Group to reach a final consensus.

The recommendations cover every aspect of political practice, from elections and candidate eligibility to the organization of the legislature; and from a procedural perspective, the rights and responsibilities of parliamentary committees; it covers the role of political parties within the legislature, and makes some important recommendations about parliamentary staffing; the functions of the legislature are dealt with and finally there are benchmarks on key values, such as the relationship with citizens and the media, and ethical governance.

But this publication goes further than just the Benchmarks. It draws together for the first time the recommendations from all CPA Study Groups and workshops in recent years into one substantive work. It will be an important resource for parliamentarians, international development organisations, and students of democratic practice alike. The wide range of topics covered show just how much institutional knowledge has been accumulated and it will be invaluable for those seeking to assess what progress has been made, and what has yet to be done, in the quest for improving the standard of democracy in their own jurisdictions.

No democracy is perfect, not the oldest, neither the youngest; not the biggest, nor the smallest. All have something to learn, very often from each other's experiences. But the overwhelming evidence shows that the countries with the healthiest democracies generally have the strongest economies, and certainly have the best standards of living, social programmes and human rights records. There is always more to be done and I know these benchmarks will be a useful step that can be added to over time. They are bound to be seen as controversial by some but I would suggest to those critics that they study these benchmarks objectively and consider how many have been implemented in their jurisdiction. The higher the achievement will indicate a higher standard of living for their citizens, and that is what this work is all about, delivering a high quality of democracy so all peoples can be assured a better life.



Hon. Denis Marshall QSO  
Secretary-General

20 December 2006

## **ACRONYMS**

**CPA** – Commonwealth Parliamentary Association  
**CSO** – Civil Society Organisation  
**ECOWAS** – Economic Community of West African States  
**EU** – European Union  
**GPPS** – UNDP Global Programme for Parliamentary Strengthening  
**ICNRD** – International Conference of New or Restored Democracies  
**ICT** – Information and Communications Technology  
**IPU** – Inter-Parliamentary Union  
**OAS** – Organization of American States  
**OECD** – Organisation for Economic Co-operation and Development  
**OSCE** – Organisation for Security and Co-operation in Europe  
**NDI** – National Democratic Institute for International Affairs  
**PAC** – Public Accounts Committee  
**SADC** – Southern African Development Community  
**UN** – United Nations  
**UNDP** – United Nations Development Programme  
**WBI** – The World Bank Institute



## **Benchmarks for Democratic Legislatures**

**Report of a CPA Study Group hosted by the Legislature of Bermuda, from October 30 to November 3, 2006**

### **I. INTRODUCTION**

#### **Context**

Over the past decade, the CPA, through Study Groups and other activities, has gathered knowledge and practice from CPA members and issued a range of recommendations which its members have found helpful in terms of developing member legislatures. Similarly, other parliamentary organizations, donors and CSOs have been increasingly involved in providing assistance to legislatures in the context of support to democratization in all parts of the world. UNDP for example supports over 50 parliaments in developing countries. More recently organisations have begun to reflect on indicators or benchmarks for democratic legislatures. A framework that sets out what constitutes effective democratic practice in contemporary parliaments would help parliaments measure themselves in their own reform and modernization efforts aimed at making parliaments more effective and democratic institutions. In addition, benchmarks may also serve as a useful tool for parliaments working to establish their independence and powers relative to the government. Legislative strengthening programs have also forced partners to look more closely at how to assess legislatures. Such benchmarks would help parliamentary development programmes establish clear targets towards which to orient their assistance.

There has been a tremendous effort by the international community to define and monitor the nature of democratic elections.<sup>5</sup> Yet the Study Group recognized that credible elections are not sufficient to ensure that parliament is not merely a 'rubber stamp' institution, but rather, a strong, vibrant institution fulfilling its oversight, legislative, and representative functions. The Study Group posed the question as to how to reach a similar international consensus on a set of benchmarks for democratic legislatures. With this in mind the Study Group's recommended benchmarks drew from previous CPA work and the work of partner organizations, whenever possible, in a conscious effort to find areas of consensus. It is hoped that continued discussion on the Study Group's recommended benchmarks will help broaden and deepen international agreement on benchmarks for democratic legislatures.

#### **Recent Initiatives and Background Documents**

In December 2004, the CPA and the World Bank Institute (WBI) jointly hosted a meeting in Washington DC on "Parliamentary Standards for Democratic Legislatures". The meeting brought together representatives of interested organisations involved in strengthening parliamentary democracy and supporting parliamentarians.<sup>6</sup> It built upon a panel discussion on the same topic which took place several months earlier in Canada in September 2004 at CPA's annual conference. The agenda allowed for each organization to present informally their work in this area, as well as substantial time for peer review. Most agreed that it was desirable to have a commonly accepted set of standards that parliaments could "sign-on to". As part of the follow-up to this meeting CPA decided to undertake a comprehensive review of existing benchmarks embedded

in: the 'Commonwealth (Latimer House) Principles on the Accountability of and the Relationship between the Three Branches of Government'; existing CPA recommendations; CPA conference documents; and other texts discussed in CPA meetings. With a view towards continued coordination of efforts, CPA, WBI and UNDP also agreed to partner in a substantive Study Group.

UNDP and other actors have been working to develop specific parliamentary development programme indicators.<sup>7</sup> The Study Group benefited from this and other work of partner organizations. In particular the National Democratic Institute for International Affairs prepared a special draft discussion paper<sup>8</sup> as an input into the Study Group process.<sup>9</sup> This working paper attempted to codify principles that have come from a range of international organizations, such as the CPA, IPU, OSCE, OECD, SADC, ICNRD, Community of Democracies, and the UN. The Study Group validated many of the benchmarks suggested by the NDI discussion paper, while at the same time refining and adding new benchmarks. Many of the benchmarks also reflect past CPA Study Group recommendations, as well as the Commonwealth Principles.<sup>10</sup>

### **About the Study Group**

The Study Group meeting was convened in Hamilton, Bermuda, with the co-operation and assistance of the Parliament of Bermuda. Senator Alfred Oughton MBE, President of the Senate and Hon Stanley W Lowe OBE, JP, MP, Speaker of the House of Assembly opened the Study Group which brought together Parliamentarians from across the Commonwealth and legislative development specialists from UNDP, WBI, NDI, the European Parliament and academia.

The main objectives of the Study Group were to:

- Identify best practice in defining benchmarks across Commonwealth Parliaments;
- Produce recommendations for the establishment of an agreed set of benchmarks and indicators;
- Examine methods of increasing accountability through the use of benchmarks and indicators; and
- Develop the capacity of CPA to assist Branches with assessing levels of parliamentary democracy.

In order to achieve these objectives, the Study Group considered the following themes and recommended a set of benchmarks related to each<sup>11</sup>:

- The Representative Aspects of Parliament
- Ensuring the Independence, Effectiveness and Accountability of Parliament
- Parliamentary Procedures
- Public Accountability
- The Parliamentary Service
- Parliament and the Media

The Study Group agreed to have their recommended benchmarks for democratic legislatures reviewed by Parliamentary Clerks. Following the Study Group, the Study Group's recommended benchmarks were reviewed by senior Parliamentary Clerks from

New Zealand and the United Kingdom. The benchmarks were then re-circulated with the Clerk's comments to Study Group members for final approval.

Following the work plan of the Study Group, this report looks at the benchmarks regrouped under specific themes. They are therefore not necessarily treated in order in the report and some may be relevant for more than one theme. A complete list of the benchmarks in order can be found at the end of the report. Some benchmarks were immediately recognized by the Study Group as Commonwealth and international norms, and were adopted with little discussion. Others generated vibrant debate to reach consensus. The debate benefited from the different experiences of the Study Group members who brought to the table practical perspectives from across the Commonwealth, as well as from both small and large states, and developing and developed countries. The commentary following the benchmarks listed under each theme heading reflects the main points of debate.<sup>12</sup>

## **II. THE REPRESENTATIVE ASPECTS OF PARLIAMENT**

### **GENERAL - ELECTIONS**

#### **1.1.1 Members of the popularly elected or only house shall be elected by direct universal and equal suffrage in a free and secret ballot.**

The Study Group stressed the importance of a secret ballot and chose to borrow language from the Charter of Fundamental Rights of the European Union<sup>13</sup> in creating this benchmark.

#### **1.1.2 Legislative elections shall meet international standards for genuine and transparent elections.**

This benchmark, which further supports benchmark 1.1.1, was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. Transparency in elections was recognized as critical for building public confidence in both the election process and election outcomes.

#### **1.1.3 Term lengths for members of the popular house shall reflect the need for accountability through regular and periodic legislative elections.**

This benchmark was similarly seen as an agreed Commonwealth and international norm and adopted forthwith by the Study Group. Term lengths and regular and periodic legislative elections are necessary to ensure that the current opinions of the electorate are represented in the legislature. They are thus the prime mechanism for citizens to hold their representatives accountable. However the Study Group took note of the recommendation in the NDI draft discussion paper that countries should take care not to hold elections so frequently that they ‘present obstacles, political or procedural, to efficient legislating.’

### **GENERAL- CANDIDATE ELIGIBILITY**

#### **1.2.1 Restrictions on candidate eligibility shall not be based on religion, gender, ethnicity, race or disability.**

This benchmark reflects current practice and human rights law, and is essential for any democratic legislature. However the Study Group noted that this benchmark may be below current national and international human rights legislation which may include anti-discrimination measures on criteria such as sexual orientation.

Some restrictions on candidacy commonly apply across countries and are normally seen as non-controversial. The NDI draft discussion paper noted that these typically include restrictions based on age, residence or citizenship. In addition, the notes that 90 legislative chambers in 82 countries list ‘insanity’ as grounds for ineligibility<sup>14</sup> and some countries may also place eligibility restrictions on citizens currently in prison. Bankruptcy may also disqualify candidates in some countries.

### **1.2.2 Special measures to encourage the political participation of marginalized groups shall be narrowly drawn to accomplish precisely defined, and time-limited, objectives.**

Experts disagree on whether or not countries should use special measures to encourage the political participation of groups that may have been marginalized in the past and may still face barriers to political participation. However several countries already use such measures which may include quotas, reserved seats, or reserved spots on party lists.<sup>15</sup>

The Study Group discussed this benchmark, in part, in relation to promoting women's participation. To promote gender equality, the CPA supports the Commonwealth Plan of Action for Gender Equality<sup>16</sup> which has a target of 30 per cent representation of women in Parliament and other decision-making bodies. In support of the Commonwealth Plan a previous CPA Study Group recommended as a best practice that:

‘Political parties must be encouraged to nominate women for winnable seats in the Legislature, to train and initiate them to the workings of the Legislature and to appoint them to prominent legislative and governmental positions.’<sup>17</sup>

While the Study Group agreed that actions to promote women's, or other disadvantaged groups', participation may be important in some contexts, they stressed that any affirmative action type measures should be narrowly drawn to accomplish precisely defined, and time limited, objectives.

## **GENERAL - INCOMBATIBILITY OF OFFICE**

### **1.3.1 No elected member shall be required to take a religious oath against his or her conscience in order to take his or her seat in the legislature.**

This benchmark complements the previous benchmarks dealing with anti-discrimination, in particular benchmark 1.2.1. The Study Group was of the view that no eligible candidate should later be excluded from taking his or her seat, or participating in the parliamentary process, due to his or her religious beliefs.

### **1.3.2 In a bicameral legislature, a legislator may not be a member of both houses.**

This benchmark was similarly seen as an agreed Commonwealth and international norm. However the Study Group noted the unusual example of the Scottish Parliament, as an elected member of the Scottish Parliament<sup>18</sup>, can also sit on the UK House of Lords. While these are two different legislatures and thus there is no possibility of dual mandate, there was concern because the Scottish Parliament may currently appeal to the House of Lords on justice matters. This Study Group noted however that appeals are only dealt with by Law Lords<sup>19</sup> and that any potential conflict should be definitively removed with the imminent establishment in the United Kingdom of a Supreme Court separate from the House of Lords which will, among other things, hear appeals from civil cases in England, Wales, Northern Ireland and Scotland.<sup>20</sup> Similarly members of a

national legislature may also be members of regional parliaments such as the ECOWAS parliament. The Study Group stressed that this benchmark is not intended to cover such examples.

### **1.3.3 A legislator may not simultaneously serve in the judicial branch or as a civil servant of the executive branch.**

This benchmark aims to prevent conflicts of interest and to promote the separation of the three branches of government as outlined in the Commonwealth Principles. The executive branch for example should not be able to buy loyalty of a legislator by giving them a civil service position. The Study Group did experience some difficulties in crafting this benchmark. They recognized for example that members of small legislatures may only serve part time and thus have second jobs to support themselves and their families when the legislature is not in session. In some countries teachers or nurses are considered civil servants; however the Study Group considered that these positions do not create conflicts of interest.

## **GENERAL - RESIGNATION**

### **1.6.1 Legislators shall have the right to resign their seats.**

This benchmark is common throughout the Commonwealth. The Study Group took note of the fact that in the United Kingdom Members of Parliament are technically forbidden to resign their seats. In practice, however MPs can take advantage of the rule that appointment to a paid office under the Crown disqualifies an MP from sitting in the House of Commons. Two nominally paid offices, The Chiltern Hundreds and the Manor of Northstead, exist to allow members to resign from the House.<sup>21</sup>

## **COMMITTEES – ORGANIZATION**

### **3.1.2 The legislature's assignment of committee members on each committee shall include both majority and minority party members and reflect the political composition of the legislature.**

This benchmark draws on the recommendation of a previous CPA Roundtable that: 'Membership of committees shall reflect the balance in the chamber and opposition members shall have the right to submit a minority report.'<sup>22</sup>

The Study Group observed that this principle is common practice in many countries. The NDI draft discussion paper cited for example Bulgaria, Canada, France, Germany, Hungary, the United Kingdom, and the United States.<sup>23</sup>

## **POLITICAL PARTIES, PARTY GROUPS AND CROSS PARTY GROUPS – POLITICAL PARTIES**

### **4.1.1 The right of freedom of association shall exist for legislators, as for all people.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. The Study Group referred to examples in the NDI draft discussion paper of major declarations which guarantee the right to freedom of association including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*.<sup>24</sup> The *Warsaw Declaration* of the Community of Democracies also declares the “right of every person to freedom of peaceful assembly and association, including to establish or join their own political parties.”<sup>25</sup> Similarly the Inter-Parliamentary Union’s *Declaration on Democracy* states that everyone shall enjoy “the right to organize political parties and carry out political activities.”<sup>26</sup>

### **4.1.2 Any restrictions on the legality of political parties shall be narrowly drawn in law and shall be consistent with the International Covenant on Civil and Political Rights.**

This benchmark, which relates to the people’s right of freedom of association, was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group.

## **POLITICAL PARTIES, PARTY GROUPS AND CROSS PARTY GROUPS - PARTY GROUPS**

### **4.2.1 Criteria for the formation of parliamentary party groups, and their rights and responsibilities in the legislature, shall be clearly stated in the rules of procedure.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group.

### **4.2.2 The legislature shall provide adequate resources and facilities for party groups pursuant to a clear and transparent formula that does not unduly advantage the majority party.**

This benchmark was seen as an agreed Commonwealth and international norm and adopted forthwith by the Study Group. However reservations were raised about abuse of resources, as well as the resource constraints of small states and developing countries. The Study Group considered it best practice for legislatures to provide party groups with funding allocations and allow each party group to make their own decisions on the types of facilities they require. In Scotland for example, there is a fund made available to party groups based on a formula that relates to the number of the members of each party group. This fund allows for party groups to provide facilities for research or other facilities of their choosing.

## ***POLITICAL PARTIES, PARTY GROUPS AND CROSS PARTY GROUPS - CROSS PARTY GROUPS***

### **4.3.1 Legislators shall have the right to form interest caucuses around issues of common concern.**

Legislators across parties may wish to come together to examine issues of common concern. The Study Group discussed the examples of the Black Caucus in the United States, women's caucuses in a number of Commonwealth countries, and a specific interest group formed by a legislator in the Parliament of Bermuda on Down's syndrome. This benchmark further protects members' right of freedom of association. On the example of women's caucuses, a previous CPA Study Group explicitly recommended that:

“Female Parliamentarians should get together to discuss issues common to women. Toward this end, formal and informal women's networks should be set up within Parliaments and women should identify policy issues where cross-party co-operation can exist.”<sup>27</sup>

See also related discussion on benchmark 4.1.1.

## ***REPRESENTATIONAL FUNCTION - CONSTITUENT RELATIONS***

### **8.1.1 The legislature shall provide all legislators with adequate and appropriate resources to enable the legislators to fulfil their constituency responsibilities.**

Interaction with constituents is vital if a legislature is to effectively fulfil its representative function. This benchmark was viewed as particularly important in district-based systems. Distribution of resources for constituency relations should be equitable and should not favour the ruling party or disadvantage the constituents of opposition members. Any differences in allowances (such as greater allowances for committee chairs) must have a firm basis in the duties of those members, and not be used to simply to favour the majority party (which typically holds the majority of committee chairs).

The Study Group recognized that such resources may differ due to the size of countries, and their level of economic development. Typical resources may include an office premises<sup>28</sup>, support staff, communication resources (i.e. telephone, postage), and reimbursement for periodic transportation to and from the constituency and the capital. The Study Group found this to be consistent with experiences within the Commonwealth, although many legislators in developing countries in the Commonwealth suffer from lack of resources. The Study Group took note of the discussion in the NDI draft discussion paper which observed that allowances (or reimbursement of expenses) for travel to and from a legislator's constituency is practiced by the majority of legislatures. In some countries, travel compensation is even enshrined in the constitution or other basic laws. This is the case in Belgium, Norway, Switzerland, Portugal, Greece and Germany.<sup>29</sup> Similarly, many European countries offer their members free public transport.



## **REPRESENTATIONAL FUNCTION - PARLIAMENTARY NETWORKING AND DIPLOMACY**

### **8.2.1 The legislature shall have the right to receive development assistance to strengthen the institution of parliament.**

See related discussion on benchmark 8.2.2.

### **8.2.2 Members and staff of parliament shall have the right to receive technical and advisory assistance, as well as to network and exchange experience with individuals from other legislatures.**

At the international level, a variety of both official and unofficial inter-parliamentary associations facilitate the exchange of experiences, ideas and people between national legislatures. At the national level, many legislatures have also set up bilateral parliamentary associations or friendship groups. Benchmarks 8.2.1 and 8.2.2 seek to protect the right of parliamentarians to associate and interact with other parliamentarians, and to make their own decisions on whether or not to accept technical assistance. The Study Group was of the view that parliamentarians and parliamentary staff can benefit greatly from networking and exchanging experiences with their peers.

Part of the impetus for benchmarks 8.2.1 and 8.2.2 was a desire to address problems legislators face in some parliaments where the executive controls whether parliamentarians can travel or associate with international organizations. The Study Group was of the view that legislators should disclose such activities according to their legislature's rules in order to promote transparency. Furthermore, legislators who benefit from international networking should make efforts to share knowledge gained with their peers.

These benchmarks draw, in part, on a previous CPA Study Group on the international trading system which recommended that parliaments adopt the following strategies:

- 'The facilitation of interparliamentary and cross-organizational mentoring arrangements, work attachments and other forms of mutual exchange;
- The preparation of training materials, manuals, guides to agreements and other training tools in a format suitable for use by Parliamentarians, and
- The further development of linkages between the CPA and other organizations within and outside the Commonwealth to undertake related work.<sup>30</sup>

## **ACCESSIBILITY - LANGUAGES**

### **9.2.1 Where the constitution or parliamentary rules provide for the use of multiple working languages, the legislature shall make every reasonable effort to provide for simultaneous interpretation of debates and translation of records.**

This is common practice and is vital for transparency of the legislature and to encourage citizen participation. The Study Group considered the examples of two Commonwealth member countries, India and Canada. In Canada, debates, proceedings, and laws are made public in both official languages, and citizens have the right to interact with the state in an official language of their choosing.<sup>31</sup> Simultaneous interpretation is offered in both chambers, as well as in committees. However the Study Group acknowledged potential difficulties faced by legislatures working in several languages, including high costs, and made reference to the experience of the European Parliament. The European Parliament works in 21 languages, devotes a large portion of its budget to translation, and is sometimes unable to find qualified translators despite making every possible effort.

### **III. ENSURING THE INDEPENDENCE, EFFECTIVENESS AND ACCOUNTABILITY OF PARLIAMENT<sup>32</sup>**

#### **GENERAL - IMMUNITY**

##### **1.4.1 Legislators shall have immunity for anything said in the course of the proceedings of legislature.**

The principle of parliamentary privilege relating to freedom of speech is constitutionally guaranteed in the majority of parliaments.<sup>33</sup> At least 72 assemblies in 58 countries currently provide for freedom of speech for words spoken from the parliamentary platform, assembly, or committee.<sup>34</sup> The Study Group conceded that many countries do not currently give parliamentarians immunity for speech outside of parliament. However the proceedings of the legislature is meant to include parliamentary business undertaken outside of the chamber, for example during committee hearings held in rural areas. The Study Group also noted that immunity for speech may be subject to the specific laws on freedom of speech in individual countries.

##### **1.4.2 Parliamentary immunity shall not extend beyond the term of office; but a former legislator shall continue to enjoy protection for his or her term of office.**

Parliamentary immunity is normally defined in each country's standing orders. Legislators may need special protection against politically-motivated prosecutions. Yet, a delicate balance should be struck between the need to protect legislators and the need to ensure that legislators do not abuse the privilege of parliamentary immunity. In countries with the broadest grants of immunity, perverse incentives may be created for legislators to run for office in order to escape prosecution for corruption or other crimes. The global trend is moving towards the provision of functional, but not absolute, immunity for legislators.<sup>35</sup>

Drawing on their own experiences and the NDI draft discussion paper the Study Group observed that the articulation of immunity differs across legislatures.<sup>36</sup> For example, in Pakistan, rather than giving blanket immunity in civil cases, members must address the Committee on Rules of Procedure and Privileges which then decides if parliamentarians are liable for prosecution. In South Africa, Canada and New Zealand, immunity exempts a legislator from appearing as a witness in a civil case, but the immunity enjoyed goes little further.<sup>37</sup> In Kenya and Thailand, legislators accused of criminal acts do not enjoy the protection of parliamentary immunity; while in Egypt, Greece, Portugal, and Romania, legislators do not enjoy the protection of parliamentary immunity when investigated in civil matters.<sup>38</sup> Some countries make a distinction on immunity based on the number of years of imprisonment for which the offence is punishable. Thus, no protection is offered for offences punishable by more than six years of imprisonment in the Philippines, and protection is offered in Sweden only if the offence is punishable by less than two years.<sup>39</sup>

#### **1.4.3 The executive branch shall have no right or power to lift the immunity of a legislator.**

This power shall be exclusively reserved for the legislature. Typically legislatures have a specific committee on parliamentary privilege. This benchmark is met by the majority of legislatures today. Differences across legislatures are essentially procedural, such as the number of legislators required to lift immunity.

#### **1.4.4 Legislators must be able to carry out their legislative and constitutional functions in accordance with the constitution, free from interference.**

This recommendation was taken directly from Commonwealth Principles.<sup>40</sup> The CPA Zanzibar Study Group similarly adopted this benchmark among its recommendations.<sup>41</sup>

### **GENERAL - REMUNERATION AND BENEFITS**

#### **1.5.1 The legislature shall provide proper remuneration and reimbursement of parliamentary expenses to legislators for their service, and all forms of compensation shall be allocated on a non-partisan basis.**

Compensation in most legislatures takes the form of a regular salary, the aim being to allow any member of the public to enter the legislature regardless of their financial status. In many countries, legislators' pay is approximate to that of a senior civil servant. Legislators, as workers, also enjoy all workers' rights afforded to them nationally as well as internationally, through relevant United Nations and International Labour Organization conventions, and other treaties.<sup>42</sup> Like any other public servant, legislators shall be fairly compensated for their service, and all forms of compensation shall be allocated on a non-partisan basis. From the standpoint of separation of powers, it also follows that salary and compensation levels in the legislative and executive branches should be set at levels so as not to unduly weaken one branch of government.

This benchmark draws in part on recommendation 3.2 of CPA's Zanzibar Study Group that 'The remuneration package for Parliamentarians should be determined by an independent process'<sup>43</sup>, not controlled by the executive.'

See also related discussion of benchmarks 8.1.1 and 6.1.2.

### **GENERAL - INFRASTRUCTURE**

#### **1.7.1 The legislature shall have adequate physical infrastructure to enable members and staff to fulfil their responsibilities.**

Adequate physical infrastructure is a necessary prerequisite for parliament to carry out its role effectively. The legislature should not be disadvantaged in relation to the executive by inadequate facilities. Adequate physical infrastructure goes beyond the chamber, committee rooms, and offices, to include access to research facilities and technology-related infrastructure such as computers and internet access.

## **PROCEDURE AND SESSIONS: RULES OF PROCEDURE**

### **2.1.1 Only the legislature may adopt and amend its rules of procedure.**

The authority enjoyed by the three branches of government, including the legislature, over their own rules of procedure is central to the independence and accountability of each.

The NDI draft discussion paper brought several examples to the attention of the Study Group. Differences across legislatures are largely around amending procedures. In Italy and Tunisia the legislature can amend the rules of procedure with an absolute majority, while a two-thirds majority is required in the legislatures of Austria and Costa Rica. In most other countries, however, only a simple majority is required. This procedural autonomy is also explicitly provided for in the constitutions of a few countries, including Australia, Cyprus, Germany, Netherlands, India, Philippines, Zambia, and Spain. In France, the Constitutional Council must approve any Rule amendments once they are voted upon by both chambers.<sup>44</sup>

In the United States each Congress approves their rules of procedure when they first convene. The United States Constitution provides that each 'House may determine the Rules of its Proceedings'.<sup>45</sup> This clause has been interpreted by the courts to mean that a new Congress is not bound by the rules of proceedings of the previous Congress.<sup>46</sup> Typically, the current Congress will adopt the rules of the previous Congress and make any amendments they find necessary.

## **PROCEDURE AND SESSIONS - CONVENING SESSIONS**

### **2.3.1 The legislature shall meet regularly, at intervals sufficient to fulfil its responsibilities.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. This benchmark is supported by a previous CPA roundtable which recommended that 'parliament must sit regularly'.<sup>47</sup>

In almost all countries the holding of the legislative session is constitutionally mandated. The Study Group took note of the various examples provided in the NDI draft discussion paper including Japan where the *Diet* is constitutionally bound to meet in one ordinary session beginning in January and lasting 150 days,<sup>48</sup> and Pakistan where the constitution calls for three sessions each year with no more than 120 days between sessions.<sup>49</sup>

### **2.3.2 The legislature shall have procedures for calling itself into regular session.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. The Study Group was of the view that procedures for calling itself into session are essential for the legislature's autonomy vis-à-vis the executive. See also more generally 2.1.1.

### **2.3.3 The legislature shall have procedures for calling itself into extraordinary or special session.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. See also more generally 2.1.1.

### **2.3.4 Provisions for the executive branch to convene a special session of the legislature shall be clearly specified.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. In emergency situations, or in cases of public interest, the executive may need to convene a special session of the legislature.

The Study Group took note of examples of practice provided by the NDI draft discussion paper including:

- the United States, where the Constitution allows the President to ‘on extraordinary Occasions, convene both Houses, or either of them’<sup>50</sup>; and
- the United Kingdom, where ‘Whenever the House stands adjourned and it is represented to the Speaker by Her Majesty’s Ministers that the public interest requires that the House should meet at a time earlier than that to which the House stands adjourned, the Speaker, if he is satisfied that the public interest does so require, may give notice that, being so satisfied, he appoints a time for the House to meet, and the House shall accordingly meet at the time stated in such notice.’<sup>51</sup>

## ***PROCEDURE AND SESSIONS - AGENDA***

### **2.4.1 Legislators shall have the right to vote to amend the proposed agenda for debate.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. In most countries, the agenda for debate is set by the Speaker and members of a collegiate body. The Study Group recognized that the executive has a role to play in the legislative process, and that in many countries the executive may propose or set the legislature’s agenda. However if the legislature is to remain independent, responsive to the public, it must at the very least be able to amend its proposed agenda for debate.

### **2.4.2 Legislators in the lower or only house shall have the right to initiate legislation and to offer amendments to proposed legislation.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. Most parliaments will spend the majority of their time examining legislation proposed by the executive, thus the power to amend such legislation is critical. However the Study Group agreed that in

a representative democracy, the peoples' elected representatives must be able to propose legislation and introduce bills in the public interest, regardless of majority or minority status. The Study Group noted for example the importance of Private Members Bills.

#### **2.4.3 The legislature shall give legislators adequate advance notice of session meetings and the agenda for the meeting.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. Most legislators have a heavy workload and must be able to plan accordingly, and in advance, in order to consult the public, and prepare for and carry out their functions efficiently and effectively.

### ***PROCEDURE AND SESSIONS - VOTING***

#### **2.6.2 Members in a minority on a vote shall be able to demand a recorded vote.**

Many legislatures use non-recorded votes to deal more efficiently with daily business and non-controversial issues. However the Study Group believed it was important to underline that in cases where a vote might not have been correctly or adequately counted, a minority of members have the right to demand a recorded vote. This promotes transparency and accountability of the legislature. Again the Study Group did not seek to be prescriptive in terms of the number of legislators necessary to demand a recorded vote as they recognized that this may differ across the Commonwealth. Recorded methods usually take on one of four forms: division of members, roll call, electronic voting, and voting by paper.

#### **2.6.3 Only legislators may vote on issues before the legislature.**

This benchmark was seen as an agreed Commonwealth and international norm adhered to by all democratic legislatures and was adopted forthwith by the Study Group. Support staff, civil society groups or others may assist a legislator in his or her work, but they have no power to vote on a legislator's behalf. Only a legislature is mandated by citizens to vote.<sup>52</sup>

### ***COMMITTEES – ORGANIZATION***

#### **3.1.1 The legislature shall have the right to form permanent and temporary committees.**

This benchmark was seen as an agreed Commonwealth and international norm adhered to by all democratic legislatures and was adopted forthwith by the Study Group. The Study Group underlined that working in committees allows for more thorough investigation of matters before the legislature and more efficient treatment of legislation. Committees may also function in a less partisan atmosphere and thus contribute to building compromise and agreement.

The Study Group referred to the recommendations of the Commonwealth (Latimer House) Principles which state that ‘Parliamentary procedures should provide adequate mechanisms to enforce the accountability of the executive to parliament’ including ‘a committee structure appropriate to the size of parliament, adequately resourced and with the power to summon witnesses, including ministers.’<sup>53</sup>

## **COMMITTEES – POWERS**

### **3.2.3 Committees shall have the right to consult and/or employ experts.**

Committee members may not always have the in-depth knowledge or expertise necessary to treat specific issues or complex legislation. They may therefore wish to consult or employ experts to help them in their work. This right of committees is distinct from the right to summon witnesses, as detailed in benchmark 3.2.4. Each committee should have the legal mechanisms and financial means in place to allow them to consult experts. The Study Group noted that in the Scottish Parliament, the mechanism to employ experts requires that committees go through the presiding officer to ensure fair and proper use of financial resources.

### **3.2.4 Committees shall have the power to summon persons, papers and records, and this power shall extend to witnesses and evidence from the executive branch, including officials.**

The Study Group remarked that it is conventional within the Westminster system that ministers are responsible for the actions of their officials, and that, while ministers may choose to send officials in their place, parliament does not normally summon officials directly with the exception of Accounting Officers called before the PAC. However the Study Group concluded that this practice is beginning to break down, particularly in regards to special agencies. Officials may be able to provide more specific and specialized information. The Study Group was of the view that committees should be able to summons officials.

The Study Group referred once more to the recommendations of the Commonwealth (Latimer House) Principles that parliaments should have:

‘a committee structure appropriate to the size of parliament, adequately resourced and with the power to summon witnesses, including ministers. Governments should be required to announce publicly, within a defined time period, their responses to committee reports’<sup>54</sup>

### **3.2.5 Only legislators appointed to the committee, or authorised substitutes, shall have the right to vote in committee.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. The Study Group was of the view that should non-committee members be able to vote, a majority party in parliament could swamp a committee at the time of the vote and thus undermine the work of the committee. This principle was seen as particularly important in post-conflict countries.



## **LEGISLATIVE FUNCTION - GENERAL**

### **6.1.1 The approval of the legislature is required for the passage of all legislation, including budgets.**

It is an internationally accepted and practiced norm that all legislation, including budgets, must be approved by the legislature as representatives of the people. The study group was of the view that this is a fundamental principle in any democracy, as a democracy should guarantee that no legislation passes without the approval of the people, and, in a representative democracy, legislators embody the will of the people. The basis for this benchmark can be found in part in the Commonwealth Principles attest to the 'legislature's primary responsibility for law-making'<sup>55</sup> and state that 'There should be adequate parliamentary examination of proposed legislation.'<sup>56</sup>

Moreover, most legislatures now exert their primacy in lawmaking with regard to binding international agreements. While not explicitly addressing the need for legislative approval of major international treaties, conventions and trade agreements, the Study Group discussed the legislature's role in approving all three and noted that members of the Commonwealth have agreed through the Commonwealth Principles that 'Parliaments should, where relevant, be given the opportunity to consider international instruments or regional conventions agreed to by governments.'<sup>57</sup> The Study Group agreed that legislatures should have the right to approve treaties at will but recognized that the number of treaties may be so high as to render examination of each one individually impractical.

### **6.1.2 Only the legislature shall be empowered to determine and approve the budget of the legislature.**

If the legislature is to operate independently, and exercise oversight of the executive branch, the legislature's budget must not be dependant on the executive branch. The legislature should therefore determine and approve its own operating budget. This is consistent with the broader benchmark requiring the legislature's approval for the passage of all legislation, including budgets (see 6.1.1).

This principle is also consistent with the recommendation of the CPA Zanzibar Study Group that 'Parliaments should have control of, and authority to set out and secure, their budgetary requirements unconstrained by the executive.'<sup>58</sup>

The Zanzibar Study Group based this recommendation on the Commonwealth (Latimer House) Principles which formally recognize the principle that Parliament should have freedom to determine its budget in article VII, point 6: 'An all-party committee of Members of Parliament should review and administer Parliament's budget which should not be subject to amendment by the executive.'

The Zanzibar Study Group recognized that different funding models exist. Many Parliaments are funded on a legislative basis with funding automatically provided each year, while others must have their full funding voted each year. A number of Parliaments operate on a combination of the two funding models. Regardless of the different funding models, both Study Group's agreed that the principle of autonomy for

the legislature in setting their own budget remains essential for ensuring parliament's independence.

**6.1.3 The legislature shall have the power to enact resolutions or other non-binding expressions of its will.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. The legislature, as representative of citizens and responsive to citizen's concerns, has the prerogative to debate and pass resolutions or other non-binding expressions of its will on any subject, whether local, national, or international.<sup>59</sup>

**LEGISLATIVE FUNCTION - LEGISLATIVE PROCEDURES**

**6.2.2 The legislature shall have the right to override an executive veto.**

Executive approval of legislation is common in presidential systems. However, it is a widely accepted and practiced norm that the legislature has the right to override an executive veto.<sup>60</sup> In most countries this is done through a supermajority and the legislature must work within the boundaries of the constitution. In parliamentary systems this would usually result in parliament holding a vote of confidence.

**OVERSIGHT FUNCTION - FINANCIAL AND BUDGET OVERSIGHT**

**7.2.1 The legislature shall have a reasonable period of time in which to review the proposed national budget.**

Where parliament and its committees do not have sufficient time for analysis, their role to suggest amendments is weakened. Many parliaments struggle with insufficient time to review the national budget. The Study Group made reference to the OECD best practice guidelines which suggest the presentation of the draft budget to the legislature no less than three months prior to the start of the fiscal year, and approval of the budget prior to the start of the fiscal year.<sup>61</sup>

**7.2.2 Oversight committees shall provide meaningful opportunities for minority or opposition parties to engage in effective oversight of government expenditures. Typically, the Public Accounts Committee is chaired by a member of the opposition party.**

Oversight of the executive is one of the core functions of the legislature. As laid out in benchmark 3.1.2, all committees should 'include both majority and minority party members and reflect the political composition of the legislature.' This is particularly important in oversight committees. The Study Group emphasized that it is common throughout the Commonwealth that the Public Accounts Committee (PAC) is chaired by a member of the opposition.<sup>62</sup> This practice is similarly underlined in the Commonwealth (Latimer House) Principles which recommend that 'the chair of the Public Accounts Committee should normally be an opposition member.' In a joint WBI – CPA survey of

Chairs of PACs, this practice, along with the committee acting in as non-partisan a manner as possible, were considered the two most important elements for the success of PACs.<sup>63</sup>

The Study Group stressed that oversight committees should not be limited to PACs. Oversight committees may also include sectoral or departmental committees, and countries may also have similar committees with different names such as public investment or public enterprises committees.

The Study Group also considered the European Parliament's practice of providing a discharge to the executive on the audit of government expenditures. If parliament finds discrepancies in the government's accounts, they can choose not to provide a discharge. This may lead to a motion of censure, or the executive may choose to deliver more information or initiate a consultation process. This is a powerful tool for holding the executive accountable.

### **7.2.3 Oversight committees shall have access to records of executive branch accounts and related documentation sufficient to be able to meaningfully review the accuracy of executive branch reporting on its revenues and expenditures.**

The Study Group agreed that a legislature cannot effectively oversee the executive if it is denied access to the necessary information by the executive. The Study Group referred again to the recommendations of the Commonwealth (Latimer House) Principles that:

- '(i) a committee structure appropriate to the size of parliament, adequately resourced and with the power to summon witnesses, including ministers. Governments should be required to announce publicly, within a defined time period, their responses to committee reports;
- (ii) standing orders should provide appropriate opportunities for members to question ministers and full debate on legislative proposals;<sup>64</sup>

Specific reference was also made to the importance of adequate budget and fiscal analysis support. In some cases legislatures have set up parliamentary budget offices, for example the United States<sup>65</sup> and Uganda. At the time of the Study Group Nigeria was also in the process of setting up a parliamentary budget office. This was remarked as good practice.

### **7.2.4 There shall be an independent, non-partisan Supreme or National Audit Office whose reports are tabled in the legislature in a timely manner.**

In many countries the reports of the Supreme or National Audit Office are tabled late, even several years late, thus making effective oversight impossible. The Study Group was of the view that ideally the report should be tabled within three months of the end of the fiscal year, or before the house sits on the first reading of the budget.

Even if the Auditor General is appointed by the government, or must also present their report directly to the government, the Study Group believed that it is critical that the Auditor General's independence be protected, and that the Auditor General's report be

tabled in parliament. There was some concern over the executive harassing, or limiting the resources of, the Auditor General, particularly if the Auditor General presents an unfavourable report. Similarly, in countries where the report goes first to the executive, there was concern that executives may try to hold on to unfavourable reports and not release them to parliament in a timely manner.

This benchmark builds in part on the work of previous CPA Workshop Group on Parliamentary Oversight of Finance and Budgetary Process<sup>66</sup> which concluded that:

‘(5) The independence of the Auditor-General was considered as the most important attribute, which must be reflected in his or her appointment, tenure and removal from office, and in the office’s mandate being constitutionalized.’

### **7.2.5 The Supreme or National Audit Office shall be provided with adequate resources and legal authority to conduct audits in a timely manner.**

The Study Group observed that lack of resources is a common complaint and cause of delays. The Study Group highlighted that the audit must be conducted, and the report tabled, in a timely manner. As with 7.2.4, this benchmark is reinforced in the recommendations of a previous CPA Workshop Group on Parliamentary Oversight of Finance and Budgetary Process<sup>67</sup> which concluded that:

‘(8) It is important that Auditors-General should submit audit reports in a timely fashion but without compromising either the content or quality of these whether they relate to annual or special reports.’

See also discussion on 7.2.4.

## ***OVERSIGHT FUNCTION - NO CONFIDENCE AND IMPEACHMENT***

### **7.3.1 The legislature shall have mechanisms to impeach or censure officials of the executive branch, or express no-confidence in the government.**

In parliamentary systems the expression of no-confidence is a crucial mechanism for holding the executive accountable, although this power may also be used for political reasons. In presidential regimes the legislature is normally empowered to impeach the President, Vice-President, or other officials of the executive branch for breaches of their constitutional mandate or illegal acts which are not protected under the privilege of office. It is common for a two-thirds majority to be needed to begin impeachment proceedings. Irrespective of the type of system in place, the principle remains the same: the legislature is empowered, on behalf of the people, to hold the executive to account.

### **7.3.2 If the legislature expresses no confidence in the government the government is obliged to offer its resignation. If the head of state agrees that no other alternative government can be formed, a general election should be held.**

The Study Group noted that this is common practice, particularly in parliamentary systems. See also related discussion on benchmark 7.3.1.

## **IV. PARLIAMENTARY PROCEDURES**

### ***PROCEDURE AND SESSIONS - PRESIDING OFFICERS***

#### **2.2.1 The legislature shall select or elect presiding officers pursuant to criteria and procedures clearly defined in the rules of procedure.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. The Study Group highlighted that the procedures may differ across legislatures as to whether presiding officers are selected or elected.

### ***PROCEDURE AND SESSIONS - DEBATE***

#### **2.5.1 The legislature shall establish and follow clear procedures for structuring debate and determining the order of precedence of motions tabled by members.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group. Such procedures are normally provided for in the standing orders.

#### **2.5.2 The legislature shall provide adequate opportunity for legislators to debate bills prior to a vote.**

This benchmark was seen as an agreed Commonwealth and international norm for all democratic legislatures and adopted forthwith by the Study Group.

### ***PROCEDURE AND SESSIONS - RECORDS***

#### **2.7.1 The legislature shall maintain and publish readily accessible records of its proceedings.**

This benchmark is related to access to information. The public has a right to know what is happening in the legislature. Maintaining readily accessible records of the legislature's proceedings is one way in which parliament can help facilitate the flow of information to the public, civil society and the media. This in turn promotes greater transparency and accountability of the legislature.

This benchmark draws on the recommendations of previous CPA Study Groups as well as those of several international organizations. CPA Study Groups have recommended that '...attendance and voting records, registers of Members' interest and other similar documents should be made readily available'<sup>68</sup> and that 'Parliaments shall publish as much of their material as possible online.'<sup>69</sup> The African Union has declared that 'each State Party shall adopt such legislative and other measures to give effect to the right of

access to any information that is required to assist in the fight against corruption and related offences.<sup>170</sup> The Organization of American States has resolved to encourage member states 'to take necessary measures to facilitate the electronic availability of public information.'<sup>171</sup>

## **COMMITTEES - ORGANIZATION**

### **3.1.3 The legislature shall establish and follow a transparent method for selecting or electing the chairs of committees.**

A committee chairperson is typically elected by the members of the committee. Where a chairperson is selected rather than elected, the process of selection by the legislature shall be transparent and guided by the rules of procedure. Opposition or minority party legislators shall be eligible to chair committees. In the Commonwealth the Public Accounts Committee is typically chaired by an opposition member.

## **COMMITTEES - POWERS**

### **3.2.1 There shall be a presumption that the legislature will refer legislation to a committee, and any exceptions must be transparent, narrowly-defined, and extraordinary in nature.**

Legislators are faced with heavy workloads. To ensure the adequate examination of legislation, legislation is thus referred to committees for more in-depth scrutiny. Committee members may have specialized knowledge related to the committee subject, making the scrutiny of legislation ever more efficient and effective. As laid out in benchmark 3.1.2, committees shall include both majority and minority party members and reflect the political composition of the legislature. The committee stage is a step in the legislative process and, as laid out in benchmark 2.5.2, the legislature must still provide adequate opportunity for all legislators to debate bills prior to a vote.

This requirement was endorsed by a previous CPA Roundtable which stated that 'all legislation should go to select committees for public submissions and consideration.'<sup>172</sup>

In terms of country examples, the NDI draft discussion paper observed that:

'In many legislatures today, the committee stage is a routine step in the legislative process. In the legislatures of Argentina, Canada, France, Hungary, Ireland, Japan, Portugal, Romania and Russia, and Sweden, for example, all bills are automatically referred to committees. In the New Zealand *House of Representatives*, moreover, committees always hold hearings to consider draft legislation and make every effort to solicit and consider public input in written and oral form.'<sup>173</sup>

The Study Group acknowledged that small parliaments, such as Bermuda, may also choose to use a Committee of the Whole.

### **3.2.2 Committees shall scrutinize legislation referred to them and have the power to recommend amendments or amend the legislation.**

Benchmark 3.2.2 further supports benchmarks 3.2.1 and 2.4.2. The Study Group observed that committees are smaller in size and therefore better suited to consider proposed legislation in detail and to redraft or amend legislation before it is taken up in the plenary.<sup>74</sup> There are differences in practice. The Study Group recognized that some committees have the power to amend, while others may only recommend amendments.

## **LEGISLATIVE FUNCTION - GENERAL**

### **6.1.4 In bicameral systems, only a popularly elected house shall have the power to bring down government.**

It is the popularly elected house which represents the citizenry and is empowered to act on its behalf. Therefore only a popularly elected house shall have the power to bring down government. See also 7.3.2.

### **6.1.5 A chamber where a majority of members are not directly, or are indirectly, elected may not indefinitely deny or reject a money bill.**

As noted in the discussion on 6.1.4, it is the popularly elected house which represents the citizenry and is empowered to act on its behalf. It is the norm in countries with bicameral legislatures that when the second chamber has a majority of members that are not directly elected, or are indirectly elected, the second chamber may not permanently delay or reject money bills. This is true, for example, of both Canada, where the Senate is appointed, and the United Kingdom House of Lords.

The Study Group recognized that there are legitimate cases of second chambers (where the majority of members are not directly elected, or are indirectly elected) which nevertheless have responsibilities related to money bills. For example, the Senate of Pakistan is indirectly elected by the provincial assemblies, Federal Capital, and Federally Administrated Tribal Areas, and, while it is 'the prerogative of the National Assembly only to consider money bills, under the 'LFO, 2002, a copy of the Money Bill is to be simultaneously transmitted to the Senate for making recommendations to the National Assembly'.<sup>75</sup>

## **LEGISLATIVE PROCEDURE - GENERAL**

### **6.2.1 In a bicameral legislature there shall be clearly defined roles for each chamber in the passage of legislation.**

The Study Group observed that the roles of each chamber are normally determined by a country's constitution.

## **OVERSIGHT FUNCTION - GENERAL**

### **7.1.1 The legislature shall have mechanisms to obtain information from the executive branch sufficient to exercise its oversight function in a meaningful way.**

It is both the right and the responsibility of the legislature to monitor the performance of the executive branch. This benchmark is endorsed in the Commonwealth Principles which state: "Parliamentary procedures should provide adequate mechanisms to enforce the accountability of the executive to Parliament."<sup>76</sup> Such mechanisms include the power of oversight committees to 'have access to records of executive branch accounts and related documentation' as laid out in benchmark 7.2.3; 'to summon persons, papers and records' including 'witnesses and evidence from the executive branch, including officials' as laid out in benchmark 3.2.4; and to consult and/or employ experts as laid out in benchmark 3.2.3.

In addition, especially in parliamentary regimes, members have the right to regularly submit questions to ministers in plenary sessions, and to have their questions answered fully and in a timely manner. As noted in the Commonwealth (Latimer House) Principles 'standing orders should provide appropriate opportunities for members to question ministers and full debate on legislative proposals.'<sup>77</sup> The Study Group took note of country examples in the NDI draft discussion paper such as Morocco where 'the Constitution provides for at least one session a week to be allocated for questions from members of the Chamber of Representatives and to Government answers'.<sup>78</sup> Similarly in many parliaments questions may be submitted to the executive branch in advance of the 'Question Time'. This is true of Hungary, Ireland, Korea and the United Kingdom.<sup>79</sup> In the case of written questions submitted outside of a public 'Question Time,' ministers are often obliged to respond in a timely way. The limit is six days in Denmark and Norway, and seven in Japan for example.<sup>80</sup>



## V. PUBLIC ACCOUNTABILITY

### ***PROCEDURE AND SESSIONS – VOTING***

#### **2.6.1 Plenary votes in the legislature shall be public.**

This benchmark is common practice and critical to the transparency of the legislature. The Study Group noted that one possible exception to this may be the election of officers.

### ***COMMITTEES - ORGANIZATION***

#### **3.1.4 Committee hearings shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure.**

The Study Group was of the view that committee hearings should be in public. Regarding possible exceptions, the Study Group noted that it is common that committee administrative procedures are private. Committees may also meet in private when reviewing sensitive material related to national security, or at the request of a witness, or for the protection of a witness, when hearing evidence on sensitive matters. The latter is explicitly provided for in benchmark 3.2.6.

#### **3.1.5 Votes of committee shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure.**

The Study Group remarked that while voting in a committee may take place in a closed or administrative session of the committee, the results of the votes, or the records of the proceedings, should be public. As noted under 2.6.1 this benchmark was seen as critical to the transparency of the legislature.

### ***LEGISLATIVE FUNCTION – THE PUBLIC AND LEGISLATION***

#### **6.3.1. Opportunities shall be given for public input into the legislative process.<sup>81</sup>**

The Study Group drew directly on Article VIII<sup>82</sup> of the Commonwealth Principles which seeks to ensure broader public participation in the legislative process. In addition to individual citizens the Commonwealth Principles also promote broader participation of civil society. Participation is 'essential for good governance as it improves information flow, accountability, due process, and gives voice to those most directly affected by public policy'.<sup>83</sup>

The Study Group examined several relevant examples from legislatures around the world, including three from the Commonwealth (South Africa, Canada and New Zealand) which appear in the NDI draft discussion paper. The Constitution of South Africa states that 'The National Assembly must facilitate public involvement in the legislative and other

processes of the Assembly and its committees.<sup>84</sup> In Canada, the Finance Committee of the House of Commons annually conducts cross-country consultations on the federal budget. In New Zealand, committees in the House of Representatives hold public hearings when examining draft legislation and attempt to hear all members of the public who wish to appear before them.<sup>85</sup>

### **6.3.2 Information shall be provided to the public in a timely manner regarding matters under consideration by the legislature.**

This benchmark complements 6.3.1. Both the government and the legislature may choose to provide this information. However information must be given in a timely manner so that the public can participate effectively in the legislative process. Citizens and civil society groups should have adequate time to review the information, respond and have their views heard and considered by the legislature.

## **ACCESSIBILITY - CITIZENS AND THE PRESS**

### **9.1.4 The legislature shall promote the public's understanding of the work of the legislature.<sup>86</sup>**

While considering public access to the legislature, the Study Group thought it important to underline the responsibility of legislators to reach out to their constituents and educate the public on the work of the legislature. Only an educated public can truly profit from access to the legislature. Such outreach would also encourage the two-way flow of information between legislators and constituents, and promote greater understanding of the work in the legislature which may in turn promote greater public confidence in the institution. In the discussion on this benchmark the Study Group referred to the somewhat more aspirational recommendation of CPA's Zanzibar Study Group that 'Parliaments should develop programmes to promote the general public's understanding of the work of the Legislature and, in particular, to involve school children in increasing their awareness of citizenship issues.'

## **OVERSIGHT FUNCTION - GENERAL**

### **7.1.2 The oversight authority of the legislature shall include meaningful oversight of the military, security and intelligence services.**

The Study Group noted that such oversight may be exercised in different ways, including through committees. The Study Group acknowledged examples from the NDI draft discussion paper including the *Warsaw Declaration* of the Community of Democracies which requires that 'civilian, democratic control over the military be established and preserved.'<sup>87</sup> Similarly the *Code of Conduct on Politico-Military Aspects of Security* of the Organization for Security and Cooperation in Europe (OSCE) declares that 'participating States consider the democratic political control of military, paramilitary and internal and security forces as well as of intelligence services and the police to be an indispensable element of stability and security.'<sup>88</sup>

### **7.1.3 The oversight authority of the legislature shall include meaningful oversight of state owned enterprises.**

As with 7.1.2 the Study Group noted that such oversight may be exercised in different ways, including through committees.

## **COMMITTEES - POWERS**

### **3.2.6 Legislation shall protect informants and witnesses presenting relevant information to commissions of inquiry about corruption or unlawful activity.**

The Study Group first approached this benchmark by looking at protection for whistleblowers. Ultimately the Study Group agreed that all witnesses, not just whistleblowers, should be able to report instances of corruption or other wrongdoing without fear of reprisals.

The Study Group noted international precedents for this benchmark including<sup>89</sup>:

- Article 3 of the *Inter-American Convention Against Corruption* in which ‘the States Parties agree to consider the applicability of measures within their own institutional systems to create, maintain and strengthen’: ‘Systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with their Constitutions and the basic principles of their domestic legal systems.’
- Article 5 of the *African Union Convention on Preventing and Combating Corruption*: ‘State parties undertake to... adopt legislative and other measures to protect informants and witnesses in corruption and related offences, including protection of their identities [and] adopt measures that ensure citizens report instances of corruption without fear of consequent reprisals.’
- Article 22 of the *Criminal Law Convention on Corruption*: ‘Each Party shall adopt such measures as may be necessary to provide effective and appropriate protection for: (a) those who report the criminal offences established in accordance with Articles 2 to 14 or otherwise co-operate with the investigating or prosecuting authorities; (b) witnesses who give testimony concerning these offences.’

## **ETHICAL GOVERNANCE – TRANSPARENCY AND INTEGRITY**

### **10.1.1 Legislators should maintain high standards of accountability, transparency and responsibility in the conduct of all public and parliamentary matters.**

The basis for this benchmark can be found in the Commonwealth Principles which state that ‘Parliaments and governments should maintain high standards of accountability, transparency and responsibility in the conduct of all public business.’ This principle was reaffirmed by the CPA Study Group in Zanzibar. With regards to the legislature this is especially important as the legislature has as one of its core functions oversight or the

executive branch. To fulfil its oversight role the legislature must maintain the confidence of the public. How can the legislature truly hold the executive branch accountable if its own conduct is not above reproach?

#### **10.1.2 The legislature shall approve and enforce a code of conduct, including rules on conflicts of interest and the acceptance of gifts.**

The basis for this benchmark can be found in part in Article VI of the Commonwealth Principles which calls on all branches of government to ‘...respectively develop, adopt and periodically review appropriate guidelines for ethical conduct. These should address the issue of conflict of interest, whether actual or perceived, with a view to enhancing transparency, accountability and public confidence.’<sup>90</sup>

Most legislatures have their own rules on the receipt of gifts which may differ across countries. Some systems put more emphasis on disclosure while others prohibit legislators from accepting gifts altogether. Referring to the example of the UK and Northern Ireland Assemblies’ codes of conduct<sup>91</sup>, the Study Group stressed that such rules seek to prevent gifts which in any way relate to membership in the legislature, or which are, or could be perceived as, an attempt to influence legislative judgement. For example rules on gifts do not seek to prohibit a gift from a family member unless that family member has a lobby interest that could create a conflict of interest or a public perception of a conflict of interest. At the same time this benchmark aims to protect parliamentarians, particularly those who are inexperienced, from being manipulated by constituents or lobby groups who may for example give thank you gifts and then come back at a later date with special requests for employment or other favours.

#### **10.1.3 Legislatures shall require legislators to fully and publicly disclose their financial assets and business interests.**

This is in line with the Commonwealth (Latimer House) Principles which state that ‘Conflict of interest guidelines and codes of conduct shall require full disclosure by ministers and members of their financial and business interest.’<sup>92</sup> The Study Group also took as a supporting example the text from Article 7 of the *African Union Convention on Preventing and Combating Corruption* which obliges State Parties to ‘require all or designated public officials to declare their assets at the time of assumption of office during and after their term of office in the public service.’<sup>93</sup> In Pakistan, legislators are required to fully and publicly disclose their financial assets and business interest. If they do not submit this information by the required date their seat is suspended until they do so.

It was agreed by the Study Group that for such disclosure to be effective it must be public.

#### **10.1.4 There shall be mechanisms to prevent, detect, and bring to justice legislators and staff engaged in corrupt practices.**

The legislature must take the lead in demonstrating good governance and accountability. Corrupt practices on the part of a legislator constitute a betrayal of the confidence placed

in the legislator by the citizens. The public will lose confidence in legislatures whose members are seen as corrupt. This in turn may ultimately damage the public's confidence in democratic institutions and the democratic process in general. Several international treaties and conventions address corruption of public officials including legislators. For example, the European Union's *Criminal Law Convention on Corruption* addresses both active or passive bribery of legislative officials<sup>94</sup> and describes active bribery as 'the promising, offering or giving by any person, directly or indirectly, of any undue advantage to any of its public officials, for himself or herself or for anyone else, for him or her to act or refrain from acting in the exercise of his or her functions.' Similarly the *Inter-American Convention Against Corruption* asserts the need for 'deterrents to the bribery of domestic and foreign government officials, such as mechanisms to ensure that publicly held companies and other types of associations maintain books and records which, in reasonable detail, accurately reflect the acquisition and disposition of assets, and have sufficient internal accounting controls to enable their officers to detect corrupt acts.'<sup>95</sup>

During their discussion of this benchmark, the Study Group was concerned that legislatures not take upon themselves the powers of the court. They stressed that legislators should provide the enabling legislation necessary for bringing charges against corrupt legislators and staff but that judgement and punishment should come through the courts. However legislatures themselves may have limited mechanisms to sanction members charged with corrupt practices such as temporary suspension.

## **VI. THE PARLIAMENTARY SERVICE**

### **PARLIAMENTARY STAFF - GENERAL**

#### **5.1.1 The legislature shall have an adequate non-partisan professional staff to support its operations including the operations of its committees.**

Adequate non-partisan professional staff is a prerequisite for the well functioning of the legislature. Parliamentarians may not have the expertise in a certain subject being examined by parliament in the plenary or in committee and they do not have the time to do research on all subjects on their own. The study group outlined the areas where such staff is essential and stressed the need to support both individual members and committees with good quality and accessible research.

#### **5.1.2 The legislature, rather than the executive branch, shall control the parliamentary service and determine the terms of employment.**

The legislature must have authority over its staff in order to ensure its independence. There was concern among Study Group members that qualified staff may be deterred from staying in the parliamentary service because of lower pay and benefits, and that parliament may routinely lose good staff, particularly those with research and ICT skills, to research institutes or the private sector. Thus the ability to determine the terms of employment was considered a key element in the final benchmark. The Study Group referred to the Zanzibar Study Group's recommendation that 'The corporate body should ensure that the parliamentary service is properly remunerated and that retention strategies are in place.'<sup>96</sup>

#### **5.1.3 The legislature shall draw and maintain a clear distinction between partisan and non-partisan staff.**

It is the norm in legislatures today that distinctions are drawn between partisan and non-partisan staff. However the Study Group was concerned that young legislatures, or legislatures which have long had a dominant majority, risk seeing a blurring of the line between the two. If this happens, parliamentarians, particularly those in opposition, may not receive adequate staff support. It is critical to have a neutral staff to perform administrative functions, give advice on procedural issues, or provide research. Beyond the head of the parliamentary service and his or her staff, which shall always be non-partisan (see 5.3.1) it is for each legislature to decide which positions in the legislature are partisan and which are not.

#### **5.1.4 Members and staff of the legislature shall have access to sufficient research, library, and ICT facilities.**

All legislatures need sufficient research, library and ICT facilities. That being said, it was noted that some parliaments may have agreements with outside organizations to use

their libraries rather than maintaining a library internally. Similarly parliaments may partner with think tanks and institutes for specialized research needs. Both may be a solution for small parliaments or parliaments with limited resources.

ICT facilities were seen as essential to support comprehensive research. Good practice examples of parliamentary research services were raised such as 'SPICE' the Scottish Parliament Information Centre. SPICE produces research papers and other publications to serve Parliament's needs while at the same time assisting the parliament in outreach to the public by making research and publications available on the Scottish Parliament's website. In accordance with the Parliament's policy of openness and accessibility, SPICE also supplies Partner Libraries with hard copy publications. Each constituency in Scotland has a designated Partner Library, which is responsible for providing access to the publications of the Scottish Parliament to constituents.<sup>97</sup>

## **PARLIAMENTARY STAFF - RECRUITMENT**

### **5.2.1 The legislature shall have adequate resources to recruit staff sufficient to fulfil its responsibilities. The rates of pay shall be broadly comparable to those in the public service.**

This benchmark builds on 5.1.2 and seeks to further reinforce the independence of parliament and ensure that parliamentary staff receives adequate pay and benefits in order for the legislature to be able to recruit and keep qualified staff. The Study Group referred to the Zanzibar Study Group's recommendation that 'The corporate body should ensure that the parliamentary service is properly remunerated and that retention strategies are in place.'<sup>98</sup>

### **5.2.2 The legislature shall not discriminate in its recruitment of staff on the basis of race, ethnicity, religion, gender, disability, or, in the case of non-partisan staff, party affiliation.**

The Study Group debated whether party affiliation should be broken at time of appointment as is often the case for civil servants. The Study Group was of the view that parliamentary staff, like all citizens, has the right to associate or to affiliate themselves to a political party. It is in everyone's interest to promote an active democracy where people show genuine interest in the political development of their society. Nevertheless the Study Group sought to encourage young parliaments, particularly those who have had a dominant majority, to ensure that their staff is apolitical.

Drawing on the European Union example, the Study Group noted that the European Convention on Human Rights (ECHR) makes it impossible to put a blanket ban on public servants engaging in political activity. Rather than banning political activity by staff, the trend has been towards creating codes of conduct which make clear what is acceptable staff behaviour. Such codes of conduct serve to prevent staff from using their position to influence the functioning of the legislature in a political manner. In the European Parliament, for example, parliamentary staff are assessed on their conduct annually. Codes of conduct may also be of use to guide staff with affiliations to Civil Society

Organizations with strong political agendas, for example a staff member of the environment committee who is also a member of Greenpeace.

### **PARLIAMENTARY STAFF - PROMOTION**

#### **5.3.1 Recruitment and promotion of non-partisan staff shall be on the basis of merit and equal opportunity.**

5.3.1 follows on what was previously stated in 5.2.2. The Study Group sought specifically to prevent parliamentarians and others from engaging in nepotistic or clientelistic recruitment or promotion practices which may weaken the parliamentary service and the credibility of the legislature.

### **PARLIAMENTARY STAFF – ORGANIZATION AND MANAGEMENT**

#### **5.4.1 The head of the parliamentary service shall have a form of protected status to prevent undue political pressure.**

Such protection is necessary as the head of the parliamentary service must always be non-partisan so as to ensure that both majority and opposition members are treated fairly. As with all non-partisan staff (see 5.3.1) the appointment of the head of the parliamentary service should be on the basis of merit. The study group drew this benchmark from the recommendation of CPA's Zanzibar Study Group which stated that 'The head of the parliamentary service should be appointed on the basis of merit and have some form of protected status to prevent undue political pressure.'<sup>99</sup>

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

This recommendation was taken directly from CPA's Zanzibar Study Group. It appears in the Zanzibar Study Group's recommendations under the heading 'The Governance of Parliament'.<sup>100</sup>

#### **5.4.3 All staff shall be subject to a code of conduct.**

The Study Group stressed that all staff, whether partisan or non-partisan should be subject to a code of conduct. This benchmark is common practice and builds on previous CPA recommendations including the recommendation of the Zanzibar Study Group that 'There should be a code of conduct and values for members of the parliamentary service.' The code of conduct may be a code by which all public employees are guided, or it may be drawn up by the legislature with the non-partisan staff specifically in mind. In the Indian *Rajya Sabha*, for example, there is no specific code for legislative staff. Rather, the code for national government employees applies. A similar model exists in Colombia, Croatia, Ireland, and Philippines. In Kuwait, there is a specific code for the parliamentary service based on the *Civil Service Code* and similar examples can be found in the United Kingdom, Uruguay, and Zambia.<sup>101</sup> (See also 5.2.2)



## VII. PARLIAMENT AND THE MEDIA

### ***ACCESSIBILITY - CITIZENS AND THE PRESS***

#### **9.1.1 The legislature shall be accessible and open to citizens and the media, subject only to demonstrable public safety and work requirements.**

The Study Group agreed that every effort should be made to open up the legislature to the public and the media. This benchmark was seen as referring to physical access to the legislature. For example, televising proceedings should not be confused with being able to access the legislature. The Study Group noted that there are a number of legislatures that in theory are open to the public and the media but in practice are almost impossible to access due to overly restrictive regulations. At the same time, the Study Group recognized that due to security concerns in many countries, reasonable regulations for access may be necessary.

#### **9.1.2 The legislature should ensure that the media are given appropriate access to the proceedings of the legislature without compromising the proper functioning of the legislature and its rules of procedure.**

This benchmark was taken directly from the recommendations of the previous CPA's Zanzibar Study Group.<sup>102</sup>

The work of a second CPA Study Group on Parliament and the Media further supported benchmark 9.1.2:

'Parliaments should provide as a matter of administrative routine all necessary access and services to the media to facilitate their coverage of proceedings. Parliament should not use lack of resources as an excuse to limit media access and should use its best endeavours to provide the best facilities possible.'<sup>103</sup>

#### **9.1.3 The legislature shall have a non-partisan media relations facility.**

Many legislatures today have a non-partisan media relations office or staff tasked with communicating with the media.<sup>104</sup> A media relations facility serves both as a liaison for media reporting on parliament's activities, and as a resource for parliament when seeking to provide information to the public. For example committees may need to develop media strategies for reaching out to the public when holding public hearings or inquiries. With 9.1.3 the Study Group sought to underline the importance of having a non-partisan media relations facility in order to ensure fair coverage and access. However, they did not wish to be prescriptive about the exact structure of the facility beyond its being non-partisan. While they believed 9.1.3 to be an important benchmark for any democratic legislature they recognized that parliaments in small states or developing countries with limited resources may not be able to maintain a full office and may choose instead to designate an officer from the non-partisan staff for media relations.

## VIII. CONCLUSION

In recommending benchmarks for democratic legislatures, the CPA Study Group took into account international best practice and the individual experience of delegates. Throughout the Study Group meeting, participants provided important insights on how to set democratic benchmarks for legislatures, as well as honest and critical analysis of the democratic functioning of their own parliaments.

In coming to a consensus on the recommended benchmarks, the Study Group acknowledged the diversity of parliamentary systems within the Commonwealth and worldwide. Similarly, every effort was made to take into account limitations faced by small states or developing countries with restricted resources, with the view of assuring that the recommended benchmarks are attainable for all democratic parliaments.

Many parliaments within the Commonwealth already meet the majority of the recommended benchmarks, and many have adopted other CPA recommendations and democratic practices that go beyond the benchmarks. It is hoped that the attempt to codify these benchmarks will help other legislatures to do the same.

Formal or informal adoption of international benchmarks or standards for democratic legislatures by all countries will be a long-term process and will require additional input from a variety of parliamentary and other relevant organizations. In holding the Study Group on Benchmarks for Democratic Legislatures, CPA has played a leadership role in this process and provided a solid base for future work on this topic.

---

<sup>1</sup> [Commonwealth \(Latimer House\) Principles](#). May 2004. The Commonwealth (Latimer House) Principles govern issues such as the harmonious balancing of power and the interaction between parliament, the executive and the judiciary in democratic societies. They set out in detail the consensus arrived at by representatives of the three branches of government in the Commonwealth on how each of their national institutions should interrelate in the exercise of their institutional responsibility. The Principles specify restraint in the exercise of power within their respective constitutional spheres so that the legitimate discharge of constitutional functions by other institutions are not encroached on. The Commonwealth Principles were finalised by Commonwealth law ministers and endorsed by Commonwealth Heads of Government at their summit in Abuja, Nigeria, in December 2003. The Principles have been distilled from the Latimer House Guidelines on Parliamentary Sovereignty and Judicial Independence. These were drawn up in 1998 by four prominent Commonwealth organisations: the Commonwealth Parliamentary Association, the Commonwealth Legal Education Association, the Commonwealth Magistrates' and Judges' Association and the Commonwealth Lawyers' Association.

<sup>2</sup> [Commonwealth \(Latimer House\) Principles](#). May 2004

<sup>3</sup> David G. McGee, QC, *The Overseers, Public Accounts Committees and Public Spending* (London: Pluto Press 2002)

<sup>4</sup> CPA Study Group on '[The Financing and Administration of Parliament](#)', Zanzibar, Tanzania on May 25-29, 2005

<sup>5</sup> See for example, *International Election Standards: Guidelines for reviewing the legal framework of elections* (International IDEA, 2002)

<sup>6</sup> Participating organisations in this first meeting included the: Australian Centre for Democratic Institutions, Canadian International Development Agency (CIDA), Canadian Parliamentary Centre, Constitution Unit (University College, London), Commonwealth Parliamentary Association (CPA), International Foundation for Electoral Systems (IFES), Inter-American Development Bank (IADB), Inter-Parliamentary Union (IPU), National Council of State Legislatures, National Democratic Institute for International Affairs (NDI), Parlantino, United Nations Development Programme (UNDP), United States Agency for International Development, United States State Department, and The World Bank Institute.

- 
- <sup>7</sup> *Indicators for Legislative Development* (UNDP, 2001) Available from: [www.undp.org/governanec/parldev/docs/indlegis.doc](http://www.undp.org/governanec/parldev/docs/indlegis.doc)
- <sup>8</sup> *Towards the Development of International Minimum Standards for Democratic Legislatures* (NDI, 2006) Unpublished paper. This paper was used as a draft discussion paper during the Study Group.
- <sup>9</sup> Other background documents included: *Parliament and Democracy in the 21<sup>st</sup> Century – a Guide to good Practice* (IPU, 2006) which provides a useful series of good practices of democratic parliaments, and the *Handbook on Legislative Strengthening* (USAID, 2000).
- <sup>10</sup> *Commonwealth (Latimer House) Principles*. May 2004.
- <sup>11</sup> In some cases the recommended benchmarks may be relevant to several themes.
- <sup>12</sup> The Study Group was held under Chatham House Rules.
- <sup>13</sup> *Charter of Fundamental Rights of the European Union*, Chapter V, Art. 39.2 ‘Members of the European Parliament shall be elected by direct universal suffrage in a free and secret ballot.’
- <sup>14</sup> For more information see the website of the Inter-Parliamentary Union (IPU): [www.ipu.org](http://www.ipu.org)
- <sup>15</sup> Art. 2.2 of the *International Convention on the Elimination of All Forms of Racial Discrimination* (ratified by 173 countries) addresses such measures as follows:  
*‘States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.’*
- <sup>16</sup> Formerly the Commonwealth Plan of Action for Gender and Development (1995-2000 and 2000-2005). Updated for 2005-2015.
- <sup>17</sup> *CPA Study Group on ‘Gender-Sensitizing Commonwealth Parliaments’*, Kuala Lumpur, Malaysia, 27 February – 1 March 2001
- <sup>18</sup> This may also be the case for members of the Northern Ireland Assembly and the National Assembly for Wales.
- <sup>19</sup> For more information on the Law Lords see the House of Lords Briefing, *The Judicial Work of the House of Lords*, November 2005. Available from: [http://www.parliament.uk/documents/upload/HofL\\_BpJudicial.pdf](http://www.parliament.uk/documents/upload/HofL_BpJudicial.pdf)
- <sup>20</sup> Currently, the House of Lords is the highest court in the land: the supreme court of appeal. A group of salaried, full-time judges known as Law Lords carries out this judicial work. See the website of the UK Parliament for more information: <http://www.parliament.uk/about/how/members/lords.cfm> For more information on the establishment of a new Supreme Court for the United Kingdom see: <http://www.dca.gov.uk/supreme/index.htm>
- <sup>21</sup> For more information see the House of Commons Information Office’s *Factsheet P11 - Procedure Series on the Chiltern Hundreds*. Available from: <http://www.parliament.uk/commons/lib/p11.pdf>
- <sup>22</sup> *Roundtable on Managing Parliament-Executive Interface in the Commonwealth*. 49<sup>th</sup> Annual Commonwealth Parliamentary Conference, 4-12 October 2003, Bangladesh.
- <sup>23</sup> *Committees in Legislatures: A Division of Labor* (National Democratic Institute, 1996). See also William E. Crowther and David M. Olson, “Committee Systems in New Democratic Parliaments,” in David M. Olson and William E. Crowther (eds). *Committees in Post-Communist Democratic Parliaments*. (Ohio: Ohio State University Press 2)002.
- <sup>24</sup> “Everyone has the right to freedom of peaceful assembly and association.” *Universal Declaration of Human Rights* (UDHR), Art. 20(1); “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.” *International Covenant on Civil and Political Rights* (ICCPR), Art. 22.
- <sup>25</sup> “The right of every person to freedom of peaceful assembly and association, including to establish or join their own political parties [...] with the necessary legal guarantees to allow them to operate freely on a basis of equal treatment before the law.” *Community of Democracies. Final Warsaw Declaration: Toward a Community of Democracies*. 2000
- <sup>26</sup> Inter-Parliamentary Union’s *Universal Declaration on Democracy*, Art. 12.
- <sup>27</sup> Recommendation of the *CPA Study Group on ‘Gender-Sensitizing Commonwealth Parliaments’*, Kuala Lumpur, Malaysia, 27 February – 1 March 2001
- <sup>28</sup> *CPA Study Group on ‘Access to Information Recommendations for Transparent Governance’*, Accra, Ghana, 5-9 July 2004. Recommendation 14.2: ‘Constituency offices, as well as elected officials at all levels, should be used as a means of promoting parliamentary openness.’
- <sup>29</sup> See *Constitution of the Kingdom of Belgium*, Tit. III, Chp. 1, § 1, Art. 66(2), and § II, Art. 72(3); *Constitution of the Kingdom of Norway*, § C, Art. 65(1); “Assistance provided for individual members in respect of allowances, equipment and staff,” *Constitutional and Parliamentary Information*, No. 173, 1<sup>st</sup> Half-year 1997,

---

p. 75; Portugal. Law of the Organization and Functioning/Services of the Assembly of the Republic, Chp. VI, § I, Art. 37(4); Constitution of the Hellenic Republic, Part III, § III, Chp. 3, Art. 63(2); and Constitution of the Federal Republic of Germany, Chapter III, Art. 48(3). These examples are taken from the NDI draft discussion paper.

<sup>30</sup> [CPA Study Group on 'Parliament and the International Trading System'](#), Saint Lucia, February 2002

<sup>31</sup> See [The Canadian Charter of Rights and Freedoms](#), pp. 16-22. This example is taken from the NDI draft discussion paper.

<sup>32</sup> Adequate staff and other resources are central to ensuring the independence, effectiveness and accountability of parliament. These issues are dealt with under the theme 'The Parliamentary Service'.

<sup>33</sup> 'The immunities of members of parliament,' *Constitutional and Parliamentary Information*, No. 175, Association of Secretaries General of Parliaments, 1<sup>st</sup> Half-year, 1998, p. 102. This example is taken from the NDI draft discussion paper.

<sup>34</sup> *Id.*, p. 108. This example is taken from the NDI draft discussion paper.

<sup>35</sup> *Id.*, p. 116. See also, African Union, [Convention on Preventing and Combating Corruption](#), Art. 7: "Subject to the provisions of domestic legislation, any immunity granted to public officials shall not be an obstacle to the investigation of allegations against and the prosecution of such officials."

<sup>36</sup> 'The immunities of members of parliament,' *Constitutional and Parliamentary Information*, No. 175, 1<sup>st</sup> Half-year, 1998, p. 116.

<sup>37</sup> *Id.*, p. 116-7.

<sup>38</sup> *Id.*, p. 123.

<sup>39</sup> These country examples cited were taken from the NDI draft discussion paper.

<sup>40</sup> [Commonwealth \(Latimer House\) Principles](#). May 2004. Art. III(a)

<sup>41</sup> [CPA Study Group on 'The Financing and Administration of Parliament'](#), Zanzibar, Tanzania on May 25-29, 2005.

<sup>42</sup> UDHR, Art. 23(3). See also International Labour Organization, *C131 Minimum Wage Fixing Convention 1970*.

<sup>43</sup> [CPA Study Group on 'The Financing and Administration of Parliament'](#), Zanzibar, Tanzania on May 25-29, 2005. The Commonwealth produces an annual survey of remuneration paid to members of the parliaments and the legislatures of the Commonwealth. For the most recent [2004-2005 survey](#), as well as past surveys, visit [www.cpahq.org](http://www.cpahq.org)

<sup>44</sup> *Constitution of Commonwealth of Australia*, Art. 50; *Constitution of the Republic of Cyprus*, Art. 73; *Constitution of the Federal Republic of Germany*, Art. 40(1); *Constitution of the Kingdom of the Netherlands*, Art. 72; *Constitution of the Republic of India*, Art. 118; *Constitution of the Republic of the Philippines*, VI, § 15(3); *Constitution of Zambia*, Art. 86; *Constitution of the Kingdom of Spain*, Art. 72(1); and *Constitution of the French Fifth Republic*, Title VII, Art. 63. These examples are taken from the NDI draft discussion paper.

<sup>45</sup> The United States Constitution, Art. I, Section V, Clause II

<sup>46</sup> *United States v. Ballin*, 144 U.S. 5 (1892)

<sup>47</sup> *Roundtable on Managing Parliament-Executive Interface in the Commonwealth*. 49<sup>th</sup> Annual Commonwealth Parliamentary Conference, 4-12 October 2003, Bangladesh. For more information see: [www.cpahq.org](http://www.cpahq.org)

<sup>48</sup> *Constitution of Japan*, Art. 52.

<sup>49</sup> [Constitution of the Islamic Republic of Pakistan](#), 54(2).

<sup>50</sup> *The United States Constitution*, Art. II, Section III

<sup>51</sup> *Standing Order No. 13(1)*.

<sup>52</sup> The Study Group took note of examples within the British Overseas Territories where the Attorney General may vote, however this was not considered good practice.

<sup>53</sup> [Commonwealth \(Latimer House\) Principles](#). May 2004. See Annex, Art. VI, 2, a (i)

<sup>54</sup> [Commonwealth \(Latimer House\) Principles](#). May 2004. See Annex, Art. VI, 2, a (i)

<sup>55</sup> [Commonwealth \(Latimer House\) Principles](#). May 2004. Art. II (a).

<sup>56</sup> *Id.* Art. VIII.

<sup>57</sup> *Id.* Art. VIII.

<sup>58</sup> [CPA Study Group on 'The Financing and Administration of Parliament'](#), Zanzibar, Tanzania on May 25-29, 2005.

<sup>59</sup> In the United States Congress, 'either House may pass a resolution expressing its will, or both Houses may advance joint resolutions.' This example is taken from the NDI draft discussion paper.

<sup>60</sup> The NDI draft discussion paper notes several country examples: in Argentina, Brazil, Costa Rica, Namibia and the United States, a two-thirds majority is required. In Finland, if the executive does not approve a bill it cannot become law unless passed again in the same form by the legislature following a new election. If this occurs, however, the bill becomes law without executive approval.

<sup>61</sup> [OECD Best Practices for Budget Transparency](#) (OECD 2001)

---

<sup>62</sup> While this is common in around 75% of Commonwealth states, a notable exception is Australia which argues that a Chair from the governing party will have more influence with the government when presenting the Public Accounts Committee's recommendations. The Study Group also noted that South Africa followed the practice of having an opposition member chair the PAC until the PAC was viewed as too aggressive at which point the chair was replaced with a government member.

<sup>63</sup> David G. McGee, QC, *The Overseers, Public Accounts Committees and Public Spending* (London: Pluto Press 2002). See Appendix 1.

<sup>64</sup> [Commonwealth \(Latimer House\) Principles](#), May 2004. See Annex Art. VI, 2, a (i) and (ii)

<sup>65</sup> For more information on the Congressional Budget Office (CBO) see [www.cbo.gov](http://www.cbo.gov)

<sup>66</sup> Additional relevant recommendations from the [CPA Workshop on Parliamentary Oversight of Finance and Budgetary Process](#), Nairobi Kenya, 10-14 December 2001, include:

'(4) The reports of the Auditor-General are essential to achieve effective oversight of the budgetary process. The role of an Auditor-General should be enshrined in a country's constitution or in specific legislation. It should be that of an independent external auditor of the activities of the executive. The Auditor-General must work on behalf of Parliament as the representative body of the people.

(6) Specific legislation should also be put in place to provide for amongst others the establishment of an independent office to assist the Auditor-General to execute his or her mandate.'

<sup>67</sup> *Id.*

<sup>68</sup> CPA Study Group on '[CPA Study Group on 'Parliament and the Media'](#)', Perth, Australia, 17-21 February 2003. Recommendation 8.4.

<sup>69</sup> CPA Study Group on '[CPA Study Group on 'Parliament and the Media'](#)', Perth, Australia, 17-21 February 2003. Recommendation 8.7.

<sup>70</sup> African Union [Convention on Preventing and Combating Corruption](#), Art. 7. This example was cited by NDI in the draft discussion paper.

<sup>71</sup> OAS. *AG/RES. 2057 (XXXIV-O/04). Access to Public Information: Strengthening Democracy*, Art. 5. This example was cited by NDI in their draft discussion paper.

<sup>72</sup> *Roundtable on Managing Parliament-Executive Interface in the Commonwealth*. 49<sup>th</sup> Annual Commonwealth Parliamentary Conference, 4-12 October 2003, Bangladesh. For more information see: [www.cpahq.org](http://www.cpahq.org)

<sup>73</sup> Organization Economic Co-operation and Development (OECD), [OECD Report on Parliamentary Procedures and Relations](#). PUMA/LEG (2000)/2/REV1, p. 14.

<sup>74</sup> The NDI draft discussion paper notes that the ability to amend legislation exists in many legislatures, including those of Belgium, Finland, Germany, Iceland, Italy, Norway, Spain, Sweden, Switzerland, and the United States. Committees in Austria, Iceland and Sweden may also initiate legislation.

<sup>75</sup> For more information, see the website of the Senate of Pakistan: <http://www.senate.gov.pk/Main.asp>

<sup>76</sup> [Commonwealth \(Latimer House\) Principles](#), May 2004. Art. VII (a).

<sup>77</sup> [Commonwealth \(Latimer House\) Principles](#), May 2004. See Annex Art. VI, 2, a (ii)

<sup>78</sup> "The Parliamentary System of Morocco," *Constitutional and Parliamentary Information*, 1st Half-year, 2002, No. 183, p. 13. This example was taken from the NDI draft discussion paper.

<sup>79</sup> OECD. *OECD Report on Parliamentary Procedures and Relations*. PUMA/LEG (2000)/2/REV1, p. 16. This example was taken from the NDI draft discussion paper.

<sup>80</sup> *Id.*, p. 8. This example was taken from the NDI draft discussion paper.

<sup>81</sup> The discussion on this benchmark led to the creation and adoption of benchmark 9.1.4.

<sup>82</sup> [Commonwealth \(Latimer House\) Principles](#), May 2004. Art. VIII: 'Where appropriate, opportunity should be given for public input into the legislative process.'

<sup>83</sup> Sisk, T. 2001. *Democracy at the Local Level: The International IDEA Handbook on Participation, Representation, Conflict Management and Governance*. Stockholm: International IDEA

<sup>84</sup> *Constitution of South Africa*, Art. 59(1) (a).

<sup>85</sup> OECD. *OECD Report on Parliamentary Procedures and Relations*. PUMA/LEG (2000)/2/REV1, p. 14.

<sup>86</sup> For further benchmarks relating to the Media please refer to the theme Parliament and the Media.

<sup>87</sup> Community of Democracies. [Final Warsaw: Declaration: Toward a Community of Democracies](#). 2000

<sup>88</sup> OSCE. *Code of Conduct on Politico-Military Aspects of Security*, Art. 20.

<sup>89</sup> These examples are taken from the NDI draft discussion paper.

<sup>90</sup> [Commonwealth \(Latimer House\) Principles](#), May 2004. Art. IV

<sup>91</sup> 'Any gift to the Member or the Member's partner of greater value than £125 or any material benefit of a value greater than 0.5 per cent of the Member's Assembly salary from any company, organisation or person within the UK which in any way relates to membership of the Assembly.' The *Code of Conduct* together with *The Guide to the Rules Relating to the Conduct of Members* approved by The Northern Ireland Assembly on

---

14 December 1999 and amended on 15 October 2001. Available from: <http://www.niassembly.gov.uk/reports/nia24-01.htm>); and

'Any gift to the Member or the Member's spouse or partner, or any material benefit, of a value greater than 1 per cent of the current parliamentary salary from any company, organisation or person within the UK which in any way relates to membership of the House.' The Code of Conduct together with The Guide to the Rules relating to the conduct of Members.

Available from: <http://www.publications.parliament.uk/pa/cm/code03.htm#a14>

<sup>92</sup> [Commonwealth \(Latimer House\) Principles](#). May 2004. See Annex Art. V (2a).

<sup>93</sup> African Union [Convention on Preventing and Combating Corruption](#), Art. 7. This example was taken from the NDI draft discussion paper.

<sup>94</sup> "Art. 2 – Active bribery of domestic public officials. Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the promising, offering or giving by any person, directly or indirectly, of any undue advantage to any of its public officials, for himself or herself or for anyone else, for him or her to act or refrain from acting in the exercise of his or her functions; Art. 3 – Passive bribery of domestic public officials: Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the request or receipt by any of its public officials, directly or indirectly, of any undue advantage, for himself or herself or for anyone else, or the acceptance of an offer or a promise of such an advantage, to act or refrain from acting in the exercise of his or her functions; Art. 4 – Bribery of members of domestic public assemblies: Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Arts 2 and 3, when involving any person who is a member of any domestic public assembly exercising legislative or administrative powers." EU. [Criminal Law Convention on Corruption](#). This example is taken from the NDI draft discussion paper.

<sup>95</sup> Organisation of American States (OAS) [Inter-American Convention Against Corruption](#), Art. III. This example is taken from the NDI draft discussion paper.

<sup>96</sup> Recommendation 4.2, [CPA Study Group on 'The Financing and Administration of Parliament'](#), Zanzibar, Tanzania on May 25-29, 2005.

<sup>97</sup> <http://www.dundee.gov.uk/cenlib/spice.htm>

<sup>98</sup> Recommendation 4.2, [CPA Study Group on 'The Financing and Administration of Parliament'](#), Zanzibar, Tanzania on May 25-29, 2005.

<sup>99</sup> [CPA Study Group on 'The Financing and Administration of Parliament'](#), Zanzibar, Tanzania on May 25-29, 2005.

<sup>100</sup> In the original recommendation the word 'Legislatures' appears as 'Parliaments'. The Study Group used the two words interchangeably. [CPA Study Group on 'The Financing and Administration of Parliament'](#), Zanzibar, Tanzania on May 25-29, 2005.

<sup>101</sup> "Codes of conduct for parliamentary staff," *Constitutional and Parliamentary Information*, No. 175, 1<sup>st</sup> Half-year, 1998, pp. 60-66. Reference taken from NDI draft discussion paper.

<sup>102</sup> [CPA Study Group on 'The Financing and Administration of Parliament'](#), Zanzibar, Tanzania on May 25-29, 2005.

<sup>103</sup> [CPA Study Group on 'Parliament and the Media'](#), Perth, Australia, 17-21 February 2003

<sup>104</sup> Country examples from the NDI draft discussion paper include Estonia, Germany, United Kingdom, the Ireland, Israel, Italy, Namibia, the Netherlands, Russia, Slovenia, and Switzerland.

## **ANNEX ONE - Recommended Benchmarks for Democratic Legislatures**





# RECOMMENDED BENCHMARKS FOR DEMOCRATIC LEGISLATURES

*These benchmarks are the outcome of a CPA Study Group  
hosted by the Legislature of Bermuda on behalf of  
the Commonwealth Parliamentary Association  
with support from  
the United Nations Development Programme, the World Bank Institute  
and the National Democratic Institute for International Affairs*

## I. GENERAL

### 1. GENERAL

#### 1.1 Elections

- 1.1.1 Members of the popularly elected or only house shall be elected by direct universal and equal suffrage in a free and secret ballot.
- 1.1.2 Legislative elections shall meet international standards for genuine and transparent elections.
- 1.1.3 Term lengths for members of the popular house shall reflect the need for accountability through regular and periodic legislative elections.

#### 1.2 Candidate Eligibility

- 1.2.1 Restrictions on candidate eligibility shall not be based on religion, gender, ethnicity, race or disability.
- 1.2.2 Special measures to encourage the political participation of marginalized groups shall be narrowly drawn to accomplish precisely defined, and time-limited, objectives.

#### 1.3 Incompatibility of Office

- 1.3.1 No elected member shall be required to take a religious oath against his or her conscience in order to take his or her seat in the legislature.
- 1.3.2 In a bicameral legislature, a legislator may not be a member of both houses.
- 1.3.3 A legislator may not simultaneously serve in the judicial branch or as a civil servant of the executive branch.

#### 1.4 Immunity

- 1.4.1 Legislators shall have immunity for anything said in the course of the proceedings of legislature.
- 1.4.2 Parliamentary immunity shall not extend beyond the term of office; but a former legislator shall continue to enjoy protection for his or her term of office.
- 1.4.3 The executive branch shall have no right or power to lift the immunity of a legislator.

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

## **1.5 Remuneration and Benefits**

1.5.1 The legislature shall provide proper remuneration and reimbursement of parliamentary expenses to legislators for their service, and all forms of compensation shall be allocated on a non-partisan basis.

## **1.6 Resignation**

1.6.1 Legislators shall have the right to resign their seats.

## **1.7 Infrastructure**

1.7.1 The legislature shall have adequate physical infrastructure to enable members and staff to fulfil their responsibilities.

# **II. ORGANIZATION OF THE LEGISLATURE**

## **2. PROCEDURE AND SESSIONS**

### **2.1 Rules of Procedure**

2.1.1 Only the legislature may adopt and amend its rules of procedure.

### **2.2 Presiding Officers**

2.2.1 The legislature shall select or elect presiding officers pursuant to criteria and procedures clearly defined in the rules of procedure.

### **2.3 Convening Sessions**

2.3.1 The legislature shall meet regularly, at intervals sufficient to fulfil its responsibilities.

2.3.2 The legislature shall have procedures for calling itself into regular session.

2.3.3 The legislature shall have procedures for calling itself into extraordinary or special session.

2.3.4 Provisions for the executive branch to convene a special session of the legislature shall be clearly specified.

### **2.4 Agenda**

2.4.1 Legislators shall have the right to vote to amend the proposed agenda for debate.

2.4.2 Legislators in the lower or only house shall have the right to initiate legislation and to offer amendments to proposed legislation.

2.4.3 The legislature shall give legislators adequate advance notice of session meetings and the agenda for the meeting.

### **2.5 Debate**

2.5.1 The legislature shall establish and follow clear procedures for structuring debate and determining the order of precedence of motions tabled by members.

2.5.2 The legislature shall provide adequate opportunity for legislators to debate bills prior to a vote.

## **2.6 Voting**

2.6.1 Plenary votes in the legislature shall be public.<sup>1</sup>

2.6.2 Members in a minority on a vote shall be able to demand a recorded vote.

2.6.3 Only legislators may vote on issues before the legislature.

## **2.7 Records**

2.7.1 The legislature shall maintain and publish readily accessible records of its proceedings.

# **3. COMMITTEES**

## **3.1 Organization**

3.1.1 The legislature shall have the right to form permanent and temporary committees.

3.1.2 The legislature's assignment of committee members on each committee shall include both majority and minority party members and reflect the political composition of the legislature.

3.1.3 The legislature shall establish and follow a transparent method for selecting or electing the chairs of committees.

3.1.4 Committee hearings shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure.

3.1.5 Votes of committee shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure.

## **3.2 Powers**

3.2.1 There shall be a presumption that the legislature will refer legislation to a committee, and any exceptions must be transparent, narrowly-defined, and extraordinary in nature.

3.2.2 Committees shall scrutinize legislation referred to them and have the power to recommend amendments or amend the legislation.

3.2.3 Committees shall have the right to consult and/or employ experts.

3.2.4 Committees shall have the power to summon persons, papers and records, and this power shall extend to witnesses and evidence from the executive branch, including officials.

3.2.5 Only legislators appointed to the committee, or authorised substitutes, shall have the right to vote in committee.

3.2.6 Legislation shall protect informants and witnesses presenting relevant information to commissions of inquiry about corruption or unlawful activity.

---

<sup>1</sup> The Study Group noted that one possible exception to this may be the election of officers.

## **4. POLITICAL PARTIES, PARTY GROUPS AND CROSS PARTY GROUPS**

### **4.1 Political Parties**

- 4.1.1 The right of freedom of association shall exist for legislators, as for all people.
- 4.1.2 Any restrictions on the legality of political parties shall be narrowly drawn in law and shall be consistent with the International Covenant on Civil and Political Rights.

### **4.2 Party Groups**

- 4.2.1 Criteria for the formation of parliamentary party groups, and their rights and responsibilities in the legislature, shall be clearly stated in the rules of procedure.
- 4.2.2 The legislature shall provide adequate resources and facilities for party groups pursuant to a clear and transparent formula that does not unduly advantage the majority party.<sup>2</sup>

### **4.3 Cross Party Groups**

- 4.3.1 Legislators shall have the right to form interest caucuses around issues of common concern.

## **5. PARLIAMENTARY STAFF**

### **5.1. General**

- 5.1.1 The legislature shall have an adequate non-partisan professional staff to support its operations including the operations of its committees.
- 5.1.2 The legislature, rather than the executive branch, shall control the parliamentary service and determine the terms of employment.
- 5.1.3 The legislature shall draw and maintain a clear distinction between partisan and non-partisan staff.
- 5.1.4 Members and staff of the legislature shall have access to sufficient research, library, and ICT facilities.

### **5.2 Recruitment**

- 5.2.1 The legislature shall have adequate resources to recruit staff sufficient to fulfil its responsibilities. The rates of pay shall be broadly comparable to those in the public service.
- 5.2.2 The legislature shall not discriminate in its recruitment of staff on the basis of race, ethnicity, religion, gender, disability, or, in the case of non-partisan staff, party affiliation.

### **5.3 Promotion**

- 5.3.1 Recruitment and promotion of non-partisan staff shall be on the basis of merit and equal opportunity.<sup>3</sup>

---

<sup>2</sup> The Study Group considered it best practice to for legislatures to provide party groups with funding allocations and allow each party group to make their own decisions on the types of facilities they require. The Study Group recognized the special circumstances of small and/or under-resourced jurisdictions.

<sup>3</sup> Rather than banning political activity by non-partisan staff, the Study Group recommended that all staff be subject to a code of conduct and that staff are assessed on their conduct annually. A code of conduct should make clear what is acceptable staff behaviour and serve to prevent staff from using their position to influence the functioning of the legislature in a political manner.

## **5.4 Organization and Management**

- 5.4.1 The head of the parliamentary service shall have a form of protected status to prevent undue political pressure.<sup>4</sup>
- 5.4.2 Legislatures should, either by legislation or resolution, establish corporate bodies responsible for providing services and funding entitlements for parliamentary purposes and providing for governance of the parliamentary service.<sup>5</sup>
- 5.4.3 All staff shall be subject to a code of conduct.

## **III. FUNCTIONS OF THE LEGISLATURE**

### **6. LEGISLATIVE FUNCTION**

#### **6.1 General**

- 6.1.1 The approval of the legislature is required for the passage of all legislation, including budgets.
- 6.1.2 Only the legislature shall be empowered to determine and approve the budget of the legislature.
- 6.1.3 The legislature shall have the power to enact resolutions or other non-binding expressions of its will.
- 6.1.4 In bicameral systems, only a popularly elected house shall have the power to bring down government.
- 6.1.5 A chamber where a majority of members are not directly or indirectly elected may not indefinitely deny or reject a money bill.

#### **6.2 Legislative Procedure**

- 6.2.1 In a bicameral legislature there shall be clearly defined roles for each chamber in the passage of legislation.
- 6.2.2 The legislature shall have the right to override an executive veto.

#### **6.3 The Public and Legislation**

- 6.3.1. Opportunities shall be given for public input into the legislative process.
- 6.3.2 Information shall be provided to the public in a timely manner regarding matters under consideration by the legislature.

### **7. OVERSIGHT FUNCTION**

#### **7.1 General**

- 7.1.1 The legislature shall have mechanisms to obtain information from the executive branch sufficient to exercise its oversight function in a meaningful way.

---

<sup>4</sup> This benchmark was taken directly from the recommendations of the previous CPA's [Study Group on 'The Financing and Administration of Parliament'](#), held in Zanzibar, Tanzania on May 25-29, 2005.

<sup>5</sup> This benchmark was taken directly from the recommendations of the previous CPA's [Study Group on 'The Financing and Administration of Parliament'](#), held in Zanzibar, Tanzania on May 25-29, 2005.

- 7.1.2 The oversight authority of the legislature shall include meaningful oversight of the military, security and intelligence services.
- 7.1.3 The oversight authority of the legislature shall include meaningful oversight of state owned enterprises.

## **7.2 Financial and Budget Oversight**

- 7.2.1 The legislature shall have a reasonable period of time in which to review the proposed national budget.<sup>6</sup>
- 7.2.2 Oversight committees shall provide meaningful opportunities for minority or opposition parties to engage in effective oversight of government expenditures. Typically, the public accounts committee will be chaired by a member of the opposition party.
- 7.2.3 Oversight committees shall have access to records of executive branch accounts and related documentation sufficient to be able to meaningfully review the accuracy of executive branch reporting on its revenues and expenditures.
- 7.2.4 There shall be an independent, non-partisan Supreme or National Audit Office whose reports are tabled in the legislature in a timely manner.
- 7.2.5 The supreme or national audit office shall be provided with adequate resources and legal authority to conduct audits in a timely manner.

## **7.3 No Confidence and Impeachment**

- 7.3.1 The legislature shall have mechanisms to impeach or censure officials of the executive branch, or express no-confidence in the government.
- 7.3.2 If the legislature expresses no confidence in the government the government is obliged to offer its resignation. If the head of state agrees that no other alternative government can be formed, a general election should be held.

## **8. REPRESENTATIONAL FUNCTION**

### **8.1 Constituent Relations**

- 8.1.1 The legislature shall provide all legislators with adequate and appropriate resources to enable the legislators to fulfil their constituency responsibilities.

### **8.2 Parliamentary Networking and Diplomacy**

- 8.2.1 The legislature shall have the right to receive development assistance to strengthen the institution of parliament.
- 8.2.2 Members and staff of parliament shall have the right to receive technical and advisory assistance, as well as to network and exchange experience with individuals from other legislatures.

---

<sup>6</sup> The Study Group made reference to the OECD best practice guidelines which suggest presentation of the draft budget to the legislature no less than three months prior to the start of the fiscal year. (OECD [Best Practices for Budget Transparency](#), 2001)

## **IV. VALUES OF THE LEGISLATURE**

### **9. ACCESSIBILITY**

#### **9.1 Citizens and the Press**

- 9.1.1 The legislature shall be accessible and open to citizens and the media, subject only to demonstrable public safety and work requirements.
- 9.1.2 The legislature should ensure that the media are given appropriate access to the proceedings of the legislature without compromising the proper functioning of the legislature and its rules of procedure.
- 9.1.3 The legislature shall have a non-partisan media relations facility.
- 9.1.4 The legislature shall promote the public's understanding of the work of the legislature.

#### **9.2 Languages**

- 9.2.1 Where the constitution or parliamentary rules provide for the use of multiple working languages, the legislature shall make every reasonable effort to provide for simultaneous interpretation of debates and translation of records.

### **10. ETHICAL GOVERNANCE**

#### **10.1 Transparency and Integrity**

- 10.1.1 Legislators should maintain high standards of accountability, transparency and responsibility in the conduct of all public and parliamentary matters.
- 10.1.2 The legislature shall approve and enforce a code of conduct, including rules on conflicts of interest and the acceptance of gifts.
- 10.1.3 Legislatures shall require legislators to fully and publicly disclose their financial assets and business interests.
- 10.1.4 There shall be mechanisms to prevent, detect, and bring to justice legislators and staff engaged in corrupt practices.

ENDS





## **ANNEX TWO - Collected Recommendations of CPA Study Groups**

## ANNEX TWO: TABLE OF CONTENTS

A.	2006 – United Kingdom: Budget and Financial Oversight.....	57
B.	2006 – Dominica: Commonwealth Parliamentary Association/CIDA Workshop on Freedom of Information Implementation in the Caribbean .....	59
C.	2006 – New Zealand: A Parliamentary Perspective on Gender Equality in the Pacific Region .....	63
D.	2006 – Mauritius: African Regional Workshop on The Administration and Financing of Parliament.....	65
E.	2005 – Malta: Workshop On Small Countries Networking For Development .....	66
F.	2005 – Tonga: A Parliamentary Perspective on Gender Equality .....	67
G.	2005 – Fiji: Workshop on Freedom Of Information In The Pacific.....	68
H.	2005 – Fiji: Government and Opposition – Roles Rights and Responsibilities: Commonwealth Pacific Workshop.....	70
I.	2005 – Tanzania: Study Group on the Financing and Administration of Parliament.....	74
J.	2005 – Sierra Leone: Workshop for the Sierra Leone CPA Branch to Strengthen Legislatures in Commonwealth West Africa.....	76
K.	2005 – Ghana: Workshops to Strengthen Legislatures in Commonwealth West Africa .....	78
L.	2005 – India: Study Group on the Role of Parliamentarians in Combating the HIV/AIDS Pandemic.....	81
M.	2004 – Cameroon: Workshops to Strengthening Legislatures in Commonwealth West Africa.....	83
N.	2004 – Sri Lanka: Study Group on the Role of Parliament in Conflict-Affected Countries .....	87
O.	2004 – Nigeria: Workshops to Strengthening Legislatures in Commonwealth West Africa ...	90
P.	2004 – The Gambia: Workshops to Strengthening Legislatures in Commonwealth West Africa.....	92
Q.	2004 – Ghana: Study Group on Access to Information.....	94
R.	2004 – Trinidad & Tobago: Regional Seminar for Caribbean Parliamentarians: The Budgetary Cycle, Oversight and Public Accounts Committees .....	98
S.	2004 – Fiji: Workshop on Gender, Development and Democracy.....	99
T.	2003 – Nigeria: Workshop on Engendering Development and Democracy.....	101
U.	2003 – Australia: Study Group on Parliament and The Media .....	103
V.	2002 – Malaysia: Study Group on The Development of Professional Knowledge-Based Parliamentarians .....	107
W.	2002 – South Africa: Indian Ocean Rim Conference on Parliament and the Media: Securing an Effective Relationship .....	109
X.	2002 – Saint Lucia: Study Group on Parliament and the International Trading System .....	112
Y.	2001 – Kenya: Workshop on Parliamentary Oversight of Finance and the Budgetary Process.....	113
Z.	2001 – Malaysia: Study Group on Gender-Sensitizing Commonwealth Parliaments .....	115
AA.	Commonwealth Principles on the Accountability of and the Relationship between the Three Branches of Government .....	117
	Index.....	120

## **A. 2006 – United Kingdom: Budget and Financial Oversight**

*House of Commons, London, United Kingdom, 8-10 November 2006*

### **REVIEW/SUMMARY**

#### **Topics for Noting**

##### **1. Constraints or Influences on Budgeting**

- Millennium Development Goals
- Goals established by individual countries
- Export prices
- Development aid and donor wishes
- IGOs' influence
- Balancing Budgets
- Deficit finance
- Constituency wishes

##### **2. Forward Planning**

- Budgeting for more than one year
- Rolling budgets

##### **3. Involvement in the Budget's Preparation**

- Ministers generally
- Members of Parliament
- Parliamentary Committees
- Media
- Donors/IGOs
- Civil Society

##### **4. Secrecy of Budget**

- Convention's extent
- Effect of Freedom of Information legislation
- Media "lock-up"

##### **5. Presentation of the Budget**

- Time of presentation
- Information to be provided with Budget

##### **6. Resources available to Parliament in considering the Budget**

- Congressional Budget Office/Parliamentary Budget Office
- Scrutiny unit/financial analysis service
- Audit Staff
- Other Staff e.g. library

##### **7. Parliamentary Approval**

- Exclusions or limitations (defence, security, borrowing)
- Macro-level approval
- Approval of individual appropriations
- Role of Committees
- Duties of Ministers and Public Service

- Bicameral Legislatures
- Amendments – whether practicable or permissible
- Timing of Approval

## **8. Confidence Issue**

- Whether Budget always and entirely a confidence matter

## **9. Monitoring**

- Reporting requirements (MYEFO, Budget honesty reporting of election time etc)
- Role of Sector committees
- Subsequent budget approval – supplementary estimates

## **10. Evaluation and Audit**

- PAC and Sector-Committees – respective roles
- Role of Auditor-General and audit staff
- Support for Committees
- Expansion of idea of “audit” from auditing cash transactions to other forms of audit



Canadian International  
Development Agency

Agence canadienne de  
développement international



Parliament of  
Dominica



Commonwealth  
Human Rights  
Initiative



Carter Centre



Organization  
of American  
States

## **B. 2006 – Dominica: Commonwealth Parliamentary Association/CIDA Workshop on Freedom of Information Implementation in the Caribbean**

*Roseau, Dominica, 27 November to 1 December 2006*

### **CONCLUSIONS**

Parliamentarians, public officials, media and civil society representatives from Commonwealth Caribbean, Americas and Atlantic jurisdictions, meeting at a Workshop in the House of Assembly of the Commonwealth of Dominica from 27 November to 1 December 2006, reaffirmed Freedom of Information as a fundamental human right that serves as a cornerstone of democracy and good governance. They underlined the importance of Freedom of Information to accountability in governance and access to justice for citizens.

As was noted by the Workshop, the exercise of state power in secrecy breeds suspicion and ultimately undermines the relationship of trust between government and citizens.

The right to Freedom of Information has been recognized in numerous international instruments including the United Nations Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Inter-American Declaration of Principles on Freedom of Expression, the Inter-American Convention Against Corruption and the Commonwealth FOI Principles adopted by Law Ministers in 1999. In 2006, the Inter-American Court of Human Rights became the first international tribunal to recognize Freedom of Information as a fundamental right of itself. It also recognized the obligation of the state to institutionalize effective regimes to guarantee this right.

Currently the Caribbean is in the process of adopting a regional Human Rights Treaty that is expected to encourage countries to draft FOI legislation. Such a regional process may also be reinforced by the ongoing integration of countries in the Caribbean Single Market and Economy.

In defending and promoting this human right, Parliaments, Parliamentarians, public bodies and officials, and civil society organizations have a shared responsibility to the people. In view of this, the Workshop made the following recommendations:

### **THE RIGHT OF ACCESS TO INFORMATION**

(1) Where Freedom of Information (FOI) regimes have not yet been established by law, Parliament should legislate as soon as possible to create an effective FOI regime to give the public access to information held by public authorities.

(2) The FOI law should be based on presumption of maximum disclosure of information. While there may be exemptions from disclosure in some cases based on a strict test of public interest, the FOI law should not provide a blanket exclusion for entire categories of information or for entire bodies.

(3) As well as legislating for the FOI regime, all efforts should be made to harmonize existing laws with its provisions to remove any inconsistencies.

(4) The development of FOI legislation should be done through a participatory process that ensures the widest possible consultation with the public. In this respect, the Workshop notes the example of the Cayman Islands where this was undertaken as part of the process of drafting the FOI Bill.

(5) The scope of the FOI legislation should encompass all bodies established or created by the constitution and statute, or wholly or partially funded from public finances, or those performing public functions, or in a position of monopoly in providing public utilities. The FOI regime should also extend to all documents pertaining to contracts and agreements entered into by the government and public bodies with private parties.

(6) The FOI regime should provide access to information in any form it is recorded or held by public bodies. It should also require public bodies to provide information in the form requested by the applicant unless it would disproportionately divert the resources of that body.

(7) The FOI law should specify comprehensively categories of information that public bodies should proactively disclose and update at regular intervals so that the public is fully aware of their operations and obligations without needing to make a request for information. In jurisdictions where there are real concerns over the costs of proactive disclosure, it should be noted that voluntary disclosure will reduce costs in the long term by reducing the number of requests for information to be handled.

(8) As far as possible, information should be provided free of charge under the FOI regime. Where fees for requests are imposed, this should be provided for in the law and not left to executive discretion. Fees should not be set at a level that acts as a deterrent and should only cover the cost of reproducing the information.

(9) The FOI law should specify a reasonable timescale for processing requests for information and for disposal of complaints and appeals.

(10) In addition to enacting domestic FOI legislation, government should promote the adoption of similar access regimes in any international organizations to which they belong.

## **PLANNING AND IMPLEMENTATION**

(11) For entrenching the right to information, the Workshop stressed the importance of going beyond enacting the FOI law to having a strong implementation plan, backed by real political will. Governments should provide material and human resources necessary for all aspects of implementing the law. It is equally important to address existing cultures of secrecy in public bodies.

(12) The FOI law should provide for a dedicated body to oversee its implementation and promote a culture of openness in all public bodies.

(13) Implementation of the FOI law should be according to a timeline defined in the law and to an action plan drawn up by the implementing body.

(14) Where resources are scarce the action plan should provide for phased implementation with an early focus on those bodies that have higher levels of interaction with the public. The Workshop noted the example of Jamaica in this regard.

(15) The implementation process should include harmonizing all existing laws and regulations with the FOI law so as to remove any inconsistencies and contradictions that could restrict the right to information.

(16) Implementation of the FOI law should not lead to the termination of any previously existing mechanisms or procedures – formal and informal – for providing access to information to the public. Provisions of the FOI law should not be used as an excuse to subject information already in the public domain to any exemption.

(17) An adequate number of information officers should be appointed in each public body at the earliest possible stage of implementation of the FOI law. They should be provided with all possible assistance to ensure successful implementation.

(18) A good records management system is vital to the successful implementation of the FOI law, just as it is for good governance. The Workshop notes that in the Caribbean, as in many other jurisdictions, the state of records management in public bodies is a cause for concern. Therefore, implementing the FOI law must concentrate at an early stage on improving standards. Even where there is good records management, the system should still be brought in line with the requirements of the new FOI regime.

(19) In planning and implementing the FOI regime, every consideration should be given to the need to make request procedures easily accessible to all members of the public, especially where the population is dispersed or where geography would mean that a centralized structure would effectively act as a barrier to access for parts of the population. One suggested way of decentralizing access points to public information would be to use the public library system.

### **EDUCATION FOR OFFICIALS AND THE PUBLIC**

(20) There should be a concerted effort on sensitization and training in government and public bodies to address the problem of any existing culture of secrecy. Priority should be given to training a core group of public officials who will then sensitize and train their colleagues in the FOI regime, thus encouraging a multiplier effect. This would help mitigate any loss of human resources through staff transfers.

(21) Guidelines should be drafted on provisions of the FOI law and on all related procedures, and they should be widely disseminated throughout public bodies to assist public officials in fulfilling their obligations under the FOI regime. The use of new technologies should be encouraged in this regard and the Workshop noted the examples of Trinidad and Tobago and Jamaica where electronic resources have been used to disseminate guidelines.

(22) FOI training for public officials should aim not only to inculcate a culture of openness, but also to recognize FOI obligations as part of their jobs rather than a peripheral responsibility.

(23) It is crucial that public education campaigns are undertaken to ensure that people are aware of their right to information and of the procedures to exercise it. Public awareness programmes on FOI issues should be collaborative exercises that include government, public bodies, civil society and the media. Educational institutions should also develop special curricula on FOI awareness courses and training.

(24) FOI education programmes should use a variety of means of communications to ensure the widest possible outreach, also take into account any local cultural sensitivities. Programmes can also be designed to show that these sensitivities are not incompatible with open governance.

### **MONITORING COMPLIANCE**

(25) The FOI law should provide for an independent body empowered to enforce compliance. It should be led by and staffed with persons of integrity and adequately resourced to make it independent in practice.

(26) The independent body should also investigate and rule on complaints and appeals against decisions of public bodies related to FOI requests. In this function, it should operate free of interference. The FOI law should also specify that decisions of the independent body are still subject to review by an appropriate court identified in the law.

(27) The FOI law should ensure that the appeals process is not so cumbersome or costly as to act as a deterrent to the public.

(28) The FOI law should specify the obligation of all public bodies to report regularly on compliance with its provisions. The independent body should be responsible for oversight in this regard and itself report regularly to Parliament with recommendations included on improving implementation of the FOI regime.

(29) As the democratic institution representing the people, Parliament is ultimately responsible for ensuring that the enacted right to information is protected and promoted. Parliament should therefore regularly review progress made in entrenching transparency in public bodies and take appropriate actions based on the recommendations of the independent body.

The Workshop called on all jurisdictions in the region to assist each other and share expertise on FOI issues to facilitate adoption and implementation. The CPA and partners organizations for the Workshop also stand ready to assist Caribbean countries and Parliaments where possible.



## C. 2006- New Zealand: A Parliamentary Perspective on Gender Equality in the Pacific Region

*Wellington, New Zealand, 2 – 6 October 2006*

### CONCLUSIONS

Women Parliamentarians from across the Commonwealth countries of the Pacific Region agreed that the recommendations contained in the [final outcomes document](#) of the Pacific Regional Workshop on Advancing Women's Representation in Parliaments held in the Cook Islands in April 2006 should be endorsed, and progressed, by all CPA Branches in the Region.

Acknowledging the Commonwealth target of 30% women's representation in decision-making positions by 2015, and the fact that women comprise an average of only 4.5% of national Parliaments in the Pacific Region with the exception of New Zealand, participants agreed that urgent action is needed to remove the barriers to participation and create temporary 'fast track' ways of reaching the target.

There was a clear desire to see the CPA collaborating more formally with the Pacific Islands Forum Secretariat, UNIFEM (Pacific) and other regional organizations to promote the advancement of women's political participation and gender equity.

The following issues, and consequent recommendations, were identified as common to women Parliamentarians in the Region and were discussed in detail:

- **Personal development of MPs and candidates**
  - Political parties should provide mentoring and training
  - Civics and political education should be part of both the school curriculum and informal education to promote political participation
  - All Parliamentarians, male and female, should challenge attitudes that discourage women from political participation
  - CPA should work with regional actors and the Commonwealth Secretariat to provide training for potential women candidates
- **Communications**
  - Media training should be provided for women candidates prior to elections and for women MPs after the elections
  - There should be positive engagement with the media to promote the contribution of women Parliamentarians
  - Women Parliamentarians should be encouraged to network with regional and national women's machineries, NGOs, CSOs, women voters and other women Parliamentarians
  - National women's machineries need to ensure that women Parliamentarians are provided with timely information on national and regional activities and assistance with knowledge-mining
- **Data**
  - Governments should ensure that appropriate statistics on women's social, political and economic participation are collated and widely disseminated
  - Effective systems should be put in place to monitor the progress of women's participation, including indicators relating to gender-responsive governance and gender-based poverty
- **Parliamentary and political party structures**
  - Governments should create standalone ministries for women's issues with adequate funding
  - Parliaments must provide suitable support structures (e.g. maternity leave, crèche and breast-feeding rooms)
  - Political parties must address the systemic and financial challenges faced by women candidates

- CPA Branches should consider establishing all-party women's caucuses
- **Policy**
  - Legislation should be introduced to ensure equity in working conditions and remuneration
  - Women must have equal access. to the law
  - Governments must introduce strategies to reduce and eliminate domestic violence
- **Transformative governance and women's leadership**
  - Strategies to advance women's representation must take place within the context of transformative governance
  - It is essential to improve the quality and style of governance and not just the numbers of women in politics
- **International and regional support**
  - There must be synergy between national, regional and international initiatives aimed at increasing the number of women representatives in Parliament and gender-sensitizing parliamentary processes
  - There should be technical assistance to enable all MPs to develop general gender analysis and especially gender budgeting analysis skills
  - The CPA Pacific Region must integrate the Commonwealth Women Parliamentarians (CWP) network into existing regional structures and processes in accordance with the revised CPA Constitution
- **National solutions**
  - Participants acknowledged the diversity within the region and the fact there could be no one size fits all strategy to improve the representation of women in parliament and that each country needs to develop its own national strategy to achieve the target of 30% women's representation in Parliament by 2015

## **D. 2006 – Mauritius: African Regional Workshop on the Administration and Financing of Parliament**

*Parliament of Mauritius, 18 – 22 September 2006*

### **CONCLUSIONS**

The participants from the Africa Region of the Commonwealth Parliamentary Association (CPA) endorsed the [Report of the Study Group on the Administration and Financing of Parliament \(the 'Zanzibar Report'\)](#)

The CPA should use its influence to promote the legitimacy of legislatures having financial autonomy and create a better understanding amongst members of the Executive as to the proper relationship with the Parliament. Participants also identified the need to raise awareness amongst Parliamentarians of the importance of corporate bodies and the proper discharge of their responsibilities.

It was agreed that, where a legislature enjoys administrative and/or financial autonomy, it must demonstrate best practice and responsible use of this authority.

The CPA should provide:

- Further support to Commonwealth legislatures seeking to establish and strengthen corporate bodies;
- Training and professional development opportunities for members of corporate bodies;
- A toolkit for members of corporate bodies to assist them in the discharge of their corporate responsibilities; and
- The toolkit should include a template for a parliamentary Human Asset Management strategy and a range of mechanisms for demonstrating the accountability of parliamentary corporate bodies.

## **E. 2005 – Malta: Workshop on Small Countries Networking for Development**

*Valetta, Malta, 1-4 November 2005*

### **RECOMMENDATIONS**

- (1) ICT should be recognized as an indispensable tool in development processes, which needs to be mainstreamed within all sectors including individual empowerment.
- (2) The report, entitled “The Commonwealth, ICTs and Development”, to CHOGM 2005 prepared by the Commonwealth Action Programme for the Digital Divide (CAPDD), its recommendations and, in particular, the funding proposals set out in the report, should be supported by all Commonwealth Parliaments and governments.
- (3) Given the particular vulnerabilities of small states, especially small island states, as well as the particular opportunities available to them, the CAPDD should, as it unfolds, incorporate a small states and small island states component as they deserve special attention in any pan-Commonwealth programmes.
- (4) Commonwealth agencies should seek programme synergies with regional and development networks including the Caribbean Community, the European Union, the Pacific Islands’ Forum, South Asian Association for Regional Cooperation and the Southern African Development Community.
- (5) The role of Parliamentarians as agents for the mainstreaming of ICTs for development should be recognized by Heads of Government who should encourage CPA co-operation with the CAPDD partners, particularly to promote national and sectoral strategies, and to increase the knowledge base of Parliamentarians through the CPA Working Group on ICT.
- (6) Parliamentarians from across the Commonwealth should take steps to ensure that all relevant knowledge and experience from their own jurisdiction is shared, through appropriate agencies, other centres of excellence and experts, so that a pool of expertise on ICT can be created within the Commonwealth virtual resource network advocated by the CAPDD.
- (7) Parliamentarians should encourage small states to develop the capacity to be able to benchmark ICT against indicators being developed by the Global Partnership on Measuring ICT for Development as mandated by the World Summit on the Information Society Plan of Action, which will bring the issue of ICT and development to a wider global audience.
- (8) Capacity building is given high priority by small states in issues relating to policy development on Internet governance.
- (9) The concerns of small states, and especially small island states, relating in particular to the affordability of access to ICTs, should be taken into consideration in any declaration on these issues emanating from the 2005 CHOGM in Malta to ensure that small states, including small island states, can make full use of these technologies for their sustainable development.

## **F. 2005 – Tonga: A Parliamentary Perspective on Gender Equality**

*Hosted by the Legislative Assembly of Tonga, Nuku'alofa, Tonga, 13 – 14 September 2005*

### **RECOMMENDATIONS**

At the Workshop on 'Parliamentary Perspectives on Gender Equality', held in Nuku'alofa, 13 – 14 September 2005, the participating Members of Parliament and members of the Public Service and Civil Society agreed the following recommendations for action:

1. The Government is requested to initiate the ratification of CEDAW immediately.
2. The Government is requested to consider –
  - Conducting a feasibility study on the various options, including the establishment of a separate ministry, to secure gender equality;
  - Establishing a Ministry for Women;
  - Reserving six seats in the Legislative Assembly as a quota for women at least for the next three elections, to be reviewed after that time; and
  - Changing all laws that discriminate against women and children.
3. All Government ministries are requested to consider exploring the benefits of gender responsive budgeting.
4. Government human and financial resources should be increased for gender equality initiatives and programmes.
5. CPA Tonga Branch should request the CPA Secretariat to hold a Women's Parliament for Tonga in 2006 or as soon as possible thereafter.

## **G. 2005 – Fiji: Workshop on Freedom of Information in the Pacific**

*Nadi, Fiji Islands, 1-2 September 2005*

### **CONCLUSIONS**

(1) More than 40 Parliamentarians, including government Ministers, and senior parliamentary officials from seven Commonwealth Pacific countries met in the Fiji Islands on 1 and 2 September 2005 with a team of experts assembled by the Commonwealth Parliamentary Association to discuss issues related to freedom of information, especially in the context of the specific needs of Pacific societies.

(2) At the conclusion of the Pacific Workshop on Freedom of Information, the following points were drawn up as reflecting the discussions and exchange of ideas between participants:

1. A freedom of information system will above all be aimed at – and beneficial to – members of the public, it is not something only for the media to use. The system must be designed to help members of the public have access to the basic kind of information that they need in their own everyday life, e.g. about the activities of local schools, local hospitals and nearest government institutions.
2. Free public access to information held by government and public institutions is good for economic and social development because it leads to a more efficient economy and better public sector performance, increasing investor confidence in the country's economy and reducing waste and corruption . It also promotes government accountability and public participation in governance and development.
3. The exact details in any FOI law and system are decided by lawmakers to reflect the needs of their countries, and therefore they can differ from country to country. There should not be one single model that can be imposed in all countries. FOI legislation can be designed to reflect both universal principles and local conditions and traditions.
4. In all countries where FOI legislation has been or is being introduced, the process is dependent on the existing environment. In Pacific countries too, the debate on drafting and introducing FOI laws can be complicated by political conditions, e.g. the demands of coalition government or the relationship between the government and the opposition , or between the government and the media . Even where such conditions create difficulties, they should not stop efforts toward greater openness in governance . In fact, greater openness in governance can help solve the underlying problems.
5. In Pacific societies the different cultural sensitivities are highly important and must be taken into account in preparing any FOI legislation but they are not incompatible with greater openness in governance. Cultural concerns can be addressed when drafting legislation by ensuring exemptions protect sensitive information. Also, when applying the law, the 'public interest test' can be defined and applied to take into account cultural sensitivities. Officials can also prioritize 'negotiation' between parties to ensure that sensitivities are properly handled.
6. Any FOI law should be drafted to take into account the linguistic diversity of the country, such as in the case of most Pacific countries, and this could be done, for example, by permitting applications for information to be submitted in different languages and by allowing for translation of information in the public interest.
7. Public institutions like government ministries and Parliaments can gradually take initiatives to improve the flow of information to the public without waiting for FOI legislation to be passed, for example through proactive disclosure of key information of relevance to the public. This will be a first step towards encouraging a culture of openness and educating the public.
8. Lawmakers can also design an FOI system that is gradual and evolutionary by implementing key parts in stages to take into account national priorities and sensitivities, resource constraints

and the importance of long-term bureaucratic culture change. This will also address the issue of the demands and costs of data collection and records management, which are especially important in small and developing countries such as those of the Pacific.

9. Concerns over possible misuse of information released through FOI applications can be dealt with (1) by existing criminal and libel legislation etc. and (2) by having a well thought out regime of exemptions in the FOI law itself.
10. An FOI system can help improve the level of public debate and media reporting in a country by making more facts available to the public, and therefore reducing the risk of debate and reporting being based mostly on rumours and unverifiable allegations.
11. After the adoption of FOI legislation, a specific body – such as an existing oversight body or a new Information Commission or even a government department - can be charged with educating the general public and public officials to facilitate the use of the system. In small countries such as the ones of the Pacific, the role of an Information Commission could be combined with that of another oversight body such as that of the Ombudsman . It is important to devise a system that maximizes efficiency as resources are often scarce.
12. Due to the specific nature of small countries, some conflict of interest might arise when applying the FOI law (processing applications and appeals) but these can be dealt with by referring cases to another senior staff member or another oversight agency.
13. Delegates at the Workshop also discussed whether when drafting an FOI law consideration should be given to permitting access to information held by private bodies (either commercial or non-governmental), at least where those bodies receive any public funds. Pacific countries might consider the different provisions to that effect in the FOI regimes of such Commonwealth countries as South Africa, Jamaica, India and the United Kingdom.
14. The representatives of the different Pacific Countries meeting at the Workshop called on all the relevant Commonwealth bodies and international organizations to provide them with technical and other forms of assistance to help them draft FOI legislation and implement any FOI regime following the passing of such laws by their Parliaments.

## **H. 2005 – Fiji: Government and Opposition – Roles Rights and Responsibilities: Commonwealth Pacific Workshop**

*Nadi, Fiji, 29 – 31 August 2005*

### **OUTCOMES STATEMENT**

#### **Preamble**

The workshop on “Government and Opposition – Roles, Rights and Responsibilities” met at Nadi, Fiji Islands from 29 – 31 August 2005.

It was organised by the Commonwealth Secretariat and the Commonwealth Parliamentary Association in conjunction with the Pacific Islands Forum and the Pacific Islands Association of Non-Governmental Organisations (PIANGO).

The workshop comprised representatives from across the Pacific region drawn from Parliamentarians in government and opposition, members of civil society organisations and people invited because of their expertise or past experience.

We acknowledged that many Pacific nations are in a time of change or transition. We talked about the problems and challenges the region faces.

After a rich experience of three days together, we leave with a sense of purpose and in a spirit of hope, and put forward the following outcomes.

### **OUTCOMES**

- Recognition and commitment by all members that both government and opposition have inter-related roles in the democratic system of governance and accountability .
- Poor/ineffective governance has negative economic and social consequences. Democracy also has a cost and a responsibility to deliver peace, order and good governance for all citizens.
- There is a need to translate regional good intentions into national good practices.

#### **Governments**

- A key objective of government is to deliver services to citizens.
- Governments need to govern in the interest of ALL people, rather than simply those who supported the victorious party/candidate.
- Governments govern within a mandate based on policies articulated prior to the elections. Where coalitions with other parties are necessary, it is important to be conscious of the mandate within which the government was elected.



- It is important to recognize that the concepts of 'power' and 'prerogative' are key elements of governing but they must be guided by vision, passion and courage.
- Governments must be willing to accept legitimate oversight .

### **Effective Opposition**

- The Opposition is the first line of accountability in a parliamentary system.
- Oppositions must offer a credible alternative.
- It is important to have an appropriate allocation of resources to oppositions by way of finance, personnel, etc to ensure a viable opposition in parliament .
- Gagging of legitimate opposition is inappropriate and a breach of human rights
- In many Pacific countries, the concept of parliamentary opposition is relatively new. However, the concepts of debate and dissent were also legitimate to consensus-based traditional/ customary decision-making processes.

### **The Challenge of Leadership**

- A good leader has the ability to adapt historical values to new challenges.
- Persuasion is superior to control. Persuasion requires the building of relationships of trust.
- Importance of honesty and integrity.
- Leadership and its challenges exist at all levels in society from village to nation. Within the Pacific there are particularly strong traditional/customary leadership systems.
- Each country needs to draw on its own experiences and develop its own system of leadership.

### **Traditional/Customary Leadership and Democracy**

- Traditional/customary leadership has a role in Pacific democracies, but not at the cost of compromising fundamental principles of the rule of law, individual rights, liberties and freedoms. A balance must be found between such leadership and elected representation.
- Traditional/customary leadership and democracy may make uneasy but not hostile bedfellows.
- Traditional/customary values which are accepted by the people should be taken into account in building democracy.
- Traditional/customary leadership in the Pacific has tended to be male dominated and reserved for the older generation. This needs to be addressed.

- The survival of traditional/customary leadership will require its members to demonstrate relevance, inclusivity and adaptability, including to democratic values.
- **Elections and Electoral Systems .**
- Electoral systems need to be simple and easily understood and accepted by the electorate.
- Appropriate electoral education is essential for empowering voters .
- Both the vote and the count must be fully transparent and observable.

### **Political Parties and Elections**

- Political parties in the Pacific must be allowed to develop naturally as appropriate.
- Political parties should ideally provide clear political structures and policies.
- Political parties have a responsibility to choose the best possible candidates and build up the capacity of serving parliamentarians .
- Political parties must themselves be transparent and accountable , including in financing and expenditure.

### **Reforming Parliaments**

- The ‘traditional’ Westminster system is not necessarily the most appropriate for the Pacific. The region needs to develop democratic systems appropriate to size of country/population and stage of development, while maintaining fundamental democratic principles.
- It is essential to preserve the independence of Parliament through establishment of independent financing.
- Parliamentarians must be appropriately remunerated and resourced to ensure that they can carry out their duties properly and to provide an incentive to attract the best people to serve.
- Both government and opposition members must recognize that they are all members of Parliament and owe loyalty to the parliamentary process .
- The impartial role of the Speaker in facilitating debate between government and opposition is crucial.

### **Accountability: Oversight Institutions, CSOs and the Media**

- Oversight institutions such as the Ombudsman’s Office and Public Accounts Committees are crucial to transparency in government and should be supported and appropriately resourced.
- CSOs need to be credible, transparent and accountable to their members within an enabling legal framework.

- CSOs have a legitimate role in scrutinizing both government and opposition and raising issues of concern to their members and the broader society.
- While not an oversight body, the media has a legitimate role in promoting transparency and accountability in the political process.
- Development of a free, independent and responsible media is an essential part of maintaining a transparent and dynamic political environment.
- A code of leadership can assist in promoting accountability amongst leaders in the region, and should be supported.

### **The Broader Context: Youth, Gender and Human Rights**

- Human rights, including of women, workers, youth, minorities and other relevant groups, are fundamental to democracy and good governance.
- Parliamentarians, political parties, CSOs and relevant statutory bodies should address ways to pave the way for gender balance at all levels of the political process.

# **I. 2005 – Tanzania: Study Group on the Financing and Administration of Parliament**

*Zanzibar, Tanzania, 25-29 May 2005*

## **RECOMMENDATIONS**

### **(1) The Independence and Integrity of Parliament**

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

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

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

### **(2) The Governance of Parliament**

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

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

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

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

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

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

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

### **(3) Financial Independence and Accountability**

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

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

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

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

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

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

#### **(4) Parliamentary Service**

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

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

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

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

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

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

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

#### **(5) Public Accountability**

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

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

(5.3) Parliaments should develop programmes to promote the general public's understanding of the work of the Legislature and, in particular, to involve school children in increasing their awareness of citizenship issues.

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



**DFID**

Department for  
International  
Development



## **J. 2005 - Sierra Leone: Workshop for the Sierra Leone CPA Branch to Strengthen Legislatures in Commonwealth West Africa**

*Freetown, Sierra Leone, 22 to 25 February 2005*

### **KEY POINTS FOR ACTION**

#### **Parliamentary Oversight**

1. A Parliamentary Commission, independent of the Executive should be established to determine the welfare, facilities, training and other needs of Members and staff of Parliament to ensure effective legislative work, including oversight
2. Training workshops should be organized for the three arms of Government so they can better understand each others roles and responsibilities
3. Members should be allowed to vote freely in the House without having to adhere to provisions in the constitution disallowing Members from voting with other parties
4. Civil servants should be professional and neutral
5. Parliament should encourage the public, media and civil society to take keen interest in its work
6. The media should accurately publicize the work conducted in Parliament
7. International organizations like CPA should facilitate access to and exchange of information so as to bridge the digital divide between information rich and information poor legislatures

#### **The Role of Parliamentarians in Combating Corruption**

8. Strengthen the human and institutional capacity of the Auditor-General's office for effective and timely execution of its duties
9. The Auditor-General's reports should be submitted to Parliament within the specified constitutional provision
10. Existing conditions should be improved to allow the judiciary to decide on matters before the courts in a timely fashion
11. Members should continually examine existing anti-corruption legislation to determine if it is still relevant
12. Parliament by working together with civil society, the media and state actors can help to combat corruption

13. Parliamentarians should work with international and regional organizations such as GOPAC and others in their effort to combat corruption

### **The Role of Members of Parliament in drafting and Scrutinizing Legislation**

14. Parliamentarians should be encouraged to initiate legislation through the Private Members Bill
15. Parliamentarians should use the committee process to recommend amendments to Bills that are under consideration
16. Given the complexity of drafting legislation and the limited expertise of Members and staff of Parliament in drafting, a parliamentary drafting office should be established and appropriately staffed and equipped to assist members in formulating bills
17. Parliament should endeavour to publicize the legislation it passes and consideration should be given to:
  - i. establishing a Public Relations Office
  - ii. designing a website for Parliament
  - iii. devising a strategic information technology plan which will eventually lead to a fully integrated E-Parliament
  - iv. National radio and TV stations dedicating a programme to “Parliament at Work”

### **Parliamentary Oversight Mechanisms and Poverty Reduction Strategy Paper (PRSP) Monitoring**

18. Parliament should be well-informed about the PRS programme to allow it to effectively monitor its implementation
19. Parliament should devise an oversight programme for good governance to be included as a key component of the next PRSP (2005-2007) and request the Development Assistance Co-ordinating Office (DACO) to provide technical assistance
20. There must be a linkage between the Inter-Ministerial Committee (IMC), other monitoring agencies and the Parliament
21. Under the PRS programme cycle Parliament has a key role to play in budget allocations as it determines inputs and activities

### **Financial Scrutiny of the Executive: Parliament and the Public Accounts Committee**

22. The PAC should be able to hold hearings on budget matters throughout the financial year
23. Oversight Committees should also be able to review activities and budgets throughout the year
24. Meetings of the PAC should be open to the public and the media. From time to time, the PAC should organise press conferences and public hearings
25. Parliament should make available to the PAC adequate space and a team of well-trained staff
26. There should be a follow-up mechanism to determine the Executive’s compliance with any recommendations in the report of the PAC

### **Parliamentary Responses to Human Trafficking**

27. Parliamentarians have to monitor, evaluate and exchange information on human trafficking between regions, countries and international agencies



## **K. 2005 - Ghana: Workshops to Strengthen Legislatures in Commonwealth West Africa**

**Ghana, 11 – 14 FEBRUARY 2005**

### **OBSERVATIONS**

#### **PARLIAMENT AND ITS ROLE IN THE BUDGET CYCLE**

1. The legislature has a role to play throughout the budget cycle. Parliament's role of scrutinizing and approving the budget after its presentation to the House should not be seen as the last step in the budget process, especially because Parliament currently does not make much impact at this point, instead it should be seen as a first step in the budget process which should continue with constant monitoring and evaluation.
2. It is important for Parliament to exercise its mandate as stated in the 1992 constitution. The standing orders of Parliament, which exist to guide Parliament's work, should be reviewed to ensure that Parliament exercises its powers.
3. The Ghana Poverty Reduction Strategy (GPRS) serves as the broad policy framework for Ghana but experiences shared by former Members of Parliament show very little relationship between the GPRS and the budget. As representatives of the people, Members of Parliament have a role to play to ensure that the needs of the poor are adequately catered for.
4. Access to relevant, timely and up-to-date information is a challenge. Parliament should ask for the inclusion of an index providing data highlighting pro-poor indicators, in addition to the macro economic indicators when the budget is presented. Demand should also be made for complete information showing actual expenditure for the previous year.
5. Parliament is under resourced and this impacts negatively on its work. Parliament therefore needs to take action to ensure it is properly budgeted for, as well as develop strategies to improve its link to Civil Society Organisations (CSOs), research institutions and development partners.
6. Parliamentary committees are really important for effective oversight of the executive in democratic governance. Members of Parliament should be assigned to committees based on their area of expertise but equally important is the need for Members of Parliament to keep abreast with national and international developments especially those that are central to the work of committees they serve on.
7. The Public Accounts Committee needs to look at current spending issues not just those from previous financial years. The relationship between the Public Accounts Committee and the Auditor-General's department needs to be strengthened. The challenge of late presentation of the Auditor-



General's reports needs to be addressed and value for money audits should be sustained. Strategies need to be developed to ensure implementation of Parliament's Instructions.

## **PRO-POOR AND GENDER-SENSITIVE BUDGETING**

8. The budget has traditionally over-concentrated on macro-economic situation, broadly reviewing sectoral performances and projections for the ensuing year. It does not reflect employment and unemployment issues, but focuses more on the private sector through regulatory framework. Participants suggest that budget needs to go beyond the provision of regulatory environment.
9. Members of Parliament stressed the need for bipartisan recognition that the problem of poor economic performance over the years (especially as revealed by the non-micro economic indicators) is not limited to any one political regime.
10. Members of Parliament were unanimous that there is need to have reliable, accurate and timely relevant information for both budget formulation and for members own use to debate budget statement.
11. Members also agreed on the need for institutional capacity improvement of the National Development Planning Commission and Statistical Services Department to generate more analytically relevant data. Consistency in methods of calculating micro-economic indicators, such as inflation and the avoidance of anecdotal and selective use of the data was a general concern.
12. The discussion on gender analysis and gender budgeting provoked a critical interest among Members of Parliament on how budgets differently affect women and men. It was recognized that there is need for gender sensitive budget, although with some degree of uncertainty among some male participants as to how budgets actually negatively affected women disproportionately.
13. Members of Parliament agreed that gender is a development issue and urged that gender advocates needed to help clarify/differentiate gender from feminism, which could be misconstrued for antagonism between women and men.
14. There is a need to disaggregate data according to gender.
15. There is degree of gender analysis of poverty situation by the GPRS; for example, the GPRS notes that poverty is predominantly a feminine phenomenon. There is however weak link between the GPRS and the budget as there is hardly any statement on gender, and an over emphasis of micro-economic indicators.

## **CIVIL SOCIETY AS A PARTNER IN OVERSIGHT**

16. It is crucial to develop mechanisms and means that ensure community involvement in governance related issues. Our current governance structure has weak mechanisms for the participation of the poor.
17. CSO-led monitoring is an effective tool but there is the need to build the capacity of CSO to achieve its full potential.
18. Accountability is undermined by poor governance practices and current communication systems are very weak. The poor in Ghana must exercise their right and have access to information as well as a platform for contributing to policy-making processes.
19. Collaboration between Parliament and CSOs needs to be developed. CSO advocacy strategies could include CSO presentations to parliamentary committees, joint monitoring activities between parliamentary committees and CSOs, presentation of memo to committees and making inputs to inform MPs' questions to Ministers.

20. For effective oversight of the executive there is the need for strong collaboration between parliamentary committees especially PAC and the Audit Service and the functions of the Auditor-General should remain independent.

## **L. 2005 – India: Study Group on the Role of Parliamentarians in Combating the HIV/AIDS Pandemic**

*New Delhi, India, 31 January – 5 February 2005*

### **RECOMMENDATIONS**

#### **(1) What Should Parliamentarians Do?**

- a) Ensure that they are informed about HIV/AIDS, act as advocates for those infected and affected and demonstrate an openness of approach in dealing with HIV/AIDS.
- b) Vocalize to reduce stigmatization, social taboos and discrimination by helping to make HIV/AIDS a visible issue and addressing the myths and facts of HIV/AIDS.
- c) Address poverty issues that are intrinsically linked with HIV/AIDS.
- d) Visibly demonstrate their political will and commitment to ending HIV/AIDS.
- e) Encourage Parliamentarians and others to join national HIV/AIDS bodies and provide support.
- f) Involve faith-based organizations, non-governmental organizations and community-based organizations in addressing the issue of HIV/AIDS.
- g) Involve people in decision-making, especially vulnerable and marginalized groups.
- h) Encourage the use of peer counsellors to facilitate access to information.
- i) Effectively utilize parliamentary processes to provide for increased accountability.
- j) Establish all-party groups or caucuses on HIV/AIDS.
- k) Sign up to a creed of best practice for combating HIV/AIDS and countering stigmatization and discrimination; and
- l) Support the Commonwealth Youth Programme's Positive Living Ambassadors Initiative.

#### **(2) What Should Legislatures Do?**

- a) Promote HIV/AIDS education for: (1) Parliamentarians, (2) Constituents and communities, especially young people and those most vulnerable, and (3) School children, especially by ensuring that HIV education is included in the national curriculum.
- b) Establish a select/standing committee on HIV/AIDS and receive a report from the committee on at least an annual basis.
- c) Ensure that governments implement a multisectoral approach to combat the negative effect on the sustainability of economic and social development.
- d) Act as resource mobilizers.
- e) Address gender issues including: Gender-based violence, Empowerment of women, Human trafficking and exploitation and The role of men and boys.
- f) Monitor and evaluate the government's role in capacity building, especially: Improving the public health service and, particularly, the primary healthcare sector, Providing safe blood transfusion, voluntary counselling and testing, lifelong antiretroviral therapies and the management of opportunistic infections and Investing in human capital and encouraging the retention of trained professionals, especially in healthcare.
- g) Ensure adequate social security, social services and education for AIDS orphans and people living with AIDS.
- h) Ensure that a legal framework is in place to protect human rights, especially those infected and affected by HIV, and that international conventions are both ratified and complied with.
- i) Encourage the integration of HIV-related services into existing infrastructures.
- j) Encourage research work on HIV/AIDS and especially its human capital, social and economic impacts.
- k) Work with international agencies, including the World Bank and the Parliamentary Network on the World Bank, to ensure greater transparency and effectiveness of operation.
- l) Legislate for rights-based and gender-sensitive non-discrimination and equality policies and review existing legislation, particularly with regard to AIDS orphans, employment, family property rights, gender-based violence, sexuality and HIV in the workplace.

- m) Put in place audit and mechanisms to ensure that governments spend efficiently all the money they commit.
- n) Audit and debate the government's support for the Millennium Development Goals.
- o) Encourage parliamentary committees to liaise effectively with local government, charities, non-governmental organizations, community-based organizations, faith groups and other bodies.
- p) Ensure that care for both parents is provided as part of the response to mother-to-child transmission.
- q) Ensure that the rights of HIV-positive people undergoing clinical trials are protected.
- r) Legislate against the malicious transmission of HIV.
- s) Promote the provision of medicines that are either free at the point of delivery or affordable; and
- t) Encourage the establishment of formal training programmes in infectious diseases, especially HIV medicine, particularly for those working in public healthcare.

### **(3) What Should the CPA Do?**

- a) Establish a Working Group, from Members of this Study Group, to address the progress of Parliamentarians in the fight against HIV/AIDS and to report in 12 months and, in particular: (1) To look at action taken by Parliaments and governments on the above recommendations, (2) To update the report of the Study Group and (3) To elicit responses from governments.
- b) Devote a workshop at the 51<sup>st</sup> Commonwealth Parliamentary Conference in Fiji Islands in 2005 to "The Role of Parliamentarians in Combating the HIV/AIDS Pandemic".
- c) Request that Branches send the Members of this Study Group as part of their delegations to the Commonwealth Parliamentary Conference in Fiji to ensure continuity of action.
- d) Request CPA representation at the International HIV Conference in Canada in 2006.
- e) Exchange resources amongst Members of Parliament and parliamentary staff interested in HIV/AIDS to improve skills and knowledge.
- f) Make HIV/AIDS a visible issue.
- g) Survey Branches on what is being done to combat HIV/AIDS within Commonwealth Parliaments.
- h) Provide examples of draft questions and motions on HIV/AIDS.
- i) Facilitate the creation of a creed of best practice for combating HIV/AIDS and countering stigmatization and discrimination.
- j) Ensure that the specific challenges and needs of small and vulnerable states are addressed.
- k) Work with existing and potential partners, such as the World Bank and the Parliamentary Network on the World Bank, to build the capacity of the Association to support the work of Parliamentarians in combating HIV/AIDS and fighting the associated stigmatization and discrimination; and
- l) Develop a programme of work that draws connections between HIV/AIDS and the Association's support for poverty-reduction projects.

## **M. 2004 – Cameroon: Workshops to Strengthening Legislatures in Commonwealth West Africa**

*Parliament of Cameroon, Yaoundé, Cameroon, 8-13 November 2004*

### **CONCLUSIONS**

Practices to improve the effectiveness of Parliament and enhance the roles of Members in developing their societies, expanding their economies and reducing poverty were put forward by Members at the Commonwealth Parliamentary Association's West African Parliaments Programme workshop in Cameroon. Meeting in the Chamber of the National Assembly in November in Yaoundé, Cameroonian Parliamentarians and discussion leaders from the Parliaments of Ghana, Kenya, Uganda and Quebec underlined the value of certain procedures in empowering Parliaments and enabling Members to contribute to national development.

While recognizing that strengthening the parliamentary process takes time and that each Parliament will evolve differently to reflect the Commonwealth's cultural diversity, Members agreed that Parliamentarians must be courageous in pressing for new parliamentary and economic programmes to improve the lives of their people.

#### **(1) Parliament and the Budget Process**

Annual budgets are best formulated by governments following broad consultation with Parliamentarians and members of civil society, including representatives of interest groups, from all regions of the country.

To contribute fully to the budget process, Parliaments must have adequate time to debate government spending plans in the Chamber and in committee, they must be able to change government spending and priorities, and they must also have full access to Ministers and their civil servants who are required to provide detailed explanations of past expenditure performance and future spending plans.

Parliaments should establish budget review offices staffed by trained personnel able to provide Members with independent analysis and advice about government spending plans. Such offices and their staff must be independent from the executive and answerable only to Parliament.

Parliamentarians must ensure that national budgets treat all regions of the country equitably, avoiding the appearance and the reality of spending based principally on political patronage or favouritism. The use of constituency-based spending programmes was applauded as a valuable mechanism to ensure every corner of the country sees tangible benefits from each national budget. Such programmes, directed through the office of each constituency's Member of Parliament, empower local communities to work with their Parliamentarian to identify and implement small-scale programmes to establish or maintain such essential local services as roads, water supplies, education and health care.

Members must scrutinize Finance Bills closely to ensure they conform to stated policies and do not contain unannounced increases or reductions in spending.

#### **(2) Parliamentary Oversight of the Executive**

It must be recognized throughout society that it is the legitimate responsibility of Parliament to oversee the executive in addition to its duty to pass legislation.

Parliament must have, and must exercise, the right to demand written and oral information from the executive, to compel testimony, to require the executive to comply with its decisions and to remove the executive if it fails to comply. Information must be supplied in a timely fashion and committees must be

able to carry investigations over from session to session so the executive cannot evade scrutiny by providing information at the last minute.

The rights of Members, including special provisions for opposition Members, to scrutinize the executive and present other policy options should be enshrined in Standing Orders. These should include such procedures as questions, motions, resolutions and the raising of urgent matters.

Ample time must be provided after the introduction of legislation so Members can consider its contents and research its possible ramifications before beginning debate. Ministers should be encouraged to organize seminars for all Members so experts can explain particularly important or complex legislation. Parliaments should have the right to delay the passage of legislation about which they have reservations.

Parliamentary committees should be empowered to scrutinize fully the performance of all ministries, with no exclusions. Membership of the committees should reflect the main shades of opinion in Parliament and include Members of both genders; however, Ministers should not chair committees and should not serve on committees which scrutinize their departments.

Committee meetings should be open to the public, and especially to the media; but committees should be able to sit in camera to consider confidential or sensitive intelligence information. Disputes between the executive and a committee over whether information should be withheld in the national interest should be referable to an impartial adjudicator, such as the Speaker or a senior judge.

Committees should have the right to question Ministers and report their findings to Parliament. Committee Members who dissent from reports should have the right to report their disagreement to the House.

The executive should refrain from abusing the sub judice rule by initiating court actions to pre-empt or stop parliamentary inquiries.

Committees should have access to specialist research and administrative support staff who are employees of Parliament, not the civil service, so they provide Members with independent advice and support. Committees could also use research provided by non-governmental organizations and other civil society groups, and a number of committees could hold joint inquiries into issues which cross departmental lines.

Parliaments and parliamentary committees must publicize instances of executive errors or omissions to inform the public about their work and to deter the executive from future lapses. The role of the media in also exposing executive failings should be respected.

### **(3) The Public Accounts Committee and the Auditor-General**

The Auditor-General should be appointed by Parliament, report to Parliament and be answerable only to Parliament. If the appointment of the Auditor-General, or of other post holders such as an ombudsman, is made by the head of state or head of government, the independence of those office holders should be subsequently guaranteed and they should be answerable only to Parliament.

The Auditor-General's office should be adequately staffed by qualified accountants, lawyers, economists and other professionals who are employed by the Auditor-General, not by the executive.

The Auditor-General's reports should be considered by the Public Accounts Committee, which should have the right to question the Auditor-General, Ministers and civil servants on issues identified in the reports.

Public Accounts Committees normally should meet in public and should be chaired by a Member of a minority party.

The Public Accounts Committee and Parliament should be able to direct the Auditor-General to conduct specific audits in addition to the usual audit of every government account.

The spending of the Auditor-General's office should also be subject to an independent annual audit.

#### **(4) The Role of Parliamentarians in Combating Corruption**

Recognizing that corruption undermines democracy, saps the resources of the state, retards development and perpetuates poverty, Parliamentarians must take a lead in the war on corruption by behaving with honesty and integrity at all times, by ensuring the political will exists to identify and punish corruption without partisan considerations, and by using their high public profile to help lead a nationwide campaign against public acceptance of the culture of corruption.

Parliaments must legislate to make the payment and the receipt of illicit funds illegal, to provide stiff punishment, including restitution, confiscation of assets, imprisonment and bans on holding future public offices, and to rehabilitate offenders. Public service and judicial corruption should be an instantly dismissible offence. Legislation must also enable governments to trace and reclaim illicit funds from foreign banks, taking advantage of banking disclosure regimes now being put in place in foreign banking centres. Parliaments must also ensure the laws are fully enforced.

Public disclosures of assets must be made annually by all in the public sector, including the Head of State, Ministers, Parliamentarians, the judiciary, the police and all officials of parliamentary and the public services, their spouses and dependents. Disclosures must be open to the public and must be challengeable so the holders of public office are required to explain unusual changes in their holdings. Annual public comparisons should be made of disclosures to reveal any changes in assets. Refusal to disclose and the filing of false disclosures should be punishable by imprisonment.

Limits should be placed on the value of gifts which can be accepted by Ministers and Parliamentarians.

Parliaments must legislate to protect and reward whistleblowers and must ensure that watchdog committees and public service investigators do not become complacent or ineffective.

Anti-corruption commissions should be established as independent offices separate from all government ministries.

Judicial appointments should be vetted by Parliament to ensure lawyers do not bribe their way onto the bench. Judges dismissed for corruption should not be licenced by law societies to run their own law practices in future.

Parliamentarians must both pass and participate in public education programmes to counter the culture of corruption. Education systems should teach that corruption is wrong and robs governments of the resources needed to finance essential services. Community groups and civic leaders should join with Parliamentarians in public campaigns to reverse the view that corruption is inevitable or acceptable. Knowing about corruption and doing nothing demonstrates acceptance and should therefore be regarded in the same light as committing a corrupt act. Generating public opinion against corruption will create a society of anti-corruption watchdogs.

Electoral fraud, selling preferred access to government services and supplies and receiving financial or other favours for high academic grades are also examples of corruption which must be stopped. Electoral fraud not only cheats the electorate, it also encourages young people, who are often pawns in electoral deceptions, to believe all forms of corruption are acceptable.

Parliamentary, judicial and public service salaries and pensions should be sufficient so office holders are not easily tempted by corruption or forced into it by necessity.

#### **(5) Involving Parliament and Parliamentarians in Formulating and Overseeing Poverty Reduction Strategies**

Parliament's initial role in the formulation of its national Poverty Reduction Strategy Programme (PRSP) is to make use of its existing lines of communication with the executive and the public to articulate the needs of its citizens and help the government to diagnose development problems, identify targets and set priorities so its PRSP is country-specific and its terms are not dictated by outside agencies.

Parliaments should evaluate PRSP agreements signed by governments to ensure they respond adequately to overall development targets and priorities and to the Millennium Development Goals. Parliamentary ministerial committees can work usefully in this area by analysing needs, applying their specialist knowledge, taking the time necessary for full assessments and holding public hearings to involve non-governmental organizations and other representatives of civil society in the formulation process.

Individual Parliamentarians should speak out strongly for the inclusion in the PRSP of the poverty reduction programmes needed for their areas.

Parliament's broader role of contributing to the good governance of the country will conserve resources needed for poverty reduction and reassure the international community that the PRSP and other programmes are being run properly and are involving all sectors of the community.

As well as ensuring that PRSP enabling legislation and budget allocations meet the programme's targets and policy commitments, Parliaments should oversee spending to ensure the best use of resources and assess the implementation record of the political executive and the civil service administration, placing its evaluations on the public record. Parliaments should watch especially for defects in executive plans and performance, maladministration by the civil service and differences between policy plans and budgeted and actual spending.

In the longer term, Parliaments should track poverty indicators over the life of a PRSP to determine the accuracy of the diagnosis of the causes of poverty and the effectiveness of the policies and their implementation. As PRSPs are cyclical, Parliament should assess programmes within the PRSP timeline and must be accorded the time to complete its review in the relevant period.

Parliamentary committees are best able to monitor outcomes, evaluate performance and ensure that implementation is carried out in an accountable and transparent way. Committees should work in as non-partisan a way as possible and should investigate fully the effects of all aspects of government programmes, including such areas as spending, legislation, regulations and statutory instruments.

#### **(6) Members of Parliament: Roles, Responsibilities and Support**

Members must recognize that their foremost responsibility is to the people rather than to their parties, their governments or their own future prospects and they must be prepared to criticize and oppose when the interests of their people are at stake.

Parliaments should supply, to the best of their ability, adequate staff and facilities so each Member can perform his or her duties both in Parliament and in the constituency. Members should have access to research specialists as well as administrative support, and facilities should include computers and Internet access. Parliamentary staff must be separate from the government service so they are free to provide independent advice.

Parliaments should put in place training programmes to indoctrinate new Members in parliamentary practice and procedure and should take advantage of professional development programmes offered by various international organizations, including the CPA's Post-Election Seminar programme.

Members should be paid adequate salaries to enable them to perform their parliamentary duties on a full-time basis.

Moral issues should be subject to a free vote to enable Members to exercise a conscience vote.

Once elected by Parliament, the Speaker should be independent of partisan considerations and act in a completely impartial manner to protect the rights and privileges of Parliament and of its Members, especially the rights of minority parties and independents.



## **N. 2004 – Sri Lanka: Study Group on the Role of Parliament in Conflict-Affected Countries**

*Hosted by CPA Sri Lanka Branch, Colombo, Sri Lanka, 25 – 29 October 2004*

### **STUDY GROUP OBSERVATIONS**

#### **1. PARTICIPATION, REPRESENTATION AND RECONCILIATION**

- Parliament has a role to play in transforming potentially violent conflict into a non-violent policy dialogue aimed at creating a national consensus, thereby contributing to the peace-building process.
- The electoral system adopted by a nation will determine the nature of representation and the framework by which divergent groups can participate in decision-making. It is imperative that minority groups are adequately represented in Parliament as their inclusion in decision-making will assist conflict management and increase the chance for peace. As such, electoral systems should be designed to ensure Parliament is as representative of the population as possible.
- Parliament has an opportunity to participate in international initiatives and processes, such as the country-driven Poverty Reduction Strategy Process, in addition to the Millennium Development Goals. Such initiatives provide a good opportunity for Parliaments to engage more effectively in mitigating conflict situations within countries by monitoring the implementation of poverty reduction strategies. Parliaments are able to achieve this by representing stakeholders effectively, listening to their concerns and by providing recommendations to decision makers on policy adjustments in line with budget constraints. Furthermore, Parliamentarians can help prevent conflict by ensuring the inclusion of socially vulnerable and marginalized groups – who are often more likely to be affected by conflict.
- Adversarial politics can impede reconciliation and, where possible, more consensus-based decision-making should be encouraged in an attempt to build bridges between parties with conflicting interests.

#### **2. LEGISLATION AND OVERSIGHT**

- Parliament has a vital oversight and accountability function, and should be resourced adequately to ensure that it can perform this important function.
- The best means of providing oversight and facilitating participation is by strengthening the Parliamentary committee system.
- There is no single model for the conduct of Parliamentary committees; with some countries having the committee structure entrenched in their constitutions, whilst others have sectoral committees and other countries have provision to instigate specialized public interest committees. Irrespective of the form of the committee structure it was generally agreed that Parliament, as the representative of the people, should be free to question anyone from the government agencies.
- Whilst respecting that every Parliament has the right to establish the committees of their choosing, there are committees that are essential if Parliament is to fulfil its oversight function and encourage peace and stability. The committees are the *Public Accounts Committee* or equivalent, in order to provide oversight of the budgetary process, and a committee or committees that provide oversight of the security sector so as to strengthen civilian control of the military, police services and intelligence sector.

- In addition to the committee structure, Parliament can provide effective oversight by facilitating the establishment of accountability institutions such as the office of the Auditor-General and Ombudsman, Anti-Corruption Commissions, Freedom of Information Officers and Human Rights Commissions.

### **3. DIALOGUING WITH CIVIL SOCIETY AND A FREE MEDIA**

- Civil society makes an important contribution to conflict prevention. Although, unlike Parliament, civil society groups are not elected they nevertheless derive their membership from the public and are a reservoir of knowledge.
- Parliament should be prepared to engage more readily with civil society to encourage a two-way flow of information and should support efforts to ensure civil society participation.
- A free, fair and responsible media plays an important role in disseminating information, providing accountability and assisting Parliament build a dialogue with the community.
- It is a matter of concern that, in some countries, state media enjoyed a monopoly on the flow of information. State funded media agencies should not be an extension of the ministry of information, rather should be administered with a public service charter. Furthermore, a diverse and responsible media sector should also be encouraged.
- In recognition of the special role the media plays in a democracy and in the peace-building process, Parliaments should endeavour to facilitate the media's work by encouraging the introduction of right to information legislation, ensuring freedom of speech and freeing up restrictions on public service broadcasting.

### **4. THE ROLE OF POLITICAL PARTIES AND THE OPPOSITION**

- The opportunities for opposition parties to contribute to peace-building differ widely depending on the circumstances.
- In situations where a country is affected by violent conflict, Parliamentarians have the potential to act as a bridge between the conflicting parties and the government. In this way opposition Parliamentarians may be able to instigate confidence-building measures, which are an essential pre-condition to bringing conflicting parties to the negotiating table.
- Both government and the opposition could contribute to ending violent conflict by working together to develop an approach to resolving the violent conflict across party lines.
- Opposition Parliamentarians could contribute to peace-building in situations where there is not violent conflict. Opposition Parliamentarians are able to reach out and speak to people in their districts directly and where appropriate forgo acrimonial politics in an attempt to develop a national consensus and reconciliation.
- Opposition parties have an essential part in the Parliamentary process.

### **5. PROMOTING SOCIO-ECONOMIC EQUALITY**

- Conflict can arise out of competition for scarce resources or when the proceeds of good governance are not allocated in an equitable fashion. To this end, Parliamentarians should encourage policies that address unequal social investments in order to achieve equality of opportunity and take affirmative action in favour of disadvantaged groups.
- Parliament can seek to mitigate conflict over resources by promoting a dialogue and facilitating third party mediated talks between stakeholders whose interests' conflict.
- Demand for resources often exceeds supply. In such circumstances Parliamentarians can seek to ameliorate the concerns of those adversely affected by promoting a dialogue with their constituencies to explain the reasons behind the allocation of resources.

## **6. RULE OF LAW**

- Parliament, to be effective in conflict resolution, must give full effect to its status as a rule of law institution central to the constitutional order. In all of its activities, including discharging its oversight and legislative functions, it must strengthen the rule of law by strengthening judicial independence and ensuring executive accountability.

## **7. DECENTRALISATION**

- There have to be clear reasons for commencing a decentralization process and these reasons should be kept in mind when developing a decentralization strategy.
- Decentralization, whether in the form of federalism, devolution or administrative decentralization, can contribute to promoting participation, accountability and responsiveness, whilst aiding conflict resolution.
- Fiscal relations are at the core of any decentralization process and these issues need to be clarified in order facilitate successful implementation and reduce the potential for conflict.

## **8. REGIONAL PARLIAMENTARY PEACE-BUILDING**

- Parliamentarians are urged to forge regional relationships, either by developing informal networks, joining inter-Parliamentary associations or participating in regional institutions.
- There are some challenges with developing regional relationships, in particular duplicating efforts and diverting scarce resources away from other priority areas. Those challenges should be taken into account, but should not hinder the development of regional relationships.

### **Follow-Up**

The Study Group recognizes the importance of capacity building of Parliamentarians. Members acknowledge the importance of professional development programs and request the CPA and WBI include a focus on the subject matter of this Study Group in future professional development programs.

CPA and WBI will keep Study Group members informed about deliberations at the global conference at Wilton Park, which will be organized jointly by CPA and WBI.

## **O. 2004 - Nigeria: Workshops to Strengthening Legislatures in Commonwealth West Africa**

*Abuja, Nigeria, 19 – 22 OCTOBER 2004*

### **KEY POINTS FOR ACTION**

#### **1. THE NATIONAL ASSEMBLY AND THE BUDGET PROCESS**

- Members must take seriously their responsibility for oversight and authorisation of the Executive's Budget
- Members should receive briefings during the drafting process and there should be a formal consultation between the Executive and the National Assembly
- Parliamentarians should monitor execution of the Budget and should approve any additional appropriations
- The National Assembly should have a Budget Office accountable to the National Assembly Services Commission and equipped with full research capability
- There should be an organic Budget Law
- The National Assembly should consider streamlining and fully staffing the Committee structure

#### **2. ASSEMBLY OVERSIGHT OF THE EXECUTIVE**

- The National Assembly should vote itself funding independent of the Executive and should be exclusively responsible for the financial management of the National Assembly
- A mechanism should be developed for coordination between the National Assembly Services Commission and the Executive

#### **3. THE PUBLIC ACCOUNTS COMMITTEE AND THE AUDITOR-GENERAL**

- The Public Accounts Committees should review the budget of the Auditor-General's office to ensure that the Executive is providing adequate resources
- The National Assembly should encourage peer reviews of the Auditor-General's office
- All management letters from the Auditor-General, and responses, should be forwarded to the Public Accounts Committees
- The Auditor-General should be autonomous and must report to the National Assembly

#### **4. THE ROLE OF PARLIAMENTARIANS IN COMBATING CORRUPTION**

- Parliamentarians must take the lead in demonstrating the political will in the fight against corruption and must work together with the Executive, the Judiciary, political leaders, political parties, civil society, donors and the police
- The National Assembly should give prompt attention to the passage of the Fiscal Responsibility Bill, the Procurement Commission Bill and the Freedom of Information Bill
- The National Assembly should show leadership in legislating on political party and campaign finance through sponsorship of an all-party Bill
- Parliament should re-examine and, where necessary, amend the anti-corruption laws to reinforce the powers of anti-corruption agencies
- The National Assembly should pass a resolution calling on the International Community to support Nigeria's efforts to ensure repatriation of the proceeds of corrupt practices
- Parliamentarians stressed the strong linkage between poverty and corruption: poverty helps to entrench corruption and corruption deepens poverty

#### **5. ENGAGING NATIONAL ASSEMBLY MEMBERS IN THE NATIONAL ECONOMIC EMPOWERMENT AND DEVELOPMENT STRATEGY (NEEDS)**

- Standing Committees must monitor the budget allocations against NEEDS
- Parliamentarians must scrutinise existing legislation against NEEDS and enact new legislation to implement NEEDS
- The National Assembly will insist on debating the reports by the National Planning Commission on NEEDS progress
- The National Assembly must exercise oversight of all public bodies responsible for implementing NEEDS
- Parliamentarians will educate their constituents about NEEDS and encourage their active support
- Parliamentarians will play an active role in the oversight of the Executive and in providing feedback on NEEDS to policy-makers
- There must be continuous dialogue between the National Assembly and the National Planning Commission
- The National Assembly should investigate the possibility of grants for capacity-building from the World Bank Poverty Reduction Strategy Trust Fund

## **P. 2004 – The Gambia: Workshops to Strengthening Legislatures in Commonwealth West Africa**

*Banjul, The Gambia, 5 – 8 October 2004*

### **POINTS FOR ACTION**

#### **1. MEMBERS' CONSTITUENCY RESPONSIBILITIES**

- As elected representatives of the people, Members of the National Assembly have a duty and responsibility to be aware of and reflect the views and concerns of people in their constituency
- Debate in the National Assembly about the Executive's proposed legislation must be informed by constituents' concerns
- It is important for Members to hold regular surgeries with constituents in all areas of the constituency and budgetary, logistical and infrastructural provision should be made for this
- Members must follow-up and monitor development projects in their constituencies

#### **2. THE ROLE OF PARLIAMENTARIANS IN COMBATING CORRUPTION**

- Parliamentarians must take the lead in demonstrating the political will in the fight against corruption and must work together with the Executive, the Judiciary, political leaders, political parties, civil society, donors and the police
- Parliamentarians should consider demonstrating their commitment by joining the Global Organisation of Parliamentarians Against Corruption (GOPAC)
- There must be zero tolerance for corruption at every level
- An anti-corruption agency should be established in The Gambia
- Parliament should re-examine and, where necessary, amend the anti-corruption laws to reinforce the powers of anti-corruption agencies

#### **3. ENGAGING NATIONAL ASSEMBLY MEMBERS IN FORMULATING THE POVERTY REDUCTION STRATEGY PLAN**

Members of the National Assembly will involve themselves in the PRSP development process through:

- Public outreach to get citizen input into policy formulation
- Integration of Members or Committees into Sector Working Groups
- Parliamentary Review of the SPA 2 document

Parliamentarians should be involved from the onset in the development of poverty reduction projects within their constituencies

#### **4. THE NATIONAL ASSEMBLY AND THE BUDGET PROCESS**

- Members must take seriously their responsibility for oversight and authorisation of the Executive's Budget
- Members should receive briefings during the drafting process and there should be a formal consultation between the Executive and the National Assembly
- Members must ensure that the Budget is compliant with policy requirements and the needs of the people
- Parliamentarians should monitor execution of the Budget and should approve any additional appropriations
- The National Assembly should have budgetary research capacity
- All Select Committees should be involved in scrutinising the Estimates

#### **5. PARLIAMENTARY OVERSIGHT MECHANISMS AND POVERTY REDUCTION STRATEGY PAPER (PRSP) MONITORING**

- The PAC must be proactive in ensuring that adequate resources are given to the Auditor-General so that the National Assembly is enabled to play its constitutional role
- The National Assembly must be financially autonomous in accordance with the provisions of the Constitution and any necessary legislation should be enacted
- Select Committees must monitor the budget allocations against SPA 2
- Parliamentarians must scrutinise legislation against SPA 2
- The National Assembly will insist on receiving and debating the Annual report on SPA 2 progress
- The National Assembly should forge linkages with key partners in poverty reduction within The Gambia

## **Q. 2004 – Ghana: Study Group on Access to Information**

*Accra, Ghana, 5-9 July 2004*

### **RECOMMENDATIONS FOR TRANSPARENT GOVERNANCE**

#### **(1) Right of Access**

(1.1) Parliaments should pass as a priority effective access to information legislation, in accordance with these Recommendations, giving everyone a right to access information held by public authorities.

#### **(2) Scope of Application**

(2.1) The obligations set out in access to information legislation should apply to all bodies that carry out public functions, regardless of their form or designation. In particular, bodies that provide public services under public contracts should, to that extent, be covered by the legislation. The Group commends the situation in South Africa, whereby even private bodies are obliged to disclose information where this is necessary for the exercise or protection of any right.

#### **(3) Routine Publication**

(3.1) Public bodies should be required by law to publish and disseminate widely a range of key information in a manner that is easily accessible to the public. Over time, the amount of information subject to such disclosure should be increased.

(3.2) Public bodies should be required to develop publication schemes, with a view to increasing the amount of information subject to automatic publication over time.

(3.3) Public bodies should make use of new information technologies so that, over time, all information that might be the subject of a request, and that is not covered by an exception, is available electronically. This will not only significantly promote public access to this information but also result in considerable savings for public bodies due to the drop in the number of requests that this will occasion.

(3.4) Where information has been disclosed pursuant to a request, that information should, subject to third party privacy, be routinely disclosed.

#### **(4) Processes to Facilitate Access**

(4.1) No one should have to state reasons for their request for information.

(4.2) Public bodies should be required to respond to requests within set time periods. A failure to respond to a request within that time period should be deemed a refusal of the request.

(4.3) Any refusal to provide information should be accompanied by the reasons for that refusal, including which provision in the legislation is being relied upon, as well as information detailing any right of appeal the requester may have.

(4.4) Requesters should have the right to appeal any refusal to provide information to an independent administrative body. A final appeal should also lie to the courts.

(4.5) Wilful obstruction of the right of access, including by destroying or damaging information, should be a criminal offence.

#### **(5) Costs**

(5.1) Costs for access to information should not be so high as to deter requesters. When putting in place statutory fee systems, consideration should be given to the following:

(5.1.a) requesters only have to pay for the cost of reproducing the information;

(5.1.b) requests for certain types of information – such as personal information – are free or very low cost;



(5.1.c) requesters cannot be subject to higher charges simply because public officials do not maintain their records in a sufficiently accessible format;

(5.1.d) if the information is not provided within a set time period after the fee has been paid, the money will be returned and the request will be free of charge;

(5.1.e) costs are charged only where requests go beyond a certain size or complexity; and

(5.1.f) costs be waived for requesters who are unable to pay.

## **(6) Exceptions**

(6.1) The right of access should be subject to a narrow, carefully tailored regime of exceptions to protect certain overriding public and private interests. Exceptions should not be phrased in vague or subjective language but should, as far as possible, be set out in clear and objective terms.

(6.2) Exceptions should apply only where there is a risk of substantial harm to the protected interest, and where that harm is greater than the overall public interest in having access to the information. The practice in Scotland in this regard is commended.

(6.3) No public body should be completely excluded from the ambit of the legislation; rather, exceptions should be applied on a case-by-case basis in light of specific information requests.

## **(7) Inconsistent Legislation**

(7.1) Where there is a conflict between the access to information law and any other legislation, the access to information law should, to the extent of that inconsistency, prevail.

(7.2) Urgent steps should be taken to review and, as necessary, repeal or amend, legislation restricting access to information.

## **(8) Records Management**

(8.1) Effective systems of record management are key not only to the effective functioning of an access to information regime but also to good governance. The introduction of such systems, where they do not already exist, should be a part of the access to information legislation.

(8.2) Codes of practice relating to record maintenance can help promote a consistent approach across public bodies and can be used to ensure the highest possible standards in this area. Access to information should require such codes to be developed in consultation with public bodies and then laid before Parliament.

(8.3) Assistance for improved record management should be provided, for example in the form of training and guidance, to public bodies to ensure that records are maintained in an appropriate manner.

## **(9) New Information Technologies**

(9.1) New information technologies, and in particular the Internet, have the potential to make a very important contribution in the area of access to information and open governance in general, and should as a result be promoted. New technologies can significantly facilitate record management, promoting better record maintenance practices.

## **(10) Addressing the Culture of Secrecy**

(10.1) There should be a concerted effort by government and public bodies to address the problem of a culture of secrecy. This should include comprehensive training programmes on implementation of the access to information regime, as well as the importance of openness in society. Such training should also seek to promote an understanding among civil servants of the benefits of openness to them, including through a better two-way flow of information that can enhance policy development.

(10.2) Parliamentarians should play a leadership role in this area, sending a clear signal to public officials that they fully support openness and setting a positive example through their own openness. Parliamentarians should also seek to employ innovative strategies to address the culture of secrecy and

to involve public officials in promoting openness. The Group commends in this regard the good practice in Trinidad and Tobago.

(10.3) Individuals who disclose information pursuant to the access to information law should be protected against sanction and victimization, including for defamation.

(10.4) Individuals who in good faith release information that discloses evidence of wrongdoing should be protected by law against sanction.

### **(11) Publicizing the Right to Information**

(11.1) Public education campaigns should be undertaken to ensure that the public are aware of their right to access information.

(11.2) Parliamentarians have an important role to play in this process by making sure that their constituents are aware of their rights. A range of other bodies also have a role to play here, including the independent administrative body that is responsible for implementation of the law, human rights groups, the media (and the broadcast media in particular), public bodies themselves and civil society generally. Use should also be made of regular educational systems, including universities and schools, to promote civic understanding about the right to access information.

### **(12) Role of the Independent Administrative Body**

(12.1) There should be an effective independent administrative body which should be allocated a range of statutory functions to ensure appropriate implementation of access to information legislation. This may be either an existing body or a body specifically created to serve that function. In either case, the body should be adequately resourced and protected against official or other interference, including through the appointments process, funding mechanisms and control over the hiring of its own staff.

(12.2) The independent administrative body should have the power to hear appeals from any refusal by a public body to provide information, along with all necessary powers to effectively exercise this role. This should include the power to mediate disputes, to compel evidence and to review, in camera if necessary, the information which is the subject of the request, to order the disclosure of information and, where appropriate, to impose penalties.

(12.3) The independent administrative body should also play a role in ensuring that public bodies properly implement access to information legislation. This should include an obligation to keep the performance of public bodies under effective review, as well as the power to review the performance of any particular public body. The independent administrative body should be required to report annually, as well as on an ad hoc basis as necessary, to Parliament.

(12.4) The independent administrative body should also play a role in ensuring that other legislation is consistent with the access to information law. This should involve reviewing existing legislation and making recommendations for reform of any inconsistent laws, as well as being consulted on whether or not proposed legislation would impede the effective operation of the access to information regime.

### **(13) Parliamentary Oversight of Access to Information**

(13.1) Parliaments have a key role to play in overseeing and reviewing access to information regimes and in ensuring the public's right to know is guaranteed. Parliaments should take these responsibilities seriously and actively pursue their oversight functions.

(13.2) The access to information legislation should be reviewed on a regular basis to ensure that it is effective in ensuring the public's right to know. We commend the practice whereby in some jurisdictions the law requires the legislature to conduct regular reviews, such as in British Columbia where it takes place every six years.

(13.3) All public bodies should be required to provide a full annual report, either to the responsible minister or to the independent oversight body, on the information requests they have received and how they have been dealt with. This information should then be laid before Parliament in a public document.

(13.4) Parliament's oversight role includes such mechanisms as questions to ministers and holding ministers to account for any failures to implement the access to information law in their ministries.

(13.5) Parliament should play a key oversight role regarding the independent administrative body responsible for implementation of the access to information legislation. Parliament should, in particular, play a leading role with respect to appointments to and funding of the body. Consideration should be given to an appointments process that requires either unanimous approval or a super majority vote. The appointments process should be conducted in a transparent manner. The body should, in addition, formally report to and be accountable to Parliament.

(13.6) Consideration should be given to regular parliamentary review, for example on a biannual basis, of implementation of the access to information regime.

#### **(14) Parliamentary Openness**

(14.1) Parliament should play a leadership role in promoting open government by opening up its own practices and procedures to the widest possible extent. Parliamentary debates should be televised and records of these debates should be made publicly available as soon as possible, including through the Internet.

(14.2) Constituency offices, as well as elected officials at all levels, should be used as a means of promoting parliamentary openness.

(14.3) There should be a presumption that committee meetings are open to the public, so that closed meetings are the exception rather than the rule. Where it is necessary to hold a meeting, or part of a meeting, in private, a decision to that effect should be taken in public and reasons for that decision should be given. The Group notes, in this regard, Recommendation 8.9 of the CPA Study Group on Parliament and the Media's. Recommendations for an Informed Democracy, which also provides for open meetings.

#### **(15) Promotional Measures**

(15.1) The Group notes the importance of international assistance to implement a number of these Recommendations, including promoting awareness of the right of access to information, developing public educational materials, training public officials, addressing the issue of laws that are inconsistent with the right to access information and improving record maintenance. We therefore call on the international community to provide assistance to achieve these ends.

(15.2) The Group commits itself to active promotion of these recommendations, including by disseminating them widely to their fellow Parliamentarians, civil society, the media and their constituents.

(15.3) The Group notes the following specific areas of interest and we encourage the Commonwealth Parliamentary Association, the World Bank Institute, the Commonwealth Human Rights Initiative, the Commonwealth Secretariat, NGOs and the international community to provide assistance for the following:

(15.3.a) Certain jurisdictions, such as small states, countries in transition and specific regions face greater challenges and needs for technical and expert assistance in the field of access to information and, therefore, the above bodies should give prompt attention to their requests for activities, information, targeted meetings and advice;

(15.3.b) The Group recognized the need for better information on access and, as a result, recommended that Commonwealth-wide comparative studies be conducted in key thematic areas; and

(15.3.c) The Group supported the idea of developing a code of record maintenance practice for the Commonwealth.

## **R. 2004 – Trinidad & Tobago: Regional Seminar for Caribbean Parliamentarians: The Budgetary Cycle, Oversight and Public Accounts Committees**

*Port of Spain, Trinidad & Tobago, 5-8 July 2004*

### **Informal Recommendations for Future Action**

#### **MEMBERSHIP**

- Ideally, Ministers should not sit on Public Accounts Committees (PACs).
- In bicameral Legislatures there could be a joint PAC.

#### **POWERS**

- The entirety of government should be audited, i.e. all government ministries, departments, units, statutory authorities, government-owned companies and government entities.
- The PAC should have the power to call anyone, including a Minister, who is relevant to its inquiry.
- PACs should have legal power to compel witnesses to appear.
- Provision must be made for non-financial audits including Value For Money (VFM).

#### **PARLIAMENT**

- Members need to be given training, especially in the area of investigative and interrogative skills, and effective briefings. It is important to understand the role and practice of internal auditors.
- PACs should be provided with a high level of human, financial, technical, research and professional support.
- All PAC reports should be tabled and debated in Parliament.
- Appropriations or Expenditure Committees should be established, where appropriate, or activated to work in collaboration with PACs.

#### **METHODOLOGY**

- A method of cross-party planning of investigations is essential.
- There should be prioritization of issues to manage workload.
- 1 Public Accounts Committee
- PACs should routinely meet in public except for procedural meetings and in the case of national security.
- PACs must be proactive in information gathering.
- The performance agreement of a Permanent Secretary/Accounting Officer, if applicable, should include timely response to recommendations of the PAC.
- PAC recommendations should be organized to allow effective monitoring of compliance.
- Committee rules of procedure should be flexible so that quorums can be easily achieved.

#### **THE AUDITOR-GENERAL**

- The PAC should review the budget of the Auditor-General's office to ensure that the government is providing adequate resources.
- The PAC should encourage peer reviews of the Auditor-General's office.
- All management letters and responses should be forwarded to the PAC.
- The Auditor-General should be autonomous and must report to Parliament.
- The Auditor-General must have the power to audit any public funds used by a private entity engaged by government for the delivery of public goods or services.

#### **GOVERNMENT POLICY**

- Governments should be encouraged to use accrual accounting.
- Penalties for non-compliance with audit rules should be created for all public officials and institutions.
- The PAC must be consulted on any changes to legislation affecting the Auditor-General.

## **S. 2004 – Fiji: Workshop on Gender, Development and Democracy**

*Parliament of Fiji, Suva, 28-30 May 2004*

### **Communiqué to 7th Commonwealth Women’s Affairs Ministers’ Meeting (Nadi, Fiji, 31 May – 2 June 2004)**

This Communiqué to Commonwealth Ministers responsible for Women’s Affairs is derived from a three-day Workshop of Commonwealth Parliamentarians from a range of Commonwealth Parliamentary Association (CPA) Branches, including Fiji, which took place in Suva, Fiji 28 – 30 May 2004. Representatives of UNIFEM and the Fiji Human Rights Commission joined Members for some sessions.

The overall Workshop theme of ‘Gender, Development and Democracy’ was considered through detailed deliberations of the central themes guiding the draft Commonwealth Gender Plan of Action 2005 – 2015. The key message that participants would like to convey is the role that Commonwealth Parliamentarians can play as partners of Government and Civil Society in achieving gender equality. This was central to all the discussions. It should be recognized that Parliamentarians have a special responsibility to advocate equality, accountability and sustainable development.

Listed below are priority recommendations that have emerged from the Workshop in relation to the partnership between Government and Parliament in every Commonwealth country. These recommendations represent key actions that Governments should take in order to accelerate the achievement of gender development and democracy in the Commonwealth. They do not form the full deliberations of the Workshop, which resulted in 70 points for action.

#### **1. GENDER, DEMOCRACY, PEACE AND CONFLICT**

Women, girls, men and boys should be equal partners in promoting and implementing gender equality. Towards this end, everyone must have equal access to political, legal and traditional institutions. Governments and Parliamentarians should actively promote an environment of partnership.

Governments are called upon to make an interim report on their success in moving towards the Commonwealth Heads of Government 2005 target of 30% of decision-making positions to be held by women.

Governments have a duty to ensure the provision of services and laws to prevent and deal with domestic violence and abuse. Parliamentarians recognize the efforts of Governments in discharging this duty but also call for counseling services to be widely available including for members of the security forces, especially in the context of active service, and for all ex-combatants in post-conflict situations.

#### **2. GENDER, HUMAN RIGHTS AND THE LAW**

All Commonwealth countries should have Human Rights and Gender Commissions by 2015 and the Commonwealth Secretariat, in collaboration with governments, should publish progress assessments every five years on the existence and effectiveness of fully functional national machineries and national gender policies to ensure gender equality and equity.

Governments should take steps to codify positive customary laws that they wish to retain as part of a process of reviewing the statute book to ensure that all laws are in conformity with both international and domestic human rights obligations.

Commonwealth Governments should develop and promote literacy and human rights awareness programmes among all sections of society and promote access to justice through the provision of legal aid services for all citizens.

### 3. GENDER AND ECONOMIC EMPOWERMENT

Governments are called upon to recognize that the economic empowerment of women is principally prevented by failure to address the elimination of poverty. Poverty is more than just a financial state - it is a lack of opportunity and a consequence of the unequal distribution of resources and services.

Governments must put in place effective health education and medical services that are accessible and affordable as well as ensuring that effective legislation for the protection of the environment is given a high priority.

Recognizing the importance of education in the elimination of poverty, Governments should ensure that free and compulsory primary is provided for all girls and boys while aspiring to secondary for all, and also strengthening support for non-formal education.

Everyone in society must be educated about the equality of men and women, girls and boys, and the equality of roles – roles should be valued equally, free from gender stereo types

Parliamentarians, in partnership with Government, should review all current legislation to ensure that it is non-discriminatory. They should also introduce anti-discrimination legislation in particular ensuring that women's property rights and employment equity are ensured, including by ratifying core ILO conventions.

Governments should take steps to ensure that at least 25% of banking and financial institution credits are available to women while also working with Parliaments to implement policies that will ensure that national budgets are subject to a process of gender-based analysis.

### 4. GENDER AND HIV/AIDS

Government leaders are called upon to strengthen their political will to support the Commonwealth commitment in combating the spread of HIV/AIDS through health education and advocacy, and negotiations to reduce the cost of anti-retroviral drugs.

Governments must provide access to affordable drugs for people living with HIV/AIDS, including drugs to reduce mother-to-child transmission and encourage freely available voluntary anonymous testing, including counseling and support services.

Governments must be vigilant in efforts to remove the stigma of HIV/AIDS and to eliminate all forms of discrimination.

National media and community targeted campaigns should be encouraged to educate both men and boys, and women and girls in the range of ways of preventing the spread of HIV including abstinence, monogamous relationships, condom use and safe sexual and drug use practices.

***In conclusion, in welcoming the move towards a new Commonwealth Gender Plan of Action, Parliamentarians call on Governments to promote gender equality and equity as a central principle in the achievement of sustainable development and democracy for all Commonwealth peoples, recognizing the crucial role Parliamentarians must play in partnership with Government and Civil Society.***

## **T. 2003 – Nigeria: Workshop on Engendering Development and Democracy**

*Abuja, Nigeria, 3-5 December 2003*

### **RECOMMENDATIONS**

#### **(1) Women in Decision-Making**

(1.1) The Workshop agrees that the Commonwealth Plan of Action on Gender and Development provides governments with the framework for the attainment of the target of 30 per cent representation of women in Parliament and other decision-making bodies by 2005. Parliamentarians note the progress that some countries have made in achieving this target, including through affirmative action.

(1.2) Parliamentarians express deep concern that the Commonwealth target is not receiving the attention it deserves from governments.

(1.3) Parliamentarians urge Heads of Government to take immediate action to provide resources and practical strategies to make this goal a reality by 2005.

#### **(2) Conflict and Peace**

(2.1) The Workshop expresses concern over the prevalence of conflict and in particular its impact on women and children. Women continue to be the most harmed by conflict and yet early warning systems, peace agreements and post-conflict legislation often fail to address their needs.

(2.2) The Workshop strongly supports United Nations Security Council Resolution 1325 on women, peace and security and recommends that governments take concrete steps towards its implementation.

#### **(3) Poverty and the Millennium Development Goals (MDGs)**

(3.1) The Workshop recognizes the efforts made towards reaching the MDGs and acknowledges that women are the most disadvantaged group in society. The MDGs are the most important response to the plight of the vulnerable in our societies. Governments must provide adequate resources for the achievement of these priorities.

(3.2) The Workshop applauds the development of NEPAD as the vehicle for achieving the MDGs in Africa and urges African governments to give practical effect to the conditions for successful implementation of NEPAD programmes.

#### **(4) HIV/AIDS**

(4.1) The HIV/AIDS pandemic has become an urgent problem to which Commonwealth governments must develop responses.

(4.2) Governments should act in partnership with the private sector, Civil Society, communities and people living with HIV/AIDS, to address the causes and impacts of the pandemic.

(4.3) Governments must pay particular attention to providing access to drugs for people living with HIV/AIDS, including anti-retrovirals and drugs to reduce parent-to-child transmission.

#### **(5) National Budgets and their Impact on Women**

(5.1) Governments should incorporate and utilize the process of gender-based analysis and gender-responsive budgeting with respect to the development of legislation, policies and budgets.

#### **(6) Trade and Globalization**

(6.1) The current international trade regime is deeply unfair to developing countries, most negatively impacts on poor women, and is largely developed without the involvement of Parliaments.

(6.2) Governments must intensify negotiations to pursue a fair international trade regime and should not give up on subsidy reduction and access to markets for developing countries.

(6.3) Governments should involve Parliamentarians in trade negotiations to ensure that agreements do not impact negatively on women.

(6.4) Recognizing the critical role of women in the private sector in producing the growth needed for poverty reduction and national wealth creation, governments should provide an enabling policy and investment environment that supports the specific needs of women entrepreneurs.

(6.5) In conclusion, the Workshop calls on Heads of Government to promote gender equality and equity as a central principle in the achievement of development and democracy for all Commonwealth peoples, recognizing the crucial part Parliamentarians must play in partnership with civil society organizations and the private sector.



## U. 2003 – Australia: Study Group on Parliament and The Media

*Perth, Australia, 17-21 February 2003*

### RECOMMENDATIONS FOR AN INFORMED DEMOCRACY

#### **(1) The Right to Know**

(1.1) The public's right to know must be balanced against the individual's right to privacy, which must sometimes be sacrificed by public figures to the extent that their private lives impinge on their public roles. The responsible determination of the balance between the public's legitimate right to know and public curiosity is a matter for the media initially but for the public itself, and if necessary, ultimately for the independent judiciary.

(1.2) While it is clear that "the government's interest" and "the majority interest" are not synonymous with "the public interest", neither a more precise nor a justiciable definition of "the public interest" can or should be made as this must always be an evolving definition determined on the merits of each situation and contemporary standards. In the first instance, this determination must remain the duty of a responsible media which should use stringent tests to establish that a private matter does in fact impact upon a person's public position.

(1.3) When "the public interest" is claimed by government to be in conflict with the demand for secrecy in "the national interest", the determination of what constitutes "the national interest" and when it should take precedence over "the public interest" should be assigned by law to the courts.

#### **(2) Freedom of Expression**

(2.1) Any restrictions on free expression should be justified only in the context of international obligations such as those contained in Article 19 of the United Nations' Declaration on Human Rights, the African Charter on Human and Peoples' Rights and Article 10 of the European Convention on Human Rights, and interpretations thereof by such institutions as, for example, the United Nations Human Rights Commission and the Inter-American Court of Human Rights.

(2.2) Accordingly, the media's right to criticize and express opinion, as well as to report, must be guaranteed and no legislation should be passed which impinges on that right.

(2.3) Excessive or disproportionate levels of damages in legal actions have a chilling effect on free speech and should be discouraged.

#### **(3) Regulation**

(3.1) The Group notes the Council of Europe recommendation on broadcasting which says the rules and procedures of regulatory authorities should clearly affirm their independence and stipulate their need to be protected from political and economic interference, including by public authorities.

(3.2) The regulation of the media therefore should be left to independent bodies which are:

(3.2.i) Possibly government funded but which operate totally independently from the funder in the same way as the courts or electoral commissions are independent from government,

(3.2.ii) Composed of strong and independently minded people of integrity and sensitivity who are committed to the concept of the duty of the media to inform the public accurately and responsibly, and

(3.2.iii) Appointed through an independent and transparent process which ensures those selected are free of associations with any interest which might interfere with their ability to adjudicate fairly and impartially.

(3.3) Governments are free to make commercial decisions but should not misuse their financial power to seek to influence or intimidate the media.

(3.4) It is the responsibility of the media, not Parliament, to set and supervise their highest professional and ethical standards.

(3.5) Governments and Parliaments should not use examples of inaccurate reporting to legislate controls on the media. The media are held to account for their inaccuracies by the court of public opinion through loss of reputation and loss of market share or by courts of law.

(3.6) Infrastructure Regulation Regulations on electronic networks and infrastructures based on technical capacity should not be used as a tool for any form of censorship. Regulations put in place at time when such capacity was limited should be reviewed in light of recent technological advances which have greatly increased communications capacity.

(3.7) Broadcast Content Regulation The regulation of broadcasting should be completely independent of commercial or politically partisan influences. Indicators of independence can be found in the standards agreed by this Group for the appointment of regulators, their funding and their operations.

(3.8) Internet Regulation

The Group called for greater international clarity and harmony in the regulation of and policies toward the Internet.

#### **(4) Licensing**

(4.1) Government should not use licensing of media organizations as a tool by government to influence or censor the media.

(4.2) Licensing authorities should not demand excessive financial guarantees or conditionalities from existing or prospective media owners.

(4.3) Governments should not licence individual journalists since licensing can be misused to impede the free flow of information.

#### **(5) Ownership**

(5.1) Owners of media outlets must recognize that ownership entails a commitment to inform which is at least equal to its need to earn a profit.

(5.2) Foreign investment in the media can be beneficial but should not jeopardize plurality of content, particularly local content.

(5.3) Local regulators should set appropriate levels of local content for both news and entertainment to balance the benefits of foreign investment with the need to preserve and develop the local community and culture.

(5.4) Cross-media ownership can have an adverse effect on the dissemination of a plurality of views, so local regulators should consider whether safeguards are appropriate.

#### **(6) Contempt of Parliament**

(6.1) As the democratic embodiment of the public's political views, each Parliament must respect the right of individuals and particularly the media to criticize its role, integrity and performance. It must properly react to such criticism with argument and through its own conduct rather than with punishment.

(6.2) Parliaments should repeal legislation, rescind Standing Orders and/or publicly abandon their traditional authority to punish the media and others for offending the dignity of Parliament simply by criticism of the institution or its Members.

(6.3) Inaccurate reporting by the media should not be considered as a contempt of Parliament. Contempt should be reserved for serious cases of interference with Parliament's ability to perform its functions.

(6.4) Where confidential parliamentary documents are leaked in breach of Standing Orders, the Group believes it is a matter for Parliament to deal with Members who commit the breach but not journalists who are recipients of the information. However, it noted that leaks would become less relevant if parliamentary procedures, especially committee proceedings, were more open to the media.

### **(7) Privilege and the Right of Reply**

(7.1) Privilege belongs to Parliament, not to Members as individuals but as trustees of the people. This ancient parliamentary privilege, especially where there is no easy way to seek redress, places Members in a uniquely powerful position in society which they must use responsibly and with the utmost care to ensure the truth of any allegations made under the protection of privilege. The protection of privilege should be continued to enable Members to represent their constituents fully and openly without fear of being silenced or punished by legal action against the expression of that representation.

(7.2) The fair and accurate reporting by the media of parliamentary proceedings should be protected by law.

(7.3) If a Member, or a witness appearing in a parliamentary proceeding, under the protection of privilege, defames or makes allegedly false statements, either intentionally or unintentionally, about a person who is outside Parliament, that person should have the right to apply to the Parliament to have a reply placed on the public parliamentary record. The Study Group commended to other the Commonwealth of Australia's Senate Privilege Resolutions of 1988 (Resolution 5) for right of reply.

(7.4) In order to ensure that a reply is published in the parliamentary record as close as possible to the initial allegation, a request from a member of the public to rebut a statement made in Parliament about them should be referred to the relevant House's Privileges Committee which must rule on the matter fairly and expeditiously.

(7.5) The media should report the rebuttal if they have reported the original allegation.

### **(8) Parliamentary Access**

(8.1) Parliaments should provide as a matter of administrative routine all necessary access and services to the media to facilitate their coverage of proceedings. Parliament should not use lack of resources as an excuse to limit media access and should use its best endeavours to provide the best facilities possible.

(8.2) Questions of eligibility for media access should be determined by the media itself. Parliaments should retain the right to suspend access for media representatives who violate Standing Orders or otherwise disrupt parliamentary proceedings.

(8.3) Parliaments should employ public relations officers to publicize their activities, especially to the media which do not cover Parliament, and education staff to run outreach programmes to stimulate interest in parliamentary democracy. Both services should operate in an apolitical way under guidelines set by the House.

(8.4) Parliaments should provide the media with as much information as possible. Attendance and voting records, registers of Members' interests and other similar documents should be made readily available. Members have an obligation to update their entries in the register of interests and registers should be kept in such a way as to give a clear and current picture of both a Member's full interests and changes to those interests.

(8.5) Parliaments should consider the extent to which disclosure of Members' interests should be applied to their families and, if so, how this should be done while protecting their families' individual rights to privacy.

(8.6) The development of professional and ethical standards for journalists is a matter for the media. Integral to this is the media's responsibility to ensure that a journalist's private interests do not influence reporting.

(8.7) To assist in the information flow, Parliaments should publish as much of their material as possible on online.

#### (8.8) Electronic media in Parliament

(8.8.i) Given the importance of broadcast and other electronic access to the proceedings of Parliament both in Chambers and committees, Parliament should either provide an uninterrupted feed or access for broadcasters to originate their own feed, if appropriate on a pool basis. Guidelines for electronic coverage should be as flexible as possible.

(8.8.ii) Guidelines for electronic coverage should ordinarily be put in place in consultation with broadcasters. Terms of availability should not be discriminatory between different media outlets and access to such feeds should not be used for censorship or sanctioning.

(8.8.iii) Parliaments should be encouraged to provide live coverage of their proceedings on a dedicated channel and/or online.

#### (8.9) Access to Committees

Committee meetings should be open to the public except in cases where it is determined in public that it is necessary to hold parts of a committee's proceedings in private. The Group notes that this is the practice, for example, in South Africa and commends this to other Parliaments.

### **(9) Archaic Legislation and Standing Orders Affecting Free Speech**

(9.1) The Study Group recognizes that the role of Parliament is to facilitate the free flow of information and it looks to international standards applied in conventions, treaties, charters and covenants on human, civil and political rights.

(9.2) In light of the above international agreements, criminal laws inhibiting free speech, such as incitement to disaffection, treason felony, criminal libel (including defamatory, seditious, blasphemous and obscene libel), scandalizing the courts, "insult" laws and laws against injuring the economic interests of the state should be revoked.

(9.3) Legislation or Standing Orders which deal with insulting or offending the dignity of Parliament or Parliamentarians should be repealed.

(9.4) Prohibitions against note-taking in parliamentary galleries should be lifted except when it can be shown that it genuinely disrupts the proceedings of the House.

### **(10) Conclusion**

The Group acknowledges that its recommendations constitute a significant body of work that no Parliament or Legislature will be able to undertake all at once and that some recommendations may not be immediately appropriate for all jurisdictions due to constitutional, legal, procedural and cultural differences. But the Group believes its recommendations offer Parliaments and Legislatures a range of ideas to stimulate consideration of ways to improve their relations with their media and the flow of information to their societies, other Parliaments and the world at large.

## **V. 2002 - Malaysia: Study Group on the Development of Professional Knowledge-Based Parliamentarians**

*Malaysia, 21- 25 July 2002*

### **CONCLUSIONS**

(1) The Study Group agreed that a top-down strategy should be adopted to promote ICT literacy amongst Parliamentarians.

(2) An implementation plan should be created phase-by-phase, taking into account the needs of all CPA Branches. Support by way of software and hardware and the necessary human expertise backed-up by funding should be detailed throughout the process.

(3) The critical decisions on re-creating the CPA as an institution capable of undertaking the new responsibilities outlined in this report should be addressed as a matter of priority. They should be integrated into the current Information Communications and Technology Plan of the Secretariat which undertakes *inter alia* to make changes to the CPA website which will ultimately be required to support the actions which the Study Group recommends.

(4) Standards should be set at launch of the plan and reviewed every year, e.g. Parliamentary Standard 2003, changing to Parliamentary Standard 2004 and so on.

(5) The CPA should take stock of all courses, materials available from training events, conferences etc. and set priorities for what has to go online using Intranets where necessary.

(6) In doing so the appropriateness of the various delivery modes should be kept in mind, whether direct face-to-face, text, CD-ROM, Intranet or Internet.

(7) It is necessary to remember that as technology advances these vehicles may cease to provide the right solutions and the plan should take into account the necessity for variation.

(8) The question of financial support must address assistance for less developed countries and the need to ensure that every Branch is in possession of basic requirements as well as the investment to introduce e-Learning models on the CPA Intranet or Internet. Financial support from outside will undoubtedly be necessary and in this connection the Study Group noted that Japan is currently offering developing countries a programme worth US\$15 billion to provide assistance with overcoming the problems of the digital divide.

(9) The decisions required of the CPA may therefore be summarized as follows:

- recreate the CPA to deliver focused and interactive professional development programmes'
- accept the responsibility to develop Professional Knowledge-based Parliamentarians,
- encourage Parliamentarians to be multiskilled and to base themselves on the three sub-skills of human resources, continuous learning and ICT applications,
- create the recommended delivery modes to meet the inevitable variety of needs and
- develop a scientific approach to classifying Branches and countries according to their ICT abilities and help them to move along from developing to developed while maintaining a balance between traditional and high technology methods to enable them to benefit according to their capabilities and needs at any given time.

(10) The Study Group recommends that creation of detailed plans based on this master plan is vital both at the CPA level as well as at the Branch and country levels. The CPA should assist Branches to create their own plans.

(11) The Study Group believes that the substance of their decisions and the specific recommendations that have been outlined above will help launch the CPA as a leading professional development organization of the 21<sup>st</sup> Century.

## **W. 2002 – South Africa: Indian Ocean Rim Conference on Parliament and the Media: Securing an Effective Relationship**

*Cape Town, South Africa, 14-18 April 2002*

### **PRINCIPLES FOR AN INFORMED DEMOCRACY**

#### **(1) The Advancement of Society**

(1.1) Parliament and the media in a well-established civil society share a responsibility to contribute to political, economic and social development in ways consistent with democratic principles. Both must be aware that economic development in particular is best achieved and sustained in societies that are democratic and well informed.

(1.2) While respecting the right of individual societies to determine how best to apply democratic principles, Parliament should involve the media, and through them the public, in forming public policy. Parliament should empower civil society by opening up decision-making to enable the media to report on and participate in the debate over policy.

(1.3) Political leaders must not seek to stifle the airing of opposing views and must pay attention to diverse opinions as expressed through the media.

(1.4) The media should provide balanced coverage of public policy debates without trivialising or denigrating the parliamentary and governmental decision-making processes. Journalists should be free to criticise policies, policy makers and the effectiveness of the democratic process.

#### **(2) Respecting Social Roles**

(2.1) Parliament and the media should respect the other's role in serving their community so that people in turn respect both institutions as providers of accurate information and informed opinion.

(2.2) Parliamentarians should recognize the value of fair and accurate reporting as a channel for public feedback to assist them to legislate, formulate policy and scrutinise government performance.

(2.3) Journalists need to understand the issues crucial to all segments of the population and play their full part in informing the public about the challenges facing their society.

#### **(3) Professional and Public Capacity-Building**

(3.1) Journalists and Parliamentarians should be given greater access to professional development programmes to prepare them to participate more effectively in the democratic process.

(3.2) Of particular benefit are orientation courses for Members and journalists on parliamentary practices and procedures, and adequate research support for Members.

(3.3) Governments should in turn ensure that education systems encourage the development of citizens who can understand and assess for themselves the policy issues debated in Parliament and in the media.

#### **(4) Encouraging a Multiplicity of Information Sources**

(4.1) Parliamentarians, journalists and the public should have access to a variety of print, broadcast and Internet-based media to end reliance on government information or party-run information sources.

(4.2) Investment in all forms of independent media should be encouraged. The media should pool their often-limited resources to improve the coverage of Parliament and other institutions.

#### **(5) Professional Behaviour**

(5.1) Parliamentarians should conduct debate in a respectful and well-informed manner.

(5.2) The media should establish self-regulatory codes of professional conduct and should pursue fact-based, fully substantiated reporting.

(5.3) Societies must accept that periodic abuses by individual Parliamentarians and journalists of their rights and freedoms, and of their special positions in society, must not be used as reasons to curb the legitimate performance of their roles. The freedoms accorded to Parliamentarians and the media reflect the supremacy of the ultimate right of the public to be informed.

#### **(6) Making Parliament Newsworthy**

(6.1) To advance a more participatory democracy, Parliament should open all their processes to media coverage, including the work of parliamentary committees.

(6.2) Parliaments should provide schedules of committee meetings to the media and journalists should in turn cover this important parliamentary process.

(6.3) Media coverage of committees will better involve the public in the formulation of public policy and prevent collusion in cases where committees are investigating wrongdoing.

(6.4) Broadcasting of parliamentary proceedings and greater media coverage will raise the quality of debate.

(6.5) Vital issues should be addressed in a timely fashion in Parliament, and ministerial announcements should whenever possible be made first in Parliament rather than in the media.

#### **(7) Raising Media Standards**

(7.1) Media organisations should retain more experienced reporters and should assign such reporters to cover Parliament.

(7.2) The media's responsibility is to inform the electorate of the conduct and performance of the representatives they have elected.

(7.3) Journalists should be encouraged to report on public policy issues that are relevant to everyone and not just the economic elite.

#### **(8) Providing a Legislative Framework**

(8.1) To enable Parliament, MPs and journalists to play a full role in disseminating information to the people and from the people to the government, Commonwealth Heads of Government should secure a supportive environment for the free flow of information. In pursuing this goal, governments and Parliaments should:

- a) Pass freedom of information legislation.
- b) Resist privacy legislation that could be used to suppress freedom of speech and freedom of the media.



- c) Apply parliamentary privilege fully to all fair and accurate reports of parliamentary proceedings, including committees.
- d) Reject or repeal legislation to licence media, journalists and presses.
- e) Repeal criminal defamation laws so that the media is no longer subjected to punitive controls that curb freedom of expression.
- f) Exercise caution in the passage of anti-terrorism legislation which may limit society's freedoms or make the state less accountable.
- g) Reject or repeal laws that empower the state to censure or punish political opponents and the media for partisan reasons.

## **X. 2002 – Saint Lucia: Study Group on Parliament and the International Trading System**

*Saint Lucia, February 2002*

### **RECOMMENDATIONS**

#### **(1) Recommendations for Parliamentarians**

(1.1) There is a need to build increased capacity among Parliamentarians to bring to fruition the benefits and solutions available through the liberalized international trading system. This need can be met by developing the role of Parliamentarians so that they are equipped to:

- a) Become more involved in trade matters as an essential part of their parliamentary roles;
- b) Be up-skilled on a continuing basis to perform roles appropriate to Parliamentarians in matters of international trade;
- c) Become more attuned to their obligations and responsibilities in respect of WTO deliberations and decisions;
- d) Keep abreast of developments in international trade, including the implications and interpretations of trade rules;
- e) Become advocates of the economic and social benefits of open markets, especially in developing countries and in sectors of developed countries;
- f) Participate in a skilled and informed manner in the rules-based trading environment, including the negotiating, ratification and legislative phases, and evaluation of structural adjustment measures, and
- g) Explore and access avenues for relevant funding and support, particularly those available to developing countries, for better participation in the process of analysis, negotiation and implementation.

#### **(2) Recommendations for institutions**

(2.1) Institutional resources need to be deployed via international organizations and bodies to support Parliamentarians to undertake the roles envisaged. The following strategies are recommended:

- a) A review of the work of Parliaments and Parliamentarians, and of parliamentary mechanisms such as committees, focused on the role of parliamentary structures in facilitating good practice in matters of international trade with particular regard for the needs of small and developing countries;
- b) The establishment of a system of roving ambassadors to provide support where required to address international trade matters as they impact at the regional and local level;
- c) Assistance to small and developing nations to make effective use of parliamentary hearings and other processes to engage with civil society, including non-governmental organizations, business associations and labour unions, within the context of trade liberalization and options provided by the rules-based approach;
- d) Workshops, study groups and other participatory processes focused on Parliamentarians' access to information, knowledge, skills and understandings for effective participation in international trade issues;
- e) The facilitation of interparliamentary and cross-organizational mentoring arrangements, work attachments and other forms of mutual exchange;
- f) The preparation of training materials, manuals, guides to agreements and other training tools in a format suitable for use by Parliamentarians, and
- g) The further development of linkages between the CPA and other organizations within and outside the Commonwealth to undertake related work.

## **Y. 2001 – Kenya: Workshop on Parliamentary Oversight of Finance and the Budgetary Process**

*Nairobi, Kenya, 10-14 December 2001*

### **CONCLUSIONS**

(1) Legislation should be the basis of accountability through the Appropriation Bill enacted by Parliament. The formulation and presentation of the budget is essentially the function of the executive. But the Legislature is the public forum in which the government seeks approval for its expenditure through the budget debate. The Legislature is an institution of accountability, not of financial management, which is the function of the executive.

(2) The response and attitude of the government to accountability and oversight will largely determine whether transparency is to be achieved. It is a question of political will in both Parliament and government, and of the recognition of the principle of separation of powers. For oversight to be effective, Budget Committees must be involved at various stages of the budget process and should regularly report to the House. In some Parliaments, this function is undertaken by the Appropriation Committee which, like the Budget Committee, keeps track of the entire government spending as it progresses during the year. A comparative study of those Budget and Appropriation Committees in existence should be undertaken to evaluate their effectiveness.

(3) The government should provide readable and understandable financial documents to Parliament, and to parliamentary committees in particular so that Members are able to scrutinize the executive. Sufficient time should be made available in Parliament for oversight functions and departmental officials must be made available to explain their estimates to Members.

(4) The reports of the Auditor-General are essential to achieve effective oversight of the budgetary process. The role of an Auditor-General should be enshrined in a country's constitution or in specific legislation. It should be that of an independent external auditor of the activities of the executive. The Auditor-General must work on behalf of Parliament as the representative body of the people.

(5) The independence of the Auditor-General was considered as the most important attribute, which must be reflected in his or her appointment, tenure and removal from office, and in the office's mandate being constitutionalized.

(6) Specific legislation should also be put in place to provide for amongst others the establishment of an independent office to assist the Auditor-General to execute his or her mandate.

(7) Furthermore, the Auditor-General should be mandated to apply recognized professional standards and practices.

(8) It is important that Auditors-General should submit audit reports in a timely fashion but without compromising either the content or quality of these whether they relate to annual or special reports.

(9) The right of citizens to participate in the functioning of government is a fundamental principle democracy. Civil society and the media should therefore be encouraged to become actively involved in ensuring the accountability of government. Their roles should be recognized and further enhanced through appropriate modalities and mechanisms.

(10) Tackling abuse and lack of accountability extends beyond the role of the media and other civil society components. It requires consideration of broader economic, social, cultural and historical dimensions for which different strategies may have to be devised as appropriate to a particular situation. It was felt that strengthening the roles of Public Accounts Committees and the Auditor-General would be better achieved where they co-exist with civil society. For this to be accomplished, adequate public access to information must be ensured through effective freedom of information, legislation, and the appointment of Information Commissioners need to be taken into consideration in all democratic societies.

(11) The principle of oversight is not exclusive to certain Parliaments but must be exercised by all the Legislatures regardless of their geographical or demographical size.

(12) The Workshop recommended the following areas for action in taking legislative oversight forward:

(a) The oversight functions are vested in the Legislature as a fundamental principle of the separation of powers and on account of Parliament being an institution of the people's representatives. It was, however, noted that in many cases Parliaments face the burden of expectations from the people since as supreme bodies they are assumed to possess all the powers necessary to meet their needs. Parliaments should therefore, be urged to ensure oversight of government activity in accordance with their mandate.

(b) Although concerns were raised about the framework, capacity and mechanisms of oversight in Legislatures, it was clear that in many Parliaments, despite often wide ranging reforms in strengthening legislative oversight of the executive, it is still considered that Parliament's role is essentially one of passing legislation. Therefore, lack of executive support for materials, funds needed in Parliament's functional oversight restricts full legislative scrutiny of government's activities. Stakeholders must be sensitized to know that oversight goes beyond legislation and includes checking government activity.

(c) As part of their accountability requirements, Parliaments should seek independent assurance that government ministries and all public sector organizations are operating and accounting for their performance in accordance with legislation passed by Parliament or policy statements made in Parliament.

(d) The committee system assumes great importance since Parliament cannot have complete oversight over government and all its activities. In their oversight of finance, the committees rely on the Auditor-General's output. To make both the Auditor-General and committees effective, Parliaments should ensure that committee reforms, such as giving committees more powers to recommend punitive actions against offenders, are simultaneously pursued with stronger legislation for independent Auditor-General's Offices. Strengthening measures include removing the requirement found in some places that Auditors-General must first send reports to Heads of State before submitting them to Parliament.

(e) In order to remove the barriers which work against ensuring accountability, the CPA Secretariat should enhance the interface between Parliaments by distributing literature across Commonwealth Parliaments on various procedures and mechanisms of strengthening oversight.

## **Z. 2001 – Malaysia: Study Group on Gender-Sensitizing Commonwealth Parliaments**

*Kuala Lumpur, Malaysia, 27 February – 1 March 2001*

### **CONCLUSION**

#### **(1) To increase the effectiveness of female Parliamentarians:**

- a) Political parties must be encouraged to nominate women for winnable seats in the Legislature, to train and initiate them to the workings of the Legislature and to appoint them to prominent legislative and governmental positions.
- b) Cultural barriers can only be removed through efforts geared towards gender-awareness and, wherever necessary, by positive action by way of legislation.
- c) Parliamentary institutions must sponsor regular training and orientation sessions for their Members, amend their Standing Orders so that male-oriented terms are replaced by inclusive language and make women-friendly changes to their seating and other physical arrangements.
- d) Female Parliamentarians should promote the appointment of women to key positions within the Legislature and the government; work at cross-party levels for the benefit of women as well as the wider society, and provide guidance and support to newer entrants; and
- e) Good working relationships with the media should be fostered.

#### **(2) Areas for priority action:**

- a) Commonwealth Parliaments should be urged to commit to gender-based analyses of all parliamentary documents, including policy proposals, legislation and committee reports, in order to assess their impact on the lives of women and men and to ensure that government policies, programmes and legislation are equitable for both women and men;
- b) Commonwealth Parliaments should be encouraged to consider introducing maternity and paternity benefits for Parliamentarians;
- c) Proper facilities for the care of infants and young children should be established in Parliament buildings;
- d) In those countries where, due to size and distance, it is necessary for MPs to utilize temporary accommodation nearer to Parliament, the parliamentary week should be narrowed with Parliament, if needed, sitting longer hours;
- e) Where applicable, Constituency Weeks should be free of committee work, removing the requirement for MPs to travel away from their home territories and constituencies during such weeks. Where possible they should coincide with school holidays.
- f) Commonwealth Parliaments should be urged to be more flexible in the amount of time off allowed for family purposes and where possible, the good convention of pairing should be introduced for dealing with necessary absences by MPs;
- g) Training and orientation programmes, sponsored by Parliaments and involving both men and women, should be held on a regular basis throughout each parliamentary session, to assist MPs in a wide range of areas related to their functioning as Members of Parliament;
- h) Concerted efforts must be made to ensure that women are appointed to prominent government offices and to serve on, as well as chair, important committees;
- i) The Standing Orders should be regularly reviewed and, whenever necessary, amended, to ensure that the presence of women and issues pertaining to women are taken into account by Parliaments, in order to encourage greater participation by women in the parliamentary process;
- j) Female Parliamentarians should get together to discuss issues common to women. Toward this end, formal and informal women's networks should be set up within Parliaments and women should identify policy issues where cross-party co-operation can exist;
- k) As an inter-party grouping, female Parliamentarians should work with the various groups in society, for example non-governmental women's organizations and [community] radio and television, to promote awareness by the population of gender-sensitizing issues and create the environment for wider public support;

- l) The CPA should encourage all Branches to be mindful of the fact that women should represent at least 30 per cent of its Executive Committee;
- m) The CPA should re-introduce funding for meetings of the CWP Steering Committee;
- n) The CPA should monitor the extent to which Member Branches fulfil their international obligations pertaining to the rights of women.

## **AA. Commonwealth Principles on the Accountability of and the Relationship between the Three Branches of Government**

### **(1) Objective**

(1.1) The objective of these Principles is to provide, in accordance with the laws and customs of each Commonwealth country, an effective framework for the implementation by governments, parliaments and judiciaries of the Commonwealth's fundamental values.

### **(2) The Three Branches of Government**

(2.1) Each Commonwealth country's Parliaments, Executives and Judiciaries are the guarantors in their respective spheres of the rule of law, the promotion and protection of fundamental human rights and the entrenchment of good governance based on the highest standards of honesty, probity and accountability.

### **(3) Parliament and the Judiciary**

(3.1) Relations between parliament and the judiciary should be governed by respect for parliament's primary responsibility for law making on the one hand and for the judiciary's responsibility for the interpretation and application of the law on the other hand.

(3.2) Judiciaries and parliaments should fulfill their respective but critical roles in the promotion of the rule of law in a complementary and constructive manner.

### **(4) Independence of Parliamentarians**

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

(4.2) Criminal and defamation laws should not be used to restrict legitimate criticism of Parliament; the offence of contempt of parliament should be narrowly drawn and reporting of the proceedings of parliament should not be unduly restricted by narrow application of the defence of qualified privilege.

### **(5) Independence of the Judiciary**

(5.1) An independent, impartial, honest and competent judiciary is integral to upholding the rule of law, engendering public confidence and dispensing justice. The function of the judiciary is to interpret and apply national constitutions and legislation, consistent with international human rights conventions and international law, to the extent permitted by the domestic law of each Commonwealth country.

(5.2) To secure these aims:

(a) Judicial appointments should be made on the basis of clearly defined criteria and by a publicly declared process. The process should ensure:

- equality of opportunity. for all who are eligible for judicial office;
- appointment on merit; and
- that appropriate consideration is given to the need for the progressive attainment of gender equity and the removal of other historic factors of discrimination;

(b) Arrangements for appropriate security of tenure and protection of levels of remuneration must be in place;

(c) Adequate resources should be provided for the judicial system to operate effectively without any undue constraints which may hamper the independence sought;

(d) Interaction, if any, between the executive and the judiciary should not compromise judicial independence.

(5.3) Judges should be subject to suspension or removal only for reasons of incapacity or misbehaviour that clearly renders them unfit to discharge their duties.

(5.4) Court proceedings should, unless the law or overriding public interest otherwise dictates, be open to the public. Superior Court decisions should be published and accessible to the public and be given in a timely manner.

(5.5) An independent, effective and competent legal profession is fundamental to the upholding of the rule of law and the independence of the judiciary.

## **(6) Public Office Holders**

(6.1) Merit and proven integrity, should be the criteria of eligibility for appointment to public office;

(6.2) Subject to (a), measures may be taken, where possible and appropriate, to ensure that the holders of all public offices generally reflect the composition of the community in terms of gender, ethnicity, social and religious groups and regional balance.

## **(7) Ethical Governance**

(7.1) Ministers, Members of Parliament, judicial officers and public office holders in each jurisdiction should respectively develop, adopt and periodically review appropriate guidelines for ethical conduct. These should address the issue of conflict of interest, whether actual or perceived, with a view to enhancing transparency, accountability and public confidence.

## **(8) Accountability Mechanisms**

(a) Executive Accountability to Parliament

(8.1) Parliaments and governments should maintain high standards of accountability, transparency and responsibility in the conduct of all public business.

(8.2) Parliamentary procedures should provide adequate mechanisms to enforce the accountability of the executive to Parliament.

(b) Judicial Accountability

(8.3) Judges are accountable to the Constitution and to the law which they must apply honestly, independently and with integrity. The principles of judicial accountability and independence underpin public confidence in the judicial system and the importance of the judiciary as one of the three pillars upon which a responsible government relies.

(8.4) In addition to providing proper procedures for the removal of judges on grounds of incapacity or misbehaviour that are required to support the principle of independence of the judiciary, any disciplinary procedures should be fairly and objectively administered. Disciplinary proceedings which might lead to the removal of a judicial officer should include appropriate safeguards to ensure fairness.

(8.5) The criminal law and contempt proceedings should not be used to restrict legitimate criticism of the performance of judicial functions.

(c) Judicial review.



(8.6) Best democratic principles require that the actions of governments are open to scrutiny by the courts, to ensure that decisions taken comply with the Constitution, with relevant statutes and other law, including the law relating to the principles of natural justice.

### **(9) The law-making process**

(9.1) In order to enhance the effectiveness of law making as an essential element of the good governance agenda:

(9.2) There should be adequate parliamentary examination of proposed legislation;

(9.3) Where appropriate, opportunity should be given for public input into the legislative process;

(9.4) Parliaments should, where relevant, be given the opportunity to consider international instruments or regional conventions agreed to by governments.

### **(10) Oversight of Government**

(10.1) The promotion of zero-tolerance for corruption is vital to good governance. A transparent and accountable government, together with freedom of expression, encourages the full participation of its citizens in the democratic process.

(10.2) Steps which may be taken to encourage public sector accountability include:

(a) The establishment of scrutiny bodies and mechanisms to oversee Government, enhances public confidence in the integrity and acceptability of government's activities. Independent bodies such as Public Accounts Committees, Ombudsmen, Human Rights Commissions, Auditors-General, Anti-corruption commissions, Information Commissioners and similar oversight institutions can play a key role in enhancing public awareness of good governance and rule of law issues. Governments are encouraged to establish or enhance appropriate oversight bodies in accordance with national circumstances,

(b) Government's transparency and accountability is promoted by an independent and vibrant media which is responsible, objective and impartial and which is protected by law in its freedom to report and comment upon public affairs.

### **(11) Civil Society**

Parliaments and governments should recognise the role that civil society plays in the implementation of the Commonwealth's fundamental values and should strive for a constructive relationship with civil society to ensure that there is broader opportunity for lawful participation in the democratic process.

# Index

## A

- Accountability · *See* Commonwealth Principles (2 and 7), *See* 2001 - Kenya (12-c), *See* 2004 - Fiji (Intro), *See* 2004 - Sri Lanka (2), *See* 2005 - India (1-i), *See* 2005 - Ghana (18), *See* 2005 - Tanzania (3), *See* H. 2005 - Fiji
- Civil Society · *See* 2001 - Kenya (9), *See* H. 2005 - Fiji
- Executive · *See* Commonwealth Principles (8.1 and 8.2), *See* 2004 - Sri Lanka (6)
- Government · *See* 2001 - Kenya (2 and 9), *See* G. 2005 - Fiji (2)-2
- Judicial · *See* Commonwealth Principles (8.2-b and 8.3)
- Lack of · *See* 2001 - Kenya (10)
- Legislation · *See* 2001 - Kenya (1)
- Legislature · *See* 2001 - Kenya (1)
- Mechanisms · *See* Commonwealth Principles (8), *See* 2001 - Kenya (9)
- Media · *See* Commonwealth Principles (10.2-b), *See* 2001 - Kenya (9), *See* 2004 Sri Lanka (3), *See* H. 2005 - Fiji
- Opposition · *See* H. 2005 - Fiji
- Parliamentarians · *See* 2005 - Tanzania (1.3)
- Parliaments · *See* 2001 - Kenya (12-c)
- Political Parties · *See* H. 2005 - Fiji
- Public · *See* 2005 - Tanzania (5)
- Public Sector · *See* Commonwealth Principles (10.2)
- Administrative Body
- Independent · *See* 2004 - Ghana (4.4, 11.2, 12, and 13.5)
- Affirmative Action · *See* 2003 - Nigeria (1.1), *See* 2004 - Sri Lanka (5)
- Attendance Records · *See* 2003 - Australia (8.4)
- Audit · *See* 2004 - Trinidad & Tobago, *See* 2005 - India (2-n), *See* 2005 - India (2-m), *See* 2006 - United Kingdom (10)
- Non-financial · *See* 2004 - Trinidad & Tobago
- Of the Auditor-General · *See* 2004 - Cameroon (3)
- Penalties for non-compliance · *See* 2004 Trinidad & Tobago
- Auditor-General · *See* 2001 - Kenya (4, 7, 8, 10, and 12-d), *See* 2004 - Trinidad & Tobago, *See* 2004 - The Gambia (5), *See* 2004 - Nigeria (3), *See* 2004 - Sri Lanka (2), *See* 2004 - Cameroon (3), *See* 2005 - Ghana (7), *See* 2005 - Sierra Leone (9), *See* 2006 - United Kingdom (10), *See* 2001 - Kenya (6), *See* 2001 - Kenya (4), *See* 2001 - Kenya (8), *See* 2001 - Kenya (5)
- Independence of · *See* 2001 - Kenya (5), *See* 2004 - Cameroon (3), *See* 2005 - Ghana (20)
- Independent Office · *See* 2001 - Kenya (6)

## B

- Budget · *See* 2004 - Fiji (3), *See* 2005 - Trinidad & Tobago, *See* 2004 - The Gambia (4), *See* 2004 - Nigeria (1), *See* 2004 - Cameroon (1), *See* 2005 - Ghana (1-7), *See* 2005 - Sierra Leone (21)
- Approval · *See* 2006 United Kingdom (7)
- Balancing · *See* 2006 United Kingdom (1)
- Committee(s) · *See* 2001 - Kenya (2)
- Consideration
- Resources available to Parliament · *See* 2006 United Kingdom (6)
- Constraints · *See* 2004 - Sri Lanka (1)
- Consultation · *See* 2004 - Nigeria (1), *See* 2004 - Cameroon (1)
- Debate · *See* 2001 - Kenya (1)
- Executive's · *See* 2004 - The Gambia (4), *See* 2004 - Nigeria (1)
- Formulation · *See* 2001 - Kenya (1), *See* 2005 Ghana (10)

- Forward Planning · *See* 2006 United Kingdom (2)
- Law · *See* 2004 - Nigeria (1)
- Monitoring · *See* 2004 - The Gambia (5), *See* 2004 - Nigeria (1 and 5), *See* 2006 United Kingdom (9)
- Office · *See* 2004 - Nigeria (1), *See* 2006 United Kingdom (6)
- Parliament's · *See* 2005 - Tanzania (3.1)
- Preparation · *See* 2006 United Kingdom (3)
- Presentation of the · *See* 2006 United Kingdom (5)
- Research · *See* 2004 - The Gambia (4)
- Review Offices · *See* 2004 - Cameroon (1)
- Rolling · *See* 2006 United Kingdom (2)
- Secrecy · *See* 2006 United Kingdom (4)
- Media · *See* 2006 United Kingdom (4)

## C

- Capacity Building · *See* 2002 - Saint Lucia (1.1), *See* 2002 - South Africa (3), *See* 2004 - Sri Lanka (Follow-Up), *See* 2005 - India (2-f and 3-k), *See* H. 2005 - Fiji, *See* 2005 - Malta (7 and 8)
- Auditor-General · *See* 2005 - Sierra Leone (8)
- Civil Society · *See* 2005 - Ghana (17)
- Caucuses
- Women's · *See* 2006 - New Zealand
- Citizenship · *See* 2005 - Tanzania (5.3), *See* 2005 - Tanzania (5.3)
- Civil Society · *See* Commonwealth Principles (11), *See* 2002 - South Africa (1.1), *See* 2004 - Ghana (11.2 and 15.2), *See* 2004 - Sri Lanka (3), *See* 2005 - Ghana (5), *See* 2005 - Sierra Leone (5), *See* 2006 - New Zealand, *See* 2006 - Dominica (Intro)
- Working with · *See* 2002 - Saint Lucia (2.1-c), *See* 2003 - Nigeria (4.2 and 6.5), *See* 2004 - Fiji (Intro and Conclusion), *See* 2004 - Ghana (19), *See* 2005 - Sierra Leone (12)
- Code
- Of Conduct
- Media · *See* 2002 - South Africa (5.2)
- Parliamentary Service · *See* 2005 - Tanzania (4.4)
- Of Leadership · *See* H. 2005 - Fiji
- Of Practice · *See* 2004 - Ghana (8.2)
- Of Record · *See* 2004 - Ghana (15.3.c)
- Committee(s) · *See* 2001 - Malaysia (2-j), *See* 2001 - Kenya (3), *See* 2002 - Saint Lucia (2.1-a), *See* 2004 - The Gambia (3), *See* 2004 - Nigeria (1), *See* 2004 - Sri Lanka (2), *See* 2004 - Cameroon (1, 2; 4 and 5), *See* 2005 - India (2-o), *See* 2005 - Ghana (6, 19 and 20), *See* 2005 - Sierra Leone (15), *See* 2006 - United Kingdom (3, 7, and 9)
- Appropriations · *See* 2001 - Kenya (2), *See* 2004 - Trinidad & Tobago
- Executive · *See* 2001 - Malaysia (2-1)
- House's Privilege · *See* 2003 - Australia (7.4)
- Media coverage · *See* 2002 - South Africa (6.1 and 8.1-e)
- Open to the Public · *See* 2003 - Australia (8.9), *See* 2004 - Ghana (14.3)
- Oversight · *See* 2004 - Sri Lanka (2), *See* 2005 - Sierra Leone (23)
- Public Accounts · *See* Commonwealth Principles (10.2-a), *See* 2001 - Kenya (10), *See* 2004 - Trinidad & Tobago, *See* 2004 - Nigeria (3), *See* 2004 - Sri Lanka (2), *See* 2004 - Cameroon (3), *See* 2005 - Ghana (7), *See* 2005 - Sierra Leone (22-26), *See* H. 2005 - Fiji
- Reforms · *See* 2001 - Kenya (12-d)
- Sector · *See* 2006 - United Kingdom (9 and 10)
- Select · *See* 2004 - The Gambia (4 and 5)
- Standing · *See* 2004 - Nigeria (5), *See* 2005 - India (2-b)
- Watchdog · *See* 2004 - Cameroon (4)

Commonwealth Women Parliamentarians (CWP) · *See* 2001 – Malaysia (2-m), *See* 2006 New Zealand

Conflict · *See* 2003 - Nigeria (2), *See* 2004 – Fiji (1), *See* 2004 – Sri Lanka (1, 4 and 5)

Of Interest · *See* Commonwealth Principles (7.1), *See* G. 2005 – Fiji (2)-12

Prevention · *See* 2004 – Sri Lanka (3)

Resolution · *See* 2004 – Sri Lanka (7), *See* 2004 – Sri Lanka (6)

Constituency

Based Spending Programmes · *See* 2004 – Cameroon (1)

Office · *See* 2004 - Ghana (14.2)

Responsibilities · *See* 2004 – The Gambia (1)

Weeks · *See* 2001 - Malaysia (2-e)

Wishes · *See* 2006 – United Kingdom (1)

Corporate body · *See* 2005 -Tanzania (4.2), *See* 2005 -Tanzania (4.2)

Corporate Body · *See* 2005 - Tanzania (2.1, 2.3-2.5, 3.3–3.5, 4.2, 4.7, 5.1 and 5.4), *See* 2006 - Mauritius

Corruption · *See* Commonwealth Principles (10.1), *See* 2004 – The Gambia (2), *See* 2004 – Nigeria (4), *See* 2004 – Cameroon (4), *See* 2005 – Sierra Leone (8-13), *See* G. 2005 - Fiji (2)-2

Anti-Corruption Agencies · *See* 2004 – The Gambia (2), *See* 2004 – Nigeria (4)

Anti-Corruption Commissions · *See* Commonwealth Principles (10.2-a), *See* 2004 – Sri Lanka (2), *See* 2004 – Cameroon (4)

Anti-Corruption Legislation · *See* 2004 – The Gambia (2), *See* 2004 – Nigeria (4), *See* 2005 – Sierra Leone (11)

Civil Society · *See* 2004 – The Gambia (2), *See* 2004 – Nigeria (4)

Culture of · *See* 2004 – Cameroon (4)

Global Organization of Parliamentarians Against Corruption (GOPAC) · *See* 2004 – The Gambia (2), *See* 2005 – Sierra Leone (13)

Judicial · *See* 2004 – Cameroon (4)

Judiciary · *See* 2004 – The Gambia (2), *See* 2004 - Nigeria (4)

Political Parties · *See* 2004 – The Gambia (2), *See* 2004 - Nigeria (4)

Poverty · *See* 2004 – Nigeria (4)

Public Opinion · *See* 2004 – Cameroon (4)

Public Service · *See* 2004 – Cameroon (4)

Cultural

Barriers · *See* 2001 – Malaysia (1-b)

Differences · *See* 2003 – Australia (10)

Diversity · *See* 2004 – Cameroon (Intro)

Sensitivities · *See* G. 2005 - Fiji(2)-5 , *See* 2006 – Dominica (24)

## D

Decentralization · *See* 2004 – Sri Lanka (7)

Democracy · *See* 2003 – Nigeria (All), *See* 2004 –Fiji (All), *See* 2004 – Sri Lanka (3), *See* 2004 – Cameroon (4), *See* H. 2005 - Fiji, *See* 2006 - Dominica (Intro)

Informed · *See* 2002 - South Africa (All), *See* 2003 - Australia (All)

Development · *See* 2002 – South Africa (1.1 and 1.2), *See* 2003 – Nigeria (All), *See* 2003 – Nigeria (All), *See* 2004 –Fiji (All), *See* 2004- The Gambia (3), *See* G. 2005 - Fiji (2)-2

Aid · *See* 2006 United Kingdom (1)

Gender · *See* 2005 Ghana (13)

Networking for · *See* 2005 - Malta (All)

Partners · *See* 2005 – Ghana (5)

Projects · *See* 2004 – The Gambia (1)

Sustainable · *See* 2004 –Fiji (Intro and Conclusion)

Disclosure

Assets · *See* 2004 - Cameroon (4)

Interests · *See* 2003 - Australia (8.5)

Domestic Violence · *See* 2004 - Fiji (1), *See* 2006 – New Zealand

## E

Electoral

Education · *See* H. 2005 - Fiji

Systems · *See* H. 2005 - Fiji

Equal

Access · *See* 2004 - Fiji (1), *See* 2006 – New Zealand

Opportunity · *See* Commonwealth Principles (5.2-a), *See* 2004 – Sri Lanka (5), *See* 2005 - Tanzania (4.6)

Executive · *See* Commonwealth Principles (1, 2 and 3), *See* 2004- The Gambia (1), *See* 2004- Nigeria (2), *See* 2004 – Cameroon (2), *See* 2005 – Sierra Leone (26), *See* 2006 – Dominica (8)

Financial Management · *See* 2001 - Kenya (1)

Relationship with Parliament · *See* 2006 - Mauritius

Expenditure · *See* 2001 - Kenya (1), *See* 2005 - Tanzania (3.4)

## F

Freedom of Expression · *See* Commonwealth Principles (10.1), *See* 2002 - South Africa (8.1-e), *See* 2003 - Australia (2), *See* 2006 – Dominica (Intro)

## G

Gender · *See* 2001 - Malaysia (All), *See* 2003 – Nigeria (All), *See* 2004 –Fiji (All), *See* 2005 –Tonga (All), *See* 2006 –New Zealand (All)

Analysis · *See* 2001 – Malaysia (2-a), *See* 2003 – Nigeria (5.1), *See* 2004 – Fiji (3), *See* 2005 - Ghana (12 and 15), *See* 2006 - New Zealand

Balance · *See* H. 2005 - Fiji

Based violence · *See* 2005 - India (2-e)

Budgeting · *See* 2003 - Nigeria (5.1), *See* 2005 Ghana (12), *See* 2005 –Tonga (3), *See* 2006 New Zealand

Commissions · *See* 2004 – Fiji (2)

Commonwealth Plan of Action · *See* 2003 - Nigeria (1), *See* 2004 –Fiji (Intro)

Economic Empowerment · *See* 2004 – Fiji (3)

Equality · *See* 2003 – Nigeria (6.5), *See* 2004 –Fiji (Intro, 1 and Conclusion), *See* 2005 –Tonga (All), *See* 2006 –New Zealand (All)

Equity · *See* Commonwealth Principles (5-2-a)

Policies · *See* 2004 – Fiji (2)

Stereotypes · *See* 2004 – Fiji (3)

Governance · *See* H. 2005 - Fiji

Democratic · *See* 2005 – Sierra Leone (6)

Ethical · *See* Commonwealth Principles (7)

Gender Responsive · *See* 2006 – New Zealand

Good · *See* Commonwealth Principles (2, 9.1, 10.1 and 10.2-a), *See* 2004 - Ghana (8.1), *See* 2004 – Sri Lanka (5), *See* 2004 - Cameroon (5), *See* 2005 – Sierra Leone (19), *See* 2006 - Dominica (Intro)

Internet · *See* 2005 Malta (8)

Open · *See* 2004 - Ghana (9.1), *See* G. 2005 – Fiji (2)-4 and (2)-5), *See* 2006 - Dominica (24)

Participatory · *See* 2005 - Ghana (16)

Poor · *See* 2005 - Ghana (18), *See* H. 2005 - Fiji

Transformative · *See* 2006 – New Zealand

Transparent · *See* 2004 – Ghana (All)

Government · *See* Commonwealth Principles (1.1, 8.1, 8.3, 8.6, 9.4, 10, and 11), *See* 2001 - Malaysia (10-d, 2-a and h), *See* 2001 - Kenya (3, 9, 12-b and c), *See* 2001 - Kenya (1, 2, and 3), *See* 2002 - South Africa (2.2, 3.3, 4.1, and 8.1), *See* 2003 - Australia (1.2, 1.3, 3.2i, 3.3,3.5, 4.1 and 4.3), *See* 2003 -

Nigeria (1.1, 1.2, 3.1, 3.2, 5.1, and 6.2-6.4), *See* 2004 – Fiji (All), *See* 2004 – Trinidad & Tobago, *See* 2004 - Sri Lanka (2 and 4), *See* 2004 – Cameroon (1, and 3-6), *See* 2005 - India (2-f, m, n) and (3-k), *See* H.2005 – Fiji (All), *See* 2005 – Tonga (1-3), *See* 2006 – New Zealand  
Heads of · *See* 2002 – South Africa (8.1), *See* 2003 - Nigeria (1.3 and 6.3), *See* 2004 - Fiji (1), *See* 2005 – Malta (5)  
Open · *See* 2004 - Ghana (10.1 and 14.1)

---

## H

HIV/AIDS · *See* 2003 - Nigeria (4), *See* 2005 - India (All)  
All-party groups · *See* 2005 - India (1-j)  
Caucuses · *See* 2005 - India (1-j)  
Community-based organizations · *See* 2005 - India (1-f and 2-o)  
Creed of best practice · *See* 2005 - India (1-j)  
Drugs · *See* 2003 - Nigeria (4.3), *See* 2004 – Fiji (4)  
Education · *See* 2005 - India (2-a)  
Faith-based organizations · *See* 2005 - India (1-f and 2-o)  
Gender · *See* 2004 – Fiji (4)  
Government · *See* 2003 - Nigeria (4.1, 4.2, 4.3 ), *See* 2005 - India (2-c)  
National Bodies · *See* 2005 - India (1-e)  
Non-Governmental Organizations (NGOs) · *See* 2005 - India (1-f and 2-o)  
Parliamentarians · *See* 2005 – India (1-e; 2-a; 3-a and k)  
Research · *See* 2005 - India (2-j)  
Stigma · *See* 2004 – Fiji (4)  
Human Rights · *See* Commonwealth Principles (2), *See* 2004 – Fiji (2), *See* 2004 - Ghana (11.2), *See* 2005 - India (2-h), *See* H. 2005 - Fiji, *See* 2006 – Dominica (Intro)  
Commissions · *See* Commonwealth Principles (10.2-a), *See* 2004 – Fiji (2), *See* 2004 - Sri Lanka (2)  
Commonwealth Human Rights Initiative · *See* 2004 – Ghana (15.3)  
Legislation · *See* Commonwealth Principles (5.1)  
Human Trafficking · *See* 2005 - India (2-e) , *See* 2005 – Sierra Leone (27)

---

## I

ICT · *See* 2002 - Malaysia (1, 3 and 9), *See* 2004 - Ghana (3.3 and 9), *See* 2005 – Sierra Leone (17iii), *See* 2005 - Tanzania (4.5), *See* 2005 - Malta (1, 2, 5-7, and 9)  
Indicators · *See* 2003 - Australia (3.7), *See* 2004 - Cameroon (5), *See* 2005 - Ghana (4, 11 and 15), *See* 2005 - Malta (7)  
Information · *See* 2004 – Sri Lanka (3), *See* 2004 – Cameroon (2), *See* 2006 – New Zealand, *See* 2006 - Dominica (7)  
Access to · *See* 2001 - Kenya (10), *See* 2002 – Saint Lucia (2.1-d), *See* 2004 - Ghana (13), *See* 2005 – India (1-h), *See* 2004 - Ghana (18), *See* G. 2005 - Fiji (2)-2, *See* 2006 - Dominica (16), *See* 2006 - Dominica (6)  
Cost · *See* 2004 - Ghana (5)  
Exceptions · *See* 2004 - Ghana (6)  
Facilitation · *See* 2004 - Ghana (4)  
Legislation · *See* 2004 - Ghana (8.1, 8.2, 12.2, 12.3, 12.4, 13.1, 13.4, 13.5), *See* 2004 - Ghana (1.1 and 2.1)  
Inconsistent · *See* 2004 - Ghana (7)  
Commissioners · *See* 2001 - Kenya (10)  
Commissions · *See* G. 2005 - Fiji (2)-11  
Disclosure · *See* 2004 - Ghana (3.1, 3.4, and 12.2), *See* G. 2005 - Fiji (2)-7 and 14, *See* 2006 – Dominica (2 and 7)  
Exchange · *See* 2005 – Sierra Leone (27), *See* 2005 – Sierra Leone (7)  
Freedom of · *See* 2004 – Nigeria (4), *See* G. 2005 - Fiji (All), *See* 2006 - Dominica (All)

Exemptions · *See* G. 2005 - Fiji (2)-5 and 9, *See* 2006 – Dominica (2)  
Government · *See* G. 2005 - Fiji (2)-1, 4, 7 and 11 , *See* 2006 - Dominica (Intro, 5, 10, 11, 20 and 23)  
Law · *See* G. 2005 - Fiji(2)-3, 4, 6, 9, 12 and 13, *See* 2006 – Dominica (2, 7, 9, 11-13, 15-18, 21, 25, and 26)  
Legislation · *See* 2002 - South Africa (8.1-a), *See* G. 2005 - Fiji(2)-3 to 7, 11 and 14, *See* 2006 - Dominica (Intro, 1, 4, 5, and 10), *See* 2006 - United Kingdom (4)  
Regimes · *See* G. 2005 – Fiji (2)-13 and 14, *See* 2006 – Dominica (1 and 3)  
Requests · *See* 2006 - Dominica (9)  
System · *See* G. 2005 - Fiji (2)-1  
Misuse of · *See* 2005 - Fiji (9)  
Officers · *See* 2004 – Sri Lanka (2), *See* 2006 - Dominica (17)  
Public · *See* 2006 - Dominica (19)  
Right to · *See* 2006 - Dominica (29), *See* 2006 - Dominica (23), *See* 2006 - Dominica (15), *See* 2006 - Dominica (11)  
Legislation · *See* 2004 – Sri Lanka (3)  
Publicizing · *See* 2004 - Ghana (11)  
Sensitive · *See* 2004 – Cameroon (2)  
Sources of · *See* 2002 - South Africa (4)  
Strategy · *See* 2005 – Tanzania (5.2)  
Interparliamentary · *See* 2002 - Saint Lucia (2.1-e), *See* 2004 - Sri Lanka (8)

---

## J

Judiciary · *See* Commonwealth Principles (1, 2 and 3), *See* 2005 – Sierra Leone (10)  
Appointments · *See* Commonwealth Principles (5.2-a)  
Independence · *See* Commonwealth Principles (5, and 8.4), *See* 2003 - Australia (1.1), *See* 2004 – Sri Lanka (6)

---

## L

Legislation · *See* Commonwealth Principles (9.2), *See* 2001 - Malaysia (1-b) , *See* 2001- Kenya (12-b,c and d), *See* 2004 – The Gambia (5), *See* 2004 – Sri Lanka (2), *See* 2004 – Cameroon (2, 4 and 5), *See* 2005 - Tanzania (2.1), *See* 2006 – New Zealand  
Anti-discrimination · *See* 2004 – Fiji (3)  
Anti-terrorism · *See* 2002 - South Africa (8.1-f)  
Archaic · *See* 2003 - Australia (9)  
Criminal and Libel · *See* G. 2005 - Fiji (2)-9  
Delay · *See* 2004 – Cameroon (2)  
Drafting · *See* 2005 - Sierra Leone (16)  
HIV/AIDS · *See* 2005 - India (2-l and r)  
Initiate · *See* 2005 - Sierra Leone (14)  
Post-Conflict · *See* 2004 – Nigeria (2)  
Privacy · *See* 2002 - South Africa (8.1-b)  
Protection of the Environment · *See* 2004 – Fiji (3)  
Public Input · *See* Commonwealth Principles (9.3)  
Publicizing · *See* 2005 - Sierra Leone (17)  
Legislature · *See* 2001 - Malaysia (1-a and d), *See* 2001 - Kenya (11, 12-a and b), *See* 2001 - Kenya (1), *See* 2005 - Tanzania (3.6, 4.3, 5.1, 5.2 and 5.3)  
Bicameral · *See* 2005 – Trinidad & Tobago , *See* 2006 United Kingdom (7)  
Financial Autonomy · *See* 2006 – Mauritius  
Independence of · *See* 2005 - Tanzania (1.1)  
Members · *See* 2005 - Tanzania (2.3)  
Strengthen · *See* 2004 – The Gambia (All), *See* 2004 – Nigeria (All), *See* 2005 – Ghana (All), *See* 2005 – Sierra Leone (All)  
Linguistic Diversity · *See* G. 2005 - Fiji (2)-6

---

## M

Media · *See* Commonwealth Principles , *See* 2001 - Malaysia (10 –e), *See* 2002 – South Africa (All), *See* 2003 - Australia (All), *See* 2004 – Fiji (4), *See* 2004 – Ghana (15.2), *See* 2004 – Sri Lanka (3), *See* 2004 – Cameroon (2), *See* 2005 - Sierra Leone (5, 6 and 12), *See* 2005 - Tanzania (5.4), *See* H. 2005 - Fiji, *See* G. 2005 – Fiji (2)-4 and (2)-10, *See* 2006 – New Zealand  
Access to Parliament · *See* 2003 - Australia (8)  
Balanced Coverage · *See* 2002 – South Africa (1.4)  
Committee(s) · *See* 2002 – South Africa (6.1-6.3), *See* 2003 - Australia (6.4)  
Electronic · *See* 2003 - Australia (8.8)  
Legislative Framework · *See* 2002 – South Africa (8)  
Licensing · *See* 2002 - South Africa (8.1-d), *See* 2003 - Australia (4)  
Ownership · *See* 2003 - Australia (5.4), *See* 2003 - Australia (5)  
Parliament · *See* 2002 – South Africa (All), *See* 2003 - Australia (All)  
Peace-Building · *See* 2004 - Sri Lanka (3)  
Professional and Ethical Standards · *See* 2003 - Australia (8.6)  
Right to Information · *See* 2004 – Ghana (11.2)  
Social Role · *See* 2002 - South Africa (2)  
Standards · *See* 2002 - South Africa (7)  
State · *See* 2004 - Sri Lanka (3)  
Merit · *See* Commonwealth Principles (5.2-a and 6.1), *See* 2003 - Australia (1.2), *See* 2005 - Tanzania (2.6 and 4.6)  
Millennium Development Goals (MDGs) · *See* 2003 - Nigeria (3), *See* Sri Lanka (1), *See* 2004 - Cameroon (5), *See* 2005 - India (2-n), *See* 2006 United Kingdom (1)

---

## N

NEEDS · *See* 2004 – Nigeria (5)  
NEPAD · *See* 2003 - Nigeria (3.2)  
Non-Governmental Organizations (NGOs) · *See* 2001 - Malaysia (2-k), *See* 2002 - Saint Lucia (2.1-c), *See* 2003 – Cameroon (2 and 5)

---

## O

Ombudsman · *See* 2004 – Sri Lanka (2), *See* 2003 – Cameroon (3), *See* G. 2005 - Fiji (2)-11  
Opposition · *See* 2004 – Sri Lanka (4), *See* 2004 – Cameroon (2), *See* H. 2005 - Fiji, *See* H. 2005 – Fiji (All), *See* G. 2005 – Fiji (2)-4  
Allocation of Resources to · *See* H. 2005 - Fiji  
Effective · *See* H. 2005 - Fiji  
Peace-building · *See* 2004 – Sri Lanka (4)  
Oversight · *See* 2001 - Kenya (12-a), *See* 2001 - Kenya (11), *See* 2001 - Kenya (3), *See* 2001- Kenya (2), *See* 2005 – Trinidad & Tobago , *See* 2004 -Ghana (13.1), *See* 2004 - Nigeria (1), *See* 2004 - Sri Lanka (6), *See* 2005 – Sierra Leone (1-7)  
Bodies · *See* Commonwealth Principles (10.2-a), *See* 2004 - Ghana (13.3), *See* G. 2005 - Fiji (2)-11  
Civil Society · *See* 2005 – Ghana (16-20), *See* H. 2005 - Fiji  
Mechanisms · *See* Commonwealth Principles (10.2-a), *See* 2001- Kenya (12-e), *See* 2001 - Kenya (12-b), *See* 2004 - Ghana (13.4), *See* 2004 – The Gambia (5), *See* 2005 - India (2-m), *See* 2005 - Sierra Leone (18-21)  
Of Government · *See* Commonwealth Principles (10), *See* 2001 - Kenya (12-d), *See* 2001 - Kenya (12-a), *See* H. 2005- Fiji  
Of the Executive · *See* 2001- Kenya (12-b), *See* 2004- Nigeria (5), *See* 2004- Nigeria (2), *See* 2004 – Cameroon (2), *See* 2005- Ghana (20), *See* 2005- Ghana (6)

Public Bodies · *See* 2004- Nigeria (5)  
Security Sector · *See* 2004- Sri Lanka (2)

---

## P

Parliament · *See* Commonwealth Principles (1.1, 2.1, 3.1, 4.2, 8.1, 8.2, 9.4, and 11), *See* 2001- Kenya (2-4, and 12a-e), *See* 2003 - Nigeria (1.1 and 6.1), *See* 2004 – Fiji (Intro and 3), *See* 2004 – Trinidad & Tobago, *See* 2004 - Ghana (1.1, 8.2, 12.3, 13.1 and 14.1), *See* 2004 – The Gambia (2), *See* 2004 – Nigeria (4), *See* 2004 – Cameroon (All), *See* 2005 – India (3-a), *See* 2005- Ghana (1, 2, 4, 5, 7 and 19), *See* 2005 - Sierra Leone (5, 6, 9, 12, 16-21 and 25), *See* H. 2005 - Fiji, *See* G. 2005 - Fiji (2)-7, *See* 2005 - Malta (2), *See* 2006 –New Zealand, *See* 2006 - Dominica (Intro, 1, 28, and 29)  
Administration · *See* 2005 - Tanzania (All)  
Conflict-Affected Countries · *See* 2004 – Sri Lanka (All)  
Contempt of · *See* 2003 – Australia (6)  
Dignity of · *See* 2003 – Australia (9.3), *See* 2003 - Australia (6.2 and 9.3)  
Financial Independence · *See* 2005 - Tanzania (3)  
Financing · *See* 2005 - Tanzania (All)  
Funding · *See* 2004- Nigeria (2)  
Gender-Sensitizing · *See* 2001 - Malaysia (All)  
Governance of · *See* 2005 - Tanzania (2)  
Independence of · *See* 2005 - Tanzania (1), *See* H. 2005 - Fiji  
Openness · *See* 2004 - Ghana (14)  
Reform · *See* H. 2005 - Fiji  
Women's · *See* 2005 –Tonga (5)  
Parliamentarians · 102, *See* 2001 - Malaysia (2-b), *See* 2002 – Saint Lucia (1.1, 1.1-b, 2.1, 2.1-a, d and f), *See* 2002 - South Africa (2.2, 3.1,4.1,5.1 and 5.3), *See* 2003 - Nigeria (1.1-1.3, 6.3 and 6.5), *See* 2004 – Fiji (1, 3 and Conclusion , *See* 2005 – Trinidad & Tobago , *See* 2004 - Ghana (10.2, 11.2, and 15.2), *See* 2004 – The Gambia (2-5), *See* 2004- Nigeria (1,4 and 5), *See* 2004 – Sri Lanka (1, 4, 5 and 8), *See* 2004 – Cameroon (1, 4 and 5), *See* 2005 – Sierra Leone (8-13, 14, 15, and 27), *See* 2005 - Tanzania (1.2), *See* H. 2005 - Fiji, *See* 2005 – Malta (5-7), *See* 2006 - Mauritius, *See* 2006 - Dominica (Intro)  
Female · *See* 2001 - Malaysia (1, 1-d, 2-j and k)  
Independence · *See* Commonwealth Principles (4)  
Women · *See* 2006 –New Zealand  
Parliamentary  
Network on the World Bank (PNoWB) · *See* 2005 - India (2-k and 3-k)  
Privilege · *See* 2002 - South Africa (8.1-c), *See* 2003 - Australia (7)  
Proceedings · *See* Commonwealth Principles (4.2), *See* 2002 - South Africa (8.1-c), *See* 2003 – Australia (7.3, 8.1, 8.2, 8.8.i, 8.8.iii, and 9.4), *See* 2005 - Tanzania (5.4)  
Broadcasting · *See* 2002 - South Africa (6.4)  
Process · *See* 2001 - Malaysia (2-i), *See* 2002 - South Africa (6.2), *See* 2004 – Sri Lanka (4), *See* 2004 – Cameroon (Intro), *See* 2005 – India (1-i), *See* H. 2005 - Fiji, *See* 2006 New Zealand  
Service · *See* 2005 – Tanzania (4)  
Governance of · *See* 2005 - Tanzania (2.1)  
Head of · *See* 2005 - Tanzania (2.2, 2.6, 2.7 and 3.6)  
Procedural Specialists · *See* 2005 - Tanzania (4.5)  
Recruitment · *See* 2005 - Tanzania (4.6)  
Statutory Terms and Conditions · *See* 2005 - Tanzania (4.3)  
Standards · *See* 2002 - Malaysia (4)  
Participation · *See* Commonwealth Principles (10.1 and 11), *See* 2001 - Malaysia (2-i), *See* 2002 - Saint Lucia (1.1-g and 2.1-d), *See* 2004 – Sri Lanka (1-3 and 7), *See* 2005 - Ghana (16), *See* G. 2005 - Fiji (2)-2, *See* 2006 –New Zealand  
Political Parties · *See* 2004 – Sri Lanka (4), *See* 2006 – New Zealand

Elections · *See* H. 2005 - Fiji  
Women · *See* 2001 - Malaysia (1-a), *See* 2006 - New Zealand  
Professional Development · *See* 2002 - South Africa (3.1), *See* 2002 - Malaysia (9 and 11), *See* 2004 - Sri Lanka (Follow-Up), *See* 2004 - Cameroon (6), *See* 2006 - Mauritius  
PRSP  
Enabling Legislation · *See* 2004 - Cameroon (5)  
Formulation · *See* 2004 - The Gambia (3), *See* 2004 - Cameroon (5)  
Monitoring · *See* 2004 - The Gambia (5), *See* 2004 - Sri Lanka (1), *See* 2004 - Cameroon (5), *See* 2005 - Sierra Leone (18-21)  
Public  
Debate · *See* G. 2005 - Fiji (2)-10  
Education · *See* 2004 - Ghana (11.1 and 15.1), *See* 2004 - Cameroon (4)  
Institutions · *See* G. 2005 - Fiji (2)-7  
Interest · *See* 2003 - Australia (1.2 and 1.3)  
Office · *See* Commonwealth Principles (6 and 7.1), *See* 2004 - Cameroon (4)  
Relations  
Office · *See* 2005 - Sierra Leone (17i)  
Officers · *See* 2003 - Australia (8.3)  
Publication · *See* 2004 - Ghana (3.1-3.4)  
Publish · *See* 2003 - Australia (8.7)

---

## R

Records  
Management · *See* 2004 - Ghana (8 and 9)  
System · *See* 2006 - Dominica (18)  
Regulation  
Broadcast Content · *See* 2003 - Australia (3.7)  
Electronic Networks · *See* 2003 - Australia (3.6)  
Internet · *See* 2003 - Australia (3.8)  
Media · *See* 2003 - Australia (3.2)  
Local Content · *See* 2003 - Australia (5.3)  
Remuneration · *See* 2005 - Tanzania (3.2)  
Judiciary · *See* Commonwealth Principles (5.2-b)  
Parliamentarians · *See* 2005 - Tanzania (3.2), *See* H. 2005 - Fiji  
Women · *See* 2006 - New Zealand  
Representation · *See* 2004 - Sri Lanka (1)  
Women · *See* 2001 - Malaysia (2-1), *See* 2003 - Nigeria (1.1), *See* 2006 - New Zealand  
Representatives · *See* 2001 - Kenya (12-a), *See* 2002 - South Africa (7), *See* 2004 - The Gambia (1), *See* 2005 - Ghana (3)  
Research · *See* 2002 - South Africa (3.2), *See* 2004 - Trinidad & Tobago, *See* 2004 - Nigeria (1), *See* 2005 - Cameroon (2 and 6), *See* 2005 - Tanzania (2.4 and 4.5)  
Institutions · *See* 2005 - Ghana (5)  
Right of reply · *See* 2003 - Australia (7)  
Right to know · *See* 2003 - Australia (1), *See* 2004 - Ghana (13.1, 13.2)

---

## S

Speaker · *See* 2004 - Cameroon (2 and 6), *See* 2005 - Tanzania (2.2), *See* H. 2005 - Fiji  
Staff · *See* 2004 - Ghana (12.2), *See* 2004 - Nigeria (1), *See* 2005 - Cameroon (1, 2 and 6), *See* 2005 - India (3-e), *See* 2005 - Sierra Leone (1, 16, and 25), *See* 2005 - Tanzania (2.4, 4.1 and 4.5), *See* G. 2005 - Fiji (2)-12, *See* 2006 - Dominica (20), *See* 2006 United Kingdom (6 and 10)  
Standing Orders · *See* 2001 - Malaysia (1-c and 2-i), *See* 2003 - Australia (6.2, 6.4, 8.2, and 9.3), *See* 2004 - Cameroon (2), *See* 2005 - Ghana (2)  
States  
Small · *See* 2004 - Ghana (15.3.a), *See* 2005 - India (3-j), *See* 2005 - Malta (3 and 7-9), *See* 2005 - Malta (2 and 5)  
Small Island · *See* 2005 - Malta (3 and 9)  
Vulnerable · *See* 2005 - India (3-j)

---

## T

Trade · *See* 2002 - Saint Lucia (All), *See* 2003 - Nigeria (6)  
Training · *See* 2001 - Malaysia (1-c and 2-g), *See* 2004 - Trinidad & Tobago, *See* 2004 - Ghana (8.3 and 10.1), *See* 2005 - India (2-t), *See* 2005 - Sierra Leone (1 and 2), *See* 2006 - Mauritius, *See* 2006 - New Zealand, *See* 2006 - Dominica (20 and 22)  
Materials · *See* 2002 - Saint Lucia (2.1-f), *See* 2002 - Malaysia (5)  
Media · *See* 2006 - New Zealand  
New Members · *See* 2004 - Cameroon (6)  
Public Officials · *See* 2004 - Ghana (15.1)  
Transparency · *See* Commonwealth Principles (7.1, 8.1 and 10.2-b), *See* 2001 - Kenya (2), *See* 2004 - Cameroon (5), *See* 2002 - India (2-k), *See* 2005 - Tanzania (1.3), *See* H. 2005 - Fiji, *See* 2006 - Dominica (29)

---

## V

Vote  
Transparent · *See* H. 2005 - Fiji  
Voting · *See* 2004 - Cameroon (6), *See* 2005 - Sierra Leone (3)  
Records · *See* 2003 - Australia (8.4)

---

## W

World Bank · *See* 2004 - Nigeria (5), *See* 2005 - India (2-k and 3-k)  
World Bank Institute (WBI) · *See* 2004 - Ghana (15.3), *See* 2004 - Sri Lanka (Follow-Up)  
WTO · *See* 2002 - Saint Lucia (1-c)



COMMONWEALTH PARLIAMENTARY ASSOCIATION SECRETARIAT  
SUITE 700, WESTMINSTER HOUSE, 7 MILLBANK,  
LONDON, SW1P 3JA, UNITED KINGDOM.

TEL: (+44-20) 7799-1460

FAX: (+44-20) 7222-6073

E-MAIL: [hq.sec@cpahq.org](mailto:hq.sec@cpahq.org)

WEBSITE: [www.cpahq.org](http://www.cpahq.org)

December 2006