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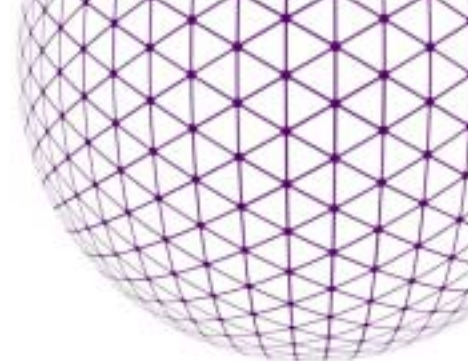
Regional Parliamentary Seminar on Parliamentary Rules of Procedure: Realities and the Challenges of Reform in the Arab Region

**Managing the process of political and
procedural reform in the House of Commons**

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The House of Commons is, in many respects, a unique institution. Westminster has a long history and, partly as a result, has a system of rules and procedures that is unlike most other legislatures – one that has proved remarkably resistant to most efforts at updating it.

However, since 2001 there has been a concerted effort to reform the Commons so that it is more effective in its key tasks of scrutinising legislation, holding government to account and representing the public. This has been a difficult process which has involved considerable political skill on the part of the successive Leaders of the House of Commons who sought to implement such change. This paper does not go into the detail of the reforms that have been implemented as they are likely to be of limited value to other parliaments. Instead it examines six aspects of managing the process of procedural reform which may have a wider relevance.

Brief Background to Reform of the House of Commons

The House of Commons first adopted Standing Orders in 1902. Introduced by Prime Minister Arthur Balfour, they were known as ‘Balfour’s railway timetable’ because they divided the parliamentary day into time periods, in particular limiting the time for parliamentary questions and ensuring that government business took precedence at set times. Standing Orders have continued to develop over the last 100 years, but there have been few periods of substantial reform. Instead change has tended to happen in a quiet and evolutionary fashion. As a result, Westminster has lagged behind other parliaments and is arguably not as effective as it should be. For example, it was not until 1979 that the House of Commons set up a system of permanent committees to scrutinise government departments.

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There are many reasons why it has proved so difficult to reform the House of Commons. There are a huge number of vested interests in any political institution who can act as a brake on change, but one of the key factors at Westminster is the extent to which the government dominates parliament. Ultimately any changes to standing orders must be supported by a majority of MPs. And where the Executive has a majority in the legislature this must mean government MPs as well as opposition MPs voting for a stronger parliament. Managing the process of procedural reform is therefore a difficult one which needs to balance the interests of many, not just those of the government, but of individuals and organisations inside and outside parliament. It is these factors which underpin the following six aspects of the approach to reform in the UK.

1) Identifying the correct causes of parliamentary weakness

The first challenge is to identify why parliament is not as effective as it might be. There are numerous factors that determine the influence of parliament, such as the level of staffing and resources, the structure of the committee system or the ability of MPs to get information from ministers. Each of them requires will require solutions that fit the structures of individual parliaments, and therefore are not the subject of a paper of this length.

However, there is an important factor that applies to almost every parliament. That is the gap that exists between the power that the institution has to challenge government in theory, and the extent to which MPs use that power in practice. This is usually for two reasons. Either MPs do not fully understand the rule of procedure or the mechanisms for scrutinising ministers, or where they do understand them, there are few incentives for them to use these mechanisms. Reforms should seek to address both of these factors.

Where there is a lack of understanding amongst MPs about their duties this may be because the rules themselves are unclear, and need revising. This is especially true where there is more than one source for parliamentary rules. However, even when there is only one document, the standing orders are frequently complex legal documents that are not immediately comprehensible to MPs. One option for addressing this is to develop a handbook or explanatory document that is more easily accessible to both staff and politicians. Such a handbook can sometimes be very useful in helping MPs to become more effective, and will often be a more valuable source of guidance than the formal rules of procedure because they develop as a working document.

The second aspect is the extent to which MPs use the parliamentary mechanisms available to scrutinise government. In many parliaments, scrutiny is seen as a confrontation with

ministers. This is especially true where government has a parliamentary majority, and the task is regarded as one for opposition parties. However, for a parliament to be effective, members of all parties need to regard scrutiny and oversight as part of their parliamentary duties. There are no neat solutions to this problem. Convincing MPs from the governing party that criticising their ministers is not disloyal, but is part of their parliamentary role is a difficult one. But reforms must seek to change behaviour as well as rules, and give all MPs the opportunity and incentives to hold ministers to account.

For example, at Westminster in recent years there have been efforts to increase the number, status and influence of the cross-party departmental committees. These committees allow MPs to work collectively across party boundaries to pursue 'parliamentary' functions. In addition, there are now added incentives to take committee work seriously. The chairs of select committees receive an extra salary, as well as additional staff and resources. In this way, it is hoped that more MPs will both understand and aspire to that scrutiny role.

Academic research suggests that in most parliaments, the biggest influence on MPs behaviour is not the rules, but other MPs, and especially senior politicians. Enacting measures which firstly improve understanding of the rules, and secondly, include incentives to use those parliamentary tools are more likely to be effective than rules changes by themselves.

2) Building broad support for change

It is one thing to identify the correct rule changes in the first place, but implementing change also means building political support and momentum behind those proposals. There are two aspects from the UK experience which are worth highlighting. The first is the role that outside organisations can play in building support for change, and the second is the importance of using cross-party bodies to develop and implement change in parliament.

Although many leading parliamentarians and academics have been arguing for significant reform of the House of Commons since the 1960s, between 2000-1 there were three major reports published which helped to influence public and parliamentary opinion. The first was from inside the House of Commons - the report of the Commons' Liaison Committee. (The Liaison Committee consists of all the Committee chairs in the House of Commons, and is therefore made up of the most senior parliamentarians.) The other two were from respected outside bodies. One was the report of a commission set up by the think tank the Hansard Society. The other was the report of a commission set up the Conservative Party under the chairmanship of leading parliamentary academic Lord Norton of Louth.

All three reports were strongly critical of the extent to which the House of Commons was failing to hold the government to account or scrutinise legislation. In addition, they all made similar recommendations for strengthening the committee system, improving questioning of ministers, and earlier scrutiny of legislation. But the reports not only concentrated concern around certain key issues, they also highlighted the extent to which parliamentary effectiveness is not just a concern of MPs. By using a combination of MPs and non-parliamentarians the two Commissions were able to describe why these weaknesses were of concern to the wider public, and also attracted media attention to the process of reform. In short, they built a wider number of supporters for the process of reform inside and outside parliament.

The second element worth emphasising is the cross-party nature of these reports. As mentioned above, effective scrutiny and oversight is often seen as a confrontational exercise – a job for the opposition parties and not for government MPs. The importance of cross-party support is to emphasise that these are parliamentary rather than party political concerns. In the UK the arguments for reform gained strength from the use of cross party committees in both the development and implementation of the reforms.

As mentioned, the Liaison Committee played a pivotal role in securing support from MPs of all sides. This was partly because of its cross-party nature, but also because it is a body of the most senior MPs, whose opinions carry weight with fellow MPs. But also, the House of Commons has a cross-party ‘Modernisation Committee’, set up in 1997 and chaired by the Leader of the House of Commons charged with the specific job of developing recommendations for reform and bringing them before MPs to be voted on. Both committees meant that the process of strengthening parliament was not simply seen as a government versus opposition issue. The use of such a ‘procedures’ committee, which brings together senior politicians from across the parliament, is often a critical factor in the likely success of any reform programme.

3) Identifying potential winners and losers from reform proposals

Opposition to parliamentary reform is normally from one of two groups. Either it is from those within parliament who benefit from the current structure of the institution and are fearful of losing influence. Or it can come from those who are likely to feel threatened or challenged by a more effective parliament, such as government ministers. Parliamentary reform will create both winners and losers. Building a successful programme of reform that commands broad support will need to anticipate the potential opposition and develop a strategy that seeks to either reassure or confront those with concerns.

The main vehicle for this strategy in the House of Commons was the Modernisation Committee mentioned above. Robin Cook, the Leader of the House of Commons, who chaired the committee, started the process of reform by submitting a memorandum to the committee which set out, in general terms, his desire to reform the House of Commons. This memorandum was published as the committee's first report in 2001. It set out the proposed direction of reform, but was light on specific proposals and thus served as the basis for a period of thorough consultation.

This consultation period allowed Robin Cook and the Modernisation Committee to take evidence from a wide range of groups, in public and in private. These included government ministers, whips, committees, backbenchers, parliamentary staff, journalists and outside organisations. Each raised concerns, but many also put forward new ideas and solutions.

As a result, all groups felt involved in shaping the reforms. This gave a sense of momentum to the reform process and ultimately strengthened the final proposals. But it also highlighted publicly the range of views and the difficult job the committee had in balancing those concerns. There were two main ways in which the committee sought to deal with those concerns, firstly, by arguing for specific rather than general increases in parliamentary influence and secondly, by building support around a package of reforms. These are the subject of items 4) and 5) below.

4) Arguing for more parliamentary power in specific areas

Arguments for greater parliamentary influence are more likely to be successful if they focus on specific areas rather than all-encompassing reforms. In short, a general argument for greater parliamentary power is likely to maximise opposition, as it increases the number of individuals and groups who feel they might stand to lose from such undetermined change.

It is a more effective strategy to make specific proposals which, on their own, look less threatening. By concentrating on the specifics it is then easier to make detailed arguments as to why these powers are needed, and to negotiate with those who believe their own position might be threatened.

This is particularly true of government ministers who are likely to be most wary of a parliament that has extended powers to question or demand information from them. However, the line of argument used by Robin Cook was that parliament should be seen as the partner in government policy-making rather than its opponent. Government should in fact welcome greater scrutiny, as the eminent academic Bernard Crick noted 40 years ago,

“Parliamentary control, correctly conceived, is not the enemy of good government, but its primary condition”, in other words - ‘good scrutiny means good government’.

Robin Cook made a number of specific arguments with ministers that by allowing greater powers to parliament in key areas, it would actually enhance government’s effectiveness. For example, Cook proposed to reduce the notice period allowing ministers to prepare for oral questions from two weeks to only three days. He met some resistance, but persuaded ministers that this shorter notice period would reduce the number of times that the Speaker would grant an ‘emergency question’, where ministers usually had even less than a day to prepare for a sometimes lengthy debate. Similarly, the argument for greater parliamentary scrutiny of draft bills was made on the basis that it would reduce the need to spend valuable time amending the bill at a later stage.

By identifying specific rule changes which enhance parliament’s scrutiny, it is easier to build a case which demonstrates the all-round benefits of a stronger legislature.

5) Building consensus around a package of reforms

However, being specific about individual reforms does not mean that a reform programme should simply try to enact one rule change at a time. This is a recipe for a slow and piecemeal approach to reform, and is one of the reasons why change has taken so long in the House of Commons. Given the wide range of interests and opinions on parliament, it has always proved difficult to get consensus around one reform at a time. At one stage the Modernisation Committee was considering 219 different submissions from MPs.

Instead the strategy after 2001 was built around developing a package of reforms. This had three advantages which increased the chances of achieving more significant parliamentary reform.

Firstly, a package of reforms maximised the ability of Robin Cook and the Modernisation Committee to negotiate. With a large number of proposals it allowed Cook to trade elements of the package with those who were strongly opposed to them for changes elsewhere. For example, the proposal for a system of ‘interpellations’ or topical questions in the Commons met strong resistance from some parts of government. However, by giving up this proposal it strengthened the case for shortening the notice period for oral questions, mentioned above. Similarly, the select committees were given increased resources and staffing in return for a set of core duties which obliged them to perform key functions and publish an annual report on their activity.

Secondly, and related, a wide package means that means that you can afford to lose some elements of the reforms without undermining the main objectives of the package. The Modernisation Committee started off with a long list of reforms which, over the consultation period got narrowed down during negotiation, but it still managed to retain the key elements and put forward a set of proposals that enhanced parliament's influence.

Thirdly, a wide range of reforms offers the chance to maximise support. A chief whip in another parliament summed up this approach as 'making sure that everyone gets something'. The more reforms there are, the more chance there is that a majority of MPs stand to benefit, quite simply, it a package should seek to maximise the number of winners from reform. Moreover, when it comes to voting on the proposals, even if MPs do not like certain proposals, ideally, there should be enough in the package to make them vote in favour of the changes.

6) Ensuring that rule change means behavioural change

As mentioned above, rule changes need to be accompanied by a change in MPs behaviour if they are to strengthen parliament. Reforms need to ensure that, once enacted, the new parliamentary tools are used by politicians.

If the reform package is developed through a process of consultation and negotiation then it should result in a set of procedural changes that work with the incentives that exist within parliament. However, there does need to be follow-up activity once proposals are passed by a parliament. There is often a time lag between reforms being passed by parliament and those rule changes being enacted and this is a good time to ensure that MPs understand the nature of the changes coming into force and what is expected of them. At Westminster a change to the sitting patterns of the Commons was preceded by several mailings to MPs explaining why the changes were being implemented, answering outstanding concerns of some MPs and stating when they would come into force.

Conclusion

The experience of the House of Commons in recent years is unlikely to have a direct parallel in other parliaments. However, it does highlight some of the factors that make procedural reform a difficult, complex and time-consuming process. There are though three aspects which may make the eventual success of rule change more likely.

The first is to start by understanding the gap between the power that parliaments have to hold ministers to account in theory and the extent to which MPs use those powers in practice. An argument frequently made against giving more power to a parliamentary

institution (often by those who stand to lose out) is that it is not using the powers it already has. The key to any successful reform programme is to understand why MPs are not using certain tools and seek to enact reforms which will change their behaviour.

Secondly, if proposals for reform are perceived simply as MPs granting themselves more power, they are likely to meet strong resistance. Arguments for change need to be for specific powers that do not just benefit politicians, but will also improve the quality of government and representation of citizens' interests. For this reason the House of Commons process drew on the recommendations of external commissions, consulted widely, sought to develop cross-party support for change, and argued that key reforms would strengthen rather than weaken government.

Thirdly, the impact of any reform programme will be judged by the extent to which it shapes the behaviour of MPs. As such, procedural reforms are rarely enough on their own. They frequently need to be accompanied by changes which give MPs additional incentives to use new parliamentary tools. These will vary, at one level they might include providing advice and guidance on the new rule changes or developing a handbook of parliamentary procedure for staff and Members. At another level the incentives might include additional resources, staffing or even salary for taking on key parliamentary positions.

Greg Power is a director of Global Partners and Associates, an organisation promoting effective democratic practice in countries around the world. Between 2001 and 2005 he was special adviser to Rt. Hon Robin Cook MP and Rt. Hon Peter Hain MP, working with both Leaders of the House on the development and implementation of Commons reform. He is currently a visiting fellow at the LSE's department of government.