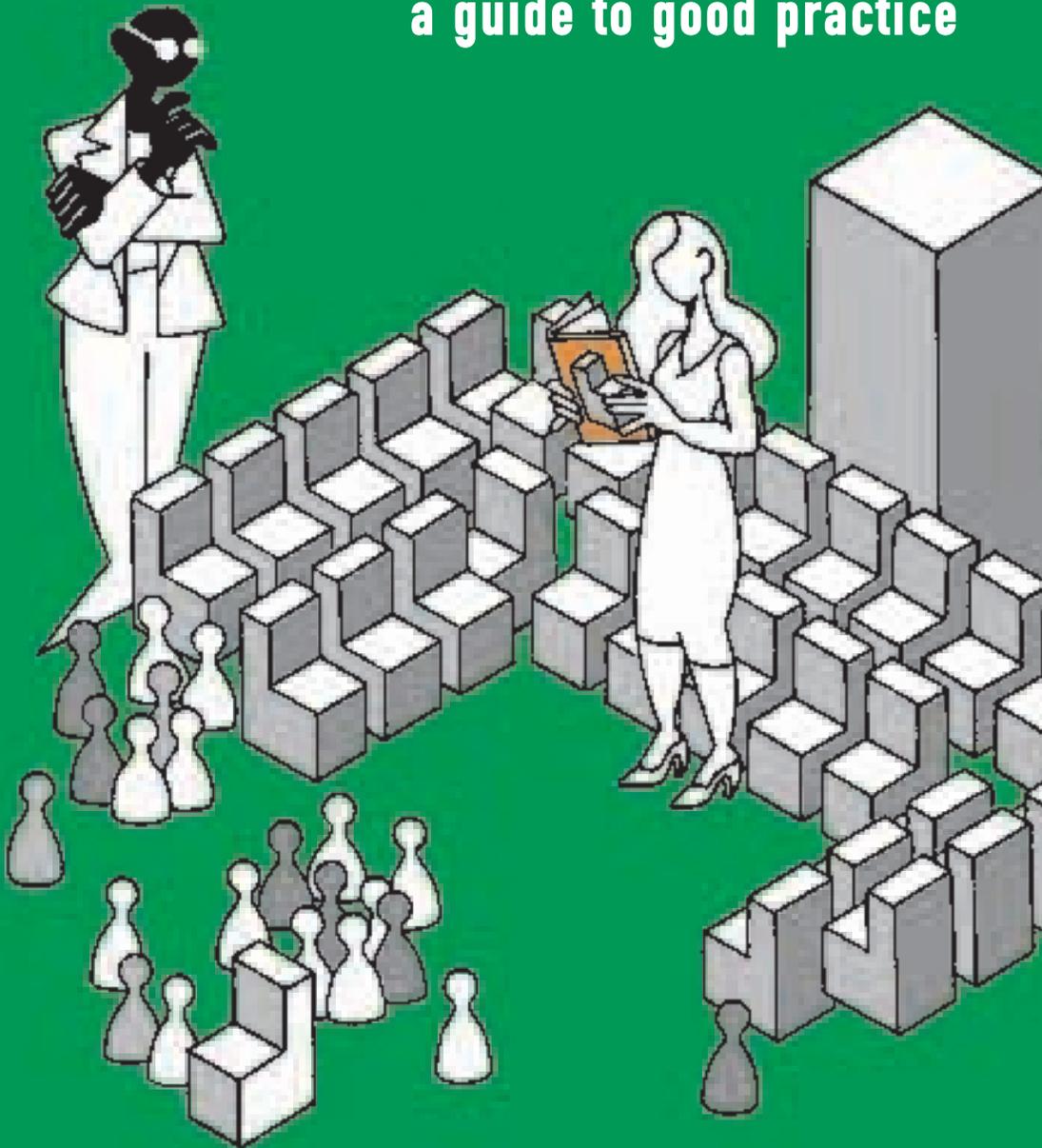


PARLIAMENT AND DEMOCRACY IN THE TWENTY-FIRST CENTURY

a guide to good practice

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2006



INTER-PARLIAMENTARY UNION

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A GUIDE TO GOOD PRACTICE

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A GUIDE TO GOOD PRACTICE

Written and edited by David Beetham

Inter-Parliamentary Union

2006

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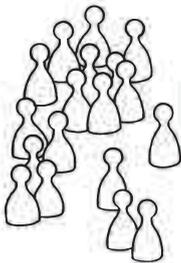
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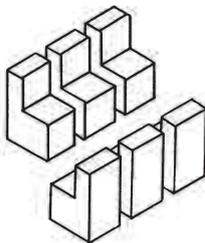
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Contents

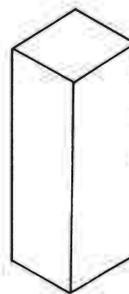
Preface	vii
Foreword	viii
Acknowledgements	x
Executive summary	xi
1. Introduction	1
2. A representative parliament.....	13
3. A parliament that is open and transparent.....	43
4. An accessible parliament	69
5. A parliament that is accountable	95
6. An effective parliament (I): The national level	115
7. An effective parliament (II): Parliament’s involvement in international affairs	155
8. Facing the future	183
Annexes	197
<i>Parliaments providing submissions to the Guide</i>	<i>197</i>
<i>Working group on Parliaments’ contribution to democracy</i>	<i>198</i>
<i>Legislative strengthening organisations</i>	<i>204</i>
Index.....	209



the people



parliament



executive
power



you and me

List of figures and boxes

Figure 1.1: Framework: the parliamentary contribution to democracy	10
Figure 2.1: World average of women in Parliaments, 1995 - 2006	20
Figure 2.2: Regional averages of women in Parliaments, 1995, 2000 and 2005	21
Figure 3.1: First main source of information for national and international news per region	51
Figure 3.2: Internet usage statistics	62
Figure 3.3: A Day in Parliament Comic Book	64
Figure 5.1: Trust in national institutions: regional averages	110
Figure 7.1: Synchronizing legislative-executive coordination with specific points in the PRSP cycle	164
Figure 8.1: Sources of Parliamentary Reform	185
Box: International Covenant on Civil and Political Rights, Article 25	14
Box: Election results in India and the United Kingdom	16
Box: IPU recommendations on good practice for parliamentary websites	59
Box: Extract from handbook on Making a Submission to a Parliamentary Select Committee	83

Note on web references

Web references have been placed throughout the text to enable readers to obtain further information about the issues discussed in this Guide. They are indicated by a box:

Inter-Parliamentary Union <<http://www.ipu.org>>

All links were active as of 1 April 2006. However, the constantly evolving nature of the Internet means that some of the links will inevitably not be available in the future.

These references represent only a tiny part of the information related to parliament and democracy available online. A more extensive, updated collection of web references can be found on the IPU website, as well as the electronic version of the Guide itself <<http://www.ipu.org/dem-e/guide.htm>>.

IPU is not responsible for the content of external Internet sites.

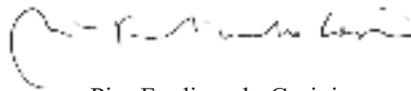
Preface

The paradox of our times is that we hail the victory of democracy while lamenting the fact that in many countries parliament - the central institution of democracy - is facing a crisis of legitimacy. The executive branch dominates the agenda, international cooperation and globalisation have led to decision making that lacks democratic control, and people question whether current political processes are really able to produce parliaments that can represent their interests in all their diversity.

So what do we really mean by a democratic parliament? This guide answers the question with five key characteristics which every parliament should have. They should be representative, transparent, accessible, accountable and effective. It proceeds to give examples of how parliaments, in very concrete terms, fulfil those characteristics.

It is very clear that parliaments need to be prepared to do some soul-searching to identify what they are doing well. Many of them are already doing so, a fact to which this guide amply testifies. That process also involves determining where they are not successfully meeting the challenges of the age and where they can draw inspiration from the good practices of other parliaments. Collectively, their response will largely determine the extent to which the institution of parliament continues to be relevant in the coming years.

I hope therefore that parliaments and all those who are involved, from near and afar, in parliamentary reform will put this modest first guide on the subject of democratic parliaments to good use. The stakes are indeed high: they concern no less than the quality of democracy in the twenty-first century.



Pier Ferdinando Casini
President of the Inter-Parliamentary Union

Foreword

Today, more than ever, promoting democracy is at the core of the Inter-Parliamentary Union's mandate. Gradually, democracy has come to be recognized as a universal value which does not belong to any country or region.

The IPU promotes democracy in a variety of ways, ranging from its political pronouncements - most notably the 1997 Universal Declaration on Democracy - to its programmes to strengthen parliamentary institutions, protect and promote human rights and build partnership between men and women in politics. Underpinning the work of the IPU is the simple idea that a strong parliament is a vital sign of a healthy democracy. In September 2005, the Speakers of Parliament who came to United Nations Headquarters from every corner of the globe stated unequivocally that within a democracy, *'Parliament is the central institution through which the will of the people is expressed, laws are passed and government is held to account'*.

The IPU continues to explore and strengthen the relationship between parliament and democracy. This guide is an ambitious attempt to identify the core values of a democratic parliament. The guide also describes how parliaments are putting these values into practice, as they adapt to the challenges of the twenty-first century.

What is striking is the sense of the common challenges facing parliaments. These include the changing relationships that parliament maintains with the public, the media, the executive branch and the international organizations. Similarly, the representation of all parts of society, men and women, minorities and marginalized groups is also evolving. Effective representation implies articulating and mediating between the competing interests of these groups and guaranteeing equal rights for all parliamentarians, particularly those belonging to the opposition.

The imagination and creativity in the practices of different parliaments are evident in this study, which testifies to the vitality of the institution across the world. It is hoped that the democratic practices outlined in these pages will inspire similar, or better, practices throughout the global parliamentary community.

This guide does not rank national parliaments or attempt to measure the quality of their democracy. However, it is an invitation to all to participate in an open debate on what it means to be a democratic parliament, and how each parliament can put into practice the democratic values described in the guide. I hope that, with the help of parliaments and the IPU, this debate will gain

momentum in the years to come and bring us closer to the day when each parliament can truly be held to account for its democratic nature.

I would like to express gratitude to Professor David Beetham for his brilliant and tireless work as author of this guide and as rapporteur of the Working Group set up to oversee its production. My heartfelt thanks go to all the members of the Working Group, whose input was always stimulating; and to all the parliaments that contributed material by offering examples of their practices. Finally, I would like to thank the Swedish International Development Agency and the United Nations Development Programme for their generous funding of this project and their commitment to supporting the development of parliamentary institutions worldwide.

A handwritten signature in black ink, appearing to read 'Anders B. Johansson', with a long horizontal flourish extending to the right.

Anders B. Johansson
Secretary General

Acknowledgements

Parliament and democracy in the twenty-first century: A guide to good practice was written and edited by David Beetham, who also acted as Rapporteur of the Working Group associated with this project.

The Working Group on Parliaments' Contribution to Democracy was composed of international experts from a variety of professional backgrounds, and included parliamentarians, senior parliamentary staff, specialists in legislative strengthening, academics and journalists. Special attention was paid to ensuring geographical and gender balance within the group. Through a series of meetings and e-mail exchanges, the Working Group provided invaluable guidance during the project including constructive criticism of successive drafts of the text. Biographical information on members of the Working Group can be found in the Annex to this publication.

Significant research contributions were made by Randi Davis and Thomas Huyghebaert of the United Nations Development Programme (UNDP), Alexandra Barrantes of the Organization of American States (OAS) and Scott Hubli (also a member of the Working Group) and Barry Driscoll of the National Democratic Institute for International Affairs (NDI). Additional research was done by Sarah Bracking, Sarah Mosedale, and the IPU Secretariat.

Executive summary

What is the parliamentary contribution to democracy? What makes a parliament or legislature itself democratic? How might it become more so? These are the questions which this Guide seeks to answer. It provides a comprehensive and systematic account of the central role that parliament plays in a democracy, and explains what it means for a parliament to be truly representative, transparent, accessible, accountable and effective in its many functions. The Guide does this, not through a catalogue of externally generated prescriptions, but through examples of good practice contributed by parliaments from every region of the world, to illustrate distinctive aspects of their own activity. From these examples the Guide shows the diversity of ways in which the key elements of a democratic parliament can be realised in practice.

The core of the Guide is a two-page outline framework in tabular form, which identifies each of the key values of democracy in turn, and itemises the typical institutional forms or practices through which a contemporary parliament can realise them. In this way, what otherwise might seem like purely abstract ideas of democracy become grounded in real-life parliamentary practices. For a summary of the Guide, readers could do no better than turn directly to this framework (pp. 10 and 11).

The main body of the Guide follows the order of this framework, and illustrates each of its components with examples mainly chosen by the contributing parliaments themselves. These examples show that, despite the relatively low esteem in which parliaments are held in many regions of the world, many parliaments have recently become more open and responsive to their electorates, and more relevant to meeting their needs in a rapidly changing world. In particular, these examples show that parliaments are working hard:

- to be more inclusive in their composition and manner of working, especially in relation to women and minority and marginal communities;
- to be more effective public communicators, through opening more of their work to the media, and through the development of their own websites and broadcasting channels;
- to experiment with new ways of engaging with the public, including civil society, and enabling them to contribute to the legislative process;
- to recover public confidence in the integrity of parliamentarians, through enforceable codes of conduct and reforms in party funding;
- to streamline the legislative process without limiting the proper scrutiny of bills;

- to exercise more effective oversight of the executive, including in the increasingly important field of international policy;
- to be more active in transnational collaboration, so as to provide a more effective parliamentary component in regional and international organisations, and in the resolution of violent conflicts.

The many examples of democratic practice given in the Guide are not intended to skate over problems or to minimise the challenges which all parliaments currently face; nor to understate the difficulties of realising a genuine democracy in practice. What they can do is provide clear evidence that democratic change is possible, and offer some very practical illustrations of how it might be brought about. In this way, the Guide seeks to make its own contribution to realising a more securely democratic future.

I. Introduction

This book is an ambitious attempt to define the contribution of parliament to democracy, and to identify the distinctive attributes of a democratic parliament or legislature in the twenty-first century. Its core comprises extracts from submissions provided by member parliaments of the Inter-Parliamentary Union (IPU), in which they describe some of the challenges they currently face, and provide examples of their own democratic practice which they wish to share with others. The work is therefore not an academic treatise, nor a manual of instruction or prescription; but a living compilation of ideas and practices organised around key democratic values as these are realised in, and promoted by, the activities of parliaments themselves.

The democratic paradox

The early years of the twenty-first century have witnessed a marked paradox. On the one hand democracy, both as an ideal and as a set of political institutions and practices, has triumphed in most countries of the world. As the outcome statement of the 2005 UN World Summit declared, ‘democracy is a universal value’ which ‘does not belong to any country or region’. On the other hand, these years have also seen a considerable disillusionment developing with the results of democracy in practice, one that is shared by citizens of the ‘old’ democracies as much as by those of the ‘new and emerging’ ones. Such disillusionment may always have been inherent in the democratic project, and in what the Italian political theorist Norberto Bobbio has termed its ‘broken promises’ – the ‘contrast between what was promised and what has actually come about’. Yet it is a contrast that appears particularly acute in the present age, when democracies are called on to grapple with forces that often seem beyond their control, affecting their security, their economies, and the livelihoods and well-being of their citizens.

Parliaments today have a key role in addressing this paradox. As the central institution of democracy, they embody the will of the people in government, and carry all their expectations that democracy will be truly responsive to their needs and help solve the most pressing problems that confront them in their daily lives. As the elected body that represents society in all its diversity, parliaments have a unique responsibility for reconciling the conflicting interests and expectations of different groups and communities through the democratic means of dialogue and compromise. As the key legislative organ, parliaments have the task of adapting society’s laws to its rapidly changing needs

and circumstances. As the body entrusted with the oversight of government, they are responsible for ensuring that governments are fully accountable to the people.

In the process parliaments are themselves undergoing considerable change, as they seek to adapt to the challenges of a new century. The past few years have witnessed numerous efforts across many parliaments to engage more effectively with the public and to improve the way they work: to become more genuinely representative of their electorates, more accessible and accountable to them, more open and transparent in their procedures, and more effective in their key tasks of legislation and oversight of government. As a guide to these initiatives, this book is partly an attempt to provide a contemporary picture of the contribution that parliaments are making to consolidating and strengthening democracy. At the same time it is more than simply a record; it also has an aspirational purpose. In presenting what parliaments themselves see as good examples of democratic practice, it builds up a profile of what a democratic parliament actually looks like, and how it might better become so. The term ‘Guide’ embraces both these purposes, aspirational as well as descriptive.

Multiple audiences

Who, then, is the Guide designed for? In the first instance it is addressed to parliamentarians, who are concerned to respond to the challenges of the contemporary world, and to provide effective leadership in meeting them. Although each parliament has its own national traditions and distinctive character, all are well used to exchanging experiences across parliaments, and using ideas from elsewhere about possible solutions to common problems, once appropriately adapted to their domestic circumstances. The Guide forms a contribution to this mutual learning process, in what is a very rapidly changing scene. Hopefully, every parliamentary reader will find at least one good idea or example of good practice within its covers which could be usefully ‘domesticated’.

The Guide is also addressed to concerned citizens and activists in any country. It is impossible to ignore the fact that, while individual parliamentary representatives at the constituency level may be respected, parliaments as an institution and politicians as a group do not rate highly in public esteem in many countries. This is partly because of the one-sided way in which they are often presented in the media. ‘The media tend to focus more on proceedings which are adversarial and on matters such as travel and expenses,’ notes one of our submissions. It also has to be said that some parliamentarians contribute to their own negative image as a self-serving elite, being more responsive to

powerful sectional interests and lobbies than to their own electors. Correcting such an image is largely in the hands of parliamentarians themselves, and is not the purpose of this book. What it can do, however, is to give concerned citizens a more rounded picture of what takes place in parliaments, and of the changes many of them have been instituting so as to work in a more effective and democratic way. In this the book can help reform movements in particular countries to become more informed, by providing examples of initiatives which are actually taking place elsewhere. Progressive change in parliaments partly comes from within, from their own members, partly from determined and informed pressure from without, in society at large.

It is hoped that the Guide will also be of interest to international organisations involved in helping strengthen parliaments, as well as to researchers and students of parliamentary practice. In order to make it as accessible to as wide a readership as possible, it is written throughout in a jargon-free style. To keep the book from becoming overlong, while maintaining a comprehensiveness of coverage, the text is punctuated throughout with references to websites which can provide more detailed information on the issues covered. In this respect the Guide points beyond itself to a much wider body of knowledge and experience than can be comprehended within the covers of a single volume. There will also be a parallel electronic version available on the IPU website, with which readers can interact.

Inter-Parliamentary Union <<http://www.ipu.org/dem-e/guide.htm>>

The parliamentary contribution to democracy

Before we can identify the parliamentary contribution to democracy we need first to be clear what we understand ‘democracy’ to mean. In brief, democracy is both an ideal and a set of institutions and practices. As an ideal, it expresses two very simple principles: first, that the members of any group or association should have the determining influence and control over its rules and policies, through their participation in deliberations about the common interest; second, that in doing so they should treat each other, and be treated, as equals. These principles are applicable from the smallest group up to the largest state; how effectively they are realised in practice is the touchstone of how democratic any association can claim to be.

At the level of the modern state these democratic principles are only realised through a complex set of institutions and practices, which have evolved over time and continue to do so. These include: a guaranteed framework of citizen rights; institutions of representative and accountable government; an active citizen body or civil society; and a number of mediating institutions between government and citizens, among which political parties and the media are the most important. Although parliaments belong most obviously to the second, governmental, set of institutions, they also have a key role to play in relation to the others. This is what makes them the central institution of a democracy.

Citizen rights

For the people to have any influence over the laws and policies to which they are subject requires the guarantee of basic rights: to express themselves freely, to associate freely with others, to vote for their representatives in free and fair elections, and so on. It is this framework of rights that also secures for them the further democratic principle of being treated as equals without discrimination. These rights may need protecting for vulnerable or unpopular groups even when the infringement of them has majority support.

While respect for these rights is the responsibility of all citizens, it is the particular responsibility of parliament as the legislative power to ensure that their formulation and mode of protection in practice conform to international human rights standards, and that they are not undermined by other legislation, including that applicable to residents who do not have full citizenship. Nowadays, most citizens in both developed and developing countries regard economic and social rights as being as important a component of their basic rights as civil and political ones; how to protect these effectively for all sections of their population is one of the main challenges confronting parliaments in the present age of globalisation, where there is an erosion of national sovereignty.

Institutions of representative and accountable government

A second dimension of democracy consists in the institutions of representative and accountable government, which together determine the laws and policies for society and secure respect for the rule of law. Within the traditional separation of powers – between the executive, legislature and judiciary – parliament as the freely elected body holds a central place in any democracy. It is the institution through which the will of the people is

expressed, and through which popular self-government is realised in practice. As agents of the people, parliaments represent them in dealings with the other branches of government, and with various international and sub-national bodies. How well they fulfil this mediating role, and how representative of the people they are in all their diversity, is an important consideration for a democratic parliament.

Another is how effectively they carry out their distinctive functions within the separation of powers. Experts may differ on their precise list of such functions, but there seems broad agreement that at least the following should be included in the tasks undertaken by and expected of all parliaments:

- law making
- approval of taxation and expenditure, generally in the context of the national budget
- oversight of executive actions, policy and personnel
- ratification of treaties and monitoring of treaty bodies
- debating issues of national and international moment
- hearing and redressing grievances
- approving constitutional change

In terms of these functions, parliament's contribution to democracy lies in carrying out these functions effectively, not only in the sense of the efficient organisation of business, but of doing so in a way that serves the needs of all sections of society.

Active civil society

By 'civil society' here is meant not just non-governmental organisations (NGOs), but the body of active citizens, working together in many different ways to solve their common problems and to promote and defend their interests. Although they can only do this if they are independent of government, they need to engage continually with government on issues which affect them, and the interests of those whom they represent. The role of citizens in a democracy is not exhausted by the act of electing a government; they need to be continually engaged with it if it is to remain in touch with the people and their needs. A democratic parliament for its part will seek to foster a vibrant civil society and to work closely with it in finding solutions to problems facing the country, and in improving the quality and relevance of legislation.

Political parties

Of the mediating institutions between government and society, political parties are of particular significance for parliament. Parliament not only represents citizens as individuals; through the presence of political parties it also represents them collectively to promote certain broad policy tendencies. Parties serve both to focus electoral choice, and also to ensure that these choices are carried through into the work of parliament and into ongoing public debate. Although political parties are currently not held in high regard by the public at large, they are nevertheless indispensable to the working of a democratic parliament. Operating as they do in both the spheres of government and civil society, they serve as an essential bridge between the two.

The communication media

The second bridging institution which has a key importance for parliament and its work are the communication media. The media constitute the key means for informing citizens about public affairs, and a key channel of communication between parliament and public. In their investigative role, the media have always been seen as a ‘watchdog’ against all kinds of abuse. How well they fulfil these functions is vital for the quality of democratic life. Given the tendency for these functions to become distorted, whether by executive partiality in a government-controlled system, or by powerful economic interests in a commercialised one, parliament has a key democratic role in setting an appropriate legal framework for the media, to ensure both their independence and their diversity.

Parliament thus makes a vital contribution to democracy at many levels simultaneously. Within the institutions of government it is the representative body through which the will of the people finds expression, in which their diversity is manifested, and in which the differences between them are debated and negotiated. At its best, parliament embodies the distinctive democratic attributes of discussion and compromise, as the means through which a public interest is realised that is more than the sum of individual or sectional interests. Moreover, the effectiveness with which parliament carries out its central functions of legislation, budgetary control and oversight of the executive is essential to the quality of democratic life. In carrying out these tasks it works together with the associations of civil society, and has the distinctive responsibility of safeguarding the individual democratic rights of citizens. It can only do all this, finally, if it itself observes democratic norms, by showing itself open, accessible and accountable to the electorate in its own mode of operation.

A framework for a democratic parliament

In the light of the above discussion it is now possible to set out the key characteristics of a democratic parliament. It is one which is:

- *representative*: that is, socially and politically representative of the diversity of the people, and ensuring equal opportunities and protections for all its members;
- *transparent*: that is, being open to the nation through different media, and transparent in the conduct of its business;
- *accessible*: this means involving the public, including the associations and movements of civil society, in the work of parliament;
- *accountable*: this involves members of parliament being accountable to the electorate for their performance in office and integrity of conduct;
- *effective*: this means the effective organisation of business in accordance with these democratic values, and the performance of parliament's legislative and oversight functions in a manner that serves the needs of the whole population.

In the accompanying framework (see figure 1.1), these democratic values and requirements are set out in the first two columns. The third column itemises the possible procedural means and institutions through which these values may be realised. Of course parliaments differ from one another, both in terms of their governmental systems and in terms of their social and economic context. There are federal and unitary states. There are presidential and parliamentary systems. There are single- and dual-chamber parliaments. Above all there are enormous differences between countries, not only in their size, but also in their levels of economic development, and in the resources that are consequently available to parliaments for carrying out their work. The sheer diversity and creativity of practices exemplified in this Guide bears out the conclusion of the 2005 UN World Summit that 'there is no single model of democracy'. At the same time, the basic values outlined in the framework provide a clear sense of direction and set of criteria to enable us to recognise what a democratic parliament might look like. They also serve as the organising principles for the content and chapter divisions of this Guide.

A version of the framework was sent to member parliaments for comment, and to provide a framework for the examples of good practice which they submitted. It is important to stress here that this exercise was not a systematic survey, asking for information from member parliaments about their practices under every heading. It was a much more free-ranging exercise, in which they

were asked to choose two or three examples of good practice which they thought were worth sharing with others. The results have necessarily been uneven. On the one hand, the examples of democratic practice included in the Guide may not be the best or most striking ones that could be found if one were to conduct a thorough survey. They are simply ones selected and returned by the parliaments themselves, though regrettably there has not been space to include all of them. On the other hand, in order to ensure a reasonably comprehensive coverage of the issues, further examples have been drawn on from returns made by parliaments to previous surveys conducted by the IPU, as well as other sources (which will be referenced accordingly in the text).

Some qualifications

Two further qualifications are worth making here. The examples of democratic practice included in the Guide are based on descriptions and documentation provided by parliaments themselves. We were not always able to check how well they are actually working, or whether they have been successfully sustained over time. How far, for instance, have people actually availed themselves of new opportunities to influence the legislative activities of a parliament, or have a parliament's own enhanced oversight powers made government more accountable? Such questions would require a considerable research programme to answer, which is beyond the scope of this book. However, good practical examples which have been tried and endorsed by parliaments are worth disseminating even if they may not have worked perfectly, or may have led to problems that had not been entirely foreseen.

In this context a final word of caution is in order. Democracy in practice often requires a trade-off between competing norms or values which cannot all be maximised simultaneously. So parliaments have the task of facilitating a government's legislative agenda as well as scrutinising and amending it; parliamentary immunities may protect representatives from executive arbitrariness but also mask potential criminality; making adequate provision for individual members' initiatives may create havoc with the parliamentary timetable and the organisation of business; constituency-based electoral systems may foster ease of access to representatives for their electors, but produce parliaments that are collectively unrepresentative in various respects. There are many other such tensions and trade-offs. That they exist was clearly evident in the returns sent in by parliaments, and they have been discussed at various points in the text.

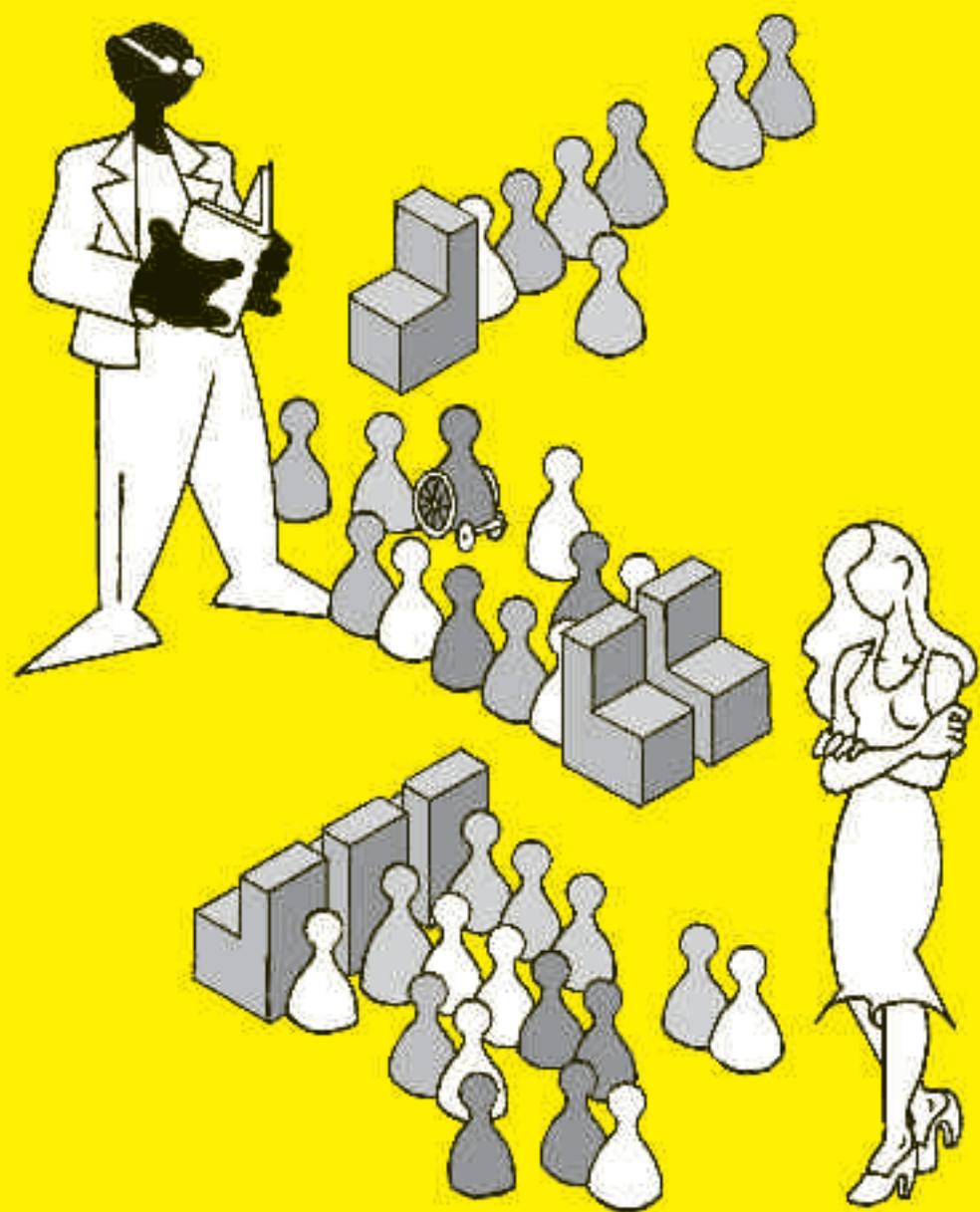
With these qualifications, the examples of good practice presented in the Guide offer a profile of what a democratic parliament aspires to be. They show

that parliaments across the world are actively seeking to respond to the challenges of the present age. Mostly they are doing so by improving their ongoing procedures and the ways in which they engage with the public. Occasionally, however, it is a one-off event, in which a parliament plays a central role in resolving a national crisis, or in confronting a key moment of national decision, which does more than anything to raise its standing among the people. So the Ukrainian Parliament, in its communication for the Guide, has drawn our attention to the central role it played in helping resolve the national crisis caused by the flawed presidential election of late 2004. And the Turkish Parliament has singled out for mention the key vote it took in the run up to the 2003 war in Iraq, to reject the majority government's proposal to allow foreign troops access to Turkish soil and to send its own troops abroad. Such moments cannot be predicted or legislated for. They serve as a salutary reminder, however, that, whatever its democratic procedures may be, it is a parliament's ability to rise to the occasion and 'speak for the nation' at a moment of grave national decision that may have the most lasting consequences for its standing among the people.

Figure 1.1: Framework: the parliamentary contribution to democracy

Basic objectives or values. A parliament that is:	Requirements	Possible procedural and institutional means for the realisation of these objectives or values
Representative	An elected parliament that is socially and politically representative, and committed to equal opportunities for its members so that they can carry out their mandates.	<p>Free and fair electoral system and process; means of ensuring representation of/by all sectors of society with a view to reflecting national and gender diversity, for example by using special procedures to ensure representation of marginalised or excluded groups.</p> <p>Open, democratic and independent party procedures, organisations and systems.</p> <p>Mechanisms to ensure the rights of the political opposition and other political groups, and to allow all members to exercise their mandates freely and without being subjected to undue influence and pressure.</p> <p>Freedom of speech and association; guarantees of parliamentary rights and immunities, including the integrity of the presiding officers and other office holders.</p> <p>Equal opportunities policies and procedures; non-discriminatory hours and conditions of work; language facilities for all members.</p>
Transparent	A parliament that is open to the nation and transparent in the conduct of its business.	<p>Proceedings open to the public; prior information to the public on the business before parliament; documentation available in relevant languages; availability of user-friendly tools, for example using various media such as the World Wide Web; the parliament should have its own public relations officers and facilities.</p> <p>Legislation on freedom of/access to information.</p>
Accessible	Involvement of the public, including civil society and other people's movements, in the work of the parliament.	<p>Various means for constituents to have access to their elected representatives.</p> <p>Effective modes of public participation in pre-legislative scrutiny; right of open consultation for interested parties; public right of petition; systematic grievance procedures.</p> <p>Possibility for lobbying, within the limits of agreed legal provisions that ensure transparency.</p>
Accountable	Members of parliament who are accountable to the electorate for their performance in office and for the integrity of their conduct.	<p>Effective electoral sanction and monitoring processes; reporting procedures to inform constituents; standards and enforceable code of conduct.</p> <p>Adequate salary for members; register of outside interests and income; enforceable limits on and transparency in election fundraising and expenditure.</p>

Basic objectives or values. A parliament that is:	Requirements	Possible procedural and institutional means for the realisation of these objectives or values
<p>Effective</p> <p><i>At all levels:</i></p> <p><i>a) At the national level:</i></p> <p><i>b) In relation to the international level:</i></p> <p><i>c) In relation to the local level:</i></p>	<p>Effective organisation of business in accordance with these democratic norms and values.</p> <p>Effective performance of legislative and scrutiny functions, and as a national forum for issues of common concern.</p> <p>Active involvement of parliament in international affairs</p> <p>Cooperative relationship with state, provincial and local legislatures</p>	<p>Mechanisms and resources to ensure the independence and autonomy of parliament, including parliament's control of its own budget.</p> <p>Availability of non-partisan professional staff separate from the main civil service.</p> <p>Adequate unbiased research and information facilities for members; parliament's own business committee; procedures for effective planning and timetabling of business; systems for monitoring parliamentary performance; opinion surveys among relevant groups on perceptions of performance.</p> <p>Systematic procedures for executive accountability; adequate powers and resources for committees; accountability to parliament of non-governmental public bodies and commissions.</p> <p>Mechanisms to ensure effective parliamentary engagement in the national budget process in all its stages, including the subsequent auditing of accounts.</p> <p>Ability to address issues of major concern to society; to mediate in the event of tension and prevent violent conflict; to shape public institutions that cater for the needs of the entire population.</p> <p>For parliaments that approve senior appointments and/or perform judicial functions: mechanisms to ensure a fair, equitable and non-partisan process.</p> <p>Procedures for parliamentary monitoring of and input into international negotiations as well as overseeing the positions adopted by the government; mechanisms that allow for parliamentary scrutiny of activities of international organisations and input into their deliberations; mechanisms for ensuring national compliance with international norms and the rule of law; inter-parliamentary cooperation and parliamentary diplomacy.</p> <p>Mechanisms for regular consultations between the presiding officers of the national and sub-national parliaments or legislatures on national policy issues, in order to ensure that decisions are informed by local needs.</p>



2. A representative parliament

The first criterion of a democratic parliament is that it should be representative of the people. In the first instance this means that parliament should reflect the *popular will* as expressed in the choices electors make for their representatives and for the political parties in whose name they stand. A parliament that is significantly unrepresentative in this respect, whether through deficiencies in electoral procedure or the electoral system, will to that extent forfeit legitimacy, and be less able to reflect public opinion on the important issues of the day. A democratic parliament should also reflect the *social diversity* of the population in terms of gender, language, religion, ethnicity, or other politically significant characteristics. A parliament which is unrepresentative in this second sense will leave some social groups and communities feeling disadvantaged in the political process or even excluded altogether, with consequences for the quality of public life or the stability of the political system and society in general.

This objective for a democratic parliament of being representative in these different senses is achieved partly through the composition of parliament, which is the result of the election process; partly through fair and inclusive parliamentary procedures, which provide an opportunity for all members to express their views, to take part in the work of parliament on an equal footing with others, and to develop their parliamentary careers. While the composition of parliament looks at first sight to be the result of a pre-parliamentary process, parliaments are nevertheless capable of influencing their own composition indirectly, through their legislative power to set the rules under which elections take place. As to fair and inclusive procedures, these are clearly under a parliament's own direct control.

Electoral rules and procedures to ensure a Parliament that is *politically representative*

Three different features of the election process contribute to this objective. First and most basic is the guarantee of fair electoral procedures, to ensure that no voters, candidates or parties are systematically disadvantaged or discriminated against. Standards for 'free and fair elections' are now highly developed,

covering everything from the registration of voters and parties, through each aspect of the electoral process itself, to procedures for appeal against the result, preferably supervised throughout by an independent electoral commission. Although these standards are elaborate, they are designed to give effect to a very simple principle enshrined in the International Covenant on Civil and Political Rights (see box below). They will not be discussed further here, but that does not imply that they can be taken for granted. Examples of their flagrant violation in a few countries, or of their casual implementation in several others, show the need for constant vigilance if the representative character of parliament is not to be compromised.

At the same time we should not overlook the possibility that a parliament might be unrepresentative because of substantial restrictions in the suffrage. In this context, the submission from the Sultanate of Oman has made special mention of its extension of the suffrage to all citizens over the age of 21 in the latest elections to the Shura Council in 2003. Other countries draw attention to their recent extension of the suffrage to citizens living abroad, an extension which is particularly significant for countries with large numbers of citizens resident abroad as migrant workers. So the Philippines added a potential 7.5 million new voters in this category in 2003, and Mexico more than 10 million in 2005. Other countries have recently extended the suffrage by reducing the voting age to 18 or even 16.

International Covenant on Civil and Political Rights, Article 25

Every citizen shall have the right and the opportunity:

- a) to take part in the conduct of public affairs, directly or through freely chosen representatives;
- b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- c) to have access, on general terms of equality, to public service in his country.

Source: International Covenant on Civil and Political Rights. Retrieved 20.07.2005 from United Nations Office of the High Commissioner for Human Rights
<http://www.unhchr.ch/html/menu3/b/a_ccpr.htm>

Further online reading about standards for free and fair elections:

European Commission for Democracy Through Law (Venice Commission) (2002). *Guidelines on elections*.

<[http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)013-e.asp](http://www.venice.coe.int/docs/2002/CDL-AD(2002)013-e.asp)>

Goodwin-Gill, G. (2006). *Free and fair elections*. Inter-Parliamentary Union

<<http://www.ipu.org/PDF/publications/Free&Fair06-e.pdf>>

Inter-Parliamentary Union (1994). *Declaration on Criteria for Free and Fair Elections*. <<http://www.ipu.org/cnl-e/154-free.htm>>

Nelson, S (2003). *Standards to judge elections*. Administration and Cost of Elections Project <<http://www.aceproject.org/main/english/ei/eig04b.htm>>

Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (2003). *Existing commitments for democratic elections in OSCE participating states*.

<http://www.osce.org/documents/odihr/2003/10/772_en.pdf>

Southern Africa Development Community (2004). *SADC principles and guidelines governing democratic elections*.

<http://www.iss.co.za/AF/RegOrg/unity_to_union/pdfs/sadc/electprinciples.pdf>

Southern Africa Development Community Parliamentary Forum (2001). *Norms and standards for elections in the SADC region*. < Southern Africa Development Community Parliamentary Forum (2001). *Norms and standards for elections in the SADC region*.

<http://www.sadcpf.org/documents/SADCPF_ElectionNormsStandards.pdf>>

Electoral systems

A second feature affecting the political representativeness of a parliament is how the given electoral system operates in the social and political context of the country, and how fairly it treats different political parties, whose degree of electoral support provides the best index of public opinion. There are numerous types of electoral system currently in operation, but the three most common types are:

- the plurality or ‘first past the post’ system. Under this system electors vote for one candidate in single-member constituencies, and the candidate who wins the most votes is elected, whether or not he or she wins a majority of the votes cast. In some countries an alternative vote or second round ballot ensures that a candidate can only be elected by a majority of votes in each constituency.

- the party-list system. Here political parties draw up lists of candidates in a ranking order for multi-member districts, which may be region- or nation-wide. The number of candidates elected from each party list will be proportionate to the total votes cast for the respective parties in that district.
- the mixed-member or additional-member system. Here electors have two votes, one for a constituency member elected under the plurality system, and one for a party list. The effect of the party-list component is to make the overall balance between the parties in parliament more proportionate to their total vote; how proportionate will depend on the respective number of members elected under each system.

Of these systems, the plurality system can produce a parliament that is quite disproportionate as between the national votes for the respective parties, and thus one that is not truly representative of popular opinion in the country. A comparison between recent election results in India and the United Kingdom shows how much this depends on the particular context of the country concerned (see box). Although the Indian result conceals quite large discrepancies between votes and seats won in individual states and by particular political parties, the national outcome was broadly representative of political opinion in the country overall, whereas the UK election resulted in a parliament that was highly unrepresentative, as the previous two had also been.

Election results in India and the United Kingdom

	% of vote	seats	% of seats
India, 2004			
Congress & allies	36.5	222	41
BJP & allies	36	189	35
Others	27.5	132	24
United Kingdom, 2005			
Labour	36	356	55
Conservative	33	197	30
Liberal Democrat	23	62	10
Others	8	31	5

Source: Inter-Parliamentary Union

A party-list system, on the other hand, is designed to produce a parliament that will broadly reflect the electorate's choices for the respective parties, and hence the spread of political opinion in the country. A disadvantage is that it may sever any connection between the voters and an identifiable local repre-

sentative – a connection that may be important for facilitating access of members to their electorates, and for representing local interests. The submissions to this study show that a number of parliaments which previously relied on an exclusively single-member constituency system have recently added a party-list element as the simplest reform to ensure that parliament becomes more representative and inclusive. For example, in 2002 the Parliament of Monaco added a proportional element to its two-stage constituency ballot so as to guarantee a more diverse political representation in the National Council. In 2004 the Republic of Korea changed its electoral law to a ‘1 Person 2 Votes System’ under which each voter is allowed to cast one ballot for a candidate running in the voter’s district and a second for the political party of preference, which will help determine the distribution of 56 additional seats on a proportional basis. ‘As a result, the 17th National Assembly became more representative, reflecting the voices of all corners of society.’ The effect of such a reform in empowering previously underrepresented sections of society is exemplified in this submission on the Philippines from a member of the IPU working group:

The passage of the ‘Party List System Act’ in 1995, covering 20% of the membership of the House of Representatives of the Philippine Congress, or a maximum number of 53 seats out of a total of 236 members, is a breakthrough towards a process of dismantling monopoly control by big business and big landed interests in the composition of the Philippine Congress. It is a proportional representation system alongside the single-district, first-past-the post system of legislative districts. Though imperfect and needing amendment, the party list system has allowed the election of representatives of the ‘marginalised and underrepresented’ sectors of Philippine society.

Further online reading about different electoral systems:

Administration and Cost of Elections Project (2003). *Electoral systems index*.
<<http://www.aceproject.org/main/english/es/>>

Election Process Information Collection Project (2004).
EPIC research results for electoral systems.
<[http://epicproject.org/ace/compepic/en/topic\\$es](http://epicproject.org/ace/compepic/en/topic$es)>

International IDEA (2002). *Electoral system design: The new International IDEA handbook*. <http://www.idea.int/publications/esd/upload/Idea_ESD_full.pdf>

Inter-Parliamentary Union (2006). *Parline database module on electoral systems*.
<<http://www.ipu.org/parline-e/parlinesearch.asp>>

Who actually votes

Apart from the inclusiveness of the suffrage and the character of the electoral system, the political representativeness of a parliament may also be affected by who actually exercises their right to vote. Although there are many reasons for people not doing so, a common one is the belief that those who are elected will not represent the interests of the voters. If this belief is more widespread among some sections of society than others, it will skew the resulting character of parliament. So, for example, the cost of campaigning for election may affect the ability of those elected to represent the views of their voters rather than of those who have contributed most to their election coffers. Examples of good practice in the regulation of campaign and party finance will be considered more fully in the chapter on accountability. Here it will be sufficient to quote the comments of the Canadian Parliament about the importance of strict financial rules for the credibility of the electoral process, and consequently for electoral turnout:

Political parties are at the heart of a modern political and electoral system and are essential to a vibrant and viable democratic system. Recent changes to the Canada Elections Act and the Income Tax Act governing the financing of political parties and candidates have contributed to increasing the representative nature of the Canadian electoral system. These key amendments provide for greater disclosure of sources and amounts of financing, limits on donations by individuals, and prohibitions on donations to political participants by organizations such as corporations and unions. The changes also address public financing measures to ensure fairness across all political parties

In Canada, politicians are very concerned about participation rates in the political process, particularly voter turnout among young people. This problem is by no means unique to Canada as it is common to all western democracies. Part of the objective of the changes outlined above is to restore public confidence in the electoral system.

For more information on candidate and party financing, see chapter 5.

Election rules and procedures to ensure a parliament that reflects the *social diversity* of the population

Although it is not possible to give an exhaustive list in the abstract of the social groups whose under-representation in parliament might become a cause for concern in any one country, the issue of women's representation is a universal one, as also the representation of minority or marginal communities, whether these be linguistic, religious, ethnic, indigenous, or some combination of all these. A characteristic of a democratic parliament is that it will have instituted effective measures to ensure that it is fully inclusive.

Women in parliaments

In almost all societies politics has been a traditional male preserve, and there have been substantial barriers to women's involvement. In western democracies the extension of the suffrage to women came relatively late, but equality with men in terms of the vote did not bring with it the same equality in terms of opportunity for access to public office. Even today women represent only some 16.4% of all legislators in the world's parliaments. They are not represented at all in eleven of them, and in the single or lower chamber of 60 parliaments their proportion is less than 10% (all data as of 28 February 2006).

Why should this be a matter of concern from a democratic point of view? In the year 2000 the IPU conducted a survey of women parliamentarians across the world to elicit their views and experiences of their work in parliament. In its publication *Politics: Women's Insight* women answered this question in their own terms:

- *It's a matter of equality and justice.* 'A democracy in which women are represented only marginally is not a real democracy....women's participation in policy making is a question of justice and equality.' 'Anything less than equality for women in this area is a deficit of democracy.'
- *The presence of women changes the political process and culture.* 'Women are all in all less adversarial and more consensus-driven, seeking solutions to problems rather than scoring political points.' 'Women are humanising the political world...their presence is transformative.' 'Thanks to women the public is beginning to trust in politics again.'
- *Women change the male bias in policy priorities.* 'Women are much more sensitive to social problems, especially those related to poverty and raising

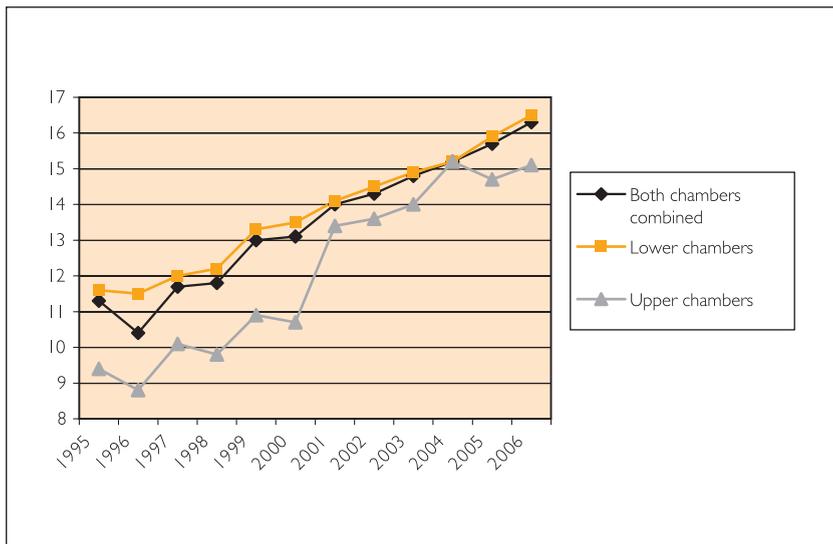
children.’ ‘Women are the first to become aware of economic, educational and health problems.’ ‘Their priorities are more human-centred for both men and women.’

There was agreement among those responding to the survey that for women’s presence to make a noticeable difference in these respects depended on the *number* of them in parliament. In this they echoed the findings of a 1995 report by the UN Development Programme, which concluded that for women as a group to exert a meaningful influence in legislative bodies required a 30% level of representation.

Has the situation for women’s representation improved at all since the time of that UNDP report? Whereas in 1995 in only five countries did women constitute over 30% of the legislature, this number has now risen to twenty; and there has been a gradual rise overall in the percentage of women members from 11% to the current 16.4%, as shown in figure 2.1.

Figure 2.1: World average of women in parliaments, 1995 - 2006

Situation in January of each year, except in 1995 (July) and 1996 (April)*



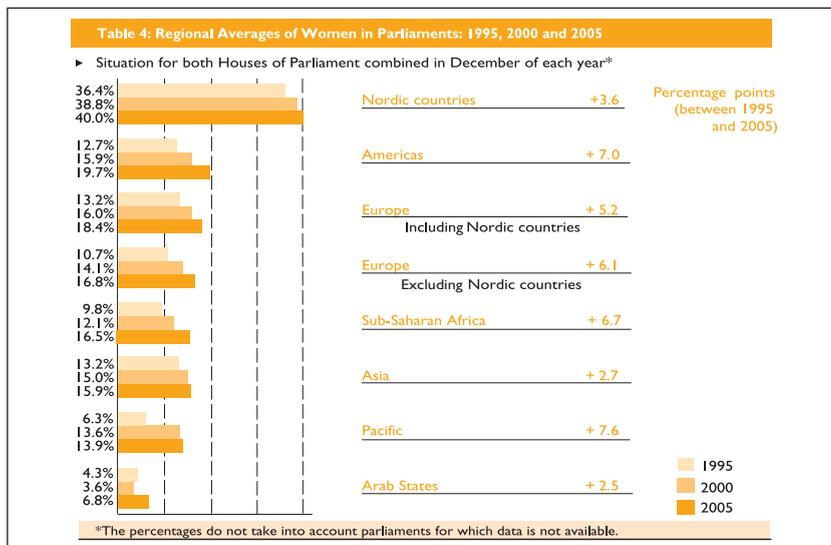
* Percentages do not take into account the situation of parliaments for which data was unavailable.

Source: Inter-Parliamentary Union

The regional distribution of these numbers is given in figure 2.2. These regional averages conceal marked divergences between countries within each region, which is why, for example, the Nordic countries have been singled out as a group for their consistent exemplary position in comparison with the European average. Similarly, Morocco, Tunisia and Iraq stand out among Arab states, the latter with over 25% of women parliamentarians. In sub-Saharan Africa, Rwanda has the highest percentage of any country, with over 48%. Within the Americas, the significant increases in most Latin countries since 1995 have not been reflected in the countries of North America. So these regional figures conceal substantial differences between countries.

Figure 2.2: Regional averages of women in parliaments, 1995, 2000 and 2005

Situation for both Houses of Parliament combined in December of each year*



* Percentages do not take into account the situation of parliaments for which data was unavailable.

Source: Inter-Parliamentary Union (2006). *Women in Parliament in 2005: the year in perspective*. <http://www.ipu.org/pdf/publications/women06_en.pdf>

Further online reading about the percentages of women in national parliaments:

Inter-Parliamentary Union (2005). *Women in politics 2005: Poster*. <http://www.ipu.org/pdf/publications/wmnmmap05_en.pdf>

Inter-Parliamentary Union (2006). *Women in national parliaments. Situation as of 28 February 2006*. <<http://www.ipu.org/wmn-e/classif.htm>>

Inter-Parliamentary Union (2006). *Women in national parliaments. Statistical archive*. <<http://www.ipu.org/wmn-e/world-arc.htm>>

Inter-Parliamentary Union (2006). *Women in politics: 60 years in retrospect (Information Kit)*. <http://www.ipu.org/PDF/publications/wmninfokit06_en.pdf>

What, then, are the main obstacles preventing faster progress on this issue, and what can be done about them? Here are some of the considerations advanced by the women parliamentarians in the IPU 2000 survey to explain women's low participation rates in parliament and in politics more generally:

- *Negative self-selection*. Many women are put off taking part in politics because of its competitive and adversarial character, and the sacrifice it means for family life.
- *Male hostility*. The hierarchies of political parties are typically male-dominated, and can be quite hostile towards women.
- *Times of meetings*. Most meetings are held in the evening and at weekends, and make it difficult for those with family responsibilities to take part.
- *The expense of standing for election*, where expenses are partly borne by the candidate rather than wholly by the political parties.

As to what can be done to offset these obstacles, the example of countries which have the highest female participation rates or have shown the most progress over the past decade demonstrates that it is invariably the result of affirmative action measures of one kind or another. To date such measures have been introduced in 81 countries, typically after determined campaigning by women's organisations. Some of these measures have legal force, others depend on initiatives taken by parties themselves. The following are the typical forms they may take:

- *Reserved parliamentary seats for women*, for example to be filled according to the proportion of seats won overall by the respective parties.
- *Guaranteed proportions of party lists or 'quotas'* to be filled by women, including top places.
- *Women-only short lists* for candidate selection in constituency-based systems, or constituency 'twinning', with a requirement that one of each sex be selected.

Countries with markedly low female participation rates have begun to make a significant difference by the adoption of such measures. For example, in 2004 the Republic of Korea introduced a combination of all the above measures into its relevant laws. The Political Party Act now requires the assignment of 50% of the proportional representative seats to women, and the inclusion of women in every two candidates from the top of the candidate list. The Law on Political Funds provides state subsidies to parties nominating women to run in 30% or more electoral districts. As a consequence of these changes the percentage of women in the 17th National Assembly doubled from the previous assembly to 13%. Other countries have achieved a higher percentage where seats allocated to party lists form a larger proportion than in Korea.

Such affirmative action measures can be justified on equality grounds by reference to article 4.1 of the UN Convention on the Elimination of All Forms of Discrimination against Women:

Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination.....these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

The implication of this article is that such measures will help to bring about long-term change; but they cannot do so on their own. This is demonstrated by the example of Bangladesh, where the provision reserving 30 additional parliamentary seats to women expired in 2000, with the consequence of a dramatic fall in women's representation in parliament from nine to two per cent. The provision has now been restored with an increase of additional seats to 45. So affirmative action measures are likely to be a necessary but not sufficient condition for improving women's participation for the foreseeable future.

Further online reading about “quotas” and other affirmative action measures:

Global database of quotas for women. <<http://www.quotaproject.org/>>

Htun, M (2004) *Is gender like ethnicity?* Global Database of Quotas for Women <<http://www.quotaproject.org/other/HtunPOP2004.pdf>>

International IDEA (2002). *Women in Parliament: beyond numbers.* <<http://www.idea.int/publications/wip/index.cfm>>

International IDEA (2004). *The implementation of quotas: African experiences.* <http://www.quotaproject.org/publications/Quotas_Africa.pdf>

Inter-Parliamentary Union (2004). *Women in Parliament in 2005 - the year in perspective.* <http://www.ipu.org/pdf/publications/women06_en.pdf>

The representation of minority and marginal communities

The fact that parties representing minority communities are not present in a parliament does not necessarily mean that their distinctive identities or interests are ignored. It may be that these can be satisfactorily represented through mainstream parties. Parties may nominate a minority spokesperson or have voting systems that allow members to give extra support to candidates from a minority community. However, pursuing minority representation through mainstream parties seems likely to be successful only if they form a sufficiently large proportion of the population.

Where there is a likelihood that minority communities will not be adequately represented in parliament, a number of different strategies are available, depending on the type of electoral system and the degree of geographical concentration of the minority or minorities concerned.

- *Reduced registration or funding or entry requirements.* Entry for smaller groups can be facilitated by reducing the number of statements of support needed to register a political party, or the number of voters to qualify for public funding. Or parties registered as belonging to a national minority may qualify for entry to parliament on a lower threshold of the popular vote.
- *Designing constituency boundaries* so as to give representatives from minority communities a better chance of success (so-called ‘affirmative

gerrymandering’). Or, if minorities are concentrated in a particular region, a more favourable number of parliamentary seats can be assigned to that region.

- *Party candidate quotas*, so that in certain regions a minimum percentage of those on a party list must be drawn from minority communities. For example, in Singapore 14 out of 23 constituencies are Group Representation Constituencies, with a requirement that at least one candidate in each party team must belong to a minority.
- *Reserved seats* for representatives of minority communities. This is the most widely used method, currently employed by some 25 countries from every region of the world. India currently reserves 79 of its 543 seats in the Lok Sabha for scheduled castes and 41 for scheduled tribes. Mauritius reserves 8 of its 70 seats for the ‘best losers’ representing the four constitutionally recognised ethnic communities. Slovenia reserves one each for the Italian and Hungarian ‘national communities’.

None of these methods is wholly uncontroversial. Minority quotas on mainstream party lists may deprive minority communities of representation through their own autonomous organisations, which they may prefer. On the other hand, measures to support autonomous organisations may serve to reinforce separate identities and militate against national unity. New Zealand’s approach to this dilemma is to allow its Maori voters the choice of registering on either the national electoral roll or a separate Maori roll, and to allow the number who opt for the latter to determine the number of reserved seats in parliament. Protecting minority rights without arousing majority resentment is, however, a difficult issue everywhere, and solutions will always depend on the particular circumstances of a given country. Nor should we overlook the possibility that the communities which are marginalised in their parliamentary representation may comprise a majority of a country’s population.

Special electoral arrangements may be necessary in post-conflict situations, or where democracy is being restored after military intervention which has been communally related. Such arrangements may be transitional, and subject to some disagreement about how democracy should be understood, as this submission from Fiji exemplifies:

In terms of representation the communal electoral system for the election of Members of the House of Representatives has been specifically designed to address the multi-ethnic diversity of the Fiji Islands. Given the struggles that the Fiji Islands have had in the past with respect to maintaining democracy, this system is at this time considered the most

appropriate as it guarantees representation from major ethnic groups while still ensuring that the balance of power is held by Members elected to open seats by all citizens registered in a particular constituency. There are still opposing views in Fiji with respect to having an electoral system that guarantees an indigenous Fijian majority in the House of Representatives as well as a push for all members of the House to be elected on open seats.

The role of a second chamber

A second chamber or upper house of parliament can play a significant role with regard to representing the diversity of a country's population. Most obviously, in federal systems a country's territorial diversity is reflected in the representation of the component states or provinces and their interests in a second chamber, which may have the special task to review how legislation impacts on the country's different regions and localities. This territorial function is not confined to federal systems, and may include special representation for citizens abroad in a second chamber, as in France. In all countries with a two-chamber parliament the selection mechanism for the second chamber can also be used to ensure greater representation for different communities and social groups, whether through a different electoral system from the first chamber, or through the procedures for appointment (where appointed members are present). In this way the social representativeness of parliament as a whole can be enhanced, including representation for groups such as the disabled, the socially excluded and small minorities of all kinds.

Fair and inclusive parliamentary procedures

As already indicated, for a parliament to be representative of its citizens is not just a matter of its composition. It also requires that its procedures and mode of working are inclusive, and give full opportunity to all its members to play their part in its work. This principle of inclusiveness has a number of different aspects to it, which will be considered in turn. All depend for their effective implementation on the impartiality of a Presiding Officer or Speaker, who has a key role in ensuring even-handedness between different groups and parties. Many parliaments go to great lengths to ensure the 'above-party' character of their Speaker or Presiding Officer, even though he or she is likely to have had a previous party affiliation. Kiribati even requires the Speaker's posi-

Further online reading about the representation of minority and marginal communities:

European Commission for Democracy Through Law (Venice Commission) (2000). *Electoral law and national minorities*.

<[http://www.venice.coe.int/docs/2000/CDL-INF\(2000\)004-e.asp](http://www.venice.coe.int/docs/2000/CDL-INF(2000)004-e.asp)>

European Commission for Democracy Through Law (Venice Commission) (2005). *Report on electoral rules and affirmative action for national minorities' participation in decision-making process in European countries*.

<[http://venice.coe.int/docs/2005/CDL-AD\(2005\)009-e.asp](http://venice.coe.int/docs/2005/CDL-AD(2005)009-e.asp)>

Foundation on Inter-Ethnic Relations (1999). *The Lund recommendations on the effective participation of national minorities in public life & explanatory note*.

<http://www.osce.org/documents/hcnm/1999/09/2698_en.pdf>

Ghai, Y (2001). *Public participation and minorities*. Minority Rights Group International

<<http://www.minorityrights.org/admin/Download/Pdf/PubPartReport.pdf>>

Norris, P (2004). Ethnic minorities, in *Electoral engineering: voting rules and political behavior*.

<http://ksghome.harvard.edu/~pnorris/ACROBAT/Institutions/Chapter_9.pdf>

Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (2001). *Guidelines to assist national minority participation in the electoral process*.

<<http://www.osce.org/item/13589.html?ch=129>>

tion to be elected from candidates who are outside parliament, so as to avoid any pressure towards favouritism in carrying out his or her duties. Most parliaments achieve the same result by electing members with a proven track record of impartiality, for example as committee chair or Deputy Speaker. Typical characteristics are those exemplified in this description of a former Speaker of the Indian Lok Sabha, G.V.Mavalankar:

As Speaker of the first Lok Sabha of a new born nation, Mavalankar's role was not merely that of a moderator and facilitator of its proceedings but a founding father invested with the responsibility to establish rules, procedures, conventions and customs that suited the ethos of the land. He accomplished all this with patience, perseverance, wisdom and above all with a remarkable sense of history....In the application of the Rules of Procedure and Conduct of Business of the House, Shri

Mavalankar demonstrated exceptional objectivity and never made any distinction between members belonging to the Government and the Opposition. This tradition has been maintained over the years, and it is this which makes our parliamentary system work.

The above description shows the importance of the character of a Speaker especially for a new or young parliament, in establishing a tradition of impartiality in the conduct of business. In those parliaments where the role of the Presiding Officer is defined as a party figure, representing the majority party or coalition, it is important that checks and procedures should be in place to ensure that the rights of all members are respected.

Inclusiveness for parties

Most of the work of a parliament is carried out in committees, whether legislative or oversight committees, or a combination of the two. It is an accepted practice in almost all parliaments that the membership of such committees is proportionate to the strength of the different parties or groups in the chamber as a whole. So, for example, Serbia-Montenegro reports that ‘in the process of establishment of the working bodies of the Assembly the proportional representation of the Deputies from each member state and each political party...is taken into account.’ In addition, a number of parliaments have the practice of reserving the chair of specific committees to a member of an opposition or minority party. The French Assemblée Nationale gives the right to the opposition to nominate the chair or rapporteur of any commission of enquiry or information mission. In the Lithuanian Seimas a representative of the parliamentary opposition is elected chair or deputy-chair of the Committee on Budget and Finance, as is also typical with the Public Accounts Committee in Westminster-type parliaments.

In a number of parliaments this cross-party character of committee membership extends to the process of decision-making also, through an attempt to achieve consensus. It is most important that this occurs in procedure committees, which arrange the business before parliament. In Zimbabwe, for example, a cross-party business committee meets with the Speaker and Deputy Speaker each week to organise parliamentary business on a non-partisan basis. Such arrangements are typical in most parliaments, and will be reported more fully in chapter 6. In some cases, a spirit of consensus can also be found in substantive committees. In the Cyprus House of Representatives ‘the discussions at the committee level are permeated by a spirit of compromise and most of the laws are adopted in plenary unanimously.’ An Enlarged Committee on

Foreign Affairs in the Norwegian Stortinget gives the government the opportunity to discuss important issues related to trade, national security and other foreign policy with all the factions of Parliament before any decision is finalised. ‘The existence of this committee has contributed to a...common political consensus in the field of foreign policy that Norway has experienced since the Second World War.’ In the Senegalese Assemblée Nationale legislation of particular importance can be referred to an ad hoc Commission comprising the leaders of all political groups, in order to obtain the widest possible agreement.

In Australia this consensus approach extends across many committees:

One feature that marks House of Representatives committees is that they usually do not adopt a political approach to subjects considered by them; members from across the political spectrum usually adopt a non-confrontational attempt to reach a common solution. As such, their outputs are usually more productive and bring about effective change in governmental policy on issues of great importance to the Australian public.

Where consensus is not possible in committee work, many parliaments make provision for the tabling of minority reports.

Specific rights for opposition or minority parties and groups

Opposition or minority parties have a key role to play in holding the government to account, and in providing alternative policy options for public consideration. In parliamentary systems, where the government can exercise the initiative over debate and legislation through its parliamentary majority, it is important that there be guaranteed rights for an official opposition to place items for legislation and policy debate on the parliamentary agenda, as well as guaranteed time for such debate. By the same token, minority parties in legislatures under a presidential system need similar rights. Even in the monarchical system of Saudi Arabia, any group of ten members of the legislature is now entitled to propose a draft law or an amendment to a law already in force. Such rights are recognised by almost all parliaments.

For example in the Italian Camera dei Deputati, which has very precise regulations governing the allocation of its time, opposition groups are guaranteed a minimum quota of subjects they can introduce, and a guaranteed proportion of the speaking time allocated to any subject. In the case of bills introduced by

the government the allocation of speaking time to opposition groups is greater than to those representing the majority. The Lithuanian Seimas provides guaranteed time for opposition groups to introduce parliamentary bills and ‘agendas’, and gives priority to the Leader of the Opposition in the questioning of government ministers, and in debates on the Government Programme and its Annual Report. In the UK House of Commons twenty days are allocated in each session for proceedings on opposition business, seventeen of which are at the disposal of the leader of the largest opposition party. Such examples could be multiplied from across many parliaments.

Further online reading about the role and rights of opposition parties in Parliaments:

Inter-Parliamentary Union (1999). *Guidelines on the rights and duties of the opposition in Parliament*. <<http://www.ipu.org/splz-el/gabon.htm>>

Opportunities for individual members

The principle of inclusion indicates the need for guaranteed opportunities for those who are not members of the leading cadres of parliamentary groups to take part in the full range of parliamentary activities. Many parliaments set aside time for individual members or ‘backbenchers’ to introduce their own legislation, sometimes referred to as ‘private members’ bills, or to introduce proposals into committees or the main chamber on their own individual initiative, as well as to initiate debates.

Such facilities can create problems, however. The submission from the Israeli Knesset mentions the proliferation of private members’ bills as one of its main organisational difficulties. The Swedish Riksdag has similar reservations about the right of individual members’ initiative:

Extensive use of these rights may give rise to problems with regard to the efficiency of parliamentary work. In Sweden, the use made by individual members of this right of initiative has led to problems of this kind for the Committees, in that they have been overburdened with matters arising from such initiatives. In contrast to the right of initiative, the use of the other rights is mainly controlled by the parties and not by individual members, and in this way the risk of excessive use is reduced.

The effective organisation of business is an issue that occupies all parliaments, and it will be examined in chapter 6. Here it will suffice to point out two different ways in which the problem raised from Sweden is addressed by other parliaments. One is the route taken by the Italian Camera dei Deputati, of achieving strict agreement in advance on the time and length of all contributions, ‘including personal interventions by deputies who are not speaking on behalf of a parliamentary group’. The other is simply to expand the time available. For example, in the Indian Lok Sabha an institution has emerged called ‘Zero Hour’, which takes place after the formal Question Hour and before the beginning of regular listed business. It has been described as follows:

The emergence of Zero Hour can be traced to the early sixties when issues of great public importance and urgency began to be raised by members, sometimes with the prior permission of the Speaker or some other times without such permission. Members are free to raise any matter – international, national or local – that concerns them. Zero Hour has been described in terms such as ‘waste of public money’, ‘mad hour’, ‘a great beginning of an evil day’ and ‘an unwanted thing’. But it has become lively and important. Sometimes it is regarded as the biggest hurdle for presiding officers to transact normal business, at others it is seen as something original in the way of parliamentary lexicon and practice.

A more radical way of increasing the amount of parliamentary time available for ordinary members has been the introduction of a parallel chamber. The Australian House of Representatives, which was the first to develop such an institution, called the *Main Committee*, sees this as its most significant item of recent reform. ‘This body cannot commence parliamentary business and it cannot make a final decision on such business, but it can do everything in between. It has dramatically increased the amount of available time for government business and private members’ business, permitted ongoing debates on parliamentary committee reports and provided members with more opportunity to debate matters.’ A similar parallel chamber, called Westminster Hall, has been introduced in the UK House of Commons.

Gender equality

Ensuring that women are able to play a full part in parliamentary work is not only a matter of expanding their opportunities for access to elective office. It also requires that parliament’s own arrangements are such as to facilitate

rather than disadvantage women in contributing to the full range of its activities on equal terms with men. The South African Parliament notes that ‘despite successes in ensuring that women make up a significant percentage of Members, women do not always find it easy to fulfil their political roles, and Parliament needs to constantly monitor its infrastructure and organisational culture to ensure that these are supportive to women’s strategic and practical needs.’ The IPU survey of women parliamentarians summarised their views in this way: ‘The first concern of women in politics is to reconcile their political life with family commitments...At the parliamentary level, the crèche or day nursery services available on the premises in Nordic countries to MPs who are mothers of small children are still only a dream for most women parliamentarians in other parts of the world. The same applies to the times at which meetings and sessions could be held so as to give women MPs a better chance of combining their political duties with their private lives.’ (*Politics: Women’s Insight*, IPU, 2000)

Here is one woman’s comment on her struggle to get even quite basic facilities in a building designed for men:

I used to use the men’s toilet beside the Caucus room, and women who followed me did this, too, until they made it unisex. Well, after I had gone, finally a crèche was provided and the refurbishing has meant equality in the provision of facilities and conveniences for MPs and their families. For instance, in the past there was a ‘Members’ Wives Room’, but nothing for the partners of women MPs.

Similar concerns apply to the timing of parliamentary business. Traditionally many western parliaments have had sittings that started relatively late in the day and extended throughout the evening. The UK House of Commons, among others, has recently experimented with changed sitting hours so as to cut out most late evenings, though the mixed reception of MPs to these changes shows that achieving agreed reform is not easy. The Programme Committees of the South African Parliament, for their part, have reached agreement that House sittings will not normally extend beyond 6 pm. ‘with a view to accommodating members’ family responsibilities’ – a consideration that applies to men as well as women.

Since most of a parliament’s work takes place in committees, ensuring that women members have every opportunity to participate in committee work and to progress to the position of chair is a consideration now taken seriously by many parliaments. This objective can be assisted by procedural rules, as in the

case of Cameroon. 'The rules of procedure of the National Assembly of Cameroon stipulate that every deputy must be a member of at least one and not more than two committees. Pursuant to judicious consultations, therefore, there is at least one woman on each committee. Two out of six general committees are chaired by women.'

As a more wide-ranging initiative, some parliaments have established gender equality committees, with a brief to promote gender equality in society as a whole. These committees usually have equal membership from men and women members, as in France, and some also take on the responsibility of keeping parliament's own procedures under review from a gender perspective. The Swedish Parliament has established a 'Working Party on Gender Equality in the Riksdag'. Its report of November 2004 concluded with fifteen proposals for a Riksdag with gender equality, of which the main ones are given below.

- *We propose that a programme of equality is drawn up for every mandate period with the aim of promoting equality in the Riksdag.*
- *The Riksdag Board approves the programme for every mandate period. A civil servant is given the operative responsibility of implementing the programme.*
- *We propose that regular seminars are arranged for committee bureaux to discuss working methods, the chair's role, meeting culture, etc.*
- *The Riksdag's homepage should be developed with regard to gender-segregated statistical information.*
- *There should be a professional support function for members who feel they are subjected to negative treatment.*
- *The introduction for new members is developed to include more informal knowledge of the Riksdag.*
- *Investigations set up within the Riksdag should report on any consequences for equality.*
- *The committees' work planning should take into consideration the feasibility for members to combine their Riksdag assignment with parenthood.*

Such initiatives are typically the product of pressure on the part of women members. In several parliaments they have established cross-party women's caucuses to promote such changes, as well as to review forthcoming parliamentary business from a gender perspective.

Further online reading about gender inclusion in the work of Parliaments:

Inter-Parliamentary Union (2000). *Politics: women's insight*.
<http://www.ipu.org/PDF/publications/womeninsight_en.pdf>

Inter-Parliamentary Union (2004). *Enhancing the role of women in electoral processes in post-conflict countries. Post-election support*.
<<http://www.un.org/womenwatch/osagi/meetings/2004/EGMelectoral/EP3-IPU.PDF>>

Inter-Parliamentary Union, United Nations Development Programme (2002). *National Seminar on "The Process of Engendering a New Constitution for Rwanda"*.
<http://www.ipu.org/pdf/publications/kigali_bi.pdf>

Inter-Parliamentary Union, United Nations Division for the Advancement of Women (2003). *The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol. Handbook for Parliamentarians*.
<http://www.ipu.org/PDF/publications/cedaw_en.pdf>

The Commonwealth (2001). *Gender-sensitizing Commonwealth parliaments*.
<<http://www.cpahq.org/uploadstore/docs/gendersensitizingcwparliaments.pdf>>

Equality for members of minority and marginal communities

In many parliaments the inclusion of representatives of minority and marginal communities may be sufficiently addressed through the procedures for opposition and minority parties already discussed. Where the minority is very small, however, it may be impossible under the normal rules for them to claim certain parliamentary rights such as positions on legislative or other committees. In this case requirements such as the need for a minimum number of elected members may be waived, or special procedural rights may be granted for minority issues. These could include the right to initiate new legislation or to veto certain types of bill. In Belgium, for example, for certain issues parliament is divided into French and Dutch language groups, and a majority in each group is required as well as an overall majority of two thirds for a measure to be passed.

Since minority and marginal communities are usually characterised by speaking a different language from the majority, an important issue for parliamentary inclusion concerns the language or languages in which parliamentary business is conducted. This consideration becomes all the more

relevant where the language of parliamentary business is not spoken by a majority of the population. Here questions of expense in providing translation facilities may be a constraining factor. In the Indian Lok Sabha, for example, the languages for transacting business are Hindi and English. However, since the time of the Fourth Lok Sabha members have also been allowed to address the House in any of the scheduled languages provided for in the Constitution. At present, simultaneous interpretation facilities are available in eight languages besides the two mentioned (Assamese, Bengali, Kannada, Malayalam, Marathi, Oriya, Tamil and Telegu); while in the Upper House, the Rajya Sabha, facilities are also available in Gujarati, Urdu and Punjabi.

Further online reading about the use of minority and vernacular languages in the work of parliaments:

Matiki, A (2002). *Language planning and linguistic exclusion in the legislative process in Malawi*. <<http://www.linguapax.org/congres/taller/taller1/Matiki.html>>

The House: New Zealand's House of Representatives 1854-2004 (2005). *Parliament in Te Rea*. <<http://www.nzhistory.net.nz/Gallery/parlt-hist/tereo.html>>

Facilitating all members in their work

Besides the more obvious forms of inequality between members already considered, there may be less visible differences in resources or capacity which put some members at a systematic disadvantage. The issue of parliamentary resources and facilities will be considered more fully in chapter 6. Here it is sufficient to point out that members should enjoy equal access to them, and that parliament's research and library staff should serve all members impartially.

This is not only a question of facilities, however, but of the capacity to use them. For example, most parliaments now have on-line facilities so that members can have up-to-the-minute information on the progress of bills and other aspects of parliamentary business. All surveys of the use of electronic means of communication, however, show that inequalities between users are not just a matter of equipment, but of the ability to use it across its full range. The fact that parliamentarians now increasingly come from professional backgrounds means that such abilities may simply be taken for granted. Yet everyone requires training, even if only to keep their skills updated.

This consideration applies more generally, for example in the context of newly elected members. Parliamentary procedures often seem arcane, the demands on time are enormously diverse, and members are left very much to their own devices. It may take a long time for new members to find ways of being effective across the full range of their responsibilities. Most parliaments provide induction programmes and mentoring schemes for newcomers, though these are quite variable in their quality and usefulness. Some are provided by party groups, some by the administrative staff of parliament. In a review of induction programmes conducted by the IPU, the following were suggested as essential elements in such a programme:

- the rights and duties of members;
- parliamentary procedure, debating and voting rules in committees and the Chamber;
- details of parliamentary services provided and how to access them;
- office organisation and the use of electronic and other equipment;
- broadcasting and media relations;
- organisation of constituency offices and relations with constituents.

As a specific example, the New Zealand Parliament produces a series of guidebooks available on line to all its members, dealing with different aspects of their work. For example, its guidebook *Effective Select Committee Membership* covers every aspect of a committee's operation, including standing orders, procedures for different types of business, support services available, guidance for chairpersons, and so on. Its aim is that those who become familiar with it 'will be empowered by this knowledge and will find it much easier to achieve their goals in select committees.' In so doing they will also be better able to represent their constituents. Here are some typical extracts:

Know what you want to achieve. To be an effective member of a select committee you need to plan in advance what you want to achieve at a particular meeting and how you hope to achieve it. Proceedings can sometimes move quickly and without a plan you might find your opportunity to raise an issue or suggest a change to a report has been lost. This guidebook will help you understand what you can achieve and how to go about implementing your plan within the limits set out in Standing Orders.....

Your chance to become an effective legislator. You do not need a law degree to be a good legislator. All you need are your ideas, a commit-

ment to following through a process and the powers of persuasion to convince your colleagues on the committee that your proposals should be implemented. The committee's advisors will advise on the feasibility of proposals and law drafting will be done by those who have specialist drafting skills. You need to think critically while you are considering legislation. Be prepared to ask questions if you do not understand the bill before you. The chances are that if you do not understand it, neither will the people you represent.

Protecting the rights of parliamentarians in fulfilling their mandates

A fundamental condition for a parliament to be representative, and for its members to represent their electors effectively, is that they be free to speak their minds without fear or favour. Historically, parliamentarians have often been subject to all kinds of pressure and intimidation from governments, especially when they have spoken out against government abuses. They have also been subjected to unwarranted pressure from other powerful forces within society itself. It is for this reason that the rights of parliamentarians to free speech have been given special protection through rules of parliamentary 'privilege' or 'non-accountability' which protect parliamentarians from prosecution for opinions expressed or votes cast in the exercise of their mandate.

Parliamentary non-accountability applies to anything spoken or written or any act committed by a member of a parliamentary assembly in the ordinary course of his official duties.....the protection afforded is absolute and lifelong, even after he has ceased to be a member. All countries without exception endorse the principle of non-accountability defined in this way. (IPU Committee on the Human Rights of Parliamentarians, 1993)

The point of such a privilege is not only for the protection of parliamentarians, but so that they can better represent and protect the interests of their electors. This is well expressed in a resolution of the Council of the IPU in Mexico City in 1976: 'Protection of the rights of parliamentarians is the necessary prerequisite to enable them to protect human rights and fundamental freedoms in their respective countries; in addition, the representative nature of a Parliament closely depends on the respect of the rights of the members of that Parliament.'

In view of their history of oppressive regimes, many parliaments also grant their members immunity from arrest or prosecution for ordinary crimes, since such prosecutions have often served as an excuse for governments to remove critical or obstructive parliamentarians from public circulation. Such immunity or ‘inviolability’ lasts only for the member’s term of office. In certain serious cases it may be lifted, but only by a vote of parliament itself. In countries where it applies, such a provision seeks to balance the need to protect the liberty of members from executive encroachment with the concern that parliamentarians might appear to the public as a special elite with undue privileges. Getting this balance right as circumstances change is not easy, and a number of parliaments are reviewing their legislation on this question.

In the event of an assumed violation of their rights which is not resolved by domestic procedures, parliamentarians can appeal to the Committee on the Human Rights of Parliamentarians, established under the auspices of the IPU in 1977. This committee, which is composed of senior parliamentarians from across the world, operates by a quasi-judicial procedure which aims at a mutually agreed settlement in confidence with the responsible government or parliament. Only in the event of non-settlement is the issue made public through the Governing Council of the IPU. This committee is now accepted as the main international body for protecting the rights of parliamentarians.

Further online reading about the rights of parliamentarians:

Inter-Parliamentary Union (1993). *Inter-parliamentary symposium “Parliament: Guardian of human rights”. Summing-up of the deliberations by the President of the symposium.* <<http://www.ipu.org/splz-e/budapest.htm>>

Inter-Parliamentary Union (2006). *Human rights and humanitarian law.* <<http://www.ipu.org/iss-e/hr-law.htm>>

Inter-Parliamentary Union (2006). *Parline database module on the parliamentary mandate.* <<http://www.ipu.org/parline-e/parlinesearch.asp>>

McGee, S (2001). *Rules on parliamentary immunity in the European Parliament and the member States of the European Union.* European Centre for Parliamentary Research and Documentation <<http://www.ecprd.org/Doc/publica/OTH/RulesParlImmu.pdf>>

Myttenaere, R (1998). The immunities of members of parliament, in *Constitutional and Parliamentary Information* N° 175. Association of Secretaries General of Parliaments <http://www.asgp.info/Publications/CPI-English/1998_175_05-e.pdf>

Another resource available to parliamentarians under pressure is the support of fellow parliamentarians abroad. The German Bundestag, for example, has established a 'Parliamentarians Protect Parliamentarians' campaign. Its rationale and mode of operation is summarised as follows:

No one advocating the implementation and observance of human rights in Germany runs any risk in doing so. In many other countries, however, people who defend human rights can themselves become the victims of human rights abuses. Politicians are also among the defenders of human rights who are at risk. Exercising their right of free speech is mostly their sole offence. The criticism they voice makes them a thorn in the flesh of both state agencies in countries where the human rights situation is problematic and of paramilitary groups.

As members of the Bundestag you have a network of international contacts that you can use in favour of your fellow parliamentarians who are at risk. The secretariat of the Committee on Human Rights and Humanitarian Aid will tell you whether opposition politicians are under threat in a country you have contacts with or are intending to visit and what you can best do to support them. You can also use the information provided by the Committee secretariat to offer support from within Germany. It provides a sound basis for petitions and talks with political decision-makers from countries in which human rights are violated.

Individual rights of parliamentarians and party discipline

A difficult and much contested issue concerns the right balance to be struck between the requirements of party discipline and the individual right of parliamentarians to speak their minds freely. On one side it is reasonable for a party on whose platform and with whose support a member has been elected to expect that the member will support the party's programme in parliament. This consideration is necessary not only for the parties themselves but also for the electors, if they are to be able to count on a predictable connection between their exercise of the vote and the actions of their elected representatives in parliament. On the other hand, members have an individual responsibility to defend the interests of their constituents, and to speak out against policies which they believe to be misguided or damaging, even where these are promoted by their own party. Parties for their part have a responsibility to develop internally democratic procedures which allow for full debate on contentious issues, rather than simply relying on dictats from above.

How parliamentarians negotiate the potentially competing claims of party loyalty and individual conscience is one of the most difficult issues they face. Parliamentary parties have many forms of discipline available over dissident members, with the ultimate sanction of expulsion from the party, and consequent withdrawal of support at a future election. The point where such action comes to infringe the individual rights of a member has been clearly drawn by the IPU Governing Council in test cases before its Committee on the Human Rights of Parliamentarians. First, any such expulsion should accord with a party's internal rules guaranteeing due process, including the right of a member to defend him- or herself. Secondly, any expulsion should not result automatically in the member's loss of his or her parliamentary seat or curtailment of its duration, since this would undermine the member's right to freedom of expression. As the IPU has reiterated, a member's *disqualification* from parliament requires a decision by parliament as a whole, and should only follow conviction for a criminal offence, not loss of party membership.

This principle becomes more contentious where a member leaves a party voluntarily or changes party in mid-term (so-called political 'nomadism'). Such actions may be quite self-serving, for example in pursuit of governmental office, and they can bring considerable instability to parliament as well as frustrating the clear will of the electors. For these reasons a number of parliaments have introduced anti-defection provisions, requiring a member who has defected to surrender his or her seat. An example is the constitutional amendment passed by the Indian Parliament in 1985, to 'combat the evil of political defections....which is likely to undermine the very foundations of our democracy and the principles which sustain it.' This constitutional amendment disqualifies a political party member not only if he or she has given up their party membership, but even if they have voted contrary to the directions of their political party without prior permission. This provision was strengthened by a further amendment in 2003 to prevent whole party mergers.

An alternative way of dealing with the issue of defections is provided by the Swedish Parliament. It insists that, although members are elected from party lists, they are individually appointed and have their own individual mandate:

Therefore, if a member is excluded from a party or leaves a party during the electoral period he or she may remain as an MP. However, members leaving a party-group during the electoral term cannot form a new party-group which will be recognised as such by Parliament, nor formally join another party-group.

In respect to these different provisions, it may be worthwhile to record the Latimer House Guidelines for the Commonwealth, agreed under the auspices of the Commonwealth Parliamentary Association in June 1998:

'Security of members during their parliamentary term is fundamental to parliamentary independence and therefore:

- a) the expulsion of members from parliament as a penalty for leaving their parties (floor-crossing) should be viewed as a possible infringement of members' independence; anti-defection measures may be necessary in some jurisdictions to deal with corrupt practices;*
- b) laws allowing for the recall of members during their elected term should be viewed with caution, as a potential threat to the independence of members;*
- c) the cessation of membership of a political party of itself should not lead to the loss of a member's seat.'*

Further online reading about the rights of parliamentarians in relation to their parties:

Norris, P (2004). *Building political parties: reforming legal regulations and internal rules*. International IDEA

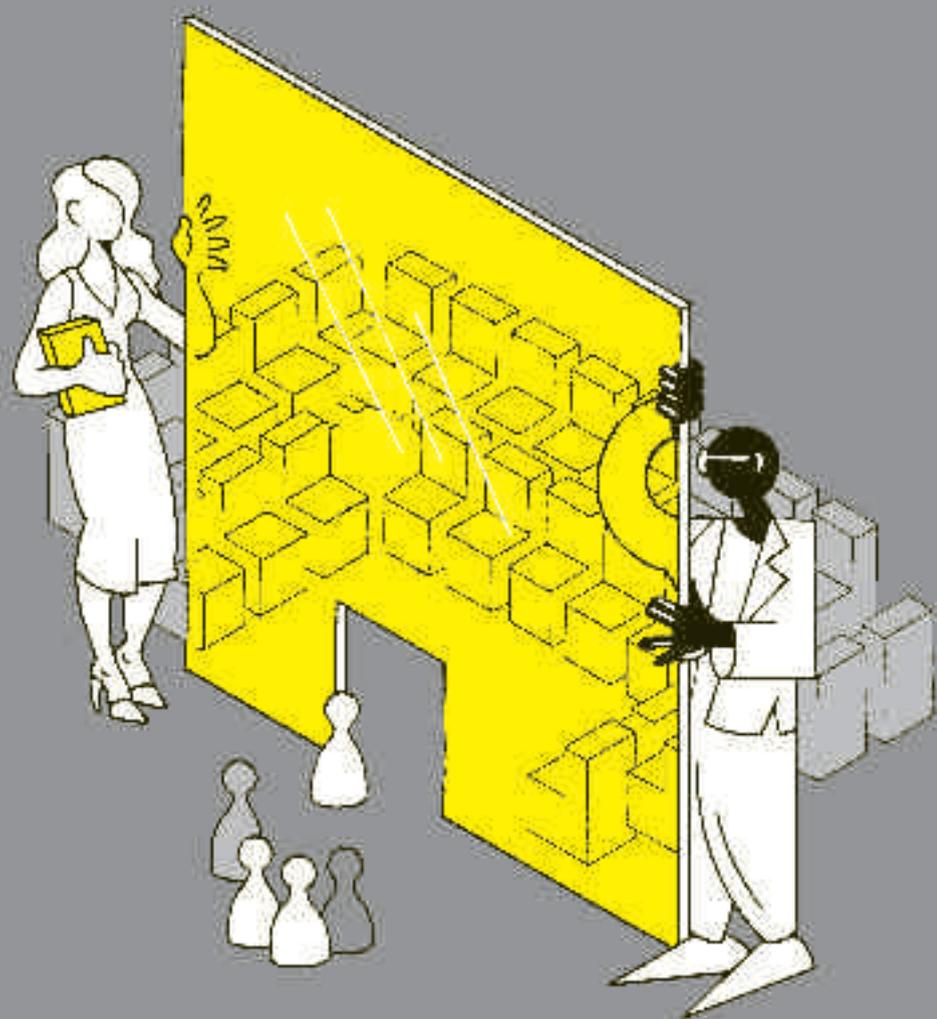
<http://www.idea.int/parties/upload/pippa_norris_ready_for_wev_3_.pdf>

Scarrow, S (2005). *Political Parties and Democracy in Theoretical and Practical Perspectives: Implementing Intra-Party Democracy*. National Democratic Institute

<http://www.accessdemocracy.org/library/1951_polpart_scarrow_110105.pdf>

The Commonwealth (2002). *Commonwealth (Latimer House) Principles on the three branches of government*.

<http://www.cpahq.org/CommonwealthPrinciplesonThreeArmsOfGovernment_pdf_media_public.aspx>



3. A parliament that is open and transparent

For a parliament to be ‘open’ means, most obviously, that its proceedings are physically open to the public. This is not always straightforward in an age when the security of public figures is a pressing concern. Yet many parliaments have found it possible to strike a balance between openness and security, in such a way that parliament is manifestly seen to belong to the people as a whole, and not just to its members. In a number of countries, such as South Africa, it is a constitutional requirement that the public must have reasonable physical access to parliament.

In practice, of course, most people are unable to visit parliament in person. For parliamentary proceedings to be open to the public, therefore, means in effect being open to the press and broadcasting personnel who act as the ‘eyes and ears’ of the public as a whole. The first part of this chapter will look at ways in which parliaments can facilitate journalists and the media in reporting their proceedings, and will consider issues such as access, freedom of information, freedom of expression and media regulation, all of which can contribute to a better informed citizenry.

Informing citizens about the work of parliament is not just a concern for independent media, however, but is a responsibility of parliaments themselves. Over the past few years, parliaments everywhere have been making strenuous efforts to inform and educate the public about their activities, and to engage their interest and attention. In this they have been helped by the rapid development of new forms of communication such as the Internet, which also facilitates an interactive relationship between representatives and citizens rather than just a one-way communication. From this point of view the division of the Guide into separate chapters, dealing with the transparency and accessibility of parliaments respectively, may seem somewhat artificial. However, it will be convenient to distinguish them in the interests of more thorough treatment. Citizens cannot hope to influence parliaments unless they are first fully informed about what they are doing; neither will they be able to hold their representatives properly to account (see chapter 5). So the second half of the chapter will review parliaments’ own efforts to inform and engage with the public, and the different ways in which they seek to do so.

Facilitating journalists and the media in reporting the work of parliament

Parliaments depend upon journalists, editors and media presenters for informing the public about their work. Yet there is much mutual distrust between them. Journalists are often frustrated by restrictions on access to proceedings, or by contempt and defamation laws which may unnecessarily constrain what they can publicly report. Parliamentarians on their side hold the media partly responsible for the low esteem in which they are collectively held, because of a one-sided portrayal of their work. ‘The media tend to focus more on proceedings which are adversarial and on matters such as travel and expenses without placing them in the wider context of a parliament that is constructive and systematic’ is a typical comment from the Irish parliament. Pictures of empty benches convey the impression that members are ‘moonlighting’ when they may well be properly engaged in other parliamentary business, whether in committees or in their constituencies.

Inevitably there will be some tension between parliamentarians and the media, given the different purposes and cultures of the two professions. Yet they both need each other, and have everything to gain from seeking to collaborate in the ways in which parliament is presented to the public. The public, for their part, have an interest in maximum openness if they are to be effectively informed about the activities of their elected representatives.

Issues of access

Much of the work of parliament is now carried on in committees, and many parliaments are now opening them up to the public and media personnel. Reservations made by parliamentarians to doing so centre on the fear that proceedings may become more partisan if they are public, that witnesses may be less forthright in their evidence, or that members may exploit the occasion for ‘grandstanding’. However, if the media are to give a more rounded picture of the work of members, then opening up committee proceedings where much of the work is carried on is a logical step, and one which is becoming more general, subject to obvious limitations on grounds of personal or national security.

Among recent examples of improved transparency, the Dutch Parliament has experimented with opening up the procedural meetings of certain committees to the public, so that observers can see how they set their agendas and arrange public hearings. The House of Representatives of the Republic of

Cyprus now allows media personnel to attend committee meetings ‘with very few exceptions’. The Assemblée Nationale of the Cote d’Ivoire, which used only to permit summaries of its committee meetings to be published, has since 2001 allowed the press to attend and report on all committee proceedings. In South Africa, committees are open to the public and the media, and can only be closed after open discussion and with the approval of the Speaker. The Australian House of Representatives assigns a media advisor to help committees develop communications and media strategies for their public enquiries, and to maximise media coverage of committee activities.

This last example raises a consideration that is particularly stressed in a recent report of the Puttnam Commission in the United Kingdom on parliamentary communication. This is that, in a busy media world where competition for news stories is intense, it is no longer enough for parliamentarians simply to provide information or access, but must themselves take the initiative in identifying items that are newsworthy for journalists to pick up on:

Media organisations are much leaner than they used to be, and can no longer spare journalists to spend their time in the gallery or a committee room in the hope of coming across a story.....While some committees already receive good coverage for their work by virtue of controversial subjects, media-savvy chairs or inherent public interest, this is now being complemented by the work of select committee media officers. They are now choosing particular reports to push to media outlets and explaining why the findings are of particular news interest.....MPs need to accept that communication of this sort is not inherently partisan. (Hansard Society Commission, Members Only? Parliament in the Public Eye, Hansard Society, 2005)

Many parliaments are simply unable to afford this degree of provision of media officers. But the training of members themselves, and especially committee chairs, in media relations and presentation could readily equip them to take similar initiatives. The Commission’s concept of ‘media-savvy’ chairs is one that could be generalised.

The same Commission makes a further point about media access, particularly of television, which is not just relevant to the UK Parliament. This is the way rules on access can restrict the form of media coverage as well as its range, and so provide only very dull viewing or reporting in comparison with other news events:

Channel Five told the Commission that 'Another reason why Five News, in common with other news programmes, has reduced its coverage of Parliament is because of the severe restrictions which apply to television news organisations, in particular, the largely static TV coverage within the chambers and the limited access for cameras within the precincts of Parliament'.....Channel Four said that, 'In return for giving up some of their privacy, we believe that parliamentarians would be giving out an important message to viewers – "This is your building. We are your representatives." The feeling given off at the moment is that the building belongs to MPs and Lords – not to the people.

Further online reading about the Puttnam Commission on Communication of Parliamentary Democracy:

Puttnam Commission on Communication of Parliamentary Democracy (2005). *Members only? Parliament in the public eye*. Hansard Society
<http://www.hansardsociety.org.uk/programmes/puttnam_commission>

Freedom of information

Legislation which gives citizens access to information held by public bodies is an important democratic resource, which is endorsed by the 'right to seek information' provision of the International Covenant on Civil and Political Rights. This is distinct from the requirement on public bodies to publish their own proceedings and reports, though both may be covered by the same regulations or legislation. Freedom of Information (FOI) legislation now exists in more than fifty countries in every region of the world. It provides a resource for use by citizens and NGOs as well as the media, to improve the transparency of public bodies. While its use can assist parliaments in holding governments to account, it can also enhance the accountability of parliamentarians themselves.

In some countries access to information about parliament is provided by regulations relating specifically to parliament, in others it is covered by FOI legislation which is applicable to all public bodies. An example of the former is provided by the Polish Senate, whose submission points to the wider benefits to democratic life of its provisions:

In an effort to comply with citizens' constitutional right to information, Senate regulations include rather detailed provisions covering, for example, the need to inform the public of forthcoming Senate sittings, public right to attend Senate and Senate committee sittings, public access to Senate papers, minutes and stenographic reports from Senate and Senate committee sittings, as well as to other documents and information associated with the work of Senate and its bodies There is no doubt that access to information issues legislated in so much detail has a great deal of impact on the transparency of work performed by the Senate and its bodies, contributing on one hand to the democratisation of life and, on the other, to activating citizens who can, if they so wish, become familiar with Senate work via the access to information from of their choice. This is extremely important for a democratic societal control of people's representatives, whose performance voters can scrutinise using numerous possibilities of accessing information while at the same time learning democratic parliamentary procedures.

Romania's parliament is covered by a general law on the free access to information of public interest. 'In application of this law, the Senate and Chamber of Deputies provide access to information of public interest, both *ex officio* and on request, through their respective specialised services.' Slovenia's parliament is also covered by a general act on Access to Information of a Public Character, applying to all public bodies. Ecuador has its own access to information statute, 'guaranteeing the transparency of all public activity including that of parliament'. Typical of all such legislation is the existence of independent bodies which are authorised to hear complaints against decisions to deny access to information, including those made by parliament itself. Here, to take another example, is how the Parliament of Jamaica describes the purpose of its FOI Act:

The objects of this Act are to reinforce and give further effect to certain fundamental principles underlying the system of constitutional democracy, namely – a) governmental accountability; b) transparency; and c) public participation in national decision-making, by granting the public a general right of access to official documents held by public authorities.

Many international organisations have published model FOI laws, which are very similar in the issues covered. Here, for example, are some of the key principles for FOI outlined in a publication by the global campaign for free expression, Article 19:

- the principles of maximum disclosure, obligation to publish and active promotion of open government;
- exceptions should be clearly and narrowly drawn and subject to strict ‘harm’ and ‘public interest’ tests;
- access to information should be facilitated, and requests not deterred by high costs or delay;
- refusals to disclose information should be subject to appeal to an independent body whose decisions should be binding.

Further online reading about freedom of information and model laws:

Article 19 (2001). *A model Freedom of Information Law*.

<<http://www.article19.org/pdfs/standards/modelfoilaw.pdf>>

Commonwealth Parliamentary Association (2003) *Recommendations for an informed democracy*. <<http://www.cpahq.org/uploadstore/docs/Perth.pdf>>

Freedominfo.org <<http://www.freedominfo.org/>>

Mendel, T (2005). *Parliament and access to information: working for transparent governance*.

<http://siteresources.worldbank.org/WBI/Resources/Parliament_and_Access_to_Information_with_cover.pdf>

Organization of American States (2003). AG/RES. 1932 (XXXIII-O/03):

Access to public information: strengthening democracy.

<http://www.oas.org/juridico/english/ga03/agres_1932.htm>

The Commonwealth (2003). *Model Freedom of Information Act*.

<http://www.thecommonwealth.org/shared_asp_files/uploadedfiles/{AC090445-A8AB-490B-8D4B-F110BD2F3AB1}_Freedom of Information.pdf>

Freedom of expression

The counterpart to the right of access to information is the right to communicate and publish it freely to others. This right is fundamental to the democratic process as one based on dialogue and persuasion between informed

citizens and between them and their representatives. In the context of media reporting of parliament, it is essential that any limitation on this right should be drawn as narrowly as possible.

Under standard human rights conventions and their jurisprudence, any restrictions on the freedom of expression are subject to a threefold test: they should be a) 'prescribed by law'; b) such as are 'necessary in a democratic society', for example for the protection of national security or of the rights and reputations of others; and c) 'proportionate' to these necessary purposes. The most frequent restriction that has been used to limit what can be said or written about parliamentarians concerns the damage to reputation, or 'defamation'.

In most democratic countries it is accepted that the public role of politicians should make them more open to public scrutiny, and tolerant of a much wider range of comment and criticism, than might be reasonable for private persons. This assumption has also been endorsed in international jurisprudence on the freedom of expression. Nevertheless, some countries still have defamation laws which can be used to restrict the range of media reporting of politicians unduly. These can be particularly restrictive where they form part of the criminal law, with a possible penalty of imprisonment for journalists who overstep the line. In other countries it is the level of damages that can be awarded in civil cases which may act as a deterrent to robust public disclosure or criticism. In addition, some parliaments have broadly drawn contempt of parliament provisions which can be used to limit criticism or punish journalists for reporting leaked information. Other means that have been used to hamper legitimate journalistic reporting or criticism have included the withdrawal of accreditation to report parliamentary proceedings.

It is probably a good test of the robustness of a country's democracy that parliamentarians are reluctant to have resort to such means to limit criticism or the flow of information to the public. But it is also in their hands to review restrictive legislation which may date from a less democratic era. In this context it is worth noting the report of a study group of the Commonwealth Parliamentary Association (CPA) on 'Parliament and the Media' held in February 2003. Among its many recommendations are these:

(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 should not be considered as contempt of Parliament. Contempt should be reserved for serious cases of interference with Parliament's ability to perform its functions.

(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.

(9.2) Criminal laws inhibiting free speech.....should be revoked.

To these recommendations could usefully be added a principle from Article 19's publication on defamation, referring to the right of journalists to refuse to name their sources, which of course has general applicability beyond defamation cases: 'It is well established that the guarantee of freedom of expression entitles journalists, and others who disseminate information in the public interest, to refuse to disclose the identity of a confidential source.'

Further online reading about freedom of expression and parliaments:

Article 19 (2000). *Defining defamation: principles on freedom of expression and protection of reputation.*

<<http://www.article19.org/pdfs/standards/definingdefamation.pdf>>

Inter-Parliamentary Union (2005). *Seminar for chairpersons and members of parliamentary human rights bodies on freedom of expression, parliament and the promotion of tolerant societies: summary and recommendations presented by the rapporteur of the seminar.* <<http://www.ipu.org/splz-e/sfel/conclusions.pdf>>

Media regulation

A final issue to consider in the relations between the media and parliament is parliament's responsibility for setting the regulatory framework within which the media operate. This framework typically covers questions of *ownership* and *control* as well as considerations of *content*. Although this subject is a complex one, and media technologies are rapidly changing, the principles governing what the public requires from the media in a democratic society are relatively simple: accurate information, a variety of viewpoints and opinions, and respect for the equal dignity of all citizens. Naturally such principles also bear on the reporting of parliament itself, on political parties and individual parliamentarians.

Issues of *ownership* and *control* typically affect the variety or pluralism of viewpoints available, especially on television. This is the medium which people in most regions of the world mainly rely on for information and debate about politics, except for Africa where radio is more significant (see table 3.1). The table does not include the Internet, which is rapidly becoming a major source of news in many countries, especially for young people.

Figure 3.1: First main source of information for national and international news per region

	TV	Newspaper	Radio	Others
Middle East	78	8	7	7
East Europe	76	11	9	4
Asia	73	15	8	4
Latin America	71	12	14	3
West Europe	63	22	10	5
North America	59	21	9	11
Africa	30	7	58	5

Source: Pew Global Attitudes Project, December 2002, reported in Marta Lagos, “World Opinion: the World’s Information Channels”, *International Journal of Public Opinion Research*, vol.15, no.2, 2003, 201-211.

In view of their significance and also their expense to run, the pluralism of broadcast media can be threatened from two quite different directions. In publicly owned broadcasting, the main threat is that of government or dominant party control, which excludes critical, oppositional or alternative perspectives on government policy. With regard to the privately owned sector, the chief threat comes from monopolistic or oligopolistic ownership, where pluralism is threatened by a combination of populism on one side and the protection of the interests of the wealthy and privileged on the other.

The best way to contain these pressures is by an independent regulatory body which has strong powers to limit concentrations of ownership, including the cross-ownership of different media, as well as to prevent government interference in publicly owned broadcasting. Parliaments can play an important non-partisan role in setting the framework for such a regulatory body and acting as guarantor of its independence. Creating impartial appointment procedures for such a body is regarded as crucial by most experts on the subject.

The CPA Study Group (see above) cites examples from both Europe and Africa to this effect:

In 2001, the Council of Europe adopted a recommendation on the independence and functions of broadcasting regulatory authorities, aimed at protecting them against interference by political forces or economic interests.....Particular emphasis is laid on transparent procedures for appointing members of these bodies, on precise rules to prevent them from holding interests in businesses or other media organisations, and on protecting the members from dismissal through political pressure.

In South Africa.....the constitutional court has ruled that independence of the media regulatory authority lies in the appointment and dismissal mechanisms, the funding mechanisms and the actual functioning of the body. At the Authority's creation, the South African Parliament's Media Committee advertised for members and interviewed the candidates. The recommendations it presented in a report were debated and adopted by the National Assembly, before the Head of State was advised on the appointments.

As to the regulation of *content*, opinions differ as to whether this should also be governed by an independent broadcasting authority, or left to a self-regulating body under the control of the industry itself. Many broadcasting authorities set broad parameters for content in licensing agreements, such as minimum news and current affairs coverage, standards of advertising or the timing of 'adult' programmes. At the same time, the CPA Study Group takes the view that 'it is the responsibility of the media, not parliament, to set and supervise their highest professional and ethical standards'. The limitation of self-regulation, however, is often found in the inadequacy of sanctions or effective public redress in the event of false or tendentious presentation.

An interesting example of non-regulatory involvement by parliamentarians in broadcasting standards is provided by Brazil. Here, in the absence of any code of ethics for TV programmes, members of the Human Rights Committee of the Chamber of Deputies have collaborated with civil society organisations to establish a nation-wide monitoring system for programme standards. Viewers are encouraged to send in complaints on programmes they find offensive, and a 'shame list' is drawn up of the persistent offenders which is then discussed in regular meetings with TV programmers. The guiding principle of the campaign is the equal dignity of all citizens:

The Campaign 'Those Who Encourage Low Quality are against Citizenship' is an initiative of the Commission for Human Rights of the

*Chamber of Deputies, in partnership with civil society entities, with the purpose of promoting the respect for human rights and the dignity of the citizen in TV shows. The Campaign consists in the permanent monitoring of TV programming in order to detect which programmes – systematically – disrespect international conventions signed by the Brazilian Government, constitutional principles and actual legislation which protect human rights and citizenship. (Brazilian Chamber of Deputies (2005). *Those Who Encourage Low Quality are against Citizenship*)*

Typical violations of these principles include the degrading presentation of people on grounds of gender, colour or sexual orientation; assuming the guilt of those charged with a crime; filming vulnerable groups or individuals without permission; interviewing children in inappropriate ways; showing scenes of violence or explicit sex at prime time; and so on. The campaign illustrates the potentially wide remit which a human rights committee of parliament might define for itself, as well as the role of parliament as a sounding board for public opinion in the face of powerful commercial interests.

Further online reading about media regulations:

Bouchet, N; Kariithi, N.K (2003). *Parliament and the media: building an informed society*. World Bank Institute, Commonwealth Parliamentary Association
<<http://siteresources.worldbank.org/WBI/Resources/wbi37228BouchetKariithiWEB.pdf>>

Commonwealth Parliamentary Association (2005). *Parliament and the media*.
<<http://www.cpahq.org/topics/parliamentmedia/>>

Strategies of parliaments for informing the public about their work

So far we have been concerned to identify the ways in which parliaments are becoming more open to citizens through improving public access, and removing barriers to media reporting within a regulatory context that encourages pluralism and non-discriminatory content. Equally important are the strategies adopted by parliaments themselves for informing the public about

their work, and seeking to engage their interest and involvement. The inherent difficulty of this should not be underestimated, since it is not just a question of communicating information, but of making it intelligible to the vast majority of people who are not familiar with the workings of a parliament.

Parliaments that have been recently established, or which have recently reviewed their communication arrangements, have tended to adopt a comprehensive information and education strategy under a single communications officer or department. This strategy embraces every kind of medium – broadcasting, the Internet, publications, information centres and educational initiatives of all kinds. The advantage of multiple and coordinated means of dissemination is that the public can access information through the medium of their choice or availability, as this contribution from the Hungarian National Assembly shows:

It is important that the activity of Parliament is available to the citizens via several channels. For most people television, printed media and radio broadcasts are the primary channel of communication. Plenary sessions of the parliament are broadcast live on radio and television, these days parliamentary sessions can be viewed also on-line on the Internet. The Library of the Parliament and the Secretary General's Office offer additional sources of information, as well as a special telephone line or e-mail available for all citizens, operated by them, through which questions concerning the legislation or the work of Parliament are formulated. Non-profit organisations may obtain information from the Civil Office. Since the basic stipulation for the democratic operation of Parliament is to make available all information to the citizens, several channels of information are therefore at the disposal of the public.

Parliaments have traditionally kept a full printed record of all their proceedings. Many now also have their own dedicated television channel for broadcasting and recording their proceedings. One advantage of this is that it enables parliaments to maintain editorial control over the content, as well as to allow a much greater range of activity to be shown. The Republic of Korea, for example, used to rely on the government's KTV channel to broadcast plenary meetings. 'Starting from May 2005, however, the National Assembly launched a channel exclusively for legislative affairs through which it broadcasts directly to the people the entire proceedings taking place in the National Assembly.' While these dedicated channels may only interest a minority of the population, they fit into a more general picture of increasing fragmentation of

media audiences. What is important, however, is that such channels should be accessible to the widest population. Expanding the potential audience for the parliamentary channel has been a concern for a number of our respondents, and has been facilitated by the rapid development of digital broadcasting, as this report from the French Assemblée Nationale indicates:

The parliamentary debates are broadcast, generally live, on the Parliamentary Network, which includes two stations, each dedicated to a chamber of the parliament. So far this network, which also broadcasts interviews, studio debates and other educational programmes, has been available only on cable or satellite television, or via an ADSL connection. On 31 March 2005, the launch of terrestrial digital television in France will make it possible to extend significantly the reach of this network, which will be among the 14 channels available for free in digital services.

Extracts from a report submitted by the Mexican Senate indicate the typical range and ambition of a dedicated parliamentary channel:

With the intention of complying with its informational objective of supplying Mexican society with information about the activities that take place in the Legislative Power, Congress formally created on 28 August 2000 the Congress Television Channel of the Mexican Republic.....The programming has integrated legislative activities of both Chambers that make up the Mexican Congress, such as:

- *Joint Sessions of the Chambers*
- *Task force meetings of the legislative Commissions*
- *Programmes expressing opinions and with legislative participation*
- *Interviews with government officials*
- *Informative notes and data*
- *Night news, and*
- *Programmes with cultural and educational information, produced by means of collaboration agreements with different institutions.....*

The Congress Channel covers the whole of Mexico as it is transmitted through a cable system in the complete country, which reaches a potential 10 million television viewers; and also by subscription to Channel 144 in the SKY system and to Channel 220 through Direct TV reaching

another 10 million viewers. Presently we have pending a permit to extend the diffusion by means of the MMDS Systems and with our own UHF frequency to send the signal to 100% of the country.....

Emails sent to the Channel have made it possible to have a vast variety of responses from the TV audience.....By this means the Director's Office of the Channel has gotten to know the usage tendencies of the TV viewers, the geographic zones participating, the kind of social broadcasting, to whom it is addressed, the interests, the opinions, the needs and the proposals made by viewers of the Channel.....

In conclusion, the Channel is widening the image of Congress and extending its presence in society, becoming an extension of the tasks carried out by Congress itself, offering society, on the one hand, an informative image that is more realistic and complete of the Senate, and, on the other hand, facilitating more access to interact with the Legislators.....With this, the Channel is granting the right to information and freedom of expression in the country, and contributing to build citizens and not only spectators or information consumers.

As the Mexican submission also shows, the division between 'traditional' media of communication and the Internet is now breaking down. Many parliaments use video links to broadcast their proceedings in real time via their website, even though they may not have a dedicated TV channel. This also enables them to reach citizens abroad, who otherwise would not be able to follow parliamentary proceedings directly. The Portuguese Parliamentary Channel, for instance, 'also broadcasts through the Internet site and allows people to follow it worldwide. The information is quite relevant considering the number of Portuguese emigrants entitled to vote in the parliamentary elections.' Another example from Mexico shows the interest that can be aroused abroad through this medium:

One remarkable recent experience (March 2005) has been the transmission of the Mexican Senate hearings with the Foreign Affairs Secretary, the President of the Federal Electoral Institute and the President of the Federal Electoral Court, to analyse a change in Mexican law that would grant the right to vote to the Mexican citizens outside the country, among them, the 10 million Mexican citizens that live in the United States. According to unofficial estimates, these Internet transmissions have been followed by approximately 400 000 computer users in the United States.

To take another example, the Indian Parliament has offered this comment on the significance of extending the broadcasting of its proceedings:

Telecasting and broadcasting parliamentary proceedings lead to first hand political education of the common people. Constituents now have the opportunity of seeing for themselves the role being played by their elected representatives in ventilating their grievances.....On 14 December 2004, two separate dedicated satellite channels for tele-casting live the entire proceedings of Rajya Sabha and Lok Sabha nationwide were launched by the Vice-President of India and the speaker, Lok Sabha, respectively.....The Question Hour proceedings of both the Houses are also broadcast live on the All India Radio.....ensuring their wider reach across the length and breadth of the country.

The importance of radio broadcasting for countries or communities where ownership of TV sets is low should not be underestimated. As table 3.1 shows, radio is the most important source of information for countries in Africa. However, these regional figures hide some quite marked differences between individual countries. For example, where TV is the main source of information for 92 per cent of the population in Indonesia, this falls to just 2 per cent in Uganda. In African countries, therefore, measures to expand radio coverage of parliamentary proceedings are particularly important. In Botswana, for example, this has been done in a number of ways:

- Live broadcasts daily while parliament is sitting
- Press briefings on the agenda before parliament as a news item
- Regular broadcast interviews with Ministers, in which the public can submit questions directly
- Introduction of the vernacular language for parliamentary debates and official documents.

The report from the Republic of South Africa has this to say about its own radio project:

The radio project, which aims to educate and inform the public of what happens in Parliament, how laws are made and how citizens are participating in law-making processes, has become the most important means of communicating with the South African public. The project comprises pre-recorded docudrama series, interviews with Members of

Parliament and senior officials as well as infomercials. Much of the material is produced in all the official languages and is broadcast nationally on twelve SABC radio service stations. The total audience for the radio project for the 2002/3 financial year was 35 million.

As it happens, TV sets are widely available in South Africa, but people still look to radio as their main source of information about public affairs. This suggests the continuing importance of radio for parliaments even in those countries with extensive TV ownership.

Parliamentary websites

Almost all parliaments now have their own websites, including a public Internet site to keep citizens abreast of parliamentary proceedings and to provide a record of legislation and, in many cases, an internal site for improving communication with their members. The National Congress of Ecuador, for example, has established an easily searchable electronic database of all legislation passed since 1979, with details of the debates and votes that took place on each. Websites offer not only a more effective means of accessing information, but interactive possibilities also, as this submission from the Congress of Chile illustrates:

It appears that information technology lends itself to giving an electronic impetus to democracy, insofar as unlimited access to legislative information and the interactive nature of parliamentary websites make the legislative process and parliamentary procedures more transparent and leave them subject to closer public scrutiny. Our Website is equipped with tools that make it possible for users to pose questions, send comments, take part in discussion forums and opinion surveys and subscribe to newsgroups according to their personal preferences, etc., all of which brings «electronic democracy» within our reach. This could change traditional notions of democratic institutions and the role played by citizens.

Since these sites mostly share very similar objectives and features, it will be useful here to summarise the IPU's own guidelines on good practice for parliamentary websites, published in 2000, which was the result of a systematic survey of practice at that time among member parliaments. These are its main recommendations for content etc. under each of a number of headings:

IPU recommendations on good practice for parliamentary websites

General information page

- Overview of the composition and functions of the national parliament and its constituent bodies;
- Full text of the Standing Orders, rules of procedure or similar rule-setting documents;
- Text of the country's Constitution (where applicable)
- List of international and regional parliamentary assemblies of which the parliament is a member.

Electoral system

- Explanation of the election procedure (voting system, electoral constituencies, who votes, who can be elected, nomination requirements, who conducts the election, etc.)
- Results of the last elections by party affiliation and constituency.

Legislative process

- Schematic explanation of the legislative process;
- Legislative agenda and schedule of the current session;
- Searchable database of legislative acts enacted by the current legislature;
- Status of current parliamentary business by bill number, topic, title, date, document code, parliamentary body, etc.

Presiding Officers

- Biodata of the current Presiding Officer of the parliament or parliamentary chamber;
- Brief description of the Presiding Officer's powers and prerogatives;
- Names of Deputy- and/or Vice-Presidents (where applicable).

Members of Parliament

- Up-to-date list of all members grouped alphabetically, by constituency and by party or political affiliation, including membership in parliamentary committees/commissions, and with hyperlinks to the MP's personal websites (where applicable);
- Contact information for each member including his or her e-mail address.

Non-plenary parliamentary bodies

- Complete list of non-plenary bodies with hyperlinks to separate pages devoted to each body in that category;
- Description of the mandate and terms of reference of each body;
- Membership and names of presiding officer(s) of each body;
- Information on current business and data on upcoming meetings;
- Relevant contact information of each body.

Search tools for the website

- Quick search utility – this standard intra-site search tool is based on automatic indexing of documents and allows free-text search for words and word combinations throughout the site;
- What's New page – an announcement board with direct hyperlinks to the newest documents on the site;
- Site map – textual or graphical visualisation of the site's overall structure containing hyperlinks to individual documents.

Feedback tools

- A feedback utility that allows users to send their comments and questions directly to the webmaster;
- Preconfigured electronic mail for sending messages to parliamentary bodies and individual officers directly from the pages of the website.

External hyperlinks

- Internet users should be able to find their way easily from a national parliament's website to those of political parties and government institutions, other countries' parliaments, inter-parliamentary structures, and so on.

Source: Inter-Parliamentary Union

Further online reading about parliamentary websites:

Inter-Parliamentary Union (2000). *Guidelines for the content and structure of parliamentary websites*. <<http://www.ipu.org/cntr-e/web.pdf>>

Kingham, T (2003). *e-Parliaments: the use of information and communication technologies to improve parliamentary processes*. World Bank Institute <<http://siteresources.worldbank.org/WBI/Resources/wbi37210Kingham.pdf>>

Norris, P (2000). Online Parliaments in *Digital divide: civic engagement, information poverty, and the Internet worldwide* (Chapter 7). <<http://ksghome.harvard.edu/~pnorris/acrobat/digitalch7.pdf>>

As the current information from our parliamentary respondents shows, their websites are continually being developed in response to user feedback and user priorities. For example, the activity of the Italian Senate and its staff ‘has been strongly influenced by the added push coming from the web: constituents increasingly want to email their elected representatives and find out on line how he or she voted and what opinion he or she expressed on specific issues.’ In Australia, the online summary of the week’s business in the House of Representatives has proved particularly popular. In Latvia, the Saeima’s database containing the full text of draft laws has enjoyed the most use ‘because every citizen can follow the development process of the draft law he or she is interested in.’ However, the Latvian communication also draws attention to the limits on accessibility. Not every citizen can use this facility in practice.

When we talk about involving the public in strengthening democracy, we should not rely on information and communication technologies (ICT) too much. We have to take into consideration that the current availability of personal computers and, in particular, the availability of and access to the Internet is not as evenly distributed and as broad as we would like. A knowledge society is not about the availability of knowledge on the Internet or elsewhere, but about maximally even distribution of knowledge among the citizens, thus enabling democratic processes.....A true expression of democracy is to let every person choose the form of communication that is more convenient for and accessible to him or her.’

The figures provided in this communication for the levels of Internet use in Latvia reinforce this caution: only 24% of the population had used it in the previous six months; only 47% of public libraries had access to the Internet and 71% of schools. If this is the situation for a European country, then how much more is it true of many developing countries in the South. While access to ICT, therefore, enormously increases the range and speed of communication possibilities for its users, by the same token it also intensifies the inequalities between users and non-users. Table 3.2 shows the huge inequalities between the world’s regions in access to the Internet. Within the low access regions and countries we must also assume a huge gulf between those with access and those without. One way of bridging this gap is through a system of ‘cascading’, whereby information is disseminated in electronic form to local agencies (constituency offices, community centres, etc.) and thence by more traditional means to wider sections of the population. Nor should we overlook the use of other new technologies, which are not covered by the figures in the table. For example, Africa currently has the fastest growth in mobile phone

use of any continent, albeit from a low base; in 2005 there were six times as many mobile users as users of the Internet.

Figure 3.2: Internet usage statistics

WORLD INTERNET USAGE AND POPULATIONS STATISTICS						
World regions	Population (2005 Est.)	Population % of World	Internet Usage Latest Data	% Population (Penetration)	Usage % of World	Usage Growth 2000-2005
Africa	915,210,928	14.1%	22,737,500	2.5%	2.2%	403.7%
Asia	3,667,774,066	56.4%	364,270,713	9.9%	35.7%	218.7%
Europe	807,289,020	12.4%	290,121,957	35.9%	28.5%	176.1%
Middle East	190,084,161	2.9%	18,203,500	9.6%	1.8%	454.2%
North America	331,473,276	5.1 %	225,801,428	68.1%	22.2%	108.9%
Latin America/ Caribbean	553,908,632	8.5 %	79,033,597	14.3%	7.8%	337.4%
Oceania/ Australia	33,956,977	0.5 %	17,690,762	52.9%	1.8%	132.2%
World Total	6,499,697,060	100.0 %	1,018,057,389	15.7%	100.0%	182.0%

Source: Internet World Statistics, *Internet Usage Statistics: The Big Picture* <<http://www.internetworldstats.com/stats.htm>>

Notes: Internet Usage and World Population Statistics were updated for December 31, 2005. Demographic (Population) numbers are based on data contained in the world-gazetteer website <<http://www.world-gazetteer.com/>>. Internet usage information comes from data published by Nielsen//NetRatings, by the International Telecommunications Union, by local NICs, and other sources. ©Copyright 2006, Miniwatts Marketing Group. All rights reserved.

Taking parliament to the people

Many parliaments have dedicated centres for information and education in the parliament building for organised visits and individual visitors. The Italian Chamber of Deputies, for example, in May 2005 inaugurated a multi-functional and multi-media centre of information in its building, open every day, where visitors can follow parliamentary proceedings on screen, access information on parliament through a variety of media, and engage in systematic

research. Other parliaments hold specific Open Days, whether at set times throughout the year, or to mark some special anniversary. The Parliament of Kiribati opens itself to the whole public once a year to coincide with the date when the Parliament first opened in October 2000. The Estonian Riigikogu holds an Open House every 23rd April to celebrate the day of its founding in 1919. The opportunity is open to any citizen to visit the parliament building and go on a conducted tour. A special question time is arranged for the guests in the parliamentary chamber with members of the Government participating and answering questions. The parliament also holds information days in rural areas and counties, where local people are able to question members on their work.

This practice of taking parliament out to the people is a typical feature in some countries. Botswana has instituted a ‘Parliament on Wheels’ in which members of the Speaker’s and Information offices tour villages to explain the role of parliament in society. South Africa has organised ‘democracy road-shows’ whose aim has been ‘to take Parliament to communities that do not have ready access to Parliament so as to educate and inform people of how laws are made and how citizens can participate in law-making processes.’ Its second chamber, the National Council of the Provinces, locates itself in a different province for a week each year, to hold meetings with various stakeholders, especially from rural areas. The Great State Hural of Mongolia has established permanent ‘parliamentary advocacy centres’ in five districts of the capital and nine provinces, with the following objectives:

- to develop relations between members of parliament and their voters, and between local administrators and civil society, in a systematic way;
- to organise local training sessions, public discussions, hearings and seminars;
- to involve local media and elected officials in advocacy work relating to parliamentary activity.

These outreach programmes are not just a feature of developing societies, as the example of Sweden shows:

In 2003 Riksdag ‘branches’ were opened in three towns: Gothenburg, Malmo and Sundsvall. Together with the municipal libraries of each town, the Riksdag has equipped a section of the library with screens, printed educational and information material, an IT workstation for connecting to the Riksdag website, and the opportunity of following web broadcasts from it. Members of the Riksdag from each region also use the Riksdag ‘branches’ to meet voters and hold debates.

Informing and involving young people

Most parliaments acknowledge that they have a special problem in interesting the young in representative politics. This is not because young people lack any interest in politics as such. Many are actively involved in advocacy causes and single-issue campaigns. Yet of all age groups they are the least likely to vote, and their alienation from parliamentary politics is particularly marked.

In view of this situation, parliaments are now making strenuous efforts to engage the interests of school pupils in their work. These initiatives take many forms. Some are school-based, some are located in parliament itself, and some involve a combination of the two.

School-based initiatives

The most basic of these is teaching about parliament as part of the school curriculum. The South African Parliament is developing a civic education training programme for young adults to show 'how Parliament functions, how laws are made and how the public can engage with the law-making process. It is envisaged that this programme will eventually constitute part of the school curriculum.' Another of its initiatives has been the production of an award-winning comic book, *A Day in Parliament*, which has been distributed to every school in the country.

Figure 3.3: *A Day in Parliament Comic Book*



Source: Parliament of South Africa (1999). *A Day in Parliament*
 <<http://www.parliament.gov.za/eupsp/newsletters/aday.html>>

The Iceland Parliament has a special website for schoolchildren aged 13-15. 'The users can interact with cartoon style figures, answer questions by searching the web for information and be graded instantly for their effort when they send in their answers. It has proven popular and is widely used as a teaching tool.' The Finnish Parliament has established an electronic game 'Legislators' in which groups of schoolchildren can virtually enact legislation in the same way as is done in the real Eduskunta, playing different roles between them.

Many long-established democracies have seen it as an essential part of such a curriculum that school students should experience what it is like to run their own parliaments, in the form of an elected assembly or such like, to help decide issues of school policy and discipline. These can also make an important contribution to democracy-building in countries seeking to consolidate a more democratic culture. The Grand National Assembly of Turkey has recently joined forces with the education ministry in a 'Parliaments of Schools' project, to establish such assemblies in schools throughout the country.

The project has been launched to familiarise the students of primary and secondary education with the culture of election and to be elected, to make them handle their problems with their own perspectives, to build consciousness about functional democracy including the concepts of public participation and tolerance, as well as to spread the culture of democracy to all the segments of society. This project, initiated in 2004, has been implemented in 200 primary schools and 100 secondary schools.....The objective here is to spread this system in a short period of time to all schools in Turkey.

The project has attracted considerable media attention, and the Assembly Speaker attended some of the first elections to underline the importance and support attached to the project by the National Assembly.

Parliament-based programmes

These programmes can also take different forms. Many parliaments have arrangements for regular visits from school students, on a weekly or monthly basis, in which students from across the country can attend plenary sessions and committee meetings, question ministers and meet with their own assembly members. Others run 'young people's sessions', in which students learn parliamentary procedure through organising their own debates and question sessions. The Norwegian Storting was planning to open an events centre in

the autumn of 2005, in which school pupils will conduct simulations of the parliamentary process. ‘They will act as parliamentarians in fictive plenary meetings, meetings in standing committees and party groups, they will write the necessary documents, and they will be confronted with the press.....This will give them a very vivid impression of parliamentary democracy at work.’

A method which combines both school-based activity and a programme in parliament involves school meetings to elect representatives to a National Youth Parliament. Poland, for instance, has an annual Young Parliamentarians meeting, in which young deputies are elected from schools across the country and hold debates in parliament according to parliamentary procedure. A more elaborate version has been developed by the Danish Folketing:

The purpose of the Youth Parliament is to help young people from Denmark, the Faroe Islands and Greenland to understand the democratic process better by letting them draw up their own Bills and proposals for legislation, which they debate in committees and in full session in the Folketing.....Information on the Youth Parliament is forwarded to teachers of grade 8 and 9 students at all schools. Each class wishing to participate must draft a Bill collectively.

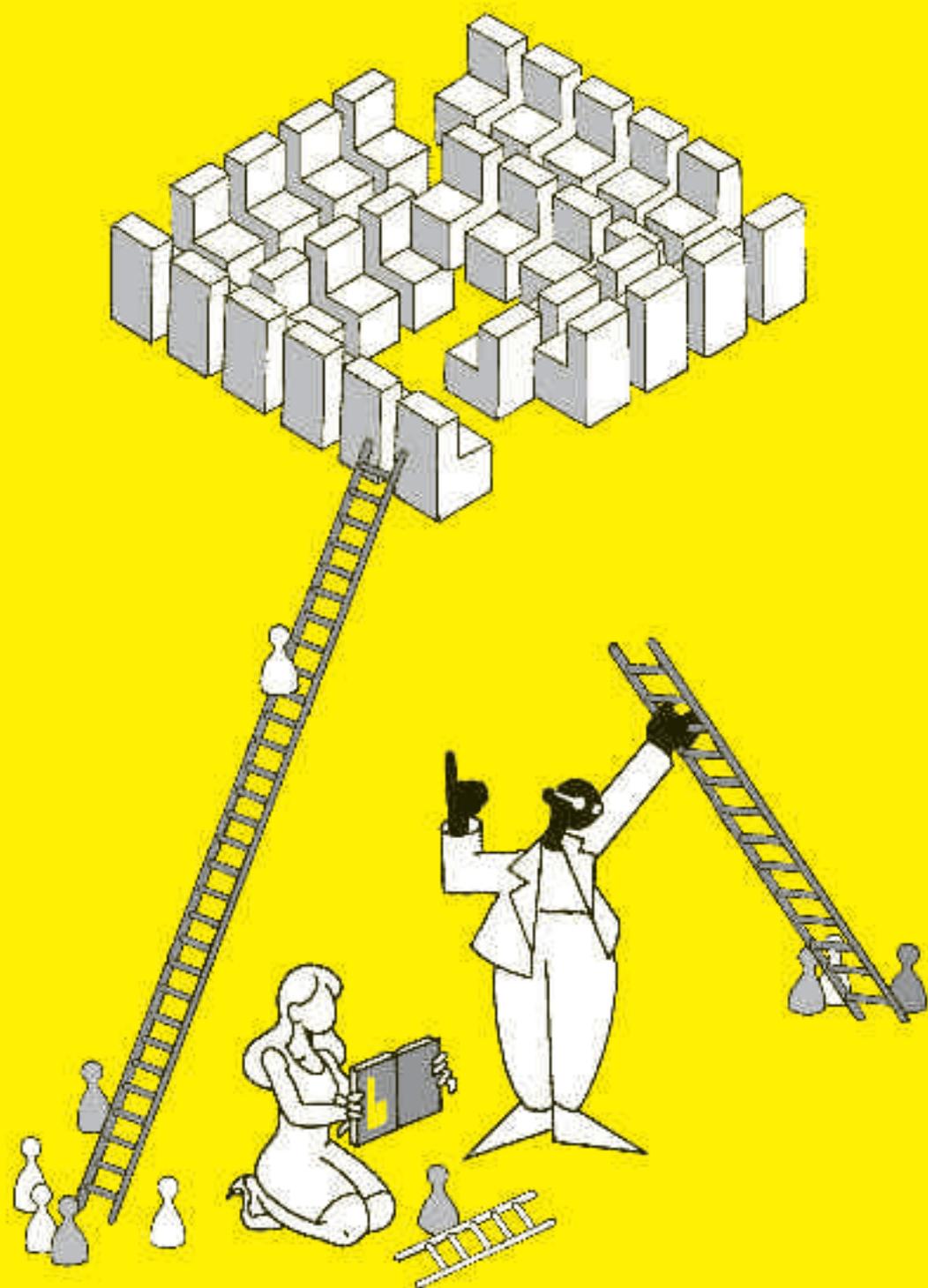
The Danish Parliament then selects 60 Bills according to the following criteria:

- *contents of the bills*
- *variation (coverage of the widest possible number of subjects)*
- *wide geographical coverage ensuring that schools from all parts of the country are represented.*

The 60 Bills are distributed according to the relevant standing committees. The initial part of the committee work is done electronically. The second part of the committee work is done at Christiansborg Palace at the meeting of the Youth Parliament.....Each of the 12 committees will discuss five Bills, of which one from each committee is selected by the participants for discussion and vote in the Chamber. Each committee also frames a question which will be put orally to a Minister during Question Time.

The above comprise only a small selection of the initiatives being carried out by parliaments in this important area. Beyond school, St. Kitts runs a Youth Parliament for young people, representing various youth groups. ‘They interact with Parliamentarians, the Speaker of the House and the Clerk of the

House to learn about Parliament and its work.....Their debates are carried live on radio and are recorded for television viewing.’ Worth mentioning also is the idea of taking parliament to young people where they are gathered for their own events. In Hungary the presence of members of Parliament and other public institutions is arranged at Diaksziget (Students’ Island), the largest youth music festival in Central Europe. Here ‘students can listen to political lectures and can discuss their problems with politicians.’



4. An accessible parliament

The previous chapter concerned itself with the different ways in which citizens can become informed about their parliament. Having accurate and up-to-date information about what parliament is doing is a precondition for exercising any influence on the work of parliament either as an individual or through organisations of like-minded citizens. This chapter looks at the different ways in which parliaments are making themselves more accessible to citizens and social groups, and in which they can hope to exercise influence in turn. It looks first at modes of direct contact between citizens and their representatives; then at ways in which parliaments can empower individuals to gain redress in the event of grievance; finally at opportunities for citizen involvement in legislation and other committee work of a parliament.

Direct contact between citizens and their representatives

The means through which citizens have traditionally had access to their parliament has been through their elected representative(s). In most countries, where the electorate is divided into geographically-based constituencies, and members represent a specific locality, such access has typically been through face to face contact in the area where the electors live. Defenders of constituency-based electoral systems have always regarded it as their signal merit that members should experience their constituents' concerns and problems at first hand, and not just rely on second-hand reports when assessing the impact of legislation. Naturally, there is a danger, pointed out by a number of our respondents, that members can become almost full-time social workers as a consequence. 'Electors expect that, once elected, the deputy should be available to them at any time and in all circumstances - baptisms, marriages, funerals, social assistance of all kinds' (Mali). How parliamentarians balance the reasonable expectation that they should understand and address the views and interests of their constituents with the requirements of their legislative and other parliamentary work, is one of the most difficult balancing acts they have to undertake.

In the contemporary world the use of email has enormously enhanced the ease and speed with which electors can contact their representatives. Yet, as we have already seen, the 'digital divide' excludes large numbers from such access. In most countries, therefore, the opportunity of meeting the represen-

tative directly, whether individually or as a member of a group, and without substantial time or cost spent in travelling, remains of the first importance. Meeting this need is partly a matter of members' *time*, partly of constituency *facilities*.

As to *time*, many parliaments set aside a day or two at the end or beginning of each week when they are in session for members to visit their constituencies. In Sri Lanka, the parliament is in session during the first and third weeks of each month, and during the second and fourth weeks the members work in their constituencies, where people can have access to them. In Chile, both houses of the legislature sit for three weeks each month, 'so that in the fourth week parliamentarians can attend to business in their district or region, and keep up an ongoing dialogue with their electors.' In a few countries, being a parliamentary representative is still only a part-time activity, and members continue to practise their normal profession while carrying out their parliamentary duties. In Malta, MPs 'visit their constituents at home, in hospital and at their place of work to learn more about their daily needs, and such visits are held frequently. The size of the country makes it possible for members to give the citizens personal attention and, where necessary, to explain to them measures included in legislation adopted by Parliament.' At the other end of the scale in terms of size, the full parliament in the People's Republic of China meets for only a few days each year, and deputies are also have their own professions. 'This has enabled them to have direct interaction with the voters, feeling their pains and understanding their aspirations.....They also assist in the implementation of the Constitution and the laws in their production, work and social life.' Such advantages have to be set against the potential loss of expertise in relation to the members' legislative duties, as both parliaments acknowledge. In respect of China, it should be noted that the Standing Committee of the National People's Congress meets on a continuing basis between sessions of parliament.

Constituency facilities

A constituency- or district-based office provides a key point of contact for electors with their representative and local staff. In view of its importance, many parliaments in developing countries have initiated wide-ranging programmes to establish parliamentary offices in each constituency, where members are available to see their constituents. In Zambia, this forms a key part of an ambitious programme of parliamentary reform. As a first step, three different types or models of constituency offices were piloted, to see which one was most suitable and sustainable to enhance member-constituency relations:

- the fixed office;
- the travel budget office, where an MP was provided with funds for travelling around the constituency in person;
- the mobile office located in a Land Rover, and equipped with a computer and satellite phone.

Support staff were recruited and trained for all three types of office facility. Of the three types, the fixed office proved to be the most effective in the pilot studies. The ‘travel budget office’ lacked any focal point or predictability of popular access, while the ‘mobile office’ proved unsustainable in terms of its technical demands. As a conclusion, the Parliamentary Reforms and Modernisation Committee recommended the following:

- *that the Fixed Office Model be adopted with a limited travel budget to enhance the MPs’ connectivity with their constituents;*
- *that the Community be involved in deciding on the location of the offices;*
- *that the National Assembly should ensure that the Professional Assistants and other employees of the office are non-partisan;*
- *that the National Assembly should equip constituency offices with basic literature translated into local languages, if possible*

The Committee concluded that constituency offices significantly improved constituents’ access and interaction with the MP. The key to success was the leadership, performance and commitment of the MP and the Professional Assistant.

In Zimbabwe a similar reform process has led to the establishment of Parliament Constituency Information Centres (PCICs) in all 120 constituencies, with the primary objective of providing citizens and local organisations with an opportunity to engage Members of Parliament on the problems and needs of the constituencies. As a base for parliamentary generated information, the centres also enable the public to be involved in the legislative process from a more informed standpoint. In addition, the centres hold a socio-economic database of the area, regularly updated, which serves to identify some of the most pressing issues and areas of need in the constituency.

The centres provide a meeting place for the sitting Member of Parliament and his or her constituents. Since these centres belong to

Parliament, not political parties, they give all members of the area, regardless of political affiliation, an opportunity to discuss constituency issues with their representatives in Parliament. The PCICs are centrally located and are easily accessed by the majority of people in that constituency. They are also located close to local or Government authorities for coordination purposes.....The PCIC is manned by the Office Assistant who is an employee of Parliament on contract.

Reviews of the work of constituency offices generally suggest that their effectiveness as a channel of communication and public participation depends on the conscientiousness of the individual member (see the Zambia extract above). It seems also that they are more successful at raising individual complaints and problems than as a channel for views about the legislative activity of members.

Further online reading about the organisation of parliamentary constituency offices:

National Democratic Institute (2002). *Constituency handbook for elected representatives in Namibia*.

<http://www.accessdemocracy.org/library/1376_na_constituencyhdbk.pdf>

United Nations Development Programme (nd). *The legislature and constituency relations*. <<http://www.undp.org/governance/docs/Parl-Pub-constrelat.htm>>

A local development role for parliamentarians

In many developing societies the issues which constituents will look to parliamentarians for assistance with concern very basic living issues – access to water and sanitation, communal facilities, basic infrastructure, and so on. Here members can have a direct role in helping initiate development projects in their constituency, in a number of ways:

- helping government define development priorities and supporting them in their implementation;
- assisting local groups and communities in securing funding for their own projects;

- collaborating with NGOs in local schemes;
- where applicable, making recommendations to government ministries for the allocation of budgets in their district.

In some African countries, parliamentarians are allocated a sum from the central government development budget for local projects which they can spend at their own discretion. In India, parliamentarians may suggest development works to the sum of 20 million rupees annually to be carried out in their constituency; and there is a special committee of both Houses which liaises with the relevant ministry to assist members in the effective implementation of this scheme.

A future-oriented problem: email overload

At the other end of the development scale is a problem increasingly being experienced in countries with high Internet usage: that of email overload on parliamentarians and their offices. This has been of particular concern to the US Congress, and their report *E-mail Overload in Congress* (2002, available from <www.congressonlineproject.org>) will be of more general interest. Among problems it identifies are: huge spurts in email traffic when contentious issues hit the public consciousness, but which do not then subside; a large increase in traffic from correspondents outside a member's district; organisations which use email for indiscriminate lobbying or 'astroturfing'; expectations of immediate response since the means of communication is instantaneous; limited office budgets for dealing with the load. The report comments:

While all institutions are struggling to adapt to the demands of a 'paperless environment', the challenges facing Congress are among the most difficult and contentious. Growing numbers of citizens are frustrated by what they perceive to be Congress' lack of responsiveness to e-mail. At the same time, Congress is frustrated by what it perceives to be e-citizens' lack of understanding of how Congress works and the constraints under which it must operate....Until now, rather than enhancing democracy – as so many hoped – e-mail has heightened tensions and public disgruntlement with Congress.

Among the recommendations made to congressional offices are to have a clearly worked out strategy for dealing with email, including one of the latest systems for sorting and storing it, and automating replies where appropriate.

These can not only save time and money on paper and postage costs, but facilitate new ‘outreach opportunities’ for initiating communication with different groups of electors interested in particular issues.

As for correspondents, the report makes some recommendations which apply equally to surface mail users. Email to a member of Congress will have greatest impact when it is:

- from a constituent, with a name and full address;
- in the constituent’s own words, not copied from a form letter or website;
- from an individual, not an intermediary organisation;
- regarding a single issue, not a group of unrelated issues;
- in an easy to read format, with a clear purpose stated in the first paragraph.

Empowering citizens to seek redress

An important function for parliaments is to provide a framework through which citizens can raise grievances and have them investigated. The traditional channel for members of the public to raise a complaint about public authorities or seek redress has been through their elected representative. The importance of the constituency office in this context has already been noted. An elected member typically has more clout when taking up a case with a government body or public authority than a private individual does on their own. Parliaments have also traditionally allowed a more general access to complainants through the right of petition and through petitions committees. This right dates back to the very origin of parliaments, as a recent NDI publication on *Parliamentary Human Rights Bodies* reminds us:

*The right to petition is at least as old as the institution of parliament itself. It has even been argued that the Parliament in the United Kingdom originated in meetings of the King’s Council where petitions were considered. In France, the right to petition parliament for redress of grievances has existed almost permanently since the French Revolution. With the increase in the influence and importance of parliaments, petitioning parliament became one of the main methods of airing grievances, so that parliaments had to set up special committees to cope with the ever increasing number of petitions. These committees can be considered as the first ‘human rights’ committees as their aim was and still is to redress injustice. (Ingeborg Schwarz, *Parliamentary Human Rights Mechanisms*, NDI, 2004)*

Nowadays such committees are usually reserved for the consideration of petitions indicating a general problem and supported by a large number of signatories. This is the case, for example, in Portugal, where 'petitioners must be heard whenever a petition has over 2000 subscriptions'. In many countries, a more usual avenue for individual complaint today is through the office of an Ombudsman or Public Protector, whether accessed initially through a member of parliament or, more usually, directly by the complainant. Even in the latter case, it remains the responsibility of parliament to provide and supervise the framework by means of which the rights of the public can be protected.

Originating in Scandinavia, the position of Ombudsman or Public Protector has emerged as a widely established avenue for individual complaint against the actions of public authorities. While the remit of the office differs from country to country, it typically investigates actions of public bodies which involve an infringement of human rights, abuse of office or other maladministration. After receiving a complaint from a member of the public, the Ombudsman will be empowered to investigate it, and where appropriate to seek redress for the complainant and/or a change in the institutional practice that led to the complaint. Although decisions of the Ombudsman in most countries are not binding, they have considerable authority; and it has been argued to be an advantage that they avoid the adversarial approach of the courts and allow for greater flexibility in the remedies and changes in administrative procedure that can be recommended. Here are two brief accounts of the establishment of an Ombudsman's office, from Ireland and Argentina respectively:

Ireland: Up to the 1960s, citizens seeking redress generally went to Parliament (or the Petitions committee of Parliament) or to the Courts. The complexities of the modern State, the domination of Parliament by Government, the delays and expense involved in going to Court and the growing alienation of citizens from all these institutions, led to the emergence in the 1960s and 1970s of the latter day Ombudsman, a variation of an office which had existed for many years previously in Sweden and Finland. Denmark was first, followed by New Zealand and Britain and Northern Ireland. The Irish model as set out in the Ombudsman Act, 1980, was greatly influenced by these countries.....While the number of complaints each year is small relative to the millions of individual decisions taken annually by our public service, the activities of the Office, undoubtedly, have a cautionary effect on public bodies and an influence on their decisions. (Kevin Murphy, former Ombudsman).

Argentina: Based on an outstanding Nordic tradition, Argentina has established the Office of the Ombudsman that reports to the national parliament. The role of this body is to protect the interests of the citizens, groups of citizens and the community in general in the face of any government act that violates the fundamental rights of citizens. The results of this institution in Argentina have been very promising. Its existence has also allowed for greater participation of the citizenry in the oversight mechanism. In some countries, the Ombudsman reports to the executive branch. But the experience from Argentina supports the general view that this institution should report to the legislative branch. (Eduardo Menem, former Acting President of Senate).

In Latin America, the history of widespread human rights violations under former military regimes has made the establishment of the office of Public Protector (or in some countries a National Human Rights Commission with similar functions) a key element in restored democratic arrangements. Most commentators agree that, to be effective, such bodies should:

- be completely independent of government;
- have wide-ranging investigative powers;
- be properly resourced and cost-free to complainants;
- be easy to access, both geographically, through local offices, and electronically;
- easy to access, both geographically, through local offices, and electronically;
- report and be accountable to parliament.

In most countries where the office of Ombudsman or equivalent has been established, it is in fact accountable to parliament, either as a whole or through a specific committee. In Malta, the Ombudsman is an officer of Parliament and reports to Parliament through the Speaker. In Ukraine the Parliamentary Commissioner (Ombudsman) for Human Rights is accountable to the whole Parliament for monitoring human rights in the country, and works closely with particular committees of Parliament according to the nature of the appeal or complaint. Her remit covers economic and social rights as well as civil rights. An example of the former is given in the report from her first year of office:

Throughout 1998, the Commissioner and the Parliamentary Committee on Issues of Health Care, Motherhood and Childhood received a number of appeals by employees of medical establishments who complai-

ned against excessive reductions in medical personnel and in the network of medical establishments. Having examined the issues raised, the Commissioner and the Committee arrived at the conclusion that the reductions would destroy the sector and violate the rights of many citizens employed in the health system. As a result, an open letter was addressed to the President, the Speaker of Parliament and the Prime Minister of Ukraine, and meetings with the Trade Union of Medical Workers were held. The Ministry of Health finally took the necessary measures to settle the problem.

In Namibia, the Ombudsman reports to a special Standing Committee of Parliament, which is tasked among other duties with the following:

- to examine, consider and report on the annual and other reports laid before the National Assembly under the Ombudsman Act;
- to satisfy itself that the Office of the Ombudsman has been carrying out its mandate efficiently and effectively, and to make recommendations accordingly;
- to confirm that Government offices, Ministries and Agencies are responding positively to queries and are duly cooperating with the Ombudsman Office.

Human rights committees of parliament

In other countries, the Ombudsman or its equivalent is accountable to a Human Rights Committee of Parliament, which has a broader remit for the defence and promotion of human rights throughout the country. In the Philippines the Committee on Human Rights of the House of Representatives has initiated the establishment of Human Rights Resource Centres (HRRCs) in local government units across the country:

The need was felt for them within the context of armed resistance and protest actions against human rights violations that had become rampant.....When established, the HRRCs will become part of a network that ensures good governance from a human rights perspective. Through advocacy work, the network will include schools and universities, military and police academies.

In Brazil the Parliamentary Human Rights Committee is itself responsible for receiving allegations of human rights violations and investigating them, and constitutes the country's main human rights monitoring body. Since

Brazil is a federal state, and the central government has limited competence over the jurisdiction of individual states, the Human Rights Committee works with the media and civil society to publicise violations in particular localities, and bring pressure to bear on the relevant authorities. In some cases it does this to create a more urgent demand for legislation from the Federal Parliament itself, as one of its members explains:

We have also introduced the use of so-called 'human rights caravans'. Their aim is to prompt discussion in the federal states, the federation and society as a whole about certain human rights questions. For example, for ten years a bill about institutions for the insane was pending before the National Congress, and it was impossible to have it voted upon. Consequently, we organised human rights caravans in the whole country to make people aware of the situation in these institutions, of the real situation of those detained there, the human rights violations of which they were victims and the fact that they did not enjoy minimum standards of detention. The caravans were given large-scale media coverage, and led to a popular outcry about the situation in these institutions. We finally managed to have the law passed after ten years of debate. The same occurred with the situation of homes for old people.

Here we see a committee acting with civil society as a stimulus to parliament itself to take its broader human rights responsibilities seriously. As the IPU has demonstrated in its recent survey of parliamentary human rights bodies, the defence of the human rights of the population is now a central role which permeates all of a parliament's work; and it is a responsibility which covers all residents, not only those who qualify as citizens:

First, parliaments legislate and determine the legal human rights framework at the national level. They ratify international treaties and must ensure that the norms set forth in those treaties are translated into national law and implemented. Secondly, parliaments approve the budget and thus set national policy priorities. They must ensure that sufficient funds are provided for human rights implementation and that these funds are used accordingly. Thirdly, parliaments oversee the action of the executive branch and so keep the policies and actions of the executive under constant scrutiny. They can therefore ensure that the government, the administration and other State bodies comply with human rights obligations. Last but not least, members of parliament are opinion leaders and can do much to create a human rights culture in their countries.

Further online reading about ombudsman institutions:

Christopoulos, D; Hormovitis, D (ed.) (2003). *The ombudsman institution in south-eastern Europe*.

<<http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan014896.pdf>>

National Democratic Institute (2005). *The role and effectiveness of the ombudsman institution*.

<http://www.accessdemocracy.org/library/1904_gov_ombudsman_080105.pdf>

Ombudsman Information Network (2005). *European countries' ombudsmen*.

<http://www.anticorruption.bg/ombudsman/eng/readnews.php?id=2901&lang=en&t_style=txt&l_style=default>

Parliamentary Assembly of the Council of Europe (2003). *Recommendation 1615 (2003): the institution of ombudsman*.

<<http://assembly.coe.int/Documents/AdoptedText/ta03/EREC1615.htm>>

Further online reading about parliamentary human rights committees:

Inter-Parliamentary Union (2004). *Strengthening parliament as a guardian of human rights: the role of parliamentary human rights bodies*. Seminar for Chairpersons and Members of Parliamentary Human Right Bodies

<<http://www.ipu.org/splz-e/hr04.htm>>

Inter-Parliamentary Union (2005). *Parline database: specialized parliamentary bodies*. <<http://www.ipu.org/parline-e/Instanceadvanced.asp>>

National Democratic Institute (2004). *Parliamentary human rights committees*.

<http://www.accessdemocracy.org/library/1905_gov_parlhrcscommittees_080105.pdf>

Citizen involvement in the legislative process

This section looks at citizen participation in the legislative work of parliament collectively, which takes a number of different forms. The most frequently used is the invitation for public submission, or public hearing, by a legislative committee. The institution of public hearings to sound out the views of interested parties on forthcoming legislation has been a longstanding practice of the older parliaments. The practice is now becoming more widespread and systematic.

Committee submissions and public hearings

An appropriate starting point is with an extract from a handbook of the New Zealand Parliament explaining the significance for democracy of direct citizen participation in legislation:

New Zealand's system of parliamentary democracy not only provides for citizens to elect their representatives, but also allows citizens to have a say in shaping the laws that affect them. This involvement is achieved by the select committees of the House of Representatives receiving submissions from the public. The system of public input into legislative proposals is an important element in the parliamentary process and in the democratic life of the country. Submissions are also received on parliamentary inquiries and other matters before a select committee. This provides the public with the opportunity to put forward its views on issues and may ultimately result in new laws.

There are different ways in which this process of civic engagement can be organised. The New Zealand Parliament makes an open invitation for submissions to all interested parties, individuals as well as organisations, through the press and other media, including its website. Other parliaments regard civic organisations or NGOs which represent specific issues or interests as the most appropriate vehicle for conveying the views of civil society; and they send specific invitations to organisations known to have an interest in the particular legislation or enquiry under consideration, inviting their submissions. This is what the Turkish Parliament did in wide-ranging negotiations over the revision of the Penal Code in 2004. As a general practice, the Parliament of the Czech Republic arranges 'public hearings of representatives of the professional and civic sector' in relation to bills. The Former Yugoslav Republic of Macedonia has an NGO-Parliament contact office to facilitate civic involvement in legislation; it also serves as a check on the standing and representative nature of civic associations. Other parliaments keep official registers of NGOs and other interest groups for the same purpose, and also to ensure that marginalised groups are effectively included in consultative procedures. Such arrangements can also become more institutionalised. The parliaments of Belarus, Slovenia and Tunisia have consultative councils of representatives from NGOs and other experts attached to particular standing committees on an ongoing basis. Latvia and Mali have arrangements for ongoing cooperation with stakeholder groups to improve legislation. In Hungary a Civil Office of the National Assembly was opened in 2002, with the responsibility of

establishing a dialogue between the civil sphere and the National Assembly in the legislative process.

The Parliament of Iceland has a twin-track approach, both inviting specific submissions from relevant organisations and accepting them from individual members of the public:

It is a standard procedure in the Althingi, the Iceland Parliament, that the legislative standing committees ask for written opinions (submissions) from those who are affected by the bills which the committees are dealing with. In practical terms 'those affected' refers to interest groups and similar non-governmental organisations and societies. This reflects an established parliamentary opinion that those affected by legislation have a democratic right to be heard and consulted. Furthermore, any member of the public has a direct access to the standing committees in the sense that everyone can send a written submission to committees (either by letter or e-mail) regarding any bill that the committees are dealing with. These 'spontaneous' submissions, which are not formally requested by the committees unlike those mentioned earlier, are all made available to committee members. It should be added that all submissions to committees are available to the public.....and there are plans for making these documents available to the public immediately after they have been tabled in the relevant committee.

The Parliament of Moldova puts its most important draft laws on its website in order to involve civil society in the debate:

For instance, this is exactly how the opinions and proposals of ordinary citizens and of representatives of NGOs were requested in the process of examination and final adoption of the Law on rights of the persons belonging to national minorities and the legal status of their organizations; the Law on the protection of consumers; the Law on the approval of the Concept of national policy of the Republic of Moldova and other laws.

Some issues of concern

The extracts reported above indicate some issues of frequent concern relating to the involvement of civic organisations and NGOs in the legislative process. One relates to how *representative* they are of a particular constituency or social interest. A second concerns how *independent* and

self-organising they are, rather than government-inspired and financed. A third relates to the respective *weight* that is given to different organisations, and a concern about the undue influence that some powerful and well-financed organisations may come to exert over the legislative process.

These concerns indicate the importance of parliament legislating to provide both a facilitative and a transparent framework within which the organisations of civil society can operate: for example, by encouraging a voluntary and not-for-profit sector, and requiring a public register of all bodies which seek to engage in parliamentary lobbying, including full details of membership and sources of income. It can also ensure that all submissions from civil society are conducted through regular channels and that the proceedings are made public. The German Bundestag, for example, has specific rules stipulating that groups wishing to express or defend their interests before the legislature must be entered on a register. The Polish Parliament was at the time of writing processing a bill on lobbying activities, ‘which it defines as any kind of activity carried out by lawful means aimed at influencing public authorities to take into consideration arguments and interests of specific social or professional groups. The bill establishes admissible forms of influencing decisions made by public authorities and sets out forms of lobbying supervision.’

An enabling approach

The other side of the coin to preventing undue weight being given to powerful interests, is that of positively *enabling* submissions from ordinary members of the public. One way of doing this is through effective advance publicity of dates of public hearings and committee meetings. Another is the provision of advice to the public on how to approach the relevant committee, and how to frame a submission that will have some influence upon it. Among the handbooks published by the New Zealand Parliament is one on *Making a Submission to a Parliamentary Select Committee*. It is designed ‘to help those writing a submission to produce it in a form that is easily read and understood by members of the committee. This will enable a submission to be more effective and for its recommendations or suggestions to have a greater impact on the committee.’ Its recommended format for making a submission is shown below.

Extract from handbook on 'Making a Submission to a Parliamentary Select Committee'

Submission

To the Committee
on the Bill/Inquiry

Introduction

1. This submission is from *(name of individual/organisation and address)*
2. I/we wish to appear before the committee to speak to my/our submission. I can be contacted at: *(List your daytime telephone number)*. I/we wish that the following also appear in support of my/our submission *(List names and positions in organisation)*
3. *(If an organisation, give brief details of your organisation's aims, membership and structure and the people consulted in the preparation of the submission)*

General / Summary *(if a long submission)*

4. I/we support/oppose the provisions of this bill because *(state reasons why)*. I/we wish to make the following comments *(views on the general intent of the inquiry)*

Clause (Bill)

5. I/we support/oppose the provisions of this clause because *(state reasons why)*

Clause (Bill)

6. Although I/we agree with the general intent of this clause, I/we feel that *(note any changes you would like to see made and be as specific as you can suggesting new wording for the clause if you wish)*

Specific comments (Inquiry)

7. I/we wish to raise the following matters under terms of reference 1, terms of reference 2 etc *(expand on your views and give reasons for them)*

Recommendations

8. *(list any further recommendations or conclusions that you wish the committee to consider. You may wish to restate recommendations mentioned earlier in the text)*

Source: Office of the Clerk of the House of Representatives of New Zealand (2005), Making a Submission to a Parliamentary Select Committee. <<http://www.clerk.parliament.govt.nz/Programme/Committees/Submissions/>>

Although this suggested format is helpful, it already presupposes a certain familiarity with the ways of committees. In this context, the submission from the South African Parliament emphasises the special difficulties experienced by the poor and marginalised in getting their voices heard in Parliament. It quotes a statement to this effect from the former Speaker, Dr Frene Ginwala;

In South Africa, the gap between those with the resources to influence government and those whose influence, for historical reasons, is limited by poverty and disadvantage is deep and wide. Thus, there is

the very real danger that while the voice of the powerful may be heard, the majority remain imprisoned in the silence to which their history and circumstances have condemned them..

In the context of contribution to parliamentary committees specifically, the submission identifies a number of constraints:

- *Time*: heavy time obligations for poorer sections of the population preclude active participation in anything beyond basic survival and the maintenance of livelihood.
- *Access to the media*: Although access to the media is vital for public participation, the section of the population that has no exposure to the media is likely to be poor, rural and African with little education.
- *A lack of transport*: It is not always easy for people to afford or access transport to visit Parliament.
- *Sharp inequality in education*: A prerequisite for an informed and active citizenry is a literate population.
- *Language diversity*: The choice of language used by government and the simplicity of the language used impact significantly on the ability of citizens to obtain information and to participate.

Among the strategies developed to mitigate these constraints have been the distribution of resources to marginalised groups to enable them to make effective submissions and attend hearings; the holding of committee meetings in the provinces; and the institution of a People's Assembly (see below). The submission acknowledges that such strategies are very resource intensive, and that inequalities of influence continue to present a challenge.

Other countries have addressed this issue by holding public hearings on legislation in localities across the country, and by conducting them informally through oral evidence, which is then compiled for consideration by the relevant committee of parliament. In an effort to promote better citizen involvement, the House of Representatives in the Philippines conducts 'out of town public hearings particularly in the far-flung barangays of the country, and ensuring that constituencies, sectors and concerned interest groups are given sufficient opportunities to be heard and to present their side on legislative issues.' The National Assembly of St. Kitts puts all Bills into the public domain for scrutiny and comment after first reading, so that the views of the public can be taken into account at second and third readings:

This was the case with the recently passed Education Bill 2005 which had its first reading in 2003. Since then several town hall meetings were held and the Bill was widely discussed on radio talk shows. A committee was set up to report to Parliament the outcome of all these meetings and discussions. After the report was submitted the Bill then had its second and third readings, taking into consideration the comments of civil society.

Interestingly, a similar process of public discussion has been undertaken by the committee reviewing the salaries of parliamentarians, including public meetings, radio discussions and call-in programmes.

The public forum or chamber

In a few countries the engagement of civil society in the work of parliament takes the form of an organised public forum or chamber, as these examples from the Lebanese Republic and the Russian Federation show:

Lebanese Republic: In order to further communication between the Lebanese Parliament and the civil society organisations, and to activate the participation of these organisations in the policy making of Lebanon, the Forum of Parliamentary Dialogue was established in 1999. The Forum of Parliamentary Dialogue, which is considered as a non-governmental organisation, aims at conveying the views, aspirations and proposals of the civil sector to the Parliament. Among its objectives are: securing information for the parliamentarians on the programmes of the NGOs, organising joint activities between the parliamentary joint committees and the civil society organisations, and providing the latter with access to the publications and works of the Parliament.....It also organises workshops and training courses for MPs, committee secretaries, experts, representatives of the civil sector, academics and journalists, dealing with policy making in Lebanon and the participation of civil society in its formulation.

Russian Federation: The most important law aimed at the further development of democracy in Russia and strengthening the role of parliament has been the Federal law 'About the Public Chamber of the Russian Federation' introduced by the President of the Russian Federation and adopted by the State Duma through the third reading of March 18 2005.....As an intermediary between society and the administration, the Public Chamber will be composed of the widest

range of public organisations from civil society, with the task of producing an evaluation of different legislative initiatives from the point of view of the interests of society.....The working term of the Chamber will be two years, and its tasks will be implemented through the expert analysis of projects of federal constitutional laws, federal laws, normative legal acts of the federal executive power, bodies of government of the regions of the Russian Federation and organs of local government. Its expertise will also be used to evaluate Russia-wide initiatives in respect of constitutional laws, and for the protection of the freedom and legitimate interests of citizens and their associations. Decisions of the Public Chamber will have recommendatory character, and take the form of conclusions, proposals and appellations.

An institution with a similar purpose, though typically meeting only once a year, is that of the People's Assembly. In South Africa the first such Assembly was convened in 2004 to celebrate ten years of democracy. 60 representatives from the five sectors of youth, people with disabilities, women, beneficiaries of land reform and labour were invited to reflect on the impact the Bill of Rights and the Constitution had had on their lives, and to give impetus to further reforms in their respective sectors. The proceedings were broadcast live, and led to a decision by Parliament to adopt the Assembly as an annual initiative.

Some criteria for good practice

From the preceding accounts, it would be possible to put together a list of items of good practice for parliaments seeking to involve the public, both as individuals and as organisations, in legislation and other committee work of parliament. It might include:

- a publicly available register of NGOs and other bodies, organised by subject interest as well as alphabetically;
- a similar register of experts;
- effective publicity through different media giving due notice of forthcoming parliamentary bills, enquiries, public hearings, etc.
- targeted invitations to relevant organisations and experts, including representatives of marginalised groups as appropriate, to make submissions or give evidence;
- procedures for tabling submissions from individual citizens;
- a handbook and/or training sessions on how to make submissions or give evidence to parliamentary bodies;

- a public record available on line of all submissions made.
- public hearings arranged in local centres, with written summaries of oral evidence.

Further online reading about modes of civil society participation in legislative processes:

Krafchik, W (nd). *Can civil society add value to budget decision-making? A description of civil society budget work*. International Budget Project
<<http://www.internationalbudget.org/resources/library/civilsociety.pdf>>

National Democratic Institute, Parliament of the Republic of Namibia (2001). *Public participation in the legislation process*.
<http://www.accessdemocracy.org/library/1408_na_publicpart_093101.pdf>

The Scottish Office (2000). *Involving civil society in the work of parliaments*.
<<http://www.scotland.gov.uk/government/devolution/cpsp-00.asp>>

Women and legislation: a sectoral example of NGO-parliament cooperation

Among the most effective examples of NGO-parliament cooperation, especially in developing countries, have been those involving women and women's groups. One of the consequences of more women entering parliaments has been their ability to use their established contacts with women's NGOs to help leverage progressive legislation. For example, as part of its outreach programme, the South African Parliament conducts women's workshops in rural areas to train leaders of local communities in the understanding of parliament and the law-making process. These sessions can also be used to obtain submissions on legislation currently before parliament, and on the implementation of existing legislation, as was done on the implementation of the Domestic Violence Act of 1998 and on possible amendments to the Recognition of Customary Marriages Act of the same year. In 2002 the Parliament published a book, *Women in Lawmaking: A Study of Civil Society Participation*, which presents a historical perspective of the role of women in influencing laws in South Africa, and sets out concrete steps for their effective participation in the lawmaking process.

Some parliaments have established ongoing institutional arrangements between women's NGOs and relevant parliamentary committees, such as the human rights, equality or women's committees. In Mexico a Parliament of Women in Mexico has been meeting annually since 1998, composed of federal and local legislators together with women from civil society across the country. Its purpose is to guide the legislative agenda on gender equity at all levels of government and in all aspects of social and economic life. Even in the short time it has been in operation, it has substantial achievements to its credit:

This experience of shared responsibility between the Legislative Power and the Civil Society has brought about fundamental achievements for gender equity in Mexico, such as legislation to combat violence against women; the creation of Equity Commissions in the House of Representatives as well as in the Senate and in most of the local congresses; there are reforms on the issue of political participation of women in representative posts and the creation of the National Women's Institute..... In these ways the Parliament of Women has represented the most relevant meeting point between the Mexican Congress and civil society for permanent exchange, analysis and suggestion of proposals to incorporate the perspective of gender in the legislation of our country.

In the early years the work of the Parliament of Women was carried out through workshops over a period of two days, with a concluding plenary. In 2005 the workshops were spread out throughout the five states in the country over a period of a fortnight, with a concluding session over two days at the House of Representatives. Its work is coordinated by a special Bicameral Commission of legislators drawn from both chambers of the federal parliament.

Gender budgeting

A particularly notable feature of the cooperation between women's NGOs and parliamentarians in a number of countries has been the practice of 'gender budgeting'. This involves a systematic analysis of budget proposals and outcomes, so as to identify their differential impact on men and women respectively. Such analyses may reveal that women are disadvantaged not only by low budget allocations to specifically women's concerns, but that, say, generalised cuts in agricultural spending may fall particularly heavily on poor women farmers and their household income.

In South Africa a Women's Budget Initiative was established in 1995, involving an alliance between two NGOs and sympathetic parliamentarians.

The NGOs provided the necessary research and analysis which parliament itself was not adequately resourced for, while the parliamentarians for their part provided the key leverage with government to bring a more gender-aware approach to budgeting across the different ministries. Gender budgeting has also now been developed in a number of other countries of sub-Saharan Africa, notably the United Republic of Tanzania and Uganda, and includes analysis of budgets of local government where responsibility for delivery of many government services rests. The experience overall suggests that the practice of gender budgeting can help men as well as women, for example in identifying wasteful uses of resources, or a general weakness in parliament's powers and procedures for budget oversight. Currently there are ongoing programmes of gender budgeting in over twenty developing countries as well as many developed ones. The challenge is to keep an initial impetus going over time, especially when change to one or two key parliamentarians may erode the necessary parliamentary backing for the initiative.

Further online reading about international collaboration and training programmes on gender budgeting:

Gender Responsive Budget Initiatives <<http://www.gender-budgets.org>>

International Budget Project (2006). *Related websites - by topic area: gender, youth, and development*
<http://www.internationalbudget.org/resources/sites/gender_youth.htm>

Inter-Parliamentary Union, United Nations Development Programme, World Bank Institute and United Nations Fund for Women (2004). *Handbook: Parliament, the budget and gender*.
<http://www.ipu.org/PDF/publications/budget_en.pdf>

Reports of IPU seminars on Parliament and the Budgetary Process, including from a Gender Perspective:

Inter-Parliamentary Union (2000). *Regional seminar for English-speaking African Parliaments, 22-24 May 2000, Nairobi (Kenya)*.
<http://www.ipu.org/pdf/publications/nairobi_en.pdf>

Inter-Parliamentary Union (2001). *Seminaire regional pour les parlements francophones d'Afrique, 1er-3 novembre 2001, Bamako (Mali)*.
<http://www.ipu.org/pdf/publications/mali01_fr.pdf> (document in French)

Inter-Parliamentary Union (2002). *Regional seminar for ASEAN+3 parliaments, 23 to 25 July 2002, Manila (Philippines)*.
<http://www.ipu.org/PDF/publications/manila02_en.pdf>

Inter-Parliamentary Union (2004). *Regional seminar for parliaments of south-west Asia, 26 to 28 May 2003, Colombo (Sri Lanka)*.
<http://www.ipu.org/PDF/publications/colombo_en.pdf>

Citizen involvement through political parties

The contemporary preoccupation with civil society and NGOs should not lead us to overlook a more traditional way in which citizens have involved themselves in the legislative process, and that is through membership of political parties. Here the influence of party members has typically been exercised through a number of channels: through candidate selection or voting for leadership positions; through ongoing links with an individual representative at constituency or district level; and through regional and national party conferences and policy forums.

However, party membership figures in most western democracies are currently in a process of long-term decline, which can in many cases be linked to a decline in internal democracy within parties, and the marginalisation of those who do not support the leadership line. Political parties have always had to manage the potential divide in political views between their active members and the voters whose support they need to win an election, but current modes of doing so in many parties have not been conducive to attracting new members, especially among a younger generation. Examples of party renewal can be cited from one or two countries in most regions of the world, typically associated with particular election campaigns; but a more widespread and sustained renewal of the democratic base of political parties is overdue, given their importance to the representative process.

Citizens' initiatives and referendums

As a different means to bridge the gap between parliament and citizens, a number of countries have introduced or considered introducing a right of citizens' initiative, whereby citizens may submit proposals for legislation themselves directly, rather than merely proposals to amend or comment on legislation already before parliament. In some respects the distinction implicit here between a *reactive* and a *proactive* engagement of citizens may be overdrawn. As we have seen, wherever there are ongoing arrangements for linking a parliament with civil society groups, these will result in suggestions for new or amended legislation, and these must count as a form of civic 'initiative'. The same is true wherever parliaments call for public debate on a subject or hold enquiries on specific issues with a view to future legislation, as many now do. However, the *citizens'* initiative constitutes a distinctive right, and usually depends upon the collection of a minimum number of signatures from the electorate if it is to proceed.

A citizens' initiative may be advisory on parliament or mandatory; alternatively, it may lead to a popular referendum on the proposal. This latter is the

case in Switzerland, the country with the most experience of citizen initiatives. Before the 1970s, the right of positive initiative was very rarely used in Switzerland, compared with the right to call a negative referendum or veto in opposition to a proposed law of the federal assembly. Since then, initiatives have become much more frequent, partly as a result of the growth of social movements and protest campaigns, especially on environmental and consumer issues; partly also because of the rise of professional ‘initiative entrepreneurs’, able to organise the collection of signatures across the country. In the twenty years between 1974 and 1993, the Swiss voted in no fewer than 167 referenda, of which 63 were positive initiatives proposed by citizen groups. This average of about eight per year has continued in the period since.

The other European country with a substantial experience of legislative referendums is Italy. Here, however, the provision of Article 75 of the constitution is only for a veto or abrogative referendum, and is subject to half a million signatures and approval from the Constitutional Court in respect of its validity. Yet this has also been seen as a device for positive initiative, since it applies to any existing legislation; and repealing a longstanding law or a part of it can lead to significant change. This was true of the referendum to allow assisted fertility treatment, and would equally be true if proposals for a referendum to take Italy out of the Euro zone and restore the lira as the national currency were ever adopted.

Recent developments

Of the more recent democracies the parliament of Slovenia has introduced a facility whereby one third of deputies or the National Council or 40,000 voters may call for a referendum. In some instances parliament is not authorised to adopt a law pending the outcome of a referendum, whereas in others a referendum may have the effect of overturning an adopted bill, as in Italy and Switzerland.

These constitutional provisions should be clearly distinguished from those where the right of citizens’ initiative is a device for putting issues on the parliamentary agenda, and where parliament reserves the prerogative to itself for deciding whether and how to take the issue forward. This is the case in most countries which have instituted a provision for citizens’ initiative. In these cases the number of citizens required to promote an initiative tends to be much smaller than for a referendum. In the Former Yugoslav Republic of Macedonia, for example, where it requires 150,000 signatures for a referendum, only 10,000 are needed for a legislative proposal which parliament will decide whether to take forward or not. In Costa Rica there is an Office for

Popular Initiatives where citizens can present suggestions, initiatives and proposals for laws. Ecuador gives citizens and social movements the power to propose legislation, and to take part in discussion of those bills which the National Congress has agreed to consider. Portugal has since 2003 a right of Citizens' Legislative Initiative in force, whereby initiatives subscribed to by over 35,000 electors are mandatory for discussion and vote in the Assembly of the Republic. These are also opened to wider public interactive discussion through the Assembly's Internet 'webpage'. The House of Representatives of the Dutch Parliament has been investigating the possibility of introducing a citizens' initiative at the national level, again with any decision to rest with the House as to whether and how to take such an initiative forward. 'The introduction of the citizens' initiative could prove beneficial in several ways,' it observes, 'most importantly by reducing the distance between citizens and politics.'

Direct and representative democracy

This concern to bridge the gap between citizens and politics, in conclusion, can be seen as the driving impetus behind many of the measures reviewed in this section. We have seen a number of different ways in which parliaments are working to involve citizens in the legislative process, both through contributions to work on bills in progress and through suggestions for new or amended legislation. These may involve: open invitations to citizens to make submissions on bills; invitations to specified NGOs and social movements; ongoing arrangements for collaboration between parliamentary committees and citizen groups and experts; special forums or chambers for civil society, whether meeting independently or jointly with parliamentarians; procedures for citizens' initiatives and referendums; or some combination of a number of these modes. Which of these modes, and in which combination, is most effective will naturally depend on local circumstances. For example, resource and other constraints may make the use of the referendum impractical, whereas a right of citizen initiative which leaves the final decision to parliament may be eminently feasible. Whatever the modes selected, all the evidence indicates that parliaments are taking the responsibility to engage citizens in the legislative process very seriously.

Do these developments call into question the integrity of representative democracy, or the claim of elected representatives to speak on behalf of their whole electorate, in contrast to a direct democracy which favours the organised, the vocal and those with the most intense views? The sharp antithesis often drawn between direct and representative democracy is a misleading one,

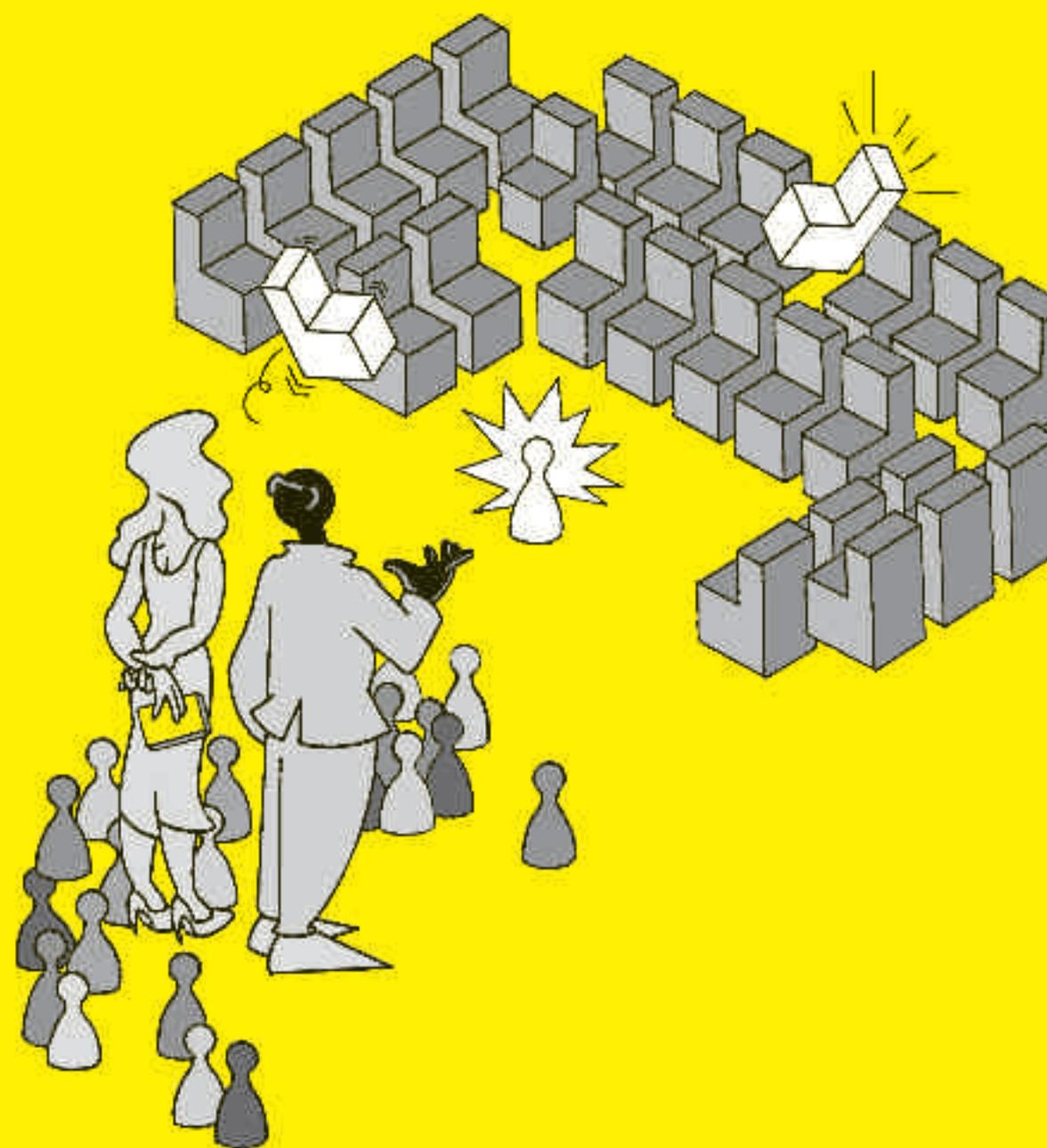
since representatives have always engaged in an ongoing dialogue with their electors, and been subject to influence by them. The significant feature of the measures reviewed above is the attempt to make that process more systematic, transparent and inclusive, so that it is not monopolised by a few privileged interests operating behind closed doors.

Further online reading about citizen initiatives:

C2D – *research and documentation centre on direct democracy*
<<http://c2d.unige.ch>>

Project ACE (2004). *Citizen initiatives*. Focus on Direct Democracy
<<http://focus.at.org/direct-democracy/citizen-initiatives>>

Zimmerman, J (2001). *Citizen initiative*. Administration and Cost of Elections Project <<http://www.aceproject.org/main/english/es/esc01b.htm>>



5. A parliament that is accountable

The accountability of office-holders is nowadays seen as a basic requirement for all public life in a democracy. When considering parliamentary accountability it is important to distinguish two quite different aspects. The first is the central role that parliament plays on behalf of the electorate in holding the government to account through its oversight function. This will be reviewed in the next chapter as a key issue in parliament's democratic *effectiveness*. The second aspect concerns the accountability of parliament and its members to their own electorates; this will form the subject of the present chapter.

The idea of 'accountability' has many dimensions to it. Two overlapping ones will be considered here. One is the idea of an office-holder 'giving an account' of their actions after the event to a body to which they are answerable or responsible. In a democracy, whose life-blood is public discussion and debate, the 'giving an account' of their actions by representatives to their electorates through ongoing dialogue is an essential feature. Overlapping with this aspect is the requirement on an office-holder to meet certain standards of performance and integrity in the conduct of their office, subject to adjudication by a responsible body which has the power to impose some sanction in the event of serious failure to meet these standards. In this sense also parliamentarians are accountable to their electorates, who can impose the ultimate sanction of non-reappointment through the electoral process. As the Preamble to the 2001 Code of Conduct for Members of the Irish Dail puts it, 'Members are in the unique position of being responsible to the electorate, which is the final arbiter of their conduct and has the right to dismiss them from their office at regular elections.' However, because this electoral sanction is long-dated and often uncertain, other bodies and commissions have come to be set up in recent times to which parliamentarians are more directly answerable for their standards of conduct, including of course committees of parliament itself.

Horizontal and vertical accountability

Writers on accountability nowadays make a distinction between what they call 'horizontal' and 'vertical' accountability. 'Horizontal' accountability is effected by regulatory and other supervisory bodies which are composed of professionals acting *on behalf of* the public. 'Vertical' accountability is

effected from below, by the public itself, through a variety of mechanisms, including elections, complaints procedures, legal redress, the activities of civil society organisations, and so on. In the public sphere it is typically a combination of the two dimensions, horizontal and vertical, that ensures effective accountability. So, for example, minimising corruption among public officials typically requires a combination of anti-corruption commissions exercising independent legal and investigative powers, together with active citizen bodies, watch-dog groups and investigative media. A similar combination can be seen at work in relation to ensuring standards of conduct by parliamentarians themselves. First, however, we should look at the more specifically political aspect of parliamentary accountability, that of ‘giving an account’ to their constituents.

Rendering account

Two important conditions for ‘account-giving’ by parliamentarians to their electors have been addressed in previous chapters. These are the availability of information about their activities, and the ability of constituents to question their representatives in the light of this information. In this respect there seems little that needs adding to the material on parliamentary openness and accessibility from the previous two chapters. In addition to these, however, the idea of accountability implies a more focused and systematic ‘account-giving’ after the event, to which the public can respond. As we have already seen, constituents are increasingly interested in learning how their representatives have voted on key issues before parliament, and interrogating them about their actions. For members to have their voting record published, and to be able to give a reasoned defence of their record, is of the essence of political accountability. The extension of the Internet makes this requirement much more readily realisable, and it is now a standard feature in many parliaments.

Less common is the practice of parliamentarians issuing a regular report, say on an annual or sessional basis, covering their activities across the whole range of their parliamentary work. Where this is done, it mostly takes the form of a collective report on its activities by parliament as a whole. So, to take a few examples, the Romanian Parliament produces a report of its activities at the end of each legislative session, which is published in the Romanian official gazette. The Finnish Parliament publishes an annual report on-line, which covers organisation, finance and accounts as well as legislative and international activity. In France, an annual report is published on the parliamentary budget and its implementation, covering both assemblies. In Luxembourg the annual report of the Chamber of Deputies is circulated to every household in

the country. In St. Kitts and Nevis, reporting takes the form of oral questioning of parliamentarians on their annual record in an annual town-hall-style meeting called *Face to Face*:

This meeting takes place at venues other than Parliament but it brings parliamentarians 'face to face' with the public at large. Parliamentarians are hereby made to account for their stewardship. This meeting is carried live on radio and television. There is also a live audience and participation via the Internet and telephone. There is a moderator who channels the questions from the Internet, the telephone and the live audience to the parliamentarians who are given time to respond. The questions are spontaneous and parliamentarians have no prior knowledge of the questions that will be asked. This format has proven to be extremely beneficial in the area of accountability and education of the public as to the work of parliament.

While the examples from Luxembourg and St. Kitts involve countries with relatively small populations, there is no reason why their example could not be replicated by individual parliamentarians at a constituency level. An annual report of a member's activity and voting record sent to all constituents at the end of each session, together with opportunities to question the member on his or her record on line or through constituency meetings, could considerably enhance confidence in the accountability of parliamentarians on a regular basis, rather than just at election time.

Recall of parliamentarians

The belief that an election held once every few years is insufficient for representatives to be genuinely accountable to their electorates lies behind proposals to give citizens the power to recall in mid-term those they have elected. Two jurisdictions where such a measure is in force are Uganda and the province of British Columbia in Canada. In Uganda (article 84 of the Constitution) a member of parliament may be recalled from office on any of the following grounds:

- physical or mental incapacity rendering that member incapable of performing the functions of the office; or
- misconduct or misbehaviour likely to bring hatred, ridicule, contempt or disrepute to the office; or
- persistent deserting of the electorate without reasonable cause.

The mechanism requires a petition signed by at least two-thirds of the registered voters of the constituency or designated social group from which the member was elected. The decision on the validity of the petition (and consequent forfeiture of mandate) is determined by the Electoral Commission after a full public enquiry.

In British Columbia there is no specification of the grounds for a possible recall, and the mechanism differs from Uganda's in that signatures are required from 40% of the registered voters in a constituency, after which a by-election has to be held. With as many as nine recall petitions initiated in a single one-year period of the 2001 Assembly (though none was eventually successful), there is concern at the potential overuse of this right, and at the expense of time and money involved, especially as the signatures have to be officially checked for their validity. This may well be a reason why such right of recall has not been more widely adopted.

Principles and codes of parliamentary conduct

Where the mechanism of recall is an example of vertical accountability, a much more usual method for addressing potential misconduct on the part of parliamentarians is through a code of conduct which is enforced horizontally, by a specific commission acting on behalf of the public. The past decade or more has witnessed the widespread development and adoption of principles and codes of conduct, both for the public service generally, and for parliamentarians in particular. This development has been partly in response to a decline in public confidence in the standards of parliamentarians, and a declining trust in representative institutions generally, at least in the established democracies. Whether these public attitudes have reflected any actual decline in standards, or the fact that cases of malpractice are now more widely reported and discussed, and are less readily tolerated, hardly matters. What counts are public perceptions, of which this report by the Clerk of the Australian House of Representatives can serve as a graphic illustration:

During the last year (2000), the advertising industry, the news journalists and the used car salesmen of Australia had cause for rejoicing. Previously, they had been at the bottom of a list of professions ranked according to the public's perception of their trustworthiness – Members of Parliament were ranked just above them. However, a survey was released in July, altering the ranking...the survey placed the

nation's legislators last in perception of trustworthiness in a list of twenty-three professional groups.

Most public disquiet has focused on financial matters, and in particular on the use of legislators' position to advance their own personal economic interests, or the interests of individuals and organisations which they are being rewarded in some way to represent. Other concerns include levels of attendance, the use of privileged information and the misuse of parliamentary allowances.

It should be said that rules of conduct for parliamentarians have always existed, though these have typically been confined to conduct affecting the good order of parliamentary business itself. Thus there are standard prohibitions in almost all parliaments on speech or behaviour which insults or intimidates another member; which obstructs the freedom of debate or voting; or which shows disrespect to the institution or its presiding officer. In addition to such matters of internal order and decorum, it has always been understood as a principle and taken for granted that parliamentarians are elected to serve a public interest, rather than personal or private ones. What is relatively recent has been the need felt by many parliaments to make this principle explicit in a published set of norms and a public code of conduct, which will enhance confidence externally in the integrity of parliament. The typical purposes of such a code are clearly set out in the preamble to the Canadian *Code of Official Conduct*:

- 1. to recognize that service in Parliament is a public trust;*
- 2. to maintain public confidence and trust in the integrity of parliamentarians individually and the respect and confidence that society places in Parliament as an institution;*
- 3. to assure the public that all parliamentarians are held to standards that place the public interest ahead of parliamentarians' private interests and to provide a transparent system by which the public may judge this to be the case;*
- 4. to provide for greater certainty and guidance for parliamentarians in how to reconcile their private interests with their public duties;*
- 5. to foster consensus among parliamentarians by establishing common rules and by providing the means by which questions relating to proper conduct may be answered by an independent, non-partisan advisor.*

The last two points on this list raise a number of issues that have proved recurrent in the development of codes of conduct. One is that, without consensus among parliamentarians themselves, any code proves exceedingly difficult to enforce. And consensus is often difficult to reach because of the complexity of some of the issues, and a number of ‘grey areas’ where precise interpretation of a code proves controversial. A consideration of some of these ‘grey areas’ under the rubric of *conflicts of interest* will provide a useful way of exploring this important aspect of parliamentary accountability.

Public and private interests

A central feature of all principles and codes of parliamentary conduct is the distinction between the public interest and private or personal ones. This distinction is fundamental to the democratic idea that the purpose of elective office is to serve the public, not the enrichment of the office-holder or his or her personal connections. In common parlance the abuse of public office for personal gain is termed ‘corruption’; in parliamentary language it is termed a ‘conflict of interest’, as defined, for example, in this extract from the code of the Irish Dail:

A conflict of interest exists where a Member participates in or makes a decision in the execution of his or her office knowing that it will improperly and dishonestly further his or her private financial interest or another person’s private financial interest directly or indirectly. A conflict of interest does not exist where the Member or other person benefits only as a member of the public or a broad class of persons.

The phrase ‘or a broad class of persons’ is a source of some difficulty, however. Are parliamentarians who belong to a class of large landowners, say, or shareholders in oil, pharmaceutical or media companies, any less disinterested when legislating in a manner that benefits these groups than if they are acting to advance their individual private interest? The distinction may not seem so obvious to the public. It is for this reason that many parliaments require members to register a list of their financial interests and/or assets, and to appoint an impartial registrar who can give advice and adjudicate on potential conflicts of interest. Typical items included in a register of financial interests are: ownership of shares in public and private companies; ownership of land and property; remunerated directorships and partnerships.

These items do not exhaust the potential sources of conflict of interest, however. Another ‘grey area’ concerns outside bodies to which a member may

be under an obligation because of some benefit received for services rendered or anticipated, say as a parliamentary advisor or informal spokesperson. Most parliaments prohibit members from formally contracting themselves to outside bodies to act in parliament on their behalf, as in this resolution of the UK Parliament dating from an attempt by a trade union in 1947 to give instructions to a member:

It is inconsistent with the dignity of the House, with the duty of a Member to his constituency, and with the maintenance of the privilege of freedom of speech, for any Member of the House to enter into any contractual agreement with an outside body, controlling or limiting the Member's complete independence and freedom of action in parliament...the duty of a Member being to his constituency and to the country as a whole, rather than to any particular section thereof.

Yet the line between a formal agreement to promote the interests of an outside body, and a tacit understanding to do so in return for some remuneration, is a very fine one. It is for this reason that a parliamentary list of 'registrable interests' of members will typically also include: consultancies and retainer-ships; gifts and hospitality; travel expenses and other payments in kind.

A further 'grey area' concerns the extent to which it is legitimate for parliamentarians to undertake other paid work when they are paid a salary for carrying out their parliamentary duties on a full-time basis. Some parliaments take the view that it is advantageous for their members to be engaged in paid activities outside the political sphere, though the public is rarely consulted about this. In any case it is difficult to prevent parliamentarians from engaging in free-lance work such as journalism, broadcasting on current affairs, or writing of all kinds, which could be seen as a natural extension of parliamentary activity. Again, the requirement to declare all sources of income in a register of interests puts the issue in the public domain, where any potential conflict of interest is open to judgement by other parliamentarians and the electorate.

Registers of interests

Most of these 'grey areas' of potential conflict of interest, then, whether concerning ownership of assets, receipt of benefits or other paid employment, can be dealt with by the principle of transparency, through declaration in a register of interests. An example of a list of 'registrable interests' which includes all the items mentioned above is this one from the South Africa:

The following kinds of financial interests are registrable interests:

- a. shares and other financial interests in companies and other corporate entities;*
- b. remunerated employment outside parliament;*
- c. directorships and partnerships;*
- d. consultancies;*
- e. sponsorships;*
- f. gifts and hospitality from a source other than a family member or permanent companion;*
- g. any other benefit of a material nature;*
- h. foreign travel (other than personal visits paid for by the member, business visits unrelated to the member's role as a public representative and official and formal visits paid for by the state or the member's party);*
- i. ownership and other interests in land and property; and*
- j. pensions.*

Not all parliaments have such a register. Among those that do, however, there are quite substantial differences in its content and operation. These differences include:

- whether the register is compulsory or voluntary, as the latter is the case in the Nordic countries;
- whether it includes only assets and property, as in most Francophone countries, or other financial interests as well;
- whether the declaration of assets extends to the member's partner and children or not;
- whether all of the register is made public, or some parts are reported only to the Presiding Officer or registrar on privacy grounds;
- whether a declaration is made by parliamentarians only at the beginning and end of their mandate, or is updated on an annual basis;
- whether a potential conflict of interest is merely declared upon a member's involvement in the relevant item of business, or they are actually debarred from taking part at all;
- whether the register is monitored and enforced by an external body or a parliamentary committee, or some combination of the two.

Given these widely differing practices in different parliaments, it is difficult to define any one as exemplary, especially when so much depends upon

consensus and the corresponding enforceability of any code of practice. Yet it could serve as a reasonable rule of thumb that, the more conflicts of interest are a matter of public concern in a particular country, the more the need for a clear and enforceable register of interests, and for an impartial figure to adjudicate such matters, in order to restore or maintain public confidence.

On the matter of mechanisms for enforcing codes of conduct, it is worth quoting here a paragraph supplied by National Democratic Institute for International Affairs (NDI) from its work on international standards for democratic legislatures:

Self-regulation is often insufficient to effectively enforce ethics regulations. For this reason, many countries have tasked an independent or non-partisan entity to monitor compliance with ethical codes – as in the case of the Parliamentary Commissioner for Standards in the United Kingdom. The code of conduct is enforced by the Committee on Standards and Privileges, and it is the duty of the Commissioner to advise the Committee, maintain the Register of Members’ interests, advise members, confidentially, on registration matters, monitor the operation of the code and the register; and finally, receive and, if appropriate, investigate complaints from legislators and citizens. Whilst the Commissioner cannot impose penalties, a power left to the Committee, he or she brings to the role greater levels of impartiality than might reasonably arise from the self-monitoring of an ethics committee.

Parliamentary attendance

Most parliamentary codes of conduct concern themselves mainly with financial matters and potential conflicts of interest. However, these are not the only issues that may affect the confidence of electorates in their representatives. Also of concern, for example, is the issue of parliamentary attendance. As has already been noted, TV pictures of largely empty chambers for plenary sessions can convey a misleading impression, since members may well be absent on other legitimate parliamentary and constituency business. Most parliaments regulate their members’ attendance at committees and plenary sessions through their standing orders, which typically require notification to the Presiding Officer of reasons for absence. Penalties for ‘unreasonable absence’ may include any or all of the following:

- publication of an attendance/absence list;
- censure or ‘call to order’;

- forfeiture of part of a member's salary;
- temporary suspension;
- forfeiture of the parliamentary mandate.

More exceptional is the provision in the USA and the Philippines for the Sergeant-at-Arms to arrest the offending member and/or have them conveyed by force to the assembly (source: Marc Van der Hulst, *The Parliamentary Mandate*, IPU, 2000, pp.107-12).

Further online reading about codes of conduct and conflicts of interest:

Association of Secretaries General of Parliaments (1998). Codes of conduct for parliamentary staff, in *Constitutional and parliamentary information*, N° 175
<http://www.asgp.info/Publications/CPI-English/1998_175_02-e.pdf>

European Centre for Parliamentary Research and Documentation (2001). *Parliamentary codes of conduct in Europe: an overview*.
<<http://www.ecprd.org/Doc/publica/OTH/CodeConduct.pdf>>

National Conference of State Legislatures (nd). *Model code of conduct for legislative staff*. <<http://www.ncsl.org/racss/codeofconduct.htm>>

National Democratic Institute (1999). *Legislative ethics: a comparative overview*.
<http://www.accessdemocracy.org/library/026_ww_legethics.pdf>

Stapenhurst, R. and Pelizzo, R. (2004). *Legislative ethics and codes of conduct*.
World Bank Institute
<http://siteresources.worldbank.org/EXTPARLIAMENTARIANS/Resources/Legislative_Ethics_and_Codes_of_Conduct.pdf>

Party and campaign financing

Not every issue of parliamentary accountability that has been a matter of concern to the public over the past decade or more is covered by codes of conduct that apply to members of parliament as *individuals*. There has also been concern over the way in which political parties competing for public office are financed. With the increasing cost of election campaigns on one side (the so-called 'electoral arms race'), and the relative paucity of contributions from membership dues on the other, political parties have been forced to seek financial support from wealthy individuals and institutions. This has raised

concern that elected representatives might become *collectively* more accountable to powerful donors than to their electorates.

As we have already seen, political parties, for all the low esteem in which they are held in most countries, play a vital role in parliamentary and political life. To achieve any influence over public policy, citizens and parliamentarians have to combine with like-minded others, rather than act as isolated individuals. Political parties provide the essential ‘glue’ which holds the political process together. They alone can offer the electorate alternative policy and legislative programmes which stand some chance of being enacted, or of being coherently criticised and opposed. Voters know that, by voting for a candidate of a given party, he or she will broadly support the party’s programme and leadership if elected to office. It is only through the predictability which parties thus provide that the electorate can have any collective influence over the composition and programme of a parliament.

Given their essential role, it is a matter of public interest that political parties should be financed adequately and accountably to carry out their work of campaigning, organisation and education. Two decades or so ago very little was known about the financing of political parties, and they were treated as private associations like any other, accountable only to themselves. It is only more recently that concerns about their financing have become a public issue, and that its relevance to electoral competition and parliamentary accountability has been recognised as critical. We now have two large comparative studies available which provide up-to-date evidence on party financing across the globe, and offer suggestions for legislative improvement. These are the International Institute for Democracy and Electoral Assistance (IDEA) Handbook, *Funding of Political Parties and Electoral Campaigns*, ed. Reginald Austin and Maja Tjernstrom, Stockholm, 2003; and the National Democratic Institute for International Affairs (NDI) study of party financing in 22 developing countries, *Money in Politics*, by Denise Baer and Shari Bryan, Washington DC, 2005. Together these studies provide some pointers to good practice, though much is acknowledged to depend upon the specific country context.

Concerns about party financing mentioned by both studies focus on the following three problem areas:

- *inadequate resources*. This problem is particularly acute in developing countries, where finance from party membership dues is minuscule, and candidates often have to finance their campaign expenses from personal sources. ‘More than four out of five respondents state that they supply the

majority of funds for their campaigns, often at the risk of personal bankruptcy....As a result, many resort to relationships with individual donors who expect preferential treatment once the candidate is elected, or worse, many reformers choose not to run at all, leaving the field to candidates who are independently wealthy.’ (NDI, p.4)

- *unequal resources*. The electoral playing field can be distorted by inequalities of wealth in society which are differentially accessible to competing parties. Another distortion occurs where governing parties are able to use government resources, facilities and patronage improperly to gain advantage over opposition parties. ‘Only governing parties are in a position to award contracts, grant other favours or divert state funds illegally to themselves.’ (IDEA, p.28)
- *compromising sources*. Campaign money from powerful interests may be given in expectation of legislative or other benefits which frustrate the democratic process or undermine public confidence in the integrity of government. As the IDEA study puts it succinctly, ‘The issue at stake is whether interested money should be allowed to override equal voting rights.’ (p.8)

It should be evident from the above list of concerns that the issue of party and campaign financing touches on a number of the features of a democratic parliament treated in this book: on the fairness of the electoral process, and its capacity to produce a parliament that is *politically* representative of the electorate; on parliament’s *social* representativeness through the role of personal wealth in access to candidacy; above all, on the degree of parliament’s *accountability* to the electorate.

Addressing the concerns

How are these concerns being addressed? The two studies mentioned both agree that strategies vary enormously according to the individual country context, and that no single model of good practice is universally applicable. Yet they also suggest certain guidelines for party financing: a mix of legislative strategies – regulation, subvention, transparency – is preferable to reliance on any one; pluralism of sources of financing should be encouraged; legislation has to be effectively enforced, preferably by a single agency; finally, no system will ever be completely watertight, since the flow of money is like the flow of water. ‘No obstacle set up for control purposes will stop trickles from flowing and siphons from being applied.’ (IDEA, p.13). The NDI study contains extensive interviews with those involved, which show how legislation can be evaded in practice, reinforcing this scepticism.

Scepticism about watertight enforcement, however, should not be read as an argument for not addressing the issue. Here is what can reasonably be concluded from these studies about the different legislative strategies mentioned above:

Regulation

The purpose of regulation is to limit both the *demand* for resources by parties and the mode of its *supply*. Two common measures on the demand side to contain the electoral ‘arms race’ are: limitations on campaign expenditure; and restrictions on paid political advertising in the broadcast media, both during and between elections. On the supply side, contributions may be banned: above a certain sum; from foreign sources; from organisations rather than individuals. All such restrictions have to meet with broad political agreement and be effectively enforced if they are not to be regularly circumvented through ‘creative accounting’.

Public subvention

Public subsidy for political parties is widely unpopular, and can be damaging if it undermines the incentive for parties to seek income from voluntary supporters. On the other hand subsidies can go some way towards creating a more level playing field between parties, and supporting their essential public role. Subsidies *in kind* are often seen as preferable to *cash* subventions. These can take the form of free broadcast time on public media; free distribution of election literature; use of public buildings for meetings, and so on. Cash subsidies can be indirect, through tax exemptions or income tax deductions for donations; if direct, subsidies above a minimum threshold may be linked to the size of party membership or membership dues, as an encouragement to recruiting voluntary support. Subsidies have also been used as an incentive for good practice in other aspects of party activity, such as candidate selection.

Transparency

In many countries details about party finances are obscure, and known only to a tight inner circle. Yet here as elsewhere transparency is essential to public confidence. Effective regulation depends on it; no public subvention is acceptable without it. And open accounts mean that party members, and competing parties as well, can contribute to more effective enforcement. This is a good illustration of the principle that effective accountability is best realised by a combination of ‘horizontal’ accountability, to a specialised enforcement agency, with ‘vertical’ accountability, to the public at large.

A useful way of concluding this discussion on party financing is with a couple of examples from our parliamentary submissions, which show a combination of all the above legislative strategies. The constitutional revision of 2001 in Greece introduced an express provision on party and electoral financing, as follows:

Political parties are entitled to receive financial support by the State for their electoral and operating expenses, as specified by law. A statute shall specify the guarantees of transparency concerning electoral expenses and, in general, the financial management of political parties, of MPs, parliamentary candidates and candidates for all degrees of local government. A statute shall impose the maximum limit of electoral expenses, may prohibit certain forms of pre-electoral promotion and shall specify the conditions under which violation of the relevant provisions constitutes a ground for the forfeiture of parliamentary office on the initiative of the special body in the following section. The audit of the electoral expenses of political parties and parliamentary candidates is carried out by a special body which is constituted also with the participation of senior judicial functionaries, as specified by law. (Article 29 para.2).

As a constitutional amendment, the above article only sets out the basic principles for legislation in this area. For a more detailed account of legislation in practice, here is the description of an Act of 2004, provided by the Canadian Parliament:

Until 2004, only candidates and political parties were required to disclose to the Chief Electoral Officer the sources and amounts of contributions received. Reporting obligations have now been extended to all political participants, including candidates, political parties, electoral district associations, leadership contestants and nomination contestants. All political participants are now required to disclose any contribution over \$200.....The source of potential political contributions has also been changed. Previously, these could be made by individuals, corporations, unions or other organisations and there were no limits on the amounts of the contribution. Now, with some minor exceptions, only individuals, that is citizens and permanent residents, are able to make financial contributions to registered parties and to leadership and nomination contestants. Contributions are also subject to an annual limit of \$5000.

To compensate for potentially lost income to parties as a result of the changes in eligibility of donors, an annual allowance to registered parties is now provided in the amount of \$1.75 per vote received by the party in the previous general election (to be adjusted for inflation), provided that the party has received either 2% of the valid votes cast nationally or 5% of the votes in the ridings where the party ran candidates. This is designed to be revenue neutral as it is believed that financially healthy political parties contribute to the viability of the electoral process. The changes also added an incentive to encourage contributions by individuals by doubling the portion of an individual's political donation that is eligible for a 75% tax credit, from \$200 to \$400.

Further online reading about party financing:

Austin, R. and Tjernström, M. (eds) (2003). *Funding of parties and election campaigns*. International IDEA
<http://www.idea.int/publications/funding_parties/upload/full.pdf>

Bryan, S. and Baer, D (eds.) (2005). *Money in politics: a study of party financing practices in 22 countries*. National Democratic Institute <http://www.accessdemocracy.org/library/1848_polpart_moneyinpolitics_010105_full_text.pdf>

International IDEA (2005). *Political finance database*.
<<http://www.idea.int/parties/finance/db/>>

Johnston, M. (2005). *Political parties and democracy in theoretical and practical perspectives: political finance policy, parties, and democratic development*. National Democratic Institute
<http://www.accessdemocracy.org/library/1949_polpart_johnston_110105.pdf>

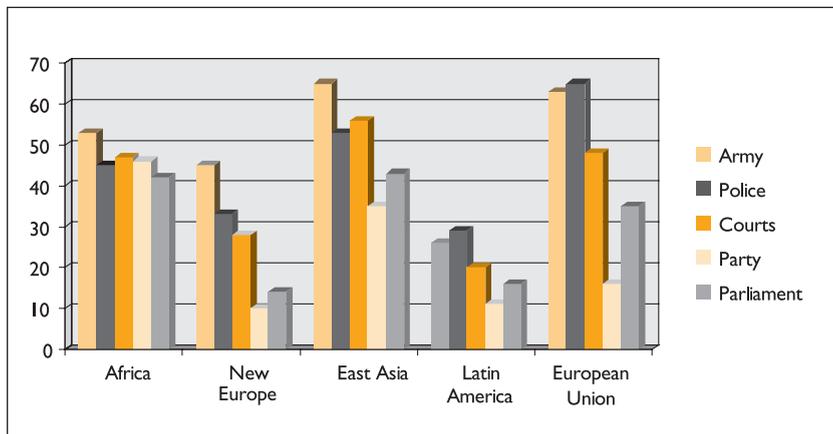
Moneyandpolitics.net. <<http://www.moneyandpolitics.net/>>

Monitoring public opinion

One feature that can contribute to the accountability of parliaments is the regular assessment of their public standing through opinion surveys, though only a few parliaments conduct these in any systematic way. Mostly we rely for such assessments on the findings of the regional 'barometer' surveys (Latinobarometer, Afrobarometer, etc.). These confirm a conclusion already suggested earlier, that parliaments as an institution do not stand high in public

esteem, though there are significant regional differences, as table 5.1 shows. In the case of the European Union countries, for which figures exist over time, the figures show a marked decline in trust in parliaments having taken place over the period from the mid 1980s to the late 1990s (see, for example, Susan J. Pharr and Robert D. Putnam eds., *Disaffected Democracies*, Princeton, 2000; Susan Hattis Rolef, *Trust in Parliaments - Some Theoretical and Empirical Findings*, unpublished manuscript, The Knesset, Israel, 2005).

Figure 5.1: Trust in national institutions: regional averages



Note: Regional averages and the figures for individual countries are usefully summarised and tabulated in International IDEA (2005) *Ten Years of Supporting Democracy Worldwide*, pages 63 – 64, International Institute for Democracy and Electoral Assistance, Stockholm, Sweden. The regional averages here are from this source, compiled from the regional Barometers respectively. ‘Trust’ is the combination of ‘a lot or some trust’, as opposed to ‘little or no trust’ and ‘don’t know’. ‘Party’ is ‘the ruling party’.

Figures for European Union are from European Commission (2004), *Eurobarometer 61: Public Opinion in the European Union*, page 10, at <http://europa.eu.int/comm/public_opinion/archives/eb/eb61/eb61_en.pdf>

The choice of Eurobarometer 61, rather than a later one, is in order to be as consistent as possible with the years when the other areas were sampled: the underlying survey data was collected in Africa 2002/3; New Europe 2004/5; East Asia 2001-3; and Latin America 2003; European Union, Spring 2004. ‘Party’ is here in the plural as ‘political parties’. ‘Courts’ here is ‘justice/the legal system’. The figures are for those answering ‘tend to trust’ from a choice of ‘tend to trust’; ‘tend not to trust’ and ‘don’t know’.

Countries and regions featured:

Africa (15): Mali, Tanzania, Malawi, Mozambique, Lesotho, Botswana, Ghana, Uganda, Namibia, Kenya, Zambia, Senegal, South Africa, Cape Verde, Nigeria

New Europe (11): Estonia, Hungary, Lithuania, Romania, Poland, Latvia, Slovakia, Slovenia, Czech Republic, Bulgaria, Russia

East Asia (8): China, Thailand, Mongolia, Philippines, Korea, Japan, Hong Kong, Taiwan,

Latin America (17): Brazil, Uruguay, Chile, Colombia, Costa Rica, Venezuela, Honduras, Panama, Mexico, El Salvador, Paraguay, Argentina, Peru, Nicaragua, Bolivia, Ecuador, Guatemala

European Union (15): Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom. These figures exclude countries of the enlarged European Union, who became members on May 1st 2004.

All the figures in the table need to be interpreted with caution, for a number of reasons. First, they obscure considerable differences between individual countries within each region, as a more detailed breakdown of the figures indicates. Secondly, many respondents, especially the less educated or politically aware, find it difficult to distinguish between different governmental institutions, or between the record of particular political leaders and the institutions they temporarily occupy. Thirdly, surveys suggest that people tend to have a more positive assessment of their own constituency representative than of the institution of parliament as a whole, suggesting that locality and individual contact are significant and valued features of a representative system.

Nevertheless, these are not findings that can be treated with complacency. It cannot be good for the health of democracy if its key representative institution is held in such comparative low esteem. There is, however, some disagreement among the political science community which attempts to interpret these findings as to what the precise reason for them may be. In a paper prepared for the IPU working group (of which she is a member) Marta Lagos, of Latinobarometer, points out how trust in parliament has to be seen in the context of trust in public institutions more generally. With respect to Latin America, 'trust' or 'confidence' is typically a characteristic realised through close personal connections, not a feature of wider social interactions or of impersonal political institutions, whose outcomes lack the same level of predictability. 'Society organises itself not in open interaction with third parties, but rather in closed groups of people who are in a reachable sphere.... Trust in Latin American society is present *within* networks in society, not *between* networks.' On this analysis, parliament itself has taken on the character of another closed network, whose activities are not seen as relevant to the wider society. 'Now, laws passed by parliament have to first prove to benefit society as a whole, and produce rules that are equal for all, before parliament becomes a fully legitimate institution for the majority of the population.' One of the wider challenges for democracy, then, is how to break down the barriers of distrust between different social networks, including that constituted by parliament itself.

Not all analysts would attribute the same degree of importance to a general lack of social trust in explaining low levels of confidence in parliament, at least in respect of other regions. Richard Rose, for example, of Eurobarometer, argues that for the former communist countries of eastern Europe, the main explanation lies in the public's assessment of institutional performance and the behaviour of parliamentarians themselves (see, for example, William Mishler and Richard Rose, *What are the political consequences of trust?* Centre for the

Study of Public Policy, University of Aberdeen). When it comes to the established democracies, there is little evidence of a decline in social trust to match the secular decline in the standing of parliaments. Other social changes typical of most advanced industrial countries seem to be more relevant. With social structures becoming more fragmented, it proves more difficult to legislate without antagonising one or other vocal minority, and the social base of established parties becomes eroded. Attitudes towards authority have also become less deferential, and its deficiencies are more widely publicised. At the same time, the processes of globalisation have put some of the forces that affect the wellbeing of citizens beyond the reach of national political institutions. Together these factors have contributed to the decline in public confidence noted above.

Parliaments can influence public opinion

Whatever the differences between the world's regions, one conclusion can be drawn that is common to them all: some at least of the factors influencing public levels of confidence in parliaments are attributable to broader social processes which parliaments do not directly control. Yet there is still much they can do to improve their public standing. Many of the changes and innovations described in previous chapters – to make parliaments more representative, transparent and accessible – have been initiated in response to concerns about public confidence, and in some cases to specific criticisms from opinion surveys. There is also evidence that reforms in individual parliaments can raise their public profile and standing. So, for example, the Swedish Parliament reports a modest recent improvement in public support; and notes that, as a result of its actions over ten years to increase its openness and transparency, 'more people feel that the Riksdag is easy to contact [than previously], and interest in knowing more about the Riksdag has grown.' The Turkish Parliament reports that, as a result of its recent initiatives to create a more open and accessible parliament, 'its credibility among public institutions has risen from 10th to 4th place.'

These examples suggest that it is possible to improve public confidence in parliament as an institution. They also suggest the considerable value to parliaments of themselves initiating more systematic polling across time to help them keep track of how they stand with their electorates, and also to assess the public impact of the democratic improvements they have already introduced, as a contribution to their own accountability.

Further online reading about survey findings on parliaments:

Afrobarometer <<http://www.afrobarometer.org>>

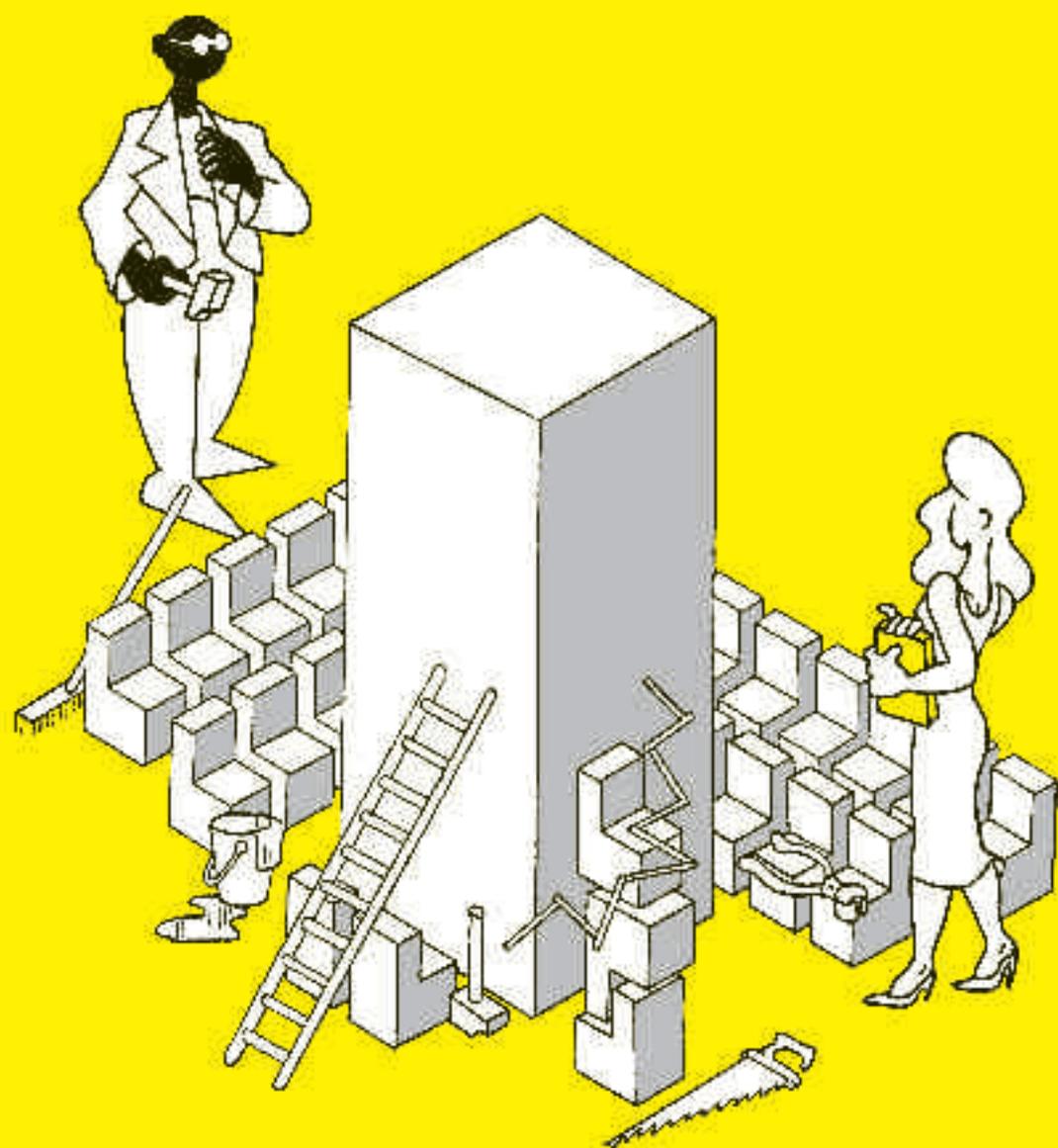
Bratton, M, Chu, Y-H, Lagos, M & Rose, R (2005). The people's voice: trust in political institutions, in *Ten years of supporting democracy worldwide..* International IDEA. <http://www.idea.int/publications/anniversary/upload/Inlay_senttoprint_30May05.pdf>

Centre for the Study of Public Policy, University of Aberdeen
<<http://www.abdn.ac.uk/cspp/>>

East Asia Barometer <<http://eacsurvey.law.ntu.edu.tw>>

Eurobarometer <http://europa.eu.int/comm/public_opinion/index_en.htm>

Latinobarometro <<http://www.latinobarometro.org>>



6. An effective parliament (I): The national level

This and the following chapter will consider ways in which parliaments organise themselves effectively to carry out their key functions. Although ‘effectiveness’ may not at first sight seem a distinctively *democratic* value, it becomes so where the functions performed are those necessary to the working of the democratic process: law making, oversight of the executive, financial control, and so on. Electorates are not well served if parliaments do not have sufficient resources to carry out these functions, or are wasteful or ineffective in the use made of the resources they have. What may seem at first sight as merely ‘technical’ or ‘procedural’ considerations turn out to be relevant to outcomes, in terms of legislation and financial expenditure that serves societal needs. The same goes for a wider aspect of a parliament’s effectiveness, and that lies in its capacity to perform the important role of sustaining and promoting national integration, especially in situations where this may be threatened.

Parliamentary effectiveness cannot be satisfactorily treated without confronting issues of power. ‘Power’ has many different meanings, but two are particularly relevant here. The first is power as a *capacity*: having the relevant legal rights and resources – financial, human and organisational – to carry out necessary tasks. The second is power as *relational*: here having sufficient power and independence in relation to the executive to oversee it effectively. Of course parliaments have to strike a balance between cooperation with, and oversight over, an elected executive; sheer obstructionism rarely serves the public. Yet the more likely danger in the contemporary period is that of undue executive dominance, whether through lack of parliamentary capacity or an unwillingness on the part of parliaments to exercise the powers they have.

Naturally there are important differences between presidential and parliamentary systems, in that the former have a more clearly demarcated separation of powers between legislature and executive. It has been a feature of some presidential systems, for example in Latin America, that elected presidents have been unable to effect their legislative programmes because of their inability to sustain more than temporary majorities in Congress. Even here, however, democracy is not served by a weak or ineffective legislature. A recent comparative survey of democratisation in post-Communist states concluded that it was not so much the type of constitutional system (presidential, ‘semi-presidential’ or parliamentary) that determined the level and

quality of a country's democratisation, but the power and effectiveness of its legislature. This is because stronger legislatures serve as a weightier check on executives, and provide a stronger stimulus to party building. 'The strength of the national legislature may be a – or even *the* – institutional key to democratization,' the survey concludes, '...In polities with weak legislatures, democrats should make constitutional reforms to strengthen the legislature a top priority.' (M. Steven Fish, 'Stronger Legislatures, Stronger Democracy', *Journal of Democracy*, 17.1, Jan. 2006, pp.5-20).

The present chapter will consider what makes for a strong or effective parliament as regards: parliamentary facilities and self-organisation; ways of improving the legislative process; effective oversight of the executive; procedures for budgetary oversight and financial control. A final section will examine parliament's wider role in promoting national integration through democratic processes.

Parliamentary facilities and self-organisation

All the evidence, including that provided by returns from parliaments for this study, points to a wide gap in resources and facilities available to parliaments between developed and developing countries. This is hardly surprising, given the enormous pressure of other development needs on limited budgets in the latter countries. Yet it is clearly a matter of serious concern to the parliamentarians themselves.

A well resourced parliament, such as is typical in developed economies, will have, *inter alia*:

- sufficient expert staff to provide impartial support to members across parliament's whole range of work;
- a comprehensive library and information service;
- office facilities for individual members, with their own secretarial and research support;
- dedicated facilities for the main opposition party or parties.

In most developing countries these facilities are insufficient and patchy, due to lack of resources and staff with the appropriate expertise. Even in a large country such as South Africa, where the parliamentary service has grown considerably since 1994 (for example, from 10 to 169 committee staff members), parliamentarians still say that the insufficiency of support staff and the skills of the available staff is a 'limitation on their effectiveness'.

Where parliaments lack capacity through limited resources, this inevitably affects the balance of power with the executive. Parliament's oversight work is less rigorous; members become dependent upon the expertise of government staff whose first allegiance is to the executive; governments may simply bypass parliament altogether in the development of policy and legislation. If parliament is consequently seen to be less relevant by the public, or its role is not understood, this may in turn affect its capacity to claim additional resources from a restricted national budget.

Strategies for compensating for these limitations of resources have been developed by a number of parliaments. These include:

- more effective training for members themselves, with encouragement to greater specialisation;
- more extensive and systematic use of experts in different fields from civil society and academia, to support the work of parliamentary committees and groups;
- the development of internship programmes to supplement scarce parliamentary resources;
- the development of on-line facilities to enhance the research and information capacity of parliaments, including library provision.

Capacity-building programmes for parliamentarians and support staff is one area where external assistance can make a considerable impact in emerging democracies, and is currently supported by organisations such as the IPU and many international development agencies (see chapter 7). Such forms of external assistance, however, should not be regarded as a substitute for adequate resourcing on an ongoing basis from the national budget. A study into the costs of parliament conducted by the IPU in 1999 revealed that, among the 52 parliaments surveyed, the share of the state budget taken by parliament ranged from 0.01% (Denmark) to 1.6% (Greece). Given their importance, parliaments are not extravagant institutions.

Parliamentary autonomy

Whatever the level of resources and staffing available, it is now becoming widely accepted that parliaments should be independent of the executive in the way they organise themselves, including control over their own timetable and the ability to recall themselves outside normal session if circumstances so require. This is one area where the constitutional difference between presiden-

tial and parliamentary systems is more clearly marked. In the former the typical challenge may be to achieve effective cooperation between legislature and executive; in the latter the challenge is rather to achieve a more robust organisational independence or autonomy.

What exactly does parliamentary ‘autonomy’ entail? A report by the Association of Secretary Generals of Parliament (ASGP) in 1998 defines autonomy in this context as ‘on the one hand non-dependence and non-subordination of Assemblies in relation to the Executive, and, on the other, the possibility of the Assembly freeing itself at least partially from the rules of ordinary law so as to follow instead its own regulations.’ It notes that ‘in almost all states, the principle of the autonomy of Parliament is formally recognised in the constitutional texts....dealing with the separation of powers.’ And it concludes that the general trend is to make this principle increasingly effective in practice. (Michel Couderc, ‘The principle of parliamentary autonomy’, *Constitutional and Parliamentary Information*, No. 176, 1998)

Implementing the principle of autonomy in practice involves a number of different aspects, as set out in the submission to the present study by the Slovenian Parliament:

- parliamentary responsibility for its own staffing;
- control over its own budget;
- organisation of its own business.

As to the first of these, submissions from the Indian and Canadian Parliaments respectively underline the importance of parliamentary staff being independent of the central public or civil service:

India: To effectively carry out its functions within the framework of the separation of powers it is essential that Parliament should have an independent Secretariat. With the underlying objective of ensuring the concept of executive and administrative accountability to Parliament, separate and independent Secretariats for the two Houses of Parliament have been provided for in Article 98 of the Constitution of India.

Canada: A Parliament’s effectiveness is in large measure a reflection of the mechanisms and resources that ensure its independence and autonomy. The operational independence of the Canadian Parliament is provided for in the Constitution and by legislation that guarantees

that the Senate, the House of Commons and the Library of Parliament each have access to a non-partisan professional staff distinct from the public service.....While public servants in the bureaucracy may move from one department to another through the course of their careers, parliamentary staff tend to make their career serving Parliament in their respective institution.

This model of a professional parliamentary service with its own organisation and career structure is now becoming widely accepted, in parliamentary and presidential systems alike. It recognises that serving parliament is a distinctive activity where, given the nature of party competition, the norms of non-partisanship and professional discretion are at a special premium. Parliamentary autonomy here also includes the development of independent legal counsel to advise parliament on the legal dimensions of government policy, as well as on legislative drafting. The Israeli Knesset, for example, has its legal services concentrated in a single department, which deals with all the different legal aspects of parliamentary business.

Budgetary control

A second aspect of a parliament's independence is control over its own budget. The importance of this is emphasized in a statement of principles on parliament-executive relations made at an IPU regional seminar on parliament and the budgetary process:

In accordance with the fundamental principle of the separation of powers, the internal budget of the Parliament should be drawn up under the sole responsibility of the House, and subsequently presented to the Executive to be incorporated into the national budget. The Executive is not to judge the appropriateness of the resources requested by Parliament to carry out its functions. (General Report presented by Mr. Lahaou Touré (Mali), General Rapporteur, Bamako (Mali), 1-3 November 2001)

This principle has variable application in practice. On one side is a parliament such as that of France, whose financial autonomy is described as 'absolute, both in respect of the way the budget is drafted and as regards the voting and implementation procedures'. On the other side are a number of new parliaments, especially in Africa, described in the ASGP report as having 'the legitimate aspiration' to free themselves from government supervision, in particular from the Ministry of Finance.

Control over business

Equally relevant to a parliament's autonomy is control over its own business, and over the allocation of time between different types of business and between different parliamentary groups. In the traditional Westminster parliamentary system business was typically organised through informal arrangements between the Leader of the House (a Cabinet Minister) and opposition leaders and their whips. Such arrangements are now increasingly being formalised through a parliamentary business committee, on which all political groups are represented, and which is chaired by the Assembly President or Speaker. As an example, the chairmanship of the Business Committee of the Samoan Parliament has recently been transferred from the Prime Minister to the Speaker. Under this kind of arrangement the role of 'Leader of the House', if there is one, becomes more narrowly defined as 'leader of government business in the chamber'. This evolution took place early in the life of the Indian Lok Sabha, with the creation of a Business Advisory Committee, whose members are nominated by the Speaker as *ex officio* Chair.

The function of the Committee is to recommend time that should be allotted for discussion on such government, legislative and other business as the Speaker in consultation with the Leader of the House may direct to be referred to the Committee. After the report of the Committee is agreed by the House, the allocation of time in respect of bills and other business takes effect as if it were an order of the House.

In the South African Parliament there is a Programme Committee for each House, meeting weekly, and a joint Programme Committee for both Houses which has the responsibility for preparing the annual programme for Parliament, including the legislative programme. This Committee allocates time for the Executive's legislative and other business, and sets deadlines by which the Executive must introduce bills in Parliament, subject to fast-tracking in exceptional circumstances according to predetermined criteria. Within this agreed allocation, the Leader of Government Business, who is 'responsible for the affairs of the national executive in Parliament', takes responsibility for programming all parliamentary business initiated by the executive and for the attendance of relevant Cabinet members. These Programme Committees typically take decisions by consensus.

In presidential systems, the issue may be less of ensuring adequate independence from the executive in the planning of the legislature's business, and more one of achieving effective coordination between the two branches of

government. This may require the establishment of special coordinating bodies or committees, as in this example from the Philippines:

For purposes of relevant policy-making, the Legislative-Executive Development Advisory Council (LEDAC) was created with the Speaker of the House as one of its members, with the intention of coordinating the approaches of the executive and legislative, to avoid gridlock in decision-making and to fast-track law-making. The LEDAC is a consultative and advisory body which coordinates executive development planning and congressional budgeting. Thus, the competing legislative priorities of Congress and the executive branch are thrashed out, draft bills on vital issues are discussed and consensus reached on which bills should be considered urgent.

More specific issues involved in programming the legislative process will be considered in the following section.

Further online reading about parliamentary self-organisation:

Association of Secretaries General of Parliaments (1991). The Parliamentary Budget, in *Constitutional and parliamentary information*, N° 161.

<http://www.asgp.info/Publications/CPI-English/1991_162_01-e.pdf>

Association of Secretaries General of Parliaments (1999). The administrative and financial autonomy of parliamentary assemblies, in *Constitutional and parliamentary information*, N° 177.

<http://www.asgp.info/Publications/CPI-English/1999_177_02-e.pdf>

Commonwealth Parliamentary Association (2005).

Administration and financing of parliament: a study group report.

<http://www.cpahq.org/AdministrationandFinancingofParliamentStudyGroupReport_pdf_media_public.aspx>

Commonwealth Parliamentary Association (2005). *Study group on the administration and financing of parliament: key recommendations.*

<http://www.cpahq.org/TheadministrationandfinancingofParliaments_pdf_media_public.aspx>

Harris, I (2005). *Towards the evolution of an effective parliamentary administration in West Africa.* Association of Secretaries General of Parliaments

<http://www.asgp.info/documents/Geneva_2005/1st_conference_Nigerian.pdf>

Reports from a seminar on parliamentary administrations and legislative cooperation, organised by ECPRD and the Italian Chamber of Deputies

<<http://de.camera.it/files/pdf/dossier.pdf>>

Improving the legislative process

Many parliaments have been experimenting with different ways of organising the legislative process, so that time constraints do not curtail the effective scrutiny of bills, and at the same time priority can be given to those parts of proposed legislation that are more important or controversial. The Italian Chamber of Deputies, for example, has recently undertaken a more rigorous timetabling of legislation, since it had found the process being swamped by amendments, and sessions having to be extended to unacceptable lengths. The problem has been resolved by means of a programming timetable for bills, and requiring parliamentary groups to select a number of amendments to be put to the vote, according to their respective size.

This approach addresses various demands: on the one hand, the need to work quickly and to establish how much time is allowed for discussion, thus preventing the Assembly from spreading itself too thin with a plethora of often repetitive votes, and on the other hand, the need to allow the Assembly to concentrate on those aspects of bills or proposed amendments that it considers are of the most political importance. Thanks to this reform and also the programme reforms, the Chamber of Deputies has been able to address and shorten the length of debates, which over the years had become increasingly problematic, thus guaranteeing that the legislature can respond more quickly to the country's needs.

Similarly, the UK House of Commons, through the proposals of its Modernisation Committee, has undertaken a systematic programming of legislation, with an agreed timetable for the different clauses of each bill, so as to ensure greater predictability and avoid having to guillotine discussion because time has run out.

There are a number of ways in which programming, when it is done well, assists the scrutiny of legislation. It provides Members with a clear idea which parts of a bill will be debated when, allowing them to concentrate on those parts of a bill in which they are most interested.....The greater certainty of timing is also beneficial for outside groups. Knowing, at the beginning of the committee stage, when that part of the bill will be debated makes it easier for them to plan the delivery of briefing material to members of a standing committee. Programming should allow the House and committees to plan their

consideration of a bill more effectively so that more time is made available to consider those parts of a bill which are of interest to the Opposition and backbenchers, while less time may be devoted to those parts of the bill which are more straightforward and less controversial.

The committee listed four basic criteria which a reformed legislative process should meet:

- *The Government of the day must be assured of getting its legislation through in reasonable time*
- *The Opposition in particular and Members in general must have a full opportunity to discuss and seek to change provisions to which they attach importance*
- *All parts of a bill must be properly considered*
- *Bills must be properly prepared so as not to require a mass of new Government amendments.*

Law quality

This last criterion above raises the issue of the quality of bills, which is a concern of many parliaments facing a press of legislation, especially acute for those countries required to harmonise their laws with European Community requirements. In response to the problem of inadequate drafting, the Danish Parliament, for example, established a joint working commission with the Government on 'law quality'. As a result the Government has issued a detailed set of guidelines on law quality to the civil servants at the individual ministries where bills are prepared, detailing a number of central requirements for the drafting of legislation. In addition, 'a Bill must contain an account of its financial and administrative consequences for the public sector and the business community, its environmental consequences and its relation to Community law.'

Ensuring the constitutionality of proposed legislation is another aspect of law quality. In the Finnish Parliament this is the responsibility of the Speaker, assisted by a Constitutional Law Committee.

The task of the Constitutional Law Committee in supervising the constitutionality of laws is to examine if a bill is in harmony with the Constitution or if there is a discrepancy between them. In the latter case the Committee also indicates how the bill ought to be amended

in order to become in accord with the Constitution.....The Committee exercises this controlling task with the help of university professors and other constitutional lawyers, who are heard as outside experts in committee meetings.

The Greek Parliament also has a Scientific Service composed mainly of university law professors, whose reports on bills identify ‘any possible contradictions or discrepancies of the proposed legislation as regards the Greek Constitution and national legislation, international or European law.’

A further aspect of law quality concerns the clarity of the texts themselves. The Italian Chamber of Deputies has established a special legislative committee, composed equally of members of the majority and opposition parties, ‘which assesses the quality of legislative texts to see if they are homogenous, simple, clear and appropriate to their purpose, as well as their effectiveness in simplifying and reorganizing the legislation in force, and on the basis of these parameters, issues opinions to the Committees.’

On-line facilities

It is in the context of the legislative process that the development of on-line facilities for parliamentarians is having perhaps the most significant impact. While many parliaments are at an experimental stage, a few are already well advanced in replacing paper altogether in the production and discussion of legislative texts, which can be given a uniform electronic layout. The following are the proposals for the Austrian Parliament:

The E-RECHT (‘Electronic Law’) project aims at creating one continuous electronic production channel from the invitation to comment on legislation to promulgation (on the Internet). As a result, it will only be required to enter amendments to the text during the legislative stages (for example by a committee, or in the plenary of the Nationalrat). Texts of law on paper are replaced by electronic texts, that is to say, printed government bills, committee reports and other parliamentary printed matter cease to exist. Technology will make it possible to draw up texts which can be queried electronically while all stages can be tracked in a fully transparent process.

Besides the potential saving of time, it is calculated that the new system will save sixty tons of paper annually, at a cost of more than one million Euros. In the Republic of Korea, to give another example, the main chamber of the

National Assembly is currently in the process of being reinvented as a Digital Chamber.

When the Digital Chamber is complete, then a great deal of legislative processes will be digitalized, including proposing and deliberating bills, making decisions through electronic ballots, and delivering them to the government, which will bring some very positive effects of curbing cost and time by simplifying and removing papers from the process. Moreover, lawmakers will be able to search real-time information on various bills as they sit through the meetings and also effectively question cabinet members, discuss bills, or make five minute speeches utilizing power point or moving pictures on computers.

The Hungarian Parliament is also in the process of establishing an electronic Parliament, with the text of every submitted proposal (proposed bills, amendments, resolutions, draft policy announcements, reports, interpellations, questions, etc.) available on line. Although this is primarily intended to facilitate and improve the work of representatives, it means that the relevant texts will also be available to citizens through Parliament's website.

Role of an upper chamber

Most of the measures mentioned above for improving the legislative process also involve improved coordination between the two chambers of parliament where it is bicameral. The purpose of an upper chamber is to allow for the more thorough scrutiny of bills, and to expose them to a different range of opinion – whether this be a matter of state and regional perspectives, as in a federal system, a different balance of party strength, or a wider range of experience or expertise. A typical consequence of this exposure is to produce further compromises in proposed legislation and, hopefully, wider public acceptability as a result. Since democracy depends on consent, the public acceptability of legislation is an important criterion for its effectiveness.

Keeping track of legislation

Two final issues raised by the submissions from parliaments are worth considering here. One is concern at the increasing use by governments of delegated legislation, which is difficult for parliaments to keep track of, and in some cases may exceed the terms defined in the relevant law. The Greek Parliament, for example, describes this a 'major problem', since 'the normative acts thus issued by the Government often exceed the limits of the

delegation granted by statute law,' with the likelihood of frequent recourse to judicial review. To deal with this problem a number of parliaments require that specific powers of delegated legislation or regulation granted to the executive be subject to a specific time-limit (so-called 'sunset clauses'), to enable the regulations to be systematically reviewed; and that any emergency regulations enacted beyond these powers be confirmed by parliament within a short time-span.

A second issue is the need for systematic monitoring of the implementation of legislation, both as to whether it is being effectively implemented and what its consequences are in practice. According to the submission from the South African Parliament, 'the legislative function does not cease with the passage of a bill and, thus, only by monitoring the implementation process can Members of Parliament uncover any defects and act to correct misinterpretation of legislation or maladministration within a government department.' One common reason why legislation is not effectively implemented is that adequate financial provision has not been made; hence the importance, already mentioned, of the fiscal implications of proposed legislation being clearly spelt out and also followed up in budget appropriations.

Both these issues closely touch on the oversight function of parliament, which will be considered in the next section.

Further online reading about improving the legislative process:

Global Centre for Information and Communication Technology in Parliament
<<http://www.ictparliament.org/>>

Inter-American Development Bank (2006). Political Parties, Legislatures, and Presidents, in *Economic and social progress in Latin America, 2006 Report* (Chapter 3). <<http://www.iadb.org/res/ipes/2006/chapter3.cfm>>

Inter-Parliamentary Union, United Nations Development Programme (2003). *Ten years of strengthening parliaments in Africa, 1991-2000. Lessons learnt and the way forward*. <http://www.ipu.org/pdf/publications/africa2000_en.pdf>

United Nations Development Programme (2003). *Parliamentary Development practice note*. <http://www.undp.org/governance/docs/ParIPN_ENGLISH.pdf>

U.S. Agency for International Development (2000). *USAID Handbook on Legislative Strengthening*. <http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnacf632.pdf>

Effective oversight of the executive

Besides their responsibility for the legislative process, parliaments have a key function in providing oversight of the government on behalf of the public. The specific area of budgetary oversight and financial control will be discussed in the following section. Here the more general task of oversight over government policy and administration will be considered. This forms the other dimension of accountability raised in the previous chapter: the accountability of *government* to parliament, and through parliament to the electorate as a whole.

Nowhere more obviously than here are issues of relational power more relevant to a consideration of a parliament's work. This is not just a matter of the relative powers as between parliament and executive, but also of the balance of power between parties and within them. Indeed, it is the configuration of party power that can often determine the relation between parliament and executive. In a presidential system, in situations where the legislature is controlled by a different party from the presidency, parliamentary oversight is not only typically rigorous, but party competition can easily degenerate into obstruction and gridlock. In a parliamentary system, and in presidential ones where the same party controls both branches of government, there is the opposite tendency: oversight may be blunted through the way power is exercised within the ruling party or coalition, or the way competition between parties discourages internal dissent within parties from being publicly expressed. So while the interest of opposition parties lies in the most rigorous oversight of the executive, members of a governing party can use their majority so as to ensure that ministers are not embarrassed by exposure or a critical report.

Political parties have many informal means of keeping their parliamentarians in line, through the party 'whips': with the patronage of appointment to key committees, the prospect of future preferment, membership of overseas delegations, and so on; or the threat of loss of a favourable place on the party's electoral list, or even exclusion from the parliamentary party altogether. The way in which these patronage and disciplinary powers may work to blunt effective parliamentary oversight is detailed in the submission from the South African Parliament:

Although all parties in Parliament are represented in any given committee, party politics can undermine a committee's ability to work together to exercise oversight of a government department. Furthermore, the presence of diverse interests within a party does not necessarily mean that these interests will be expressed publicly. Party

hierarchy and discipline can act to prevent members from raising concerns and issues that might make the government uncomfortable or threaten party unity. The party leadership can command much loyalty from its members and impose firm discipline because members rely on their parties for a place on the party list and, hence, their seat in Parliament. This can also be an impediment to a Committee's ability to exercise its oversight function effectively.

This context of power between and within political parties needs to be kept in mind when the different modes of parliamentary oversight are being discussed below. There is no such thing as a parliament's oversight over the executive as if parliament were a single uniform and cohesive body; all oversight is mediated via the struggle and competition between parties, and how this may be seen to play with the public at large. In particular, it is minority or opposition parties within a legislature which give a necessary 'edge' to the different modes of oversight; in a parliamentary system they are typically coordinated through an official or unofficial 'shadow cabinet' in a Westminster tradition.

Oversight through the committee system

The most systematic method for oversight of the executive is by parliamentary committees which track the work of individual government departments and ministries, and conduct specific investigations into particularly salient aspects of their policy and administration. Many parliaments have reformed their committee systems to enable them to parallel the respective government departments and their members to develop appropriate expertise accordingly. In many countries these are joint committees of both chambers of parliament. Although even specialist committees are unable to be comprehensive in their coverage of the respective department's work, it is sufficient for accountability that the department knows that they *could* investigate any aspect and do so rigorously, even if in practice they have to be selective.

Here is how the South African Parliament describes its reformed committee system:

Some tasks, particularly those involving detailed consideration of matters, are best performed by a smaller group than the House sitting in plenary, and it is in this respect that committees can play a vital role in exercising oversight of executive action. Since 1994 the committee system has seen extensive changes that have facilitated committees in

exercising oversight. The old system of thirteen committees, whose role, principally, had been to sit in secret in order to ‘rubber-stamp’ the legislation of the National Party government, has given way to a committee system that is vibrant, active and independent of government. In the National Assembly there is a committee for each government department, while in the National Council of Provinces committees broadly correspond with government departmental clusters. They have extensive powers, including the power to summon people to give evidence or produce documents...

The Swedish Parliament, in its submission, notes that nowadays more and more emphasis is being put on Parliament’s oversight function. ‘This is due to central government activities no longer being governed by detailed legislation and budget provisions, but by general targets and result-centred demands. Parliament’s task becomes that of subsequently checking that these targets and demands are being met...Here the work and priorities of the Riksdag committees will take centre stage.’

By definition, oversight is only possible if committees are able to decide for themselves which aspects of government activity to investigate. In the Philippines House of Representatives, these are decided by a majority of committee members:

Aside from the House’s Standing Committee on Oversight, the other committees of the House may undertake, on their own, a review of the performance of the government agencies pursuant to their authority to conduct hearings and inquiries on issues and concerns falling under their functional jurisdiction, upon the call of the majority of all their respective members. For instance, certain agencies and departments of the executive branch were probed on procurement systems and awarding of contracts, thereby ensuring transparency and paving the way for policy reforms.

The Norwegian Parliament, by contrast, has recently decided that ‘a minority of members of the Standing Committee on Scrutiny and Constitutional Affairs (one third of the members) may initiate proceedings of the Committee. This rule is essential for the protection of minority factions in Parliament.’

Crucial to the effectiveness of committee investigations is the power to require ministers and civil servants to appear and answer questions, and to

produce relevant documents. Access to information is a key to effective accountability, including access to classified information. Freedom of Information legislation which allows extensive exemptions or a ministerial veto on disclosure may well be mirrored by and reinforce limitations on parliament's own access to sensitive information. The practice of closed sittings for certain categories of information is one method which a number of parliaments use to circumvent such limitations.

It is in the context of detailed oversight work by committees that the issue of resources is particularly pressing. Even in many well-established parliaments and legislatures the level of committee staffing is insufficient in comparison with the expertise that a government department can call upon. Various forms of supplementation to a committee's own staff are called on to meet this shortfall, most commonly the engagement of outside specialists from civil society and academia for particular investigations, or as an ongoing advisory panel to a committee. The UK House of Commons has recently established a Scrutiny Unit, which can provide specialist support for individual committees at points where their workload is particularly demanding.

The outcome of a committee's investigations typically takes the form of a published report, addressed to the government with recommendations, which is laid before parliament as a whole. It is then up to parliament to decide its priority for debate, and how the government response is to be followed up. The Indian Parliament has recently tightened up its procedure for following up recommendations by Departmentally Related Standing Committees (DRSCs), since it found the government often dragging its heels in implementing recommendations which it had itself accepted.

Under the existing procedure, after a Report on a subject selected by the DRSCs is presented to the House, the Government furnishes its Action Taken Notes within three months on the recommendations made therein. Implementation of recommendations accepted by the Government is generally not complete with regard to a number of the recommendations. To infuse a sense of seriousness and ensure timely implementation of the recommendations made by the DRSCs, the Speaker, Lok Sabha, and the Chairman, Rajya Sabha, issued directions in September 2004 providing that the Minister concerned shall make once every six months a statement in the House regarding the status of implementation of recommendations contained in the reports of DRSCs. It is expected that this will make a significant difference in the timely and qualitative implementation of their recommendations.

Further online reading about oversight through the committee system :

Gay, O and Winetrobe, B (2003). *Parliamentary audit: the audit committee in comparative context. A report to the audit committee of the Scottish parliament.* <<http://www.scottish.parliament.uk/business/committees/historic/audit/reports-03/aur03-legacy-02.htm>> (document en anglais)

Krafchik, W. and Wehner, J. (2004). *Legislatures and budget oversight: best practices.* <http://www.revenuewatch.org/reports/kazakhstan_parliament_budget_forum.pdf>

National Democratic Institute (1996). *Committees in legislatures: a division of labor.* <http://www.accessdemocracy.org/library/030_ww_committees.pdf>

Oversight by and over non-governmental public agencies

In respect of parliamentary oversight, two broadly different types of non-governmental agency should be distinguished. First are those agencies which are themselves designed to contribute to the oversight of government, such as the Ombudsman, Human Rights Commission, Anti-corruption Commission, Auditor General's Office, and so on. The last two will be treated more specifically under the theme of financial control later in this chapter. Here only the general point should be repeated that was made in Chapter 4, that oversight is more likely to be effective if the membership of such bodies is approved by parliament and they are accountable to it rather than to the government. By virtue of their specialist expertise, and their links with civil society organisations, such agencies are invaluable in complementing the oversight work of parliamentary committees. The submission from the Norwegian Parliament, for example, mentions four independent agencies which it regards as 'crucial in the scrutiny functions of the Storting': The Office of the Auditor General, the Parliamentary Ombudsman for Public Administration, the Committee for Monitoring of Intelligence, Surveillance and Security, and the Ombudsman for the Armed Forces. With the exception of the last of these, whose reports are reviewed by the Defence Committee, their reports are reviewed by the Standing Committee on Scrutiny. Another agency contributing to parliamentary oversight in many countries is an Office for National Statistics. Given the opportunities for 'massaging' statistics to show government policies in a

favourable light, the independence of a statistics office is best ensured by making it accountable to parliament rather than the government, as has recently been proposed in the United Kingdom.

A second type of independent agency comprises those which carry out some of the executive and regulatory functions of government itself. Rather than their being part of the parliamentary regime of oversight, as the first type are, the issue is more how to exercise effective oversight over them, when they do not form part of any government departmental structure. It is an increasing practice in many countries for governments to devolve public functions, such as regulatory activities or the delivery of front-line services, to independent agencies. These can include public corporations such as a central bank or public broadcasting service; regulatory bodies for health and safety, the major utilities, and so on; agencies delivering services with public money in transport, housing, education, urban regeneration, the penal system, etc., sometimes as public-private partnerships replacing local government control and responsibility.

A number of problems are raised by the increasing use of independent agencies of this type. One, raised in the submission from the Greek Parliament, concerns the issuing of normative acts by independent authorities, 'thus shifting the decision-making process on the normative level from parliament to the independent authorities.' Another lies in the weakening of lines of responsibility and accountability. In theory, an independent agency may fall within the purview of a government department, but it is designed to be an arms-length process, which makes it difficult to secure effective parliamentary oversight, even if significant sums of public money, with considerable distributional consequences, are involved.

Further online reading about independent oversight bodies:

Organisation for Economic Co-operation and Development (2002). *Relations between supreme audit institutions and parliamentary committees*. <[http://appli1.oecd.org/olis/2002doc.nsf/linkto/ccnm-gov-sigma\(2002\)1](http://appli1.oecd.org/olis/2002doc.nsf/linkto/ccnm-gov-sigma(2002)1)>

World Bank (2001). *Features and functions of supreme audit institutions*. <<http://www1.worldbank.org/prem/PREMNotes/premnote59.pdf>>

Oversight through parliamentary questions and “interpellations”

In parliamentary systems and others where ministers are also members of the legislature, the parliamentary questioning of ministers on a regular basis, both orally and in writing, forms an important mechanism of oversight. Oral questions in plenary session can often turn into a party dogfight generating more heat than light, with questioning by ruling party members bordering on sycophancy, and replies degenerating into point-scoring against the opposition. Written replies can also be carefully crafted by civil servants to avoid revealing anything substantial. Nevertheless, when working properly, parliamentary questions are a significant investigative and oversight mechanism. For ministers to have to explain and justify their policies to parliament on a regular basis, and to answer publicly for any shortcomings, is a salutary discipline and an important contribution to accountability, as this comment from the Zambian Parliament confirms:

The purpose of the questions in the House is first to give an opportunity for Members to solicit information on matters of public importance. Secondly, questions press for Government action – that is, through a question in the House, the Government is called upon either to start or complete a project, to provide certain facilities or to take action on any public affair. Other salient features about parliamentary questions include allowing Members a chance to put across the views and mood of the public to the Government, especially on current issues, thereby testing the calibre of Ministers and their officers by the way they handle questions especially supplementary ones. Questions force Ministers to be more alert for fear of exposing their failures; and questions generally help to keep the Government on its toes.

These aims are more likely to be realised, the more systematically the process of questioning is organised. Here, for example, is the procedure for the Irish Dail:

The Taoiseach (Prime Minister) answers questions of which notice has been given (and supplementary questions asked without notice) for 90 minutes each week; and also answers questions from the leaders of the parties in opposition without notice for a further 40 minutes each week. Other members of the Government answer questions in rotation

for 210 minutes each week. Approximately, 1,900 questions were answered on notice in 2004. In addition, a further 26,000 questions were the subject of written answers.

In the Parliament of Senegal, parliamentary questions to ministers are organised in the form of a debate, with a quite precise timetable:

During the debate, the following code of conduct applies:

- | | |
|--|-------------------|
| <i>1. Reading of a question by its author:</i> | <i>3 minutes</i> |
| <i>2. Minister's reply:</i> | <i>15 minutes</i> |
| <i>3. Statement by the author of the question:</i> | <i>10 minutes</i> |
| <i>4. Statement by the majority (can be divided):</i> | <i>10 minutes</i> |
| <i>5. Statements by the minority groups and independents: time proportional to their size, depending also on the time granted to the majority group;</i> | |
| <i>6. New replies by the Minister:</i> | <i>15 minutes</i> |
| <i>7. Author of the question takes the floor again:</i> | <i>3 minutes</i> |
| <i>8. Final reply by the Minister:</i> | <i>5 minutes</i> |

This refers to a quick form of oversight over the Government, by the National Assembly, on a specific point.

Other parliaments have a variety of forms of intervention for the scrutiny of ministers, which work to complement the procedures of a formal question time. In the Zambian Parliament, private members motions are described as 'the most popular and effective way of scrutinising executive activities'. The Indian Parliament has a longstanding procedure of 'Calling Attention Notices', described as follows:

Any Member may, with the prior permission of the Speaker or Chairman, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief statement or ask for time to make a statement at a later hour or date. The process does not involve any censure of the Government as there is no discussion or voting. It helps Members to point out any shortcomings in the actions of the Government in dealing with a matter.

Although presidential systems do not possess the same procedures for the routine questioning of ministers as parliamentary ones, they have a variety of devices for obtaining responses from ministers of state, besides the normal committee procedures. Under its reformed constitution of 1980, for example,

the Chilean National Congress can require the attendance of ministers of state at special sessions of either chamber convened to inform members about issues within the competence of the relevant ministry.

Parliamentary approval of executive appointments

In presidential systems, where ministers are not members of the legislature, an important aspect of oversight lies in the process of approval for executive and cabinet appointments, typically involving lengthy investigations of the appointee's suitability for public office. Such investigations may also cover judicial and ambassadorial appointments as well as ministerial ones. Some parliamentary systems have also developed procedures for the oversight of important non-ministerial appointments, though this practice is less common.

The other side of the coin is the possibility of removal from office. The legislature's right to impeach a president by special procedure in presidential systems constitutes a last resort, which typically follows some significant breach of the law or constitution. In parliamentary systems, by contrast, a vote of no-confidence in a premier more typically indicates a loss of support on political grounds, and one which does not have the same potential for executive-parliament confrontation, since the government is sustained by parliament. Some parliaments also allow for votes of no-confidence in individual ministers, without this affecting the composition of the government as a whole.

Special commissions of enquiry

As a further instrument of oversight, mention should be made of special commissions of enquiry which parliaments may set up to investigate issues of major public moment, typically spanning the province of more than one department, and the remit of more than one of its committees. These should be distinguished from commissions of enquiry set up by governments themselves, in which the government sets its own terms of reference and chooses its key personnel. These latter can sometimes become an instrument for shelving a controversial issue, or blunting potential criticism of the government's own conduct, and hence not be an effective instrument of oversight at all.

An important element in commissions of enquiry is the protection that is afforded to witnesses through 'whistleblower' legislation, although such protection has a wider relevance than just in this context. The following comment comes from the work by NDI on international standards for democratic legislatures:

It is the prerogative of the legislative branch to establish a commission of enquiry into matters of public concern. A corollary to this right is the ability of informants and witnesses, or 'whistleblowers' as they are commonly known, to come forth with accurate information with the assurance that their identities will not be disclosed and that they will not suffer any detrimental effects, either personal or professional, as a result of their admissions.

Many countries have such legislation, though with varying degrees of protection. Where protection is only afforded to disclosures through prescribed channels, such as to an employer, the procedure may lead to a problem or complaint being quietly shelved. In the United States, in contrast, a 'whistleblower' in the federal employment sector is not obliged to make their disclosure through any particular channel, and may enjoy protection even when information is leaked to the press.

Further online reading about parliamentary oversight of the executive:

Inter-Parliamentary Union (2006). *Parline database module on parliamentary oversight*. <<http://www.ipu.org/parline-e/parlinesearch.asp>>

National Democratic Institute (2000). *Strengthening legislative capacity in legislative-executive relations*. <http://www.accessdemocracy.org/library/980_gov_legcapacity.pdf>

Pelizzo, R., Stapenhurst, R. and Olson, D. (eds.) (2004). *Trends in parliamentary oversight*. World Bank Institute <<http://siteresources.worldbank.org/WBI/Resources/TrendsinParliamentaryOversight-FINAL.pdf>>

Pelizzo, R., Stapenhurst, R. (eds.) (2004). *Legislatures and oversight*. World Bank Institute <http://siteresources.worldbank.org/EXT/PARLIAMENTARIANS/Resources/Legislatures_and_Oversight.pdf>

A case-study of oversight: security policy

An area of policy where the issue of parliamentary oversight is currently being much debated is that of security policy. In a Handbook on *Parliamentary Oversight of the Security Sector*, published jointly by the IPU and the Geneva Centre for the Democratic Control of Armed Forces (2003), three particular challenges are identified for oversight of this policy area:

- *Secrecy laws may hinder efforts to enhance transparency in the security sector.....*
- *The security sector is a highly complex field, in which parliaments have to oversee issues such as weapons procurement, arms control and the readiness/preparedness of military units. Not all parliamentarians have sufficient knowledge and expertise to deal with these issues in an effective manner.....*
- *The emphasis on international security cooperation may affect the transparency and democratic legitimacy of a country's security policy if it leads to parliament being left out of the process. (p.19)*

Two currently troublesome aspects of oversight in this sector can be taken to exemplify the challenges involved. The first is approval for the deployment of a country's armed forces abroad. The Handbook notes that 'from a good governance perspective, it is proper and advisable thatparliament should have the opportunity to participate in the decision of engaging armed forces abroad'(p.118). We should add 'from a democratic perspective' also. In actual fact, as the Handbook observes, practice is very variable, from those countries where deploying troops abroad requires prior parliamentary approval, or in emergency approval after the event, to those where deployment is the prerogative of the executive, and parliament is only allowed to debate the issue but not to control the executive's discretion.

At the former end of the spectrum are countries such as Sweden and Germany. In the submission received from the German Bundestag for this study, it is noted that 'compared to other countries, the German Bundestag enjoys very extensive rights of participation in these decisions.' Its right of prior approval for the deployment of armed forces abroad was affirmed in a judgement of the Federal Constitutional Court in 1994, and the precise mechanism for approval, largely based on existing practice, was spelled out in the Act on Parliamentary Participation of December 2004. The approval procedure is described as follows:

The Federal Government must forward its request for approval of a deployment of the armed forces to the Bundestag in good time, prior to the start of deployment. The request must contain details of the mission: the operational mandate, the operational area, the legal bases for the mission, the maximum number of service personnel to be deployed, the capabilities of the armed forces to be deployed, the planned duration of the mission, the anticipated costs, and funding arrangements...The request for approval is referred on first reading – often without a debate – to the committees responsible. At their meetings, the committees prepare the plenary decision by submitting a recommendation for a decision to the plenary. They may only recommend the adoption or the rejection of the request, which may not be amended in any way.....

An important exception to this procedure applies to deployments in the event of imminent danger which allow no scope for delay and to operations whose purpose is to rescue persons from particularly dangerous situations. In these cases, it is sufficient for the Bundestag to grant ex post approval. However, the Federal Government must keep the Bundestag informed appropriately prior to and during deployment. The Federal Government must terminate the operation if the Bundestag rejects the request for ex post approval.

The Act also states that the Bundestag may revoke its approval for a deployment of armed forces at any time.

A distinctive example of the exercise of parliamentary control over the decision to deploy troops abroad is provided by the submission from the Turkish Parliament, and relates to the government petition on the use of military troops in Northern Iraq which was debated on 1st March 2003 in the Grand National Assembly:

The first Article of the Petition was about sending Turkish military troops abroad, and the second one, to allow foreign military troops in Turkey.....Under normal conditions, the Parliamentary Group of the party in power supports the proposals and rejects the amendments. However, in this case, many deputies of the party in power voted against this petition. Undoubtedly, the anti-war manifestations organized by the NGOs had important effects in this process.....The rejection of the petition sent by its own government and the fact that a quarter of the members of the party in power voted against this petition proves the effect of the Parliament on political decisions.

Anti-terrorist legislation

A second currently difficult issue is that of anti-terrorist legislation, which raises for democratic societies the problem of where the right balance should be struck between security and the protection of civil and political freedoms, where these conflict. That they do not necessarily do so has been well expressed by Kofi Annan in a speech of November 2001: ‘The danger is that in pursuit of security we end up sacrificing crucial liberties, thereby weakening our common security, not strengthening it – and thereby corroding the vessel of democratic government from within.’ In developing his comment, the Handbook on *Parliamentary Oversight of the Security Sector* insists that ‘it is absolutely essential that balancing liberty and security should not be the exclusive responsibility of the executive and that, as a representative and guarantor of people’s rights, the parliament should exercise close oversight in this respect.’ It makes a number of suggestions about what parliamentarians should do with regard to combating terrorism, among others:

- *Follow a broad approach against terrorism not only focusing on protection and security, but also addressing its root causes.....*
- *Make sure that your state is a party to the relevant international conventions and protocols relating to terrorism.....*
- *Work towards the adoption of legislative measures allowing for compensation of victims of terrorist acts, as an expression of national solidarity.*
- *Ensure that anti-terror legislation maintains a proper balance between security requirements and the enjoyment of civil and political rights...*

Among the provisions of regional and international human rights conventions which cannot be made subject of such a balance, or be derogated from under any circumstances, is the absolute prohibition on the use of torture, including the deportation of asylum seekers or other foreign nationals to countries where torture is practised, or the use of a country’s airspace for such a purpose. Parliaments have a special responsibility to investigate such practices, and to oppose them where they are shown to occur.

Further online reading about parliamentary oversight of security policy:

Inter-Parliamentary Union, Geneva Centre for the Democratic Control of Armed Forces (2003). *Parliamentary oversight of the security sector principles, mechanisms and practices*. <http://www.dcaf.ch/oversight/proj_english.cfm?navsub1=12&navsub2=3&nav1=3>

National Democratic Institute (2005). *Democratic oversight of police forces, mechanisms for accountability and community policing*. <http://www.accessdemocracy.org/library/1906_gov_policing_080105.pdf>

Budgetary scrutiny and financial control

A central function of parliaments has always been to exercise control over the raising and spending of public revenue. The familiar slogan ‘no taxation without representation’ implies that only the express consent given by elected representatives can make the compulsory exactions of government acceptable to citizens. Parliamentary oversight of government finances can be separated into two broad phases: consideration and approval of the government’s plans for the raising and spending of revenue *ex ante*, through consideration of its proposed budget; and the monitoring of expenditure *ex post*, to ensure that it has conformed to the terms which parliament has approved. Naturally, the outcome of the latter phase will affect the former in the next round of the annual cycle, so the whole can be seen as a continuous process. For purposes of analysis, however, the two phases can be considered separately.

Budgetary scrutiny

It is a task of the executive to draw up detailed annual budget proposals for the raising and expenditure of revenue by government. In Westminster-type systems the tradition has been for the budget to be presented for parliamentary scrutiny on an appointed day as a complete package, with little room for parliament to make substantive policy changes. The Chancellor of the Exchequer or equivalent might receive submissions from various social and economic interests during the process of budget formulation, but parliament itself would not be consulted or informed of the contents prior to the presentation of the

budget on budget day. Thereafter parliament's role would be to debate the broad terms of the budget proposals in plenary session, and identify potential inconsistencies and possible savings through detailed analysis of the estimates for expenditure in finance committee. The account of the function of the Committee on Estimates in the Indian Parliament is clearly consistent with this conception: it is 'to make scrutiny of the expenditure by the Government proposed in the annual financial statement and to report what economies, improvements in organisation, efficiency or administrative reform consistent with the policy underlying the estimates may be effected.'

This rather restricted conception of parliament's role in budget formulation is now becoming increasingly the exception rather than the norm. As a survey by the World Bank reports, 'legislators in most member states of the OECD are presented with the budget between two and four months in advance of the new fiscal year.' (*Results of the survey on Budget Practices and Procedures*, OECD/World Bank, 2003). This timeframe enables parliament to play a much more substantial part in influencing the policy content of a final budget, whether in pre-budget discussions and negotiations, or during the scrutiny stage of the government's proposals. The contribution of parliament in this respect is particularly developed in Norway, where negotiations on overall expenditure and the distribution of the budget between different headings take place in parliament itself. The tendency of such a process to inflate expenditure limits so as to accommodate the preferred schemes of the different parties was addressed in a budgetary reform of 1997:

The new budgetary process has widely been seen as an improvement. In this process which in the Storting runs in the autumn, the political parties start by negotiating a majority agreement on the total budgetary expenditure, and on the total amount in the various budgetary areas allocated to the standing committees. Only afterwards do the standing committees negotiate the details, but they must remain within the total budgetary allocation of their respective areas. Previously, the total budgetary framework was agreed upon only towards the end of the process, and this led to numerous unrealistic proposals for budgetary increases from the various political parties, which clearly could not be adopted within the necessary total budget allocation.

In Sweden a similar reform was instituted the previous year for similar reasons, so as to 'make it more difficult for various unstable majorities to increase appropriations without the necessary funding'. The revised budgetary process is described as follows:

The reform means that a comprehensive and unified budget proposal is presented to the Riksdag by the Swedish Government at the beginning of the autumn when Parliament assembles and is considered for three months. The budget proposal contains a proposed expenditure ceiling for central government spending. The budget is approved in two stages. In the first stage the Riksdag approves the expenditure ceiling and spending limits for 27 expenditure areas on the basis of proposals submitted to it by the Committee on Finance. In the second stage, the Riksdag approves appropriations for various purposes within each expenditure area on the basis of proposals submitted by the various specialist committees. The sum total of appropriations in each expenditure area may not exceed the previously determined limits.

In Senegal, an increased measure of parliamentary influence over the shape of the government budget has been achieved since 1998, with the introduction of a procedure for debate on the budget's main features prior to the presentation of a full budget to parliament. This example below is based on an innovation introduced in the French Parliament two years previously:

The budget orientation debate is held during the session preceding the one that adopts the budget. It is an opportunity for parliamentarians to influence the choices made by the Government. It takes place as follows:

- a. The Finance Committee debate. The Minister of Finance reads and submits an introductory report on budget orientation in the Finance Committee. After the debate in the Finance Committee, a deputy draws up a report for the plenary of the National Assembly.*
- b. The plenary debate. The plenary considers the report and then holds a general debate on the deputies' concerns regarding the budget allocations. The deputies try to put forward their priorities, which are not necessarily the same as the Government's.*

In Zimbabwe, parliament's scrutiny process is divided into a pre-budget phase of review by committees of the spending bids of the individual ministries, and a phase after the budget is formally presented, when, in addition to further review by sectoral committees, the Budget, Finance and Economic Development Committee prepares a composite report on the budget's macroeconomic framework and overall priorities. Before the reforms of 1998 which introduced this procedure, 'Parliament dealt with the budget in an *ad hoc* fashion. The budget was crafted by the Executive and passed by

Parliament without any involvement of civil society organisations or the public.’ The new procedure allows these to be involved in an open and transparent way:

During the pre-budget phase Portfolio Committees consider bids or sectoral priorities from ministries. The Committees consult with the public through written submissions and public hearings and then make recommendations to the ministries. In the second phase, which is the post-budget phase, the Portfolio Committees analyse the votes of the ministries they shadow. They also hold consultations with the public, line ministries and civic organizations in reviewing the proposed budget figures and programmes.

Where parliament has a more substantial role in pre-budget debate, it is possible for the distributional impact of the budget on different social groups to be discussed in a manner that can influence the shape of the budget package which is eventually presented to parliament. This has happened, for example with the gender budgeting initiatives already discussed in Chapter 4. In Uganda, it was a coalition of parliamentarians and extra-parliamentary groups around gender budgeting which helped effect a change in the law giving parliament a new role in the early stages of budget formation.

One crucial aspect of the national budget which parliaments in many developing countries have had great difficulty in exercising any influence over has been the amount and terms of repayment of loans from international bodies such as the IMF, which can shape national budgets for a generation. This important lacuna will be considered in the next chapter.

Further online reading about the budgetary process in parliament:

Commonwealth Parliamentary Association (2001). *Parliamentary oversight of finance and the budgetary process. The report of a Commonwealth Parliamentary Association workshop, Nairobi, Kenya, 10th -14th December, 2001.*
 <<http://www.cpahq.org/uploadstore/docs/parliamentaryoversightoffinance.pdf>>

Inter-Parliamentary Union, United Nations Development Programme, World Bank Institute and United Nations Fund for Women (2004). *Handbook: Parliament, the budget and gender.*
 <http://www.ipu.org/PDF/publications/budget_en.pdf>

National Democratic Institute (2003). *Legislatures and the budget process. An international survey.*
 <http://www.accessdemocracy.org/library/1651_gov_budget_093103.pdf>

Santiso, C (2005). *Budget institutions and fiscal responsibility: parliaments and the political economy of the budget process in latin america.* World Bank Institute
 <http://siteresources.worldbank.org/WBI/Resources/Budget_Institutions_and_fiscal_responsibility_FINAL.pdf>

Wehner, J (2004). *Back from the sidelines? Redefining the contribution of legislatures to the budget cycle.* World Bank Institute
 <http://siteresources.worldbank.org/EXTPARLIAMENTARIANS/Resources/Back_from_the_Sidelines_Joachim_Wehner.pdf>

Monitoring government expenditure

The *post hoc* monitoring of government expenditure is carried out in most parliaments by a Public Accounts Committee or equivalent body, typically chaired by a member from a non-governing party so as to enhance its independence. Effective monitoring encompasses issues such as the following:

- Has public money been spent on the purposes for which it was assigned?
- Has it been spent efficiently, and without waste?
- Has spending been kept within the budget allocation?
- Is there evidence of fraud or misappropriation, or other irregularities?

Some parliaments have recently shifted the focus of monitoring from a detailed tracking of expenditure flows to an analysis of outcomes and achieve-

ment of performance targets, within much broader budgetary categories. The French budgetary reform of 2001 provides an example of this shift:

This new nomenclature is at the same time aimed at giving the managers more room for manoeuvre (as they can make freer use of allocations within their programmes) and to make possible oversight of government action aimed at the objectives and results of the policies funded by the state budget. Results-based budgeting is supposed to make it possible to move from a culture based on means to one based on performance assessment.

In carrying out their financial monitoring, most parliaments are assisted by the office of an independent Auditor General, whose role is to audit all government accounts, including in many countries the accounts of public corporations and non-governmental bodies spending public money. In Malta, for example, the mandate of the Auditor General, whose appointment requires approval by at least two thirds of Members of Parliament, prescribes ‘a full annual financial and compliance audit of all Government Offices and other public entities’. In an Act of 1997 this mandate was extended to include:

independent advisory and investigative powers; examination of any matter concerning the use of public funds; performance/value for money evaluation audits of Government Offices and public entities and companies where Government is a major shareholder. These audits are conducted on NAO’s initiative, upon request by the Public Accounts Committee, or as requested by the Minister of Finance.

In the Republic of Korea, the lack of an independent organisation to assist the National Assembly in its monitoring of government accounts was rectified in 2003 by the establishment of a National Assembly Budget Office directly under the Speaker.

The National Assembly Budget Office consists of around 80 non-partisan experts where they not only analyze budget and accounts but also calculate costs arising from the formulation or amendment of bills including that of the legislative. Through NABO, the National Assembly can help keep legislative activities within a reasonable cost boundary preventing the enactment or amendment of bills that could impose an excessive burden on the national budget.

Specific systems to prevent corruption are an important element in monitoring government expenditure in many countries. The South African Public Finance Management Act of 1999, for example, holds senior officials of government departments accountable for the misuse of public money, forcing them to ‘put in place systems and controls in their departments that would prevent abuse of state money. The Act also places an obligation on all government departments to design and submit anti-corruption and fraud strategies to the Treasury within stipulated time frames.’ A number of countries also have independent Anti-Corruption Commissions with investigatory and enforcement powers, which report to parliament, reinforcing the work of the Auditor General and Public Accounts Committee.

Further online reading about scrutiny of public accounts and anti-corruption strategies:

Global Organization of Parliamentarians against Corruption (2005). *Controlling corruption: a parliamentarian’s handbook*.

<http://www.gopacnetwork.org/Docs/CCH_FINAL_Aug_05_ENG.pdf>

Global Organization of Parliamentarians against Corruption

<<http://www.gopacnetwork.org/>>

Inter-Parliamentary Union (2001). *The role of parliaments in the fight against corruption*. <<http://www.ipu.org/splz-e/hague01-bkgr.htm>>

Pelizzo, R., Sahgal, V., Stapenhurst, R., Woodley, W. (2005). *Scrutinizing public expenditures: assessing the performance of public accounts committees*.

World Bank

<http://www.wds.worldbank.org/servlet/WDS_IBank_Servlet?pcont=details&eid=000090341_20050516071440>

Promoting national integration through democratic processes

Among the most important but least noticed work of parliaments is promoting national integration through their support for democratic processes and institutions throughout a country’s territory. In a number of countries this is a specific function of an Upper House, most obviously in federal political

systems. The submission from the South African Parliament describes the role of its National Council of the Provinces (NCOP) in these terms:

As the second chamber of South Africa's national Parliament, the NCOP represents provincial (and to some extent local government) interests in the national sphere. Its role must be seen within the context of co-operative government, which means that national policy must be sensitive to local and provincial needs and concerns. It also means that municipalities and, particularly, provinces should not act alone or in isolation; they must be deeply integrated into the national political process.

The Indian Upper House or Rajya Sabha (Council of the States) is composed of representatives elected by the elected members of the Legislative Assembly of each State or Union Territory, and, like the South African NCOP, has special responsibility for coordinating national policy and legislation across the territory of the Union. A Conference of Presiding Officers of Legislative Bodies at Centre and State levels is held annually to exchange ideas and practices. 'The object of the Conference is to see that the parliamentary system of government grows on proper lines, that proper conventions and traditions are developed in that direction and that, as far as possible, uniformity is established in the practice and procedure in Parliament and State Legislatures.'

This coordinating role is not confined to the second chamber in federal systems. In France, the Senate has a similar role in relation to the other elected bodies throughout the territory:

As the representative of local interests, i.e., citizens in their communes, departments and regions, the Senate holds «Estates General of Local Elected Officials». These events bring together all locally elected officials with the President of the Senate to deal with the problems faced by the decentralized collective bodies whose interests the upper chamber represents. The last such event was devoted to intercommunal relations.

In a similar manner, the Parliament of Ukraine has established an Advisory Board on local self-government under the Chairman of the Parliament, in order to 'strengthen local self-government, to develop a society of self-governed communities according to the European Charter of Local Self-government and to act as a mediator on legislation between parliamentary commit-

tees and local representative bodies.’ Examples of this coordinating role can be found in many parliaments.

Conflict resolution

A distinctive aspect of parliament’s role in promoting national integration lies in the contribution it can make to conflict resolution. Parliaments constitute a key site for resolving political disagreement through the democratic means of dialogue and compromise. As such, they have a valuable role to play in helping resolve wider disagreement and conflict within society at large. Of course such conflicts may be reflected and even intensified by the party competition within parliament, especially where this takes on a strongly partisan or ‘winner-take-all’ character. Here especially there is a responsibility on parliaments to take the lead in demonstrating the possibility of treating alternative points of view with respect and engaging in serious dialogue with them.

The significant contribution of parliaments both to preventing conflict and to post-conflict resolution is recognised in the *International Guidelines for Strengthening the Role of Parliaments in Crisis Prevention and Recovery* (2006) jointly developed by UNDP and IPU. The Guidelines point out that the introduction of elections in post-conflict situations is too often seen as a sufficient as well as a necessary condition for peace building, while the potential long-term role for parliaments is often overlooked:

Legitimate and representative governance – that is effective, based on the rule of law and respecting peoples’ fundamental rights and freedoms – is in itself the most effective means for societies to prevent, manage and recover from conflict. Parliaments often manage conflict in the political space, thus avoiding violent conflict; however, in many democratic societies, we are generally unaware of parliaments’ contributions unless they fail. Parliamentary debate, agreements between political parties, interaction between parliament and constituents and civil society, informal exchanges among parliamentarians, and compromises on resource allocation, all contribute to keeping the peace.....Experiences from recent post-conflict situations demonstrate that assistance by external actors often underestimates the productive role that parliamentary institutions and elected representatives themselves can play.

This potential of parliaments is exemplified in a contributing paper by Mr. Cyril Ndebele, former Speaker of the Zimbabwean Parliament and a member of the IPU working group, to a UNDP/IPU conference on *Strengthening*

Parliaments in Conflict and Post-Conflict Situations in June 2005. As the paper points out, ‘Since the 2000 General Election, intense and often acrimonious relations between the two main political parties and their supporters have characterised the political landscape.....At a time of growing tension in Zimbabwean society, the role of Parliament as a national forum for inclusive national dialogue assumes ever-greater importance.’ This responsibility has been addressed, through the good offices of the UNDP, by involving all major stakeholders, including government, in a Conflict Transformation Programme. The core of the Programme has involved training key players, especially parliamentarians, in conflict transformation and mediation skills, through workshops and other capacity-building initiatives. The Programme recognises that ‘as representatives of diverse interests, MPs have a particularly important role to play in conflict mitigation in society at large. The paper describes the Programme’s rationale and impact in this way:

Parliament is being provided with negotiation, mediation and conflict handling skills needed to deal with the extreme polarization of the society, the deteriorating economy, and the crisis in agriculture, which, among other challenges, have placed the country on the edge of an outbreak of violence. As a key player, Parliament’s role as a forum for national dialogue on national governance and development issues requires that it be a model of conflict management and peace building. Raising the visibility and profile of Parliament as the representative governance institution and demonstrating that peaceful dialogue and resolution of differences can prevent conflict and violence, is critical to national conflict resolution and peace building.....

An Impact Assessment Study of the Conflict Transformation Project quotes an example of one participant Member of Parliament who is using his new skills within his constituency. He commended the programme and claimed that his own non-partisan behaviour towards constituents who were not members of his own party had positively influenced the attitudes of party members. He reported a new open-mindedness and mutual respect.....Other powerful testimony to the profound effect the CTP has had on individual Members relates to the more cordial and collaborative atmosphere in committees.....There is substantial evidence that informal dialogues, some on critical issues such as constitutional reform and the conduct of elections, have been taking place across party lines.

The paper acknowledges that much remains to be done, and that the attitude of party leaderships in Parliament remains crucial. Yet it envisages Parliament as having a key role in helping spread training in conflict transformation skills throughout the country through the newly created parliamentary constituency offices.

Mali is another country where the Parliament has been taking a lead in conflict resolution activity within the country. Its role can best be described in the words of the submission made for the present study:

In young democracies such as Mali's, the maintenance of peace and social stability are a basic concern for the national authorities. Therefore, in addition to adopting laws and overseeing government action, the National Assembly has also assumed the role of ensuring social cohesiveness and of consolidating the national conscience.

The adverse effects of globalization, the inexorable advance of the desert and social changes have often led to existential crises between communities, fuelling inter-ethnic and community conflicts, uprisings and even civil wars. Since 1992, a great deal of importance has therefore been given to the Malian parliament's role as an intermediary.

Each time the peace has been threatened or the consensus on national unity has been jeopardized, deputies have assumed the duty to propose to act as intermediaries to solve the conflict in question. For example, in handling the third Tuareg rebellion which broke out in 1990 and 1991, the deputies of the first legislature, which sat from 1992 to 1997, designated a delegation led by the President of the National Assembly to meet all the parties involved (the rebel factions, the army and civil society) to bring about dialogue and consultation. Experience has shown that this approach was decisive for the return to peace in the northern part of Mali. The same methods have been applied with more or less success to other kinds of conflicts (such as religious, land and grazing disputes).

A different example is provided where a parliament is able to take the lead in resolving a deep-seated conflict which has broken out at the constitutional level. The submission from the Ukrainian Parliament points out the key role played by the Parliament (Verkhovna Rada) in resolving the crisis of November/December 2004 during the 'Orange Revolution'. Before this time the Verkhovna Rada had been actively involved in discussions on constitutional reform which would redistribute power between President and

Parliament to the advantage of the latter. This reflected a popular swing against the ‘super-presidential power’ and ‘heavy hand’ typical of the immediate post-Communist period. When the popular protests began about the flawed elections of late October 2004, Parliament was able to act as the catalyst in ‘directing a boisterous stream of public protest into a legitimate resolution of the social crisis’, which included the completion of the constitutional reform programme.

The events in the Parliament adequately reflected what was going on among the people. In the moment of the most deteriorated situation after the run-off elections on 21 October 2004 when the people took to the streets protesting against systematic breaches of the Constitution, current laws and one of the fundamental rights to free expression, the Verkhovna Rada adopted the famous Resolution on the political crisis in the country. The Parliament declared invalid the outcomes of the run-off elections and expressed a no-confidence vote in the Central Electoral Commission.....Finally the idea of the political reform came to the surface again when the situation seemed to be developing into a stalemate. On 8 December 2004 the Parliament approved by 402 votes (out of 450) the Law of Ukraine ‘On Amendments to the Constitution’. According to the law the parliamentary-presidential form of government will come into force on 1 January 2006. This almost unanimous decision by the people’s deputies resulted in the abatement of tension paving the way for a final resolution of the conflict.

These different examples underline the close relation between what seem at first sight like technical matters of parliamentary organisation (autonomy, legislative organisation, oversight, budgetary control) and the delivery of *outcomes* which are relevant to societal needs, whether in terms of legislation, budget priorities, or the capacity to intervene effectively at points of national crisis and emergency.

Further online reading about parliamentary involvement in conflict resolution:

Commonwealth Parliamentary Association (2004). *Role of parliament in conflict-affected countries*. <<http://www.cpahq.org/activities/ParliamentarySeminars/roleofparliamentnconflict/>>

Inter-Parliamentary Union, International IDEA (2005). *Making reconciliation work: the role of parliaments*. <http://www.ipu.org/PDF/publications/reconciliation_en.pdf>

O'Brien, M (2005). *Parliaments as peacebuilders: The role of parliaments in conflict-affected countries*. World Bank Institute, Commonwealth Parliamentary Association <http://siteresources.worldbank.org/WBI/Resources/PARLIAMENTS_AS_PEACEBUILDERS-FINAL.pdf>

United Nations Development Programme (2006). *Initiative on strengthening the role of parliaments in crisis prevention and recovery*. <<http://www.parlcpr.undp.org/>>



7. An effective parliament (II): Parliament's involvement in international affairs

The previous chapter identified two different though related aspects of parliamentary power – its capacity or capacities and its relational standing to the Executive – and showed how both were important to parliament's effectiveness in holding the government to account. In this chapter another dimension of power will be added to the equation: its territorial reach.

Historically, parliaments have had scant involvement in international affairs. This was hardly surprising in the days when international affairs were largely confined to one country's relations with others, which were handled by the executive branch of government through frequently secret diplomatic channels. Of course, many parliaments have had an important role to play in ratifying agreements that emerged from such diplomatic efforts, but matters were largely left there, with the exception of a few countries, like the United States of America and Mexico, where the Senate exercises a prominent role in foreign affairs. The advent of the twentieth century brought about change in two important yet very different ways.

First, it was the century that saw the birth of international or multilateral cooperation. Faced with the realisation that nations are interdependent, the international community established a large number of international organisations. It was a trend that gathered great momentum. There are organisations with competence in almost every area of human activity: human and social rights, employment policies, trade liberalisation, financial transactions, environmental standards, and a great many others. These institutions are international negotiating fora where government representatives adopt decisions and treaties. For almost all of these agreements, the vast majority of parliaments were never consulted during the negotiations. They were simply invited to ratify the agreement and adopt and amend laws to implement them.

Second, the twentieth century saw the emergence of regional integration processes for a variety of reasons, not least that the countries concerned aspired to unity to overcome historical divisions and secure regional stability and peace, were convinced that “there is strength in unity”, realised that nations inevitably belong to a “community” and were desirous of taking

certain decisions collectively to enhance them and construct a harmonised framework for life for their societies. States, therefore, decided to gradually integrate their markets, economies and other components of the State, taking into account the principle of subsidiarity, under which certain questions would be better dealt with at the national rather than the community level. This was invariably accompanied by a transfer of powers over decisions affecting people's lives away from capitals and the oversight exercised by national parliament. This poses weighty problems which, as we shall see, are different from those caused by the emergence of international cooperation.

In the first two sections of this chapter we will examine these two phenomena separately, providing examples of how parliaments can and indeed do exercise their powers to legislate and hold government to account at the global and regional levels.

Their task is not made any easier by the fact that we live today in an increasingly interdependent world. The actions of a variety of external agents, geared both towards governments and citizens, impinge on every country in ways which may affect the lives and well-being of populations in relation to the environment, physical security and the security of information exchanges, public health, migration flows, criminal activity, and tax evasion, to name but a few. This phenomenon, which has greatly accelerated over the last twenty years, only serves to reinforce the interdependence of countries.

It is a commonplace observation nowadays that the State in all its branches has been losing power to global forces and institutions through the process of 'globalisation', which restricts the autonomy of governments in a number of ways. For governments seeking to attract international investment and maintain or improve job opportunities for their citizens, global economic forces and international markets limit the room for manoeuvre regarding domestic economic policies.

The implications of these developments for democracy are clear. What is the value of even the most democratic of institutions at the level of the national State if so many of the decisions that matter to the life of a country's citizens, including their security, are taken beyond its borders, or by international institutions that are not subject to any democratic control or accountability? This gap between the national level where democratic institutions have historically been located, and the global or regional levels where so many decisions are now taken, is a major source of what is termed the international "democracy deficit". It has been well expressed in this paragraph from the report of the United Nations Cardoso Panel (2004):

Concerning democracy, a clear paradox is emerging: while the substance of politics is fast globalising (in the areas of trade, economics, environment, pandemics, terrorism, etc.), the process of politics is not; its principal institutions (elections, political parties and parliaments) remain firmly rooted at the national or local level. The weak influence of traditional democracy in matters of global governance is one reason why citizens in much of the world are urging greater democratic accountability of international organisations.

Parliaments and their members are acutely aware of this and, as the chapter illustrates, are seeking to meet the challenge it poses to them. As part of their efforts, they also engage in global and regional parliamentary cooperation, which we will describe in section three.

Parliamentary involvement in multilateral affairs

As we have seen, the key challenge to parliamentary involvement in international or multilateral affairs is that in almost all countries foreign affairs and international policy have traditionally been regarded as the exclusive domain of the Executive. Today, the distinction between foreign or international and national or domestic has become increasingly blurred. Parliaments must therefore step beyond the traditional Executive prerogative in international affairs, and subject governments to the same degree of oversight as in the domestic policy arena.

What this might involve was clearly outlined in the Declaration of the First Conference of Presiding Officers of Parliaments (2000):

The parliamentary dimension [to international cooperation] must be provided by parliaments themselves first of all at the national level in four distinct but interconnected ways:

- *Influencing their respective countries' policy on matters dealt with in the United Nations and other international negotiating forums;*
- *Keeping themselves informed of the progress and outcome of these negotiations;*
- *Deciding on ratification, where the Constitution so foresees, of texts and treaties signed by governments; and*
- *Contributing actively to the subsequent implementation process.*

The Speakers of Parliaments chose their words carefully, making it very clear that their parliaments neither laid claim to a negotiating mandate, nor sought one. It remains the task of the Executive to negotiate in the international arena. However, parliaments must be able to scrutinise those negotiations by being kept fully informed as they unfold and by having an opportunity to express to the Executive their political views.

In other words, for a parliament to exercise an effective role in international affairs it must:

- Have a clear legal basis for a parliamentary involvement;
- Be informed sufficiently in advance of government policies and negotiating positions together with accurate information about the policies and their background;
- Have the necessary organisation and resources to address the issues, including sufficient expertise among the individual parliamentarians involved through their work in specialised committees;
- Have an opportunity to put questions to ministers and negotiators, and thus be able to express its political (though not necessarily legally binding) views to the government;
- Be included as a matter of course in governmental delegations to international organisations.

We will now seek to illustrate these points. We have chosen to do so in four areas – human rights, gender equality, development and trade – it being understood that the examples apply to many other areas.

Human rights

It is a truism that parliaments and their members are essential actors when it comes to the promotion and protection of human rights: parliamentary activity as a whole - legislating, adopting the budget and overseeing the executive branch - covers the entire spectrum of political, civil, economic, social and cultural rights and has thus an immediate impact on the enjoyment by the people of their human rights. Parliaments are the guardians of human rights.

Nevertheless, parliaments are generally not directly involved in the drafting and political decision-making processes underpinning international or regional treaties. But this should not be a foregone conclusion and it is important that parliamentarians avail themselves of the opportunity that exists to inform themselves of the status of negotiations, put written and oral questions

to ministers on progress made in negotiations, debate the issue in parliament and in the competent committees, and even accompany the minister to the negotiations and thus get a better idea of the progress made.

As part of their efforts to redress this situation a number of parliaments have set up specific human rights committees or given a human rights mandate to existing parliamentary committees. Today there are 164 parliamentary bodies that have an explicit human rights mandate. An increasing number of parliaments have also created ombudsman institutions which often cooperate with parliamentary human rights bodies. While these different instances work regularly and closely with NGOs, their cooperation with international and regional human rights bodies and the United Nations human rights mechanisms, such as the special rapporteurs, constitutes the exception rather than the rule. The IPU maintains a data base of these parliamentary human rights mechanisms which can be consulted on its website. In addition, it brings together the members of these bodies in an annual meeting, which also serves to promote cooperation with the United Nations human rights machinery.

International treaties, including those in the area of human rights, need to be ratified in order to take effect, an act which generally requires the approval of parliament. A recent handbook jointly published by the IPU and the United Nations Office of the High Commissioner for Human Rights sets out the steps that parliamentarians can take in the course of a ratification process:

- Check whether the government has ratified specific human rights treaties;
- If not, determine whether the government has the intention of doing so; if not, use parliamentary procedures to ascertain the reasons for such inaction and to encourage the government to start the process of signature and ratification without delay;
- If a signing process is under way, check whether the government intends to make reservations regarding the treaty and if so, ascertain whether these reservations are necessary and compatible with the object and purpose of the treaty; if they are groundless, take action to ensure that the government backtracks; and
- Check whether any reservations have been made regarding the treaties which are already in force at the national level and whether they are still necessary; if this is not the case, take action to ensure that the reservations are withdrawn. (*Human rights: Handbook for parliamentarians, 2005*)

Beyond participating in and monitoring treaty negotiations and ensuring their ratification, the challenges for parliaments to ensure their implementation

nationally do not differ greatly from those they face in their everyday activities. Taking position on budget allocations, amending laws and adopting new ones, along with scrutinising the Executive are the daily business of parliaments, as we saw in chapter six.

However, parliaments still need to be involved in international work, as the following examples regarding gender equality illustrate.

Gender equality

Many treaties require States to submit periodic reports on the status of national implementation. This is the case for the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol. The Committee on the Elimination of Discrimination against Women is the treaty body empowered to monitor enforcement and make comments and recommendations which are then submitted to the State concerned with a view to improving compliance. Until recently, many parliaments were ignorant of this procedure. Not so today.

For example, in South Africa all national reports to this Committee (indeed to all the international monitoring bodies) have to go to parliament for debate, and parliament makes sure that the reports contain a wide variety of views, including those of civil society. To make this happen, parliament holds debates and public hearings, calls in ministers and requests documents and reports from a wide range of departments and citizens' groups. In South Africa, members of parliament are included in national delegations that take part in the proceedings of the CEDAW Committee, thus ensuring that they better understand the subsequent recommendations, and of course Parliament plays an active role in seeing to it that the recommendations are also effected at the national level.

When passing national legislation on the CEDAW Convention, the Netherlands Parliament added a provision to the law that requires the government to report to Parliament every four years on the implementation of the Convention before presenting its report to the Committee in its capacity of State party. The concluding comments of the Committee are also presented to Parliament.

Some Parliaments, such as that of Uruguay, hold a session in parliament to follow-up on the CEDAW Committee's recommendations and call on members of the government to discuss them in parliament.

In Trinidad and Tobago, where there is no parliamentary committee with a specific mandate to address gender equality issues, the reports to the CEDAW

Committee are drawn up by the Human Rights Unit within the Ministry of the Attorney-General for the preparation of reports required under international instruments. The Unit is assisted by a Human Rights Committee, which comprises representatives of the 13 government ministries and one representative of parliament. Upon the completion of the report, the Attorney-General tables it before Parliament.

A special sitting on the CEDAW Committee's concluding comments took place at the Swedish Parliament in April 2002. It brought together parliamentarians, NGOs and the Chair of the CEDAW Committee.

Like in the area of human rights, a growing number of parliaments are also establishing special committees or other bodies to address gender equality issues and/or giving a specific gender equality mandate to existing parliamentary committees. The French parliament, for example, has created delegations for the rights of women and equal opportunity for men and women.

The area of gender equality offers yet another example of the international engagement of parliamentarians that is replicated in other areas as well. Every year, the IPU organises a parliamentary meeting at United Nations Headquarters in New York on the occasion of the meeting of the United Nations Commission on the Status of Women. The meeting offers an opportunity for men and women legislators who work on gender equality issues to exchange experiences, debate issues on the United Nations agenda and draw up strategies for national implementation.

Development

The issue of parliamentary involvement is particularly pressing in relation to the fulfilment of the Millennium Development Goals (MDGs). These constitute an ambitious programme to which the international community has committed itself, the aim of which is to achieve a wide range of goals by 2015: eradicate extreme poverty and hunger, achieve universal primary education, promote gender equality and empower women, reduce child mortality, improve maternal health, combat HIV/AIDS, malaria and other diseases, ensure environmental sustainability, and develop a global partnership for development, with targets for aid, trade and debt relief.

Addressing development issues in parliament requires parliamentarians to be familiar with human rights. The Office of the High Commissioner for Human Rights suggested in 2001 that countries adopt a rights-based approach to development. Draft Guidelines were developed and are available to parliaments to help in preparing development strategies and fighting to eradicate

poverty (*Draft guidelines: A human rights approach to poverty reduction strategies*, 2002. <<http://www.unhchr.ch/development/povertyfinal.html>>).

This approach has the merit of departing from the notion of development as charity and defining its objectives in terms of legally enforceable rights.

A key mechanism for the achievement of the MDGs in the seventy or so poorest countries is the programme for national poverty reduction which goes under the name of Poverty Reduction Strategy Papers (PRSPs). These are the framework documents negotiated between governments and the World Bank and IMF which provide the basis for debt relief and concessionary financing. As a UNDP-NDI handbook on the PRSPs notes:

The PRSP is often the largest and most comprehensive economic policy plan that any single government or parliament will need to manage. Because it is so comprehensive and typically requires the passage of enabling legislation and relevant appropriations, a fruitful PRSP process revolves around the smooth exchange of information between the executive and legislative branches. (Legislative-executive communication on poverty reduction strategies, 2004)

However, even though the process involves international decisions with enormous impact on domestic policy, parliaments have been left on the sidelines so far. Although the World Bank has insisted from the outset that the PRSPs should be ‘country owned’, the in-country consultations and the negotiations with the international financial institutions have so far largely bypassed parliaments, as the World Bank has itself acknowledged. Parliamentary involvement has typically been limited to formal ratification of the PRSPs, and to monitoring the financial aspects of their implementation through the budget process. Even here, budgetary scrutiny of donor funds is often taken over by the donors themselves.

In response to concerns about the limited role of parliaments in the first phase of the PRSP programme, the World Bank has published its *Parliamentarians Guide to the World Bank* (revised edition 2005). In actual fact, there are some examples of more extensive involvement:

- *In Mauritania, parliamentarians were members of the PRSP working groups and the committee monitoring the PRSP process. Parliamentarians held a debate with NGOs and other civil society and development partners before approving the PRSP.*
- *In Honduras and Nicaragua, individual members of parliament played important and active roles during the consultation process for the PRSP.*

- *In Niger, the National Assembly was involved from the beginning of the PRSP process. Members participated in thematic groups covering the key areas of development concern. The final PRSP document was approved by the Cabinet of Ministers and was submitted for discussion to the National Assembly. (p.48)*

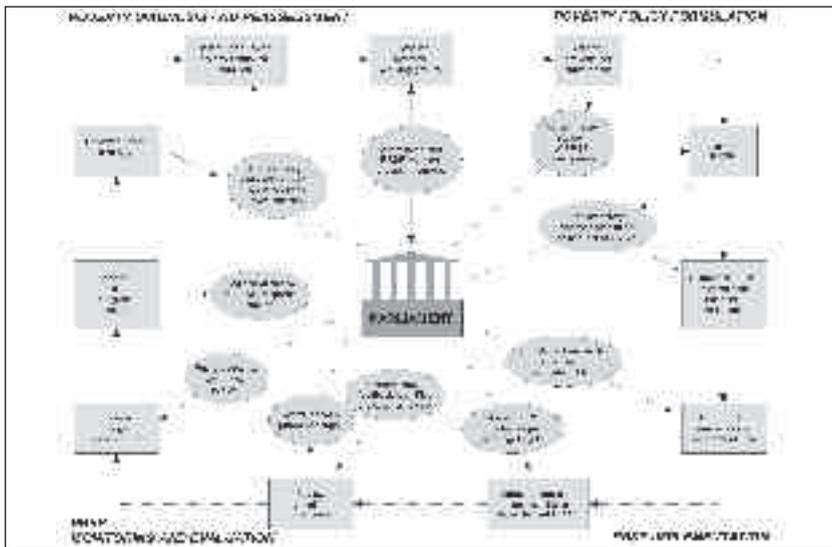
The examples provided above suggest that two forms of greater parliamentary involvement in the PRSP process have proved workable in practice:

- Involvement of parliamentarians in the development of the country's policy through a special parliamentary committee and participation by sectoral working groups; and
- Monitoring implementation on the ground not merely for its financial soundness but especially for its effectiveness in delivering poverty reduction.

The difficulties confronting parliaments in maintaining oversight on poverty reduction strategies are also well recognised by the UNDP, which is responsible for overall coordination and monitoring of the MDGs. Among many of its initiatives the publication with the National Democratic Institute (NDI) of three handbooks on strengthening parliamentary involvement in reducing poverty is noteworthy. The handbooks list a number of useful strategies for briefing parliamentarians and identify the types of information they need and possible sources for obtaining it, how they can use the PRSP process itself to empower parliaments and the need to factor in sufficient time into the process to allow for genuine legislative debate on key issues. The latter is particularly important since the executive and legislative branches work on different time scales.

The accompanying diagramme from the UNDP handbook identifies the typical areas where parliamentary interventions may have an impact.

Figure 7.1: Synchronising legislative-executive coordination with specific points in the PRSP cycle



Source: United Nations Development Programme, National Democratic Institute (2004). *Legislative-executive communication on poverty reduction strategies*.

<http://www.undp.org/governance/docs/parl_other/handbooks/en/legexcomm.pdf>

The Millennium Development Goals require governments in the developed world to honour their commitments on aid and to make sure that the value of the aid given is not offset many times over by the negative effects of unfair trade regimes and the requirements of debt repayment, which is currently the case. This puts a particular responsibility on parliaments in developed countries to keep pressure on their governments to fulfil their aid commitments, and to ensure that it is being used effectively; and, in addition, not to separate oversight of aid policy from a wider consideration of trade policy and international finance.

A number of parliamentary submissions for this Guide report that increasing attention is being given to oversight of aid policy. In Japan, for example, the House of Councillors has decided to dispatch parliamentary missions on a regular basis to countries where Japan's official development assistance (ODA) is being received. The aim of the missions is "to determine whether

Japan's ODA is effectively reaching the people who really need it and whether the budget is being used efficiently, and to evaluate the Government's ODA policy". In the fiscal year 2004 missions were sent to China and the Philippines, Thailand and Indonesia, Mexico and Brazil, each lasting about ten days. The resulting reports are circulated widely, within and without parliament.

The Swedish Parliament's Foreign Affairs Committee has developed an integrated policy for global development, which seeks to improve the coordination of government policies in areas such as trade, agriculture, the environment, security and migration, so that they contribute to a just and sustainable global development. The Committee also requires the government to report regularly on its priorities in relation to the World Bank, IMF and the regional development banks.

Another example of an attempt to develop a more integrated policy across this sector is the establishment by the Belgian Parliament of a special Committee on Globalization, which holds hearings on different subjects with experts and representatives from civil society, and seeks to influence government policy through resolutions adopted in plenary session. Among the subjects the Committee has dealt with since it was established in 2003 have been the Tobin tax, global governance, institutional problems of the World Trade Organization (WTO), agricultural issues in WTO negotiations, the problems of the General Agreement on Trade in Services (GATS) and Trade-related intellectual property rights (TRIPS) in the WTO, the Millennium Development Goals (MDGs), access to water for all, fair trade and tax havens.

Following these hearings, bills have been drafted in the Belgian Parliament on a Tobin-style tax on international financial transactions, and another that would require the government to submit an annual report outlining the steps taken to fulfil the Millennium Development Goals, and the activities undertaken by Belgium's representatives at the IMF, World Bank and UNDP.

Trade

Despite its name, WTO is rapidly becoming more than a mere trade organisation. Its decisions now extend far beyond the traditional domain of tariffs and trade in goods, and reach deep into domestic affairs affecting areas as diverse as intellectual property, services, banking, telecommunications and government procurement. WTO has a growing impact on national health, education, employment, food safety, environment, as well as the management of natural resource such as forests, fisheries and water.

Unlike most other international treaties, WTO agreements not only bind nations with regard to the definition of common objectives, but their implementation is enforced through an effective dispute settlement mechanism. This has direct economic consequences for entire nations, as well as the private sector.

The ongoing expansion of WTO into new areas has broad implications for legislatures which perceive it as a challenge and react by protecting their ability to regulate in accordance with the delicate balance of power struck in each country's constitution. The effects of this process differ from one national system to another but are basically of two kinds: regulatory effects (when the legislator's ability to pass laws is fenced off by new rules at the international level) and constitutional effects (transfer of power from legislators to the Executive). For more information, see the discussion paper by Matthew Stillwell, Managing Attorney of the Center for International Environmental Law, "Why legislators should care about the WTO".

In many cases, WTO decisions promote international trade by defining the sort of laws that legislators can and cannot enact, and by establishing the standards they must meet. As a result, parliaments find themselves in a situation where they are obliged to approve implementing legislations without having the possibility to ensure that they correspond to national objectives and popular aspirations. The tension between WTO decisions and national laws is intensified when governments use the dispute settlement system to challenge each other's national laws.

This is one particular area where parliamentary oversight of the negotiating process takes on particular importance and many parliaments have now taken steps to keep themselves informed of the progress of negotiations and seek to engage their government on the policies it should pursue. As a complement to these efforts they have also joined the IPU and the European Parliament in an annual Parliamentary Conference on the WTO where they are able to monitor WTO activities, maintain dialogue with governmental negotiators and facilitate information exchange and capacity building of national parliaments in matters of international trade.

Further online reading about parliamentary involvement in international affairs:

Chutikul, K (2003). *Options for a parliamentary dimension of the WTO. Discussion paper presented to the Parliamentary Conference on the WTO.*
Inter-Parliamentary Union <<http://www.ipu.org/splz-e/trade03/2c.pdf>>

Committee for a democratic UN <<http://www.uno-komitee.de/>>

Hubli, S., & Mandaville, A. (2004). *Parliaments and the PRSP process.*
World Bank Institute
<<http://siteresources.worldbank.org/WBI/Resources/wbi37231HubliMandavilleweb.pdf>>

International parliamentarians' petition (IPP) for democratic oversight of the IMF and World Bank. <<http://www.ippinfo.org/>>

Inter-Parliamentary Union (2005). *Parliamentary involvement in international affairs.*
<<http://www.ipu.org/splz-e/sp-conf05/involvement-rpt.pdf>>

Inter-Parliamentary Union, United Nations Division for the Advancement of Women (2003). *The Convention on the elimination of all forms of discrimination against women and its Optional protocol. Handbook for parliamentarians.*
<http://www.ipu.org/PDF/publications/cedaw_en.pdf>

Inter-Parliamentary Union, United Nations High Commissioner for Human Rights (2005). *Human rights: Handbook for parliamentarians.*
<http://www.ipu.org/PDF/publications/hr_guide_en.pdf>

United Nations Development Programme, National Democratic Institute (2004). *Strengthening parliament involvement in the Poverty Reduction Strategy Process and the Millennium Development Goals.*
<http://www.undp.org/governance/docs/parl_other/Parl%20-%20Guides%20-%20parlthandbooks.htm>

Parliamentary involvement in regional integration processes

Several regions in the world are moving in the direction of integration. While the phenomenon started in Europe, similar moves are being made in Africa, Latin America and, more recently, in Asia and the Arab world. While they are clearly at very different stages, they do share some common features.

As we noted in the introduction to this chapter, for a variety of reasons which differ from one region to another, States have decided to integrate gradually their markets, economies and other sectors of the State. By definition this means relinquishing, if only very partially, some sovereignty to a common regional structure. This is fundamentally different from the cooperation that takes place between States at the global level, where States have not agreed to relinquish any of their authority and, in principle, participate on equal terms.

Common to the regional integration processes is the establishment of a governance structure that takes its inspiration from the national State. Hence, some form of executive and parliament are set up for this new regional entity. These regional parliaments exist alongside the national parliaments and complement each other much in the same way as do the two chambers of a bicameral parliament in a federal State; one represents the community views and interests, the other the national views and interests.

In this section we shall consider the situation in the European Union (EU) since it is the most advanced regional integration process in existence in the world today and we shall focus on the challenges that regional integration poses to the national parliaments.

Many of the European parliaments making submissions to this Guide described the issue of oversight of their government's EU policy as a major challenge. Their accounts of attempts to address it will hopefully have a wider interest, as they exemplify a pattern that may become increasingly common where parliaments surrender legislative competence to supranational institutions in order to tackle common regional or global problems. The issue for national parliaments, therefore, is how to monitor and influence the positions taken by their own ministerial representatives in these institutions. The issue is well defined in a submission from the Polish Senate:

Involving the national parliament in the mechanism of deciding the government position presented subsequently to the EU is a way of overcoming the European Union's deficit of democratic legitimacy. To put it briefly, that deficit is associated with the overall legitimacy of an Executive representing a Member State in the EU and the ensuing marginalization of the role of representative bodies.Consequently, the transfer of entitlements from the national parliament to the Union necessitates a certain compensation, and that is precisely what the reinforcement of parliamentary competencies in cooperating with the national government on European decisions is supposed to ensure.

How this cooperation is ensured varies considerably among the Union's Members. Many parliaments address this through the mechanism of a European Affairs Committee, which is entitled to receive all relevant EU documents in advance of negotiating positions to be taken by ministers in the Council of Ministers. Yet the Polish Senate notes that "most national legislatures are not granted the competency to formulate their position in an imperative manner that would bind the national government". This conclusion perhaps understates the extent of parliamentary influence that is exercised in practice, as a number of our submissions show. So, for example, the submission from the German Parliament states that "the Federal Government must provide the Bundestag with an opportunity to state its position, which it must take as the basis of its negotiating position in the Council". And here is the procedure adopted by the European Affairs Committee (EAC) of the Danish Parliament in its weekly meetings:

The most important items on the agenda of the European Affairs Committee are the meetings to be held by the Council of Ministers the following week. Discussion of a specific Council meeting by the European Affairs Committee usually involves the minister in question attending a meeting and making an oral presentation on the mandate for negotiation. Then there follows a round in which the party spokespersons put questions to the minister and make known the party's response to some of the proposals. Once the minister has replied there may be one or more rounds of discussions, during which the minister can clarify or modify his mandate for negotiation. The minister may also change the mandate for negotiation in deference to the party spokespersons and in order to ensure that a majority is not against it.....

The Committee does not reject the government's mandate very often. But this does not mean that the Committee does not have much influence on the government's EU policy. Firstly, it is not uncommon for the government to change or modify its original mandate for negotiation during the discussions of the Committee. Secondly, the Danish civil servants who take part in the negotiations at an early stage – frequently before the European Commission makes its proposal – allow for the fact that the government will have to have the result approved by the European Affairs Committee at some stage.

The Danish submission notes that an important factor in the exercise of parliamentary influence is early notice of the European Commission's proposals to the Council of Ministers, and of the government's attitude towards them.

A recent innovation is the requirement that the government indicate its general attitude to any Commission proposal in the basic memorandum to be presented to the EAC no later than four weeks after a proposal is tabled by the Commission.

This point about early notice is also emphasised in the submission from the Finnish Parliament, which tries to ensure that its own opinion on EU business is issued early enough to be known to the civil servants who attend the Council's working groups.

As a rule, items before the ministers at the EU Council have been decided by Member States' representatives in the civil servants' working groups preparing the Council, leaving only a few contentious details for the ministers. It follows that hearing ministers is not sufficient to preserve the Eduskunta's influence.....The Finnish system is based on the idea that national parliaments only have real influence when they participate in policy formulation from the start. Influence that is projected only on the eve of a Council meeting would be largely illusory.

Some parliaments have resorted to establishing offices in Brussels at the European Commission's headquarters. This is the case of the French Parliament, for example. Among other things, such offices are helpful in ensuring that parliament gets early notice of developments in Brussels. They also provide a more direct means of portraying the views of the parliament to the central European institutions.

The Finnish Parliament makes a distinction between "proposals for acts, treaties and other measures" to be decided upon in the European Council that would fall within the purview of the Parliament of Finland were it not a member of the EU, and other business. For the former, the procedure is more thorough, involving the relevant sectoral committees which provide informed opinions to the Grand Committee. The Slovenian Parliament makes a similar distinction. With regard to those matters which would have come under Parliament's jurisdiction "if Slovenia had not transferred the exercise of part of its sovereignty rights to EU institutions", the procedure is regulated by an Act on cooperation between the National Assembly and the Government in EU affairs. This Act gives the Assembly the right to adopt a position on forthcoming EU business, which the government is required to take into account in its negotiating position. The government is also required to provide the National Assembly with an impact assessment of any proposals for European legislative acts before the Council of Ministers, which details their implica-

tions for the budget, economy and environment, to name but a few. Similar impact assessments are made under the procedure for dealing with European legislative acts by the French Parliament.

The submission from Latvia explains that the development of a negotiating position on legislative proposals before the European Council is a joint responsibility of the government and the Seima. The relevant ministry 'has to agree on the national position with the Seima European Affairs Committee'. That Committee, however, only has enough qualified staff to deal with the most important issues, and has the same concern noted above about securing early information of legislative proposals coming from the European Commission. The submission notes two additional mechanisms for strengthening parliamentary involvement. One is the right of representatives from the EAC to have observer status at the EU Council of Senior Officials. The other is closer cooperation with the Latvian Members of the European Parliament, through the office of two permanent representatives of the Seima in the European Parliament. This cooperation is also a feature of the Hungarian National Assembly, where Hungarian Members of the European Parliament are entitled to attend and speak in plenary sessions where the agenda includes European matters.

Before concluding this section a word should be said about the Pan-African Parliament, a key political institution within the recently formed African Union. The submission for the present study from the South African Parliament itemises some of the challenges which have to be overcome if this parliamentary assembly is to be effective, beginning with the cessation of regional conflict:

- *Regional conflict and boundary disputes waste resources, distract the country and region from development, destroy physical and social infrastructure and contribute to social and cultural disintegration. The cessation of regional conflict is the first imperative for regional parliamentary dialogue.*
- *The existence of ineffective national parliaments and weak parliamentary structures creates difficulties when they are required to operate at a regional and continental level. The strengthening of parliaments at a national level would provide the platform for continental parliamentary cooperation..*
- *The overlapping membership of regional organizations can lead to duplication and may contribute to conflicting foreign policies.*

- *The cost implications of regional integration and parliamentary cooperation must be considered, especially for poor regions. Similarly the cost of not promoting regional cooperation should also be measured.*
- *Political concerns about the potential loss of sovereignty to supra-national bodies need to be addressed.*

“All of the above,” it concludes, “has implications for South Africa, as the failure to overcome these challenges can only undermine its domestic efforts at nation-building.”

Further online reading about parliamentary oversight of national representatives in the EU Council of Ministers:

Travers, D (2002). *European Affairs Committees. The influence of national parliaments on European policies*. European Centre for Parliamentary Research and Documentation

<<http://www.ecprd.org/Doc/publica/OTH/European Affairs Committees.pdf>>

Parliamentary cooperation

In many ways the IPU is the precursor to international or multilateral cooperation. The organisation was founded in 1889 at a time when there was not yet any political forum for representatives of States where they could meet to address common problems. The idea thus emerged to establish a permanent meeting place for leading politicians of the day to promote peace and security through dialogue.

While the IPU is therefore the precursor to organisations for inter-parliamentary cooperation, it did not remain alone for very long. Other mechanisms for inter-parliamentary cooperation soon emerged, first in Europe and then in other parts of the world as did various forms of parliamentary cooperation, both at the global and regional levels. In this section we will consider three types of parliamentary cooperation: parliamentary diplomacy, inter-parliamentary cooperation, and technical cooperation.

Parliamentary diplomacy

A diplomat is an envoy of the executive branch and represents the positions of the State. Members of parliament, however, are politicians who hold polit-

ical beliefs which may or may not coincide with their respective country's official position on any given issue. This allows parliamentarians a margin of flexibility that is denied to the diplomat. They tend to bring a moral dimension to international politics that transcends narrow definitions of the national interest, particularly in their principled support for democracy and human rights. Time and again we have seen that this flexibility allows parliamentarians to debate more openly with their counterparts from other countries and to advance innovative solutions to what may seem to be intractable problems.

Herein lie the origins of the term "parliamentary diplomacy". Far from being a precise term, it now encapsulates all forms of cooperation between parliamentarians. For the purposes of this study, however, we will use it in its original meaning.

Parliamentary diplomacy became a powerful instrument during the Cold War period. While governments were engaging the so called "Helsinki process" - a mechanism for dialogue on cooperation and security in Europe - parliamentarians were conducting a parallel process within the IPU. This process served as a testing ground and a means of harnessing the resources of East-West dialogue and, through parliamentary diplomacy, broke the impasse on many occasions when government negotiators were unable to progress. It also gave birth to a similar effort at parliamentary diplomacy in the Mediterranean region, also spearheaded by the IPU in the early 1990s.

Often, parliamentary diplomacy is used to promote political dialogue during conflicts in neighbouring countries and within their region. In the IPU study *Parliamentary Involvement in International Affairs* (2005), examples of such initiatives are given from many regions of the world:

- *At the invitation of the IPU, the Speakers of the countries neighbouring Iraq met in Amman in May 2004 to discuss how to assist in supporting democracy in Iraq and in bringing stability to the region;*
- *The National Security and Foreign Policy Committee of the Iranian Majlis has held talks with its counterparts in different parliaments on the crises in Iraq, Afghanistan and Palestine;*
- *The Speaker of the House of Representatives of Morocco hosted a meeting of the Speakers of Parliaments of the Mediterranean countries in the wake of the 2001 terrorist bombings to formulate a parliamentary response;*
- *The Speakers of the Parliaments of Cape Verde and Mozambique undertook a mission to Guinea-Bissau on behalf of the Speakers of*

the Parliaments of the Portuguese-speaking countries, and helped establish a political dialogue there in early 2003;

- *The Speakers of the Parliaments of the three Caucasian States – Armenia, Azerbaijan and Georgia – met at the invitation of the President of the French Senate to discuss the conflict in the Nagorno-Karabakh region;*
- *The Parliaments of Mali and Sierra Leone decided to institutionalize encounters between parliamentarians of the subregion (including parliamentarians from Liberia, Sierra Leone and Guinea); three meetings have taken place so far;*
- *The Parliament of Pakistan notes that exchanges of delegations with the Parliament of India had the beneficial effect of reducing tension between the two countries;*
- *The Speakers of the Parliaments of Benin, Burkina Faso, Cameroon and Mali recently met with the Speaker of the Parliament of Cote d'Ivoire – first in Cotonou and later in Abidjan – and helped to establish a political dialogue in that country;*
- *The Speakers of the Parliaments of the Member Countries of the Southern African Development Community have visited the Democratic Republic of the Congo as a part of efforts to promote peace and stability in the region;*
- *The British-Irish Inter-Parliamentary Body, which, in addition to representatives from the Parliaments of the United Kingdom and of Ireland, consists of representatives from the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly, the Tynwald of the Isle of Man and the Assemblies of the States of Guernsey and Jersey, has provided support to the peace process in Northern Ireland;*
- *The Parliamentary Assembly of the Council of Europe (PACE) has recently developed initiatives addressing the conflicts in Chechnya, Cyprus and Nagorno-Karabakh;*
- *The Italian Chamber of Deputies has a separate Committee for Parliamentary Diplomacy, which is “responsible for harmonizing the international activities of permanent committees and parliamentary delegations to international assemblies as well as the activities of bilateral cooperation groups and other organs of the Chamber.”*

Of course, parliamentary diplomacy need not be conducted exclusively between parliamentarians. It can also entail members of parliament visiting a country for meetings with authorities and entities to consult in solving conflicts and problems. Thus, for example, Members of the South African Parliament have shared their experience in conflict situations and reconciliation in several countries in the Middle East region.

Inter-parliamentary cooperation

The multiplication of inter-parliamentary exchanges in one form or the other over the past decade has been extraordinary. A provisional attempt to map them has been made by Stelios Stavridis in a working paper of November 2002, *Parliamentary diplomacy: some preliminary findings* <www.fscpo.unict.it/EuroMed/jmwp48.htm> and by the IPU, which keeps a record of formal and informal structures for inter-parliamentary cooperation. In view of the dynamic expansion of parliamentary diplomacy, only a few examples will be treated here, more to illustrate their variety rather than attempt to be exhaustive.

All parliaments engage in bilateral cooperation of some kind. Most parliaments have developed bilateral friendship groups which promote cooperation between the parliaments and countries concerned. There are literally thousands of these friendship groups in existence today.

To these should be added an ever growing number of informal networks of parliamentarians who meet to work on specific issues. Some address development and population issues, others deal with disarmament issues, while others still discuss the issue of small arms, etc. Parliamentarians for Global Action (PGA) addresses a cluster of issues and has recently managed a successful campaign to mobilise support for the International Criminal Court.

There are also many formal parliamentary structures. One of the first was the Commonwealth Parliamentary Association, a parliamentary forum that brings together the parliaments in the countries of the Commonwealth. Its French-speaking counterpart is the Francophone Parliamentary Assembly.

There is a host of regional and subregional parliamentary assemblies. The IPU report *Parliamentary Involvement in International Affairs* notes that the survey responses from parliaments “clearly indicate an intensification of parliamentary participation in regional inter-parliamentary structures. Throughout the world the trend is clearly discernable: more and more parliaments dedicate time and resources to regional parliamentary cooperation.”

One problem also noted is the duplication and overlapping between different regional parliamentary organisations. An Andean legislature, for example, could be a member of the Andean Pact Parliament, of the Latin American Parliament and of the Inter-American Parliamentary Assembly. A parliament of the Maghreb, for example, could be a member of the Consultative Council of the Maghreb Union, the Arab Inter-Parliamentary Union, the African Parliamentary Union, the Francophone Parliamentary Assembly and the Pan-African Parliament. The report notes that “most parliaments indicate the priority they give to working with certain parliamentary organizations”, though few have taken steps to coordinate their inter-parliamentary relations as, for example, the Italian Chamber of Deputies has.

One common feature of regional inter-parliamentary assemblies is the aim to foster greater integration and legislative coordination between member countries.

A specific example of a regional parliamentary initiative to help promote democracy is provided by an IPU working group member from the ASEAN region, Loretta Rosales:

A recent breakthrough in the ASEAN region is the coming together of like-minded members of ASEAN Parliaments towards the unconditional release of Aung Sang Suu Kyi and the full restoration of democratic rule in Burma. Equipped by our individual legislative resolutions on the matter, MPs from Malaysia, Thailand, Singapore, Philippines, Indonesia, Cambodia and exiled MPs from Burma met in Kuala Lumpur in 2004 to forge unity in convincing our governments to reject Burma's chairmanship of ASEAN in 2006, unless compliance to its commitment to restore democratic rule and release political prisoners headed by Suu Kyi is undertaken. The regular meetings of the ASEAN Inter-parliamentary Myanmar Caucus (AIPMC) and our continued dialogues with our respective Ministers, ASEAN Ministerial meetings and individual Heads of State have helped in a major way to press Burma's final decision to withdraw her chairmanship of the ASEAN Ministerial Conference.

Technical assistance

Technical assistance is best described as the action of institutions or persons to help build capacities in a parliament, especially parliaments in developing countries and emerging democracies, in order to enable them to perform their functions more effectively. Technical assistance was born of

the realisation that fledgling parliaments often found themselves lacking resources, both human and material, required for them to fulfil their constitutional mandates in an effective way. Technical assistance is thus a conjugation of financial and material resources and expertise from the more established democracies and developed countries of the North in support of parliaments in the emerging democracies and developing countries of the South. However, in recent years, South-South cooperation has also grown significantly in this field.

Technical assistance can be of several types. These include development of infrastructure, institutional development through improved procedures and modernisation of parliamentary processes, building awareness through exchanges of experience and information between members of parliament from different countries, capacity-building and professional development involving training for members and staff of parliament, and legislative development in which parliaments receive assistance with the content of new legislation or reform of existing legislation.

Technical assistance typically covers a wide variety of areas, such as standing orders and rules of procedure, committee systems, legislation, the representational function of parliament, oversight, administration, and library, documentation, research and archives services. Gender and human rights are cross-cutting issues which feature prominently in training programmes and advisory services. For its part, infrastructural support covers public address systems and audio-visual recording and broadcasting of parliamentary proceedings, printing, transportation and refurbishment of premises. Technical assistance is delivered in the form of advisory services, seminars and workshops, study tours, attachments and other in-service training programmes, as well as meetings and conferences. Increasingly, information and communication technologies are taking centre stage in technical assistance programmes.

At the multilateral level, the IPU played a pioneering role when it initiated its technical cooperation programme in the early 1970s, at a time when donor agencies considered working with parliaments to strengthen their capacities to be an intrusion in a national political institution and, therefore, too sensitive. Since those early days, this area of activity has grown considerably and provides today a major focus for IPU's work to promote democracy.

A growing number of institutions joined in these efforts in the early 1990s. These include the Commonwealth Parliamentary Association (CPA), the Francophone Parliamentary Assembly (APF) and networks of parliamentarians such as the Association of European Parliamentarians for Africa

(AWEPA). A host of non-parliamentary agencies such as the United Nations Development Programme, the United States Agency for International Development, the European Commission, the Inter-American Development Bank, the World Bank Institute as well as the US-based NGOs the National Democratic Institute for International Affairs and the International Republican Institute are now also involved in far-reaching technical assistance programmes. A list of institutions that provide technical assistance to parliaments can be found in the annex to this Guide.

Technical assistance at the bilateral level actually preceded multilateral technical assistance. Indeed, many parliaments of former colonial countries initiated assistance to the new parliaments of their ex-colonies. These often included attachments in the donor parliament as well as exchanges between staffers and Members of the respective parliaments.

The Indian Parliament also developed, several years ago, a programme of assistance to a number of parliaments, especially in the Commonwealth. This programme still functions today, and covers areas such as legislative drafting. In addition to delivering training programmes to Indian State legislators and staff, it organises attachments and study visits for members and staff of foreign parliaments.

Like its multilateral counterpart, technical assistance at the bilateral level has developed considerably in recent years. In addition to providing a pool of expertise for the programmes run by the multilateral agencies, the long-established parliaments, generally those in the North, have developed full-fledged technical assistance programmes in support of parliamentary institutions of the South. The Italian Chamber of Deputies, for example, indicates that it gives high priority, in its international activities, to programmes of assistance to parliaments in Africa, Latin America, Central Asia, South-Eastern Europe and the Caucasus. These programmes cover constitutional reform or reorganising the technical-administrative machinery supporting parliaments.

Both Houses of the French Parliament have also developed extensive programmes of assistance to parliaments, not only in the former French colonies, but also to other parliaments such those in Cambodia, Romania and Georgia. In many cases, these programmes are funded by the European Union and the United Nations Development Programme. The Swedish Parliament, with funding from the Swedish International Development Cooperation Agency (SIDA), has been and is currently involved in a project to develop information and documentation systems in support of the lawmaking and oversight functions of the Vietnamese National Assembly. The Swedish Parliament has

also implemented a similar project to assist the fledgling Parliament of Timor Leste.

In the United States, in 2005 the House of Representatives set up a Democracy Assistance Commission (HDAC), to enable House Members, their staff and Congressional support agencies to direct assistance to their parliamentary counterparts in newly democratising countries. Because the constitutional separation of powers prohibits the legislative branch from administering a foreign aid programme, the HDAC concentrates on providing technical assistance on a member-to-member or staff-to-staff basis. The scheme is supporting assistance to up to five countries across different regions in 2006, selected after on-site assessment visits. In addition, the authorising resolution enables the HDAC to recommend to USAID that material assistance be provided to a parliament when it identifies a need.

The preliminary report of a working group set up by the Conference of the Speakers of the EU Parliaments to survey assistance to parliaments of new and emerging democracies indicates that the sum of 511,000 Euros was allocated in June 2005 by the German Federal Government to provide assistance to four parliaments in the form of financial support for the procurement of office equipment, and the supply of specialist texts for parliamentary libraries. The same report refers to the project the German Bundestag is implementing in partnership with the University of Berlin and which brings some 100 young people from 21 countries to Berlin to undergo training in parliamentary work in the office of a German Member of Parliament.

Concluding remarks

As we have seen, there is a democracy gap in international relations that needs to be filled by involving parliaments in global and regional affairs in a more effective way.

At the global level, parliaments must work with intergovernmental organisations or negotiating fora in which States, acting on an equal footing, reach agreements that must be implemented in each member State. At the regional level, parliaments have to adapt to the new circumstances resulting from the transfer of some of the State's sovereignty to a new regional entity, which is not the case at the global level.

Yet, different though they are, the actions parliamentarians have to undertake to bridge the democracy gap in both scenarios are surprisingly similar. They have to be firmly rooted in their own parliament and taken at the national

level. In both instances, meticulous oversight of governments is called for. There needs to be a clear legal basis for parliamentary involvement. Parliaments need to be informed sufficiently in advance of government policies and negotiating positions and receive accurate information about the policies and their background. They need to have adequate organisation and resources to address the issues, including sufficient expertise among the parliamentarians involved, through a specialised committee or committees. There must be an opportunity to put questions to ministers and negotiators in the light of which parliamentarians must be able to express their political (though not necessarily legally binding) views to the government. Finally, members of parliament should also be included as a matter of course in governmental delegations to international organisations.

These efforts at the national level need to be complemented by international involvement, for example through the kind of international and regional parliamentary cooperation we have outlined in section three of this chapter.

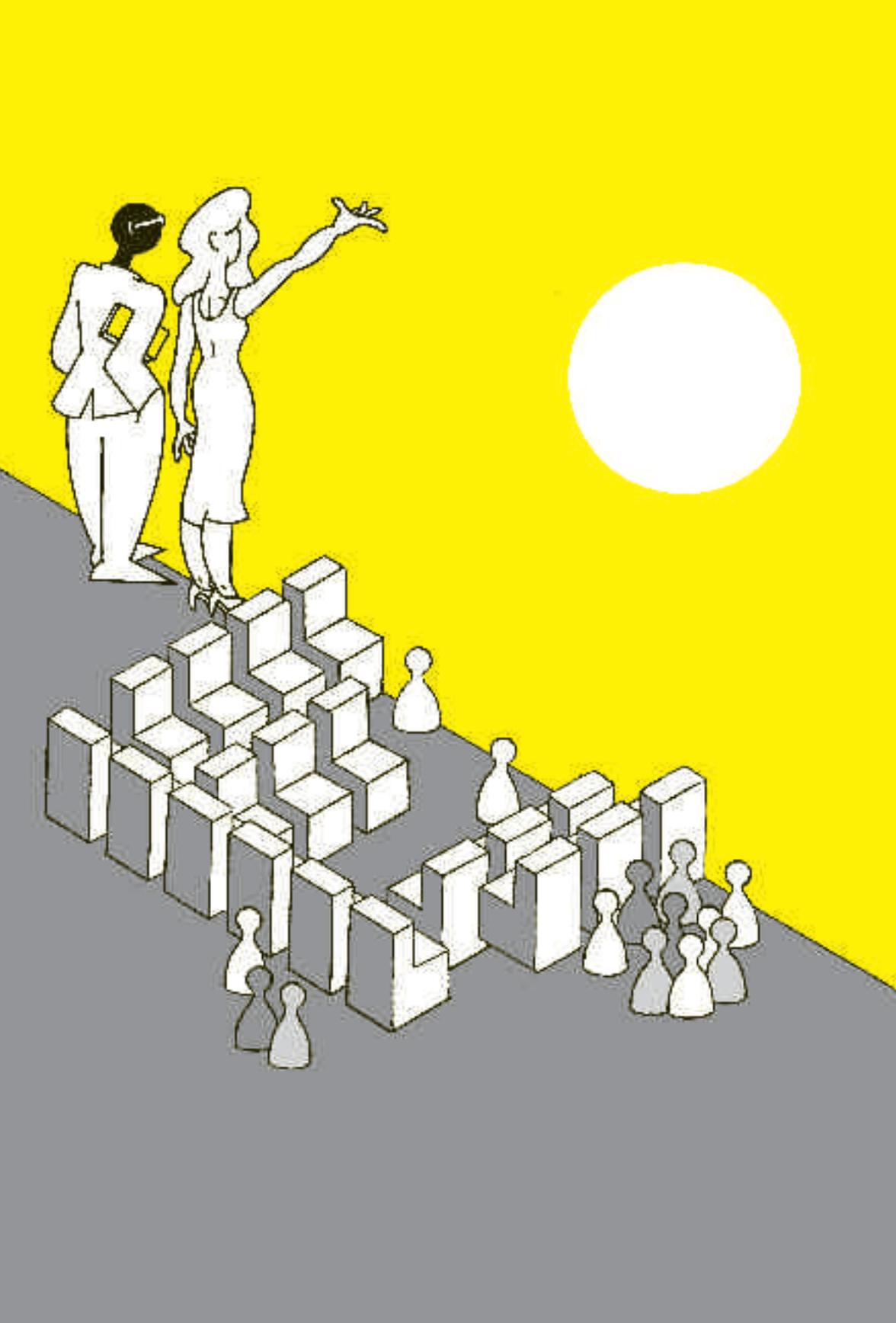
With regard to international affairs, this approach has been validated by two recent global conferences of Speakers of parliaments, which both expressed the view that the best way of bridging the democracy gap at the international level is by using existing parliamentary organisations and assemblies which have been legitimised by democratic election at the national level and not creating any new structures. And the appropriate coordinating instrument within international organisations for these bodies is the IPU, as the world organisation of parliaments. In particular, following the granting to the IPU of permanent observer status at the United Nations in 2002, the Speakers consider it the most appropriate body to provide a strong and democratic parliamentary component to the United Nations.

An additional merit of the IPU approach is that it provides a clear way of advancing the dual strategy for overcoming the democracy deficit in international policy: through more effective parliamentary oversight at the national level, on the one hand, and through involvement in existing international parliamentary organisations and assemblies, on the other. It will be parliamentarians with clear domestic democratic legitimacy who will be involved at both levels. Those involved will typically have expertise and an abiding interest in the issues at stake because they handle the same issues in the parliamentary committees at home.

This approach was most recently endorsed in the Declaration of the Second Conference of Speakers of Parliaments held in New York in September 2005:

- *We reaffirm the Declaration of the First Conference of Speakers of Parliaments (2000) in which we called on all parliaments and their world organization – the Inter-Parliamentary Union – to provide a parliamentary dimension to international cooperation.....We emphasize that parliaments must be active in international affairs not only through inter-parliamentary cooperation and parliamentary diplomacy, but also by contributing to and monitoring international negotiations, overseeing the enforcement of what is adopted by governments, and ensuring national compliance with international norms and the rule of law. Similarly, parliaments must be more vigilant in scrutinizing the activities of international organizations and providing input into their deliberations.*
- *We therefore welcome the current debate on how best to establish more meaningful and structured interaction between the United Nations and national parliaments. We reaffirm the recommendations relating to this subject that were contained in our Declaration of the year 2000, and assert that much of this interaction must be firmly rooted in the daily work of our national parliaments. At the international level, we propose to work ever more closely with the IPU, which we consider to be a unique global parliamentary counterpart of the United Nations.*
- *To this end, we encourage the IPU to ensure that national parliaments are better informed on the activities of the United Nations. Moreover, we invite the IPU to avail itself more frequently of the expertise of members of standing and select committees of national parliaments in dealing with specific issues requiring international cooperation. We also encourage the IPU to develop further parliamentary hearings and specialized meetings at the United Nations, and to cooperate more closely with official regional parliamentary assemblies and organizations, with a view to enhancing coherence and efficiency in global and interregional parliamentary cooperation.*

Lastly, as already seen in previous chapters of this Guide, the effectiveness of a parliament depends on the availability of human and material resources, including information. These are often lacking in the emerging democracies and the deficit has to be filled through international cooperation at both the multilateral and bilateral levels.



8. Facing the future

Societies and their governments face enormous challenges as the twenty-first century develops. While these may differ in character and intensity in different countries, all governments alike have to respond to new global pressures (on the economy, environment, health, human security) with policies and programmes which can enhance the wellbeing of their populations rather than diminish or compromise it. This constitutes a huge challenge to human creativity and to a society's capacity for cooperation and common purpose.

As has been shown by this study, parliaments, besides their necessary role in legislation, oversight, and so on, have distinctive attributes which enable them to play a crucial part in helping meet these challenges:

- they are able to represent and speak for the whole people, in all their diversity;
- they can make public the choices and dilemmas facing policy-makers, and help educate the public about them;
- they provide the national forum for canvassing and debating alternative views and policy proposals;
- their commitment to dialogue for resolving differences gives them a special role in conflict resolution at both a societal and political level;
- they have a particular concern for the protection and promotion of human rights, economic and social as well as civil and political.

These distinctive attributes of parliament constitute the essence of democracy: respect for diversity on the basis of the equal worth of each person, and the resolution of difference of views and interests by means of dialogue and debate, so that necessary common action can proceed with consent. In a rapidly changing world, among the key dialogues is one that runs through all policy and legislation: between a society's past and its future - how to shape the future without destroying everything in a country's traditions that makes it distinctive, by treating the past as a source for creative change rather than merely as an obstacle to progress. This means that for democracy itself, in the words of the 2005 UN World Summit outcome document, there will be 'no single model', but a series of variations around some core norms and practices, according to each country's distinctive political tradition - a diversity to which the different examples in this volume attest.

The study also shows that parliaments take seriously the challenge to engage in an ongoing process of reform themselves, and to make their own practices more open, accountable and responsive. Democratisation is not a one-off event, but a continuing *process*, in both recent and long-established democracies. In the IPU survey for this Guide, parliaments were invited to report on some examples of recent reforms they had instituted. The main part of this chapter will consider their returns, not so much for the content of the reforms, but for what they tell us about the process and dynamics of parliamentary reform, and some of the potential difficulties experienced. A concluding section will consider how parliaments can contribute to society's planning for the future.

The reform process

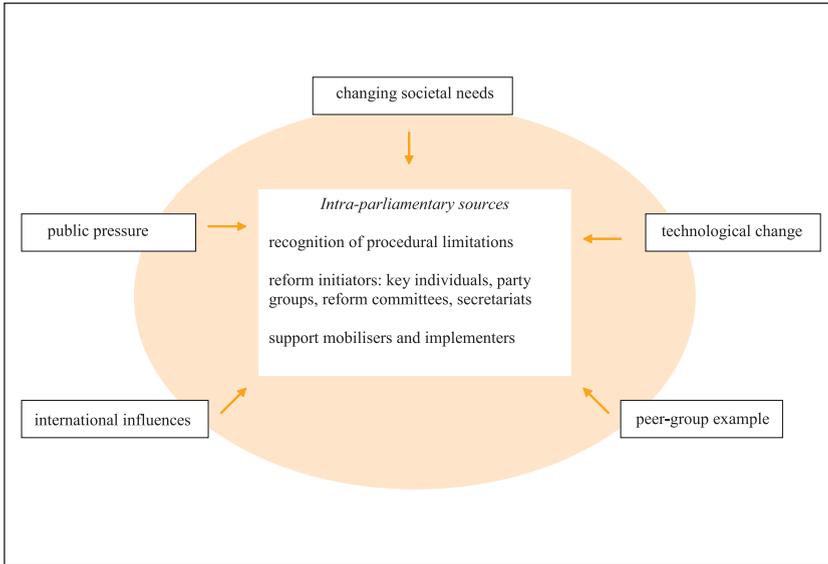
Sources of reform

To judge from the submissions received, parliamentary reform has many different sources, which vary widely from one parliament to another. It might be useful, however, to offer a provisional map of the most typical sources of change reported, to help make sense of these different reform experiences. Naturally, these sources should be seen as often complementary and interactive, as the diagrammatic presentation suggests, rather than as isolated points of change.

For convenience these sources can be divided into extra-parliamentary and intra-parliamentary ones. Among the chief extra-parliamentary reasons for reform are the following:

- *Changing societal needs.* These can be as various as are the different types of society, and they constitute a typical source of new or revised legislation. But they can also lead to changes in the way parliament itself works. Example: the changing role of women in society leads to changes in political representation and in the way parliament conducts its business.
- *Pressures from the public.* Again these are enormously variable, but a common element for many parliaments is the perception of a growing gulf between parliament and the electorate, especially young people, which leads to experimentation with new modes of public access to parliament.
- *Technological change.* The most obvious example is the rapidly changing world of information technology, with its consequences for how parlia-

Figure 8.1: Sources of Parliamentary Reform



Source: Inter-Parliamentary Union

ments communicate both internally and with their various publics. Typical also are changing TV technologies, with their consequences for parliamentary broadcasting.

- *International influences.* A common feature mentioned in the previous chapter is the way in which economic globalisation exposes the limitations in parliamentary oversight of the executive. For EU candidate members, the need to harmonise legislation in preparation for membership puts enormous pressure on the legislative process and to streamline its procedures. For all countries there is the influence of a global democratic culture, to be discussed below.
- *Peer-group example.* This is the influence of practices in other parliaments, whether through bilateral relations and visits, regional networks or membership organisations such as the IPU, ASGP, CPA, and so on.

Among the intra-parliamentary conditions that are conducive to reform are:

- *The recognition of procedural limitations,* as these affect parliament's own internal effectiveness, and in the light of a changing extra-parliamentary environment.

- *Reform initiators.* These might be key individuals such as a particularly active Speaker or President, or a parliamentary group, or a reform-oriented procedure committee or secretariat. The institutionalisation of the reform process as an ongoing element of parliamentary practice through a permanent committee is a feature mentioned by many parliaments.
- *Support mobilisers and implementers.* The need to mobilise wider parliamentary support for reforms can itself influence their scope and content, as can also the process of their implementation.

How these different influences interact in any particular parliament and at any particular juncture is of course enormously variable, but many of them will be present in any successful reform process. Of special significance is what might be termed the dynamic of democratisation, which merits a section to itself.

The dynamic of democratisation

The submissions from parliaments for this study show that all are subject to the influence of a strong democratising current, whether flowing from the logic of their own democratic evolution, or from the global environment, or a combination of the two. However, the character and scope of their reforms is dependent on the particular stage reached in the democratising process, and their particular trajectory in doing so. Some countries are only in the early stages of a transition towards democracy; some are in the process of consolidating a recently effected democratic transition, in a manner that is in some respects influenced by the character of the former regime; others where democracy has been long established are under an impetus to deepen their democracy, or else to resist a process of creeping sclerosis. Although different countries will be facing different challenges, however, common to them all is the centrality of parliament to the process of democratic reform, as the following examples from our returns will show, and as has been particularly underlined in the return from Gabon.

In *Viet Nam* the National Assembly, while subject to dominant-party rule, reports an increased professionalisation of parliament and a greater pluralism and representativeness of views within it, as evidence of a democratic current at work:

The increase in the number of deputies in general and full-time members in particular has clearly shown the view of the Viet Nam Party and

State: give prominence to the role of the National Assembly as the democratic institution representing the people.....The backgrounds of the deputies are more diverse and broad, comprising representatives from various classes, ethnic groups, religions and areas. Therefore, different segments or population communities in society have their own representatives to raise their voices in the National Assembly arenas. During the recent sessions people have witnessed a more open and frank atmosphere, some deputies even expressing their opposite opinions from the Standing Committee of the National Assembly.....These signs show that there is much more democracy in National Assembly activities than in previous legislatures. However, people are still concerned that working methods of the National Assembly remain not as democratic as expected.

The submission from *Oman* notes that ‘Shura and democratic practice in the Sultanate have developed gradually, taking into account reality and the conditions of Omani society, side by side with an openness to being guided by the experience of others.’ It reports on the gradual strengthening over the past decade of the role of the elected Shura Council within the two-council legislative system, and the extension of the right to vote to all citizens over 21, male and female, in 2003. This extension has led to a much greater diversity in the composition of the Shura Council, which ‘enriches the debates and discussion of the Council, and increases its effectiveness in carrying out its functions and in representing Omani society.’

The submission from *Egypt* points to the introduction of direct elections for the Presidency and the creation of a national Human Rights Commission as key elements in its recent democratic evolution. The latter gives a central role to Parliament:

Since the parliament is the guardian of rights and liberties, and because the Assembly deemed it necessary to establish a parliamentary human rights committee in order to revitalize its role in protecting such rights, the Assembly created the Human Rights Committee. This is a system that is well known in the parliaments of the advanced countries, where such committees consider complaints and forward them to the competent authorities, while ensuring follow-up. The Committee can thus carry out an oversight role of the actions of the executive branch through a report that it submits to the Assembly.

The submission from the National Assembly of *Lebanon* identifies the transition that has taken place in parliament over the past decade as marking a

shift 'from a traditional to a contemporary role'. The submission lists a dozen major reforms which have followed from this democratic current, involving everything from the strengthening of institutional and legislative capacity, through improved informational access for Members, to involvement of civil society institutions in the work of Parliament.

We have already noted that in *Ukraine* the dynamic of democratisation led to pressure for constitutional change from the immediate post-Communist system of 'super-presidential power' to a more parliamentary-based system, with the support of 80% of the population. A similar logic has been at work in *Croatia*, where, in 2000, 'the semi-presidential system was altered.... and the centre of power and responsibilities were transferred to the Croatian Parliament and Croatian Government.'

In *Chile*, the consolidation of the transition from military rule has involved a progressive series of reforms in the relation between the different branches of the State:

As for parliamentary reform, the most important one is a modification of the Constitution. In general terms, this introduced changes in the composition and responsibilities of the National Congress, in the ratification of international treaties, in the composition and functions of the Constitutional Court and in other areas. The aim was to bring these in line with the new realities and to harmonize the country's institutions, which had given rise to discrepancies between the various political parties, and the constitutional modification thus closed the period of transition to democracy.

In *Zambia* the process of consolidating the transition to multi-party democracy has involved a many faceted reform programme under the supervision of the Parliamentary Reform and Modernisation Committee, which has the authority to travel widely to other parliaments to learn practices that might be useful to Zambia. The process of reform has been ongoing since 1991:

With the re-introduction of multipartyism in 1991, and as a way of enhancing democratic governance, the National Assembly of Zambia found it prudent to realign the functions of Parliament with the demands of plural politics. This called for the introduction of parliamentary reforms with a view to addressing some of the limitations which existed in the institution. The reform programme was, therefore conceived in order to enhance parliamentary oversight of the Executive

and also to allow for increased participation of the citizens in the affairs of the country.

The history of racial oppression under apartheid in *South Africa* has led to a particularly strong democratic thrust to the new political order, and especially to the character of its Parliament. The reforms of Parliament to date have been ‘aimed at ensuring that it fosters a culture of democracy and that its procedures and processes embody the democratic principles that South Africa aspires to.’ But the submission notes that the work of democratisation remains unfinished, and that Parliament faces many challenges if it is to realise the vision it has embraced since 1994:

Its vision..... is to build an effective people’s parliament that is responsive to the needs of the people and that is driven by the ideal of realising a better quality of life for all the people of South Africa. Despite Parliament’s many achievements in the decade of democracy, its strategic objectives indicate that it is not content to sit on its laurels and has already taken steps to address the challenges that it faces at present, as well as those new challenges that it foresees.

Established democracies

With regard to the long-established democracies, most see the main democratic challenge and impetus for parliamentary reform as being the need to keep the institution relevant in the context of rapid social change and potential public apathy. ‘A major challenge’, notes the *Australian* House of Representatives, ‘is keeping the parliamentary institution relevant to the needs and perceptions of the public it represents.’ ‘Restoring public confidence’ is described as part of the objective of reforms made by the *Canadian* Parliament. ‘Working hard to regain citizens’ trust’ is identified by the *Netherlands* Parliament as the impetus behind its many recent initiatives, since an essential characteristic of democracy ‘is that citizens can identify with the work and working methods of their parliamentarians, and that they feel represented by them.’ And so on.

For all the parliaments of the established democracies, reform is a continuing process, usually institutionalised in a specific standing committee. In *India*, adapting the traditional Westminster system to Indian conditions and culture has seen a constant process of evolution since 1947; most recently, the increase in the number of parties in the two chambers, to 38 and 30 respec-

tively, has had a particular bearing on the revision to parliamentary procedures. The *Israeli* Knesset 'is constantly engaged in reforms and changes', most recently to streamline its internal procedures and improve its standing with the public. The *Italian* Parliament is currently engaged in a wide-ranging reform of the constitution, affecting such things as the balance between the two chambers in the legislative process, a reduction in the number of members in each chamber and in the minimum age for voters and candidates. The *Portuguese* Parliament has been involved in a substantial recent programme of reforms, intended to strengthen oversight of the executive, to monitor implementation of the laws and to bring parliament closer to the people. In the *United Kingdom*, the logic of democratisation has generated numerous reforms since 1997, including the abolition of the hereditary element in the Upper House, the creation of a devolved parliament for Scotland and assemblies for Wales and Northern Ireland, the introduction of a Human Rights Act, and many others.

Facilitators and obstacles to reform

It should be clear from what has been said above that the process of parliamentary reform under the different influences described is a *self-generating* one, whether it take the form of a large-scale programme or an accumulation of small-scale changes. However, the process can be considerably facilitated by external assistance, especially for those parliaments which are weak in resources and expertise. For the parliaments reporting in this study the UNDP has been a particularly significant resource, but there are many other international agencies involved in such support, including of course the IPU itself. A list of the main international, regional and bilateral agencies involved in parliamentary support, with a description of their characteristic emphases, is provided in the Annexes. A standard feature of such assistance is the preparation of an agreed *programme* of parliamentary reform, with clear priorities and means of implementation.

Examples of such assistance include *Burkina Faso*, which agreed a ten-year programme of parliamentary development from 2004 with UNDP, concentrating on addressing an identified deficiency of information and communication between parliament and public. *Cote d'Ivoire's* agreed programme of support from the same quarter covers the installation of a cyberspace in the library and the recruitment of national experts to service parliamentary groups. In *Fiji* support is directed to strengthening the Parliamentary Secretariat and committee back-up, and improving support services for members and constituencies. An agreement made by the *Lebanese* Parliament in 1999 comprises the

strengthening of both legislative and oversight functions, as well as the links with civil society and other parliaments. All the above have been supported by UNDP. Among others, *St. Kitts* has had assistance in the form of finance and human resources from the Commonwealth Secretariat, and *Zambia* from a consortium of donors for an extensive programme of parliamentary reform.

Among the many other ways of providing momentum for reform is through the involvement of the public, so that they come to have a stake in the reform process. The *Turkish* Parliament, for example, has held comprehensive discussions with NGOs and intellectuals, as well as with the government and opposition, on the question ‘What kind of Parliament do you wish to have?’ Journalists, academicians and artists have all contributed to these discussions. In *Zimbabwe*, when the Parliament decided in 1996 to initiate a programme of reforms it embarked on ‘an unprecedented process of consultations with the public, the Government and within itself’:

A Reform Committee was appointed, made up of both Backbenchers and Ministers. Teams of members of the Committee held public hearings all over the country soliciting people’s views on their perception of Parliament and what they expected out of Parliament.....The feedback obtained from the public included the impressions that:

- *a) Parliament is an inaccessible and secretive institution;*
- *b) Parliament is a sleeping chamber; and*
- *c) Parliament should play a significant role in financial and policy formulation.*

These impressions have significantly shaped the character of the reform programme. Although the current crisis in the country may have put the reforms in abeyance, they will be important for the future of parliament once conditions can be normalised.

The above example brings us to a consideration of some of the typical obstacles that might hamper the reform process. These include:

- a political and social context that is so unfavourable that parliamentary reform is compromised;
- inadequacy of resources and expertise, even when outside assistance is available;
- reform-resistant cultures, especially within long-established parliaments or, at the societal level, in more traditional societies;

- conflicts of interest within parliament, including the influence of special interests opposed to reform;
- inadequately tested proposals, or those with unintended consequences which serve to undermine confidence in reform.

Here, for example, is a very frank analysis from the *Netherlands* of obstacles to the parliamentary renewal process that had been identified:

- *the Dutch House of Representatives consists of a relatively large number of political party groups (9 on average), so compromise is an essential part of decision-making, even though it is not always beneficial to the quality of the proposals;*
- *the interests of smaller party groups are different from those of larger party groups where some of the renewal proposals are concerned;*
- *changing the working methods of parliament requires not only an amendment of the parliamentary structure.....but above all a change in the parliamentary culture, and the latter has proven to be especially difficult to effect..*

A different example of culture at the societal level hampering the effectiveness of reform is given in the submission from *Oman*, where the introduction of universal suffrage was blunted by ‘the reluctance on the part of a large segment of the citizenry to participate in general elections....and non-exercise by a large component of the female population of the right to be nominated for membership of the Council.’ In a different way in *Mali*, improving the work of deputies is hampered by a lack of understanding on the part of their constituents, though differentially as between urban and rural areas:

Many citizens in the major cities consider that the National Assembly is a money-wasting institution, and they cannot see its immediate usefulness. The financial, material and social conditions given to deputies by virtue of their status to allow them to hold their rank and carry out their mission in dignity are considered extravagant by many people in the cities.

As for people in rural areas, who are nearly 80 per cent of the deputies’ constituents, they consider that deputies have a binding mandate which obliges them, once elected, to be at the service of their constituents at all times and in any circumstances (for example for baptisms, weddings, funerals, the provision of various social services).

As regards the practicability and cogency of reforms, it should suffice to make the obvious point once more, that so often there are competing considerations which have to be traded off one against another, and that there are usually downsides to any proposed reform, which are best anticipated in advance. An example of this which most parliaments have experienced is how to streamline procedures to deal with ever-expanding volumes of business, without this limiting the expression of a diversity of views or the rights of individual members. One can only admire the ingenuity required of the *Indian Lok Sabha* to enable the expectations of its 38 parties to be met without business completely grinding to a halt. One reform strategy which is now being used by a number of parliaments is to pilot proposed changes for a limited period so that their effects can be monitored before they are made permanent. In the case of the problems identified by the *Dutch Parliament* (see above) this strategy has proved helpful, and the quotation from their submission enables this brief review to end on a positive note. ‘Experimenting with the proposed renewals before implementing them definitively has turned out to be an effective solution to the above-mentioned problems. Proposals that met with a lot of resistance initially proved to lead to remarkably positive results in practice.’

Planning for the future

For parliaments, ‘facing the future’ means many things. It means responding to the pressures of a rapidly changing society and global system in ways which retain what is distinctive about their country’s tradition. It means being open to ongoing reform in their own procedures, so that these are equal to the challenge of the times and to parliament’s own role as a guardian of democracy. It can also mean engaging in long-term thinking about the country’s future in a pro-active way, rather than simply reacting to initiatives placed before it by the government. Three examples of such future planning are given here. The first is provided by Latvia’s Subcommittee on the Future Development of Latvia, which was established in 2003 and comprises 13 parliamentarians from all Saeima groups. The submission from the Latvian Parliament describes its tasks as follows:

- *to work on drafting a single document for Latvia’s future development, including formulation of the vision of Latvia in 15-20 years, which would facilitate Latvia’s sustainable development and would improve the social welfare and safety of each member of society;*
- *to develop cooperation with different public institutions, scientists, youth and other members of society, and in a joint dialogue to*

search for opportunities to ensure Latvia's more rapid development and competitiveness;

- *to organise and listen to lectures on various themes that are important in science and the national economy and thus to serve as a useful source of information for achieving goals set by the members of parliament.*

In Israel, the Commission for Future Generations was established in the Knesset in 2001. Its purpose is to include a future dimension in national legislation, which it does by giving opinions and making recommendations at clearly defined stages of the legislative process on legislation that is of interest to future generations.

A much older and more fully documented example is Finland's Committee for the Future, which was established in 1992, when the Eduskunta adopted a resolution requiring the Government to provide it with a report on long-term developments and options for the country. The Committee for the Future was set up on a temporary basis to evaluate this report and respond to it, and it continued in being till it was made permanent in 2000. It sees its role as being to correct what it regards as a significant deficit – that 'in all parliaments the identification of long-term structural challenges and their values-base has been left behind in the course of traditional legislative work.'

The Committee consists of 17 members from all parties, and liaises closely with the Prime Minister's office, playing a similar role in the formulation of high-level policy, but with more emphasis on the 'value-based discussion' than on policy implementation. The list of issues it has dealt with over the past decade and more includes:

1. Reports on the future, i.e. responses to Government reports on:
 - Major global environmental and other structural problems
 - The effects on Finland of European economic and other development
 - Factors in Finland's competitiveness and success
 - Regional development
2. Topical themes taken up on the Committee's initiative for discussion at plenary sessions:
 - Plant gene technology in food production
 - Ten pain points in the future of work
 - The future of the Finnish knowledge society

3. Technology assessment. This has been a central concern of the Committee from the outset, and has seen three generations of projects, the first mainly commissioned from outside research institutes, the second and third involving much more direct participation of parliamentarians in working groups alongside external experts. Topics selected have included knowledge management, energy supply and renewables, social capital and information technology, regional innovation systems. The Committee has close links with other European parliaments through the European Parliamentary Technology Assessment network (EPTA).

The Committee's method of working is described as follows:

The Committee for the Future's operating model differs, in its openness and innovativeness, from the activity of other committees. The committee has toured the provinces and held regional forums. It also looks constantly for new working approaches by adapting Delphi and other methods of futures research, by hearing young people as well as older and experienced individuals in the public discussion, by utilizing new data technology, and by performing comparative international studies.....

In the committee's activity, the line between national and international breaks down: no longer merely national, the future's challenges, in an increasingly open world, are more and more strongly international. Since its more than ten years of activity began, the committee, in performing its analyses, has in this regard given particular attention to factors that pervade the society. In the 1990s the committee delineated the factors pervading Finnish society – globalization, science and technology, innovations, and governance. For the Parliament of Finland's 100th anniversary in 2006 and 2007 the Committee for the Future has chosen the future of democracy as a theme.

A final comment from the Parliament's submission about the agenda-setting power of this Committee is also worth quoting:

It is an adage of political life at any level that the first step to power is to take the initiative and put yourself in a position where you can set the agenda. In the Eduskunta, the Committee for the Future has taken this adage seriously from the beginning. The Committee has been working for only ten years, so it is too early to say if it has been a success. One thing is certain, however; the Committee has taken its place in the

Finnish parliamentary system as an innovative political body and, over the years, it has created a new forum that works at the core of the parliamentary system and – still more important – it has demonstrated that parliamentary measures can still be used to take the initiative within democracy.

This observation can serve to conclude this Guide on a positive note, as it reminds parliamentarians that they can indeed take the initiative to influence their country's future and thinking about it, if only they have the confidence to exercise the powers they already possess.

Annexes

Parliaments providing submissions to the Guide

Australia	Japan	Singapore
Austria	Jordan	Slovakia
Belarus	Kiribati	Slovenia
Belgium	Latvia	South Africa
Bhutan	Lebanon	Spain
Burkina Faso	Lithuania	Sri Lanka
Cameroon	Luxembourg	St. Kitts and Nevis
Canada	Mali	Suriname
Chile	Malta	Sweden
China	Mexico	Switzerland
Côte d'Ivoire	Monaco	The Former
Croatia	Mongolia	Yugoslav Republic
Cyprus	Netherlands	of Macedonia
Czech Republic	New Zealand	Tunisia
Denmark	Norway	Turkey
Ecuador	Oman	Ukraine
Egypt	Philippines	United Kingdom
Estonia	Poland	Viet Nam
Fiji	Portugal	Zambia
Finland	Republic of Korea	Zimbabwe
France	Republic of	
Gabon	Moldova	
Germany	Romania	
Greece	Russian Federation	
Hungary	Rwanda	
Iceland	Samoa	
India	Saudi Arabia	
Ireland	Senegal	
Israel	Serbia and	
Italy	Montenegro	

Working group on Parliaments' contribution to democracy

Rapporteur

PROFESSOR DAVID BEETHAM

Professor Emeritus, University of Leeds, Fellow of the Human Rights Centre, University of Essex and Associate Director, *Democratic Audit* UK.

David Beetham has become one of the best-known and most distinguished experts in the field of democratic theory and practice. He has published widely in this area. Besides theoretical works on democracy and human rights, Professor Beetham has pioneered new methods of assessment of democracy and human rights, and worked with a number of international organisations to help implement them.

His recent publications include: *The International Idea Handbook on Democracy Assessment* (Kluwer Law International, 2002), *The State of Democracy* (Kluwer Law International, 2002), *Democracy under Blair* (Politico's, 2003), *Democracy: a Beginner's Guide* (One World Publications, 2005) and *Introducing Democracy: 80 Questions and Answers*, 2nd edition (UNESCO, 2006).

Members

MR. AVRAHAM BURG

Former Speaker of the Israeli Knesset

Avraham Burg is a former head of the National Religious Party. Mr. Burg has in recent years been a senior member of the Israeli Labour Party and one of the most charismatic members of Parliament. In 1999, he became the youngest Speaker in the history of the Israeli Knesset.

He has boldly argued that there cannot be democracy in Israel without equal rights for all who live there, Arab as well as Jew. On 1 December 2003, Avraham Burg and a group of Israeli and Palestinian civic leaders negotiated and signed the Geneva Accord, a proposal that, if implemented, would resolve some of the thorniest issues of the Israeli/Palestinian conflict and pave the way towards ending decades of bloodshed.

MR. PIERRE CORNILLON

Honorary Secretary General of the Inter-Parliamentary Union

Pierre Cornillon was Secretary General of the Inter-Parliamentary Union from 1987 to 1998. Prior to being elected to this post, he had spent 22 years in the service of the organisation. Since 1998, Mr. Cornillon has carried out missions for the promotion of human rights and democracy in various countries. He has taken part in many international meetings and has held advisory positions in several international bodies dealing with parliament and democracy.

Mr. Cornillon is a member of the International Panel on Democracy and Development, which was established in 1998 by the Director General of UNESCO to guide that

Organization's programmes aimed at strengthening democracy. He is an adviser to the African, Caribbean and Pacific (ACP) group of States in Brussels, which he is assisting in establishing a parliamentary assembly. Having been a member of the International Advisory Council of the International Foundation for Election Systems (IFES), Mr. Cornillon is currently a member of the Board of Directors of IFES Ltd. in London.

MR. OLIVIER DELAMARE DEBOUTTEVILLE

Assistant Director of the International Relations Service, French Senate

Olivier Delamare Deboutteville has been senior staff member in the French Senate since 1978. He has held several positions, including sitting on the Finance Committee for seven years, where he headed a group of senior parliamentary staff who assist the General Budget Rapporteur in examining the technical aspects of financial laws. He left the Senate for a four-year period, during which he served as adviser to the then minister for the economy and finance, Mr. Jean Arthuis, from 1995 to 1997. After two years in the private sector he went back to the Senate in January 2000, where he has been serving since 2002 as Assistant Director of the International Relations Service in charge of bilateral and multilateral cooperation and relations with international organizations.

PROFESSOR PETER RONALD DESOUZA

Co-Director, Lokniti - Institute for Comparative Democracy, Delhi

Peter Ronald deSouza is Visiting Senior Fellow at the Centre for the Study of Developing Societies. He currently coordinating the State of Democracy in South Asia (SDSA) project.

Professor deSouza taught in the Political Science Department at Goa University for 16 years. In March 2000 he was a Visiting Professor at Birkbeck College, London University, and in May 2001 he was a Visiting Scholar at the Taubman Centre, Kennedy School of Government, Harvard University. Professor deSouza has, from the direction of political theory, engaged with what can be termed as the puzzles of Indian democracy. Some of the areas on which he has worked and published concern the banning of books, electoral reform, decentralized governance, electoral violence, political parties, human security, minority rights in India, marginal citizens and righting historical wrong.

Professor deSouza has also worked as a consultant or advisor with International IDEA, ICNRD-5, World Bank, Ford Foundation and UNDP. He has also written numerous democracy-related articles in national and international journals.

PROFESSOR YAKIN ERTÜRK

UN Special Rapporteur on Violence against Women, its Causes and Consequences

Yakin Ertürk is a professor of sociology and a former head of the Gender and Women's Studies Programme at the Middle East Technical University, Ankara, Turkey. She also taught at the Centre for Girls, at King Saud University in Riyadh (1979-1982) and from 1979 to 1981 served as its Chair. Between 1997 and 2001 she worked with the United

Nations, serving first as Director of the International Research and Training Institute for the Advancement of Women (INSTRAW) in Santo Domingo then as Director of the Division for the Advancement of Women (DAW) at UN headquarters in New York. In August 2003, she was appointed by the UN Human Rights Commission as Special Rapporteur on Violence against Women, its Causes and Consequences.

Professor Ertürk's areas of interest include human rights, identity politics and violence against women, globalization, population movements, labour use patterns and women in development. She received her PhD degree in development sociology from Cornell University in 1980.

MR. SCOTT HUBLI

**Director, Governance Programs, National Democratic Institute
for International Affairs**

Scott Hubli serves as Director for NDI's Governance Programs, providing technical support to NDI's legislative strengthening, public integrity, rule of law, and local governance programs worldwide. In this capacity, Mr. Hubli advises NDI staff on governance program strategy, design, implementation and evaluation; he also develops and maintains a pool of pro bono experts and trainers on governance issues. Since joining NDI in November 2000, Mr. Hubli has conducted legislative assessment and training missions in over 20 countries.

Mr. Hubli received his Juris Doctor degree with Honors from the University of Wisconsin Law School, and holds a Masters of Public Policy and Administration from the Robert M. La Follette Institute of Public Affairs. Prior to joining NDI, Mr. Hubli had served as a Senior Technical Advisor on a USAID project to strengthen the Palestinian Legislative Council; as Legislative Counsel for the Wisconsin State Legislature, and as an associate with the New York law firm of Debevoise and Plimpton.

MR. FRANCIS KPATINDÉ

**Senior Regional Public Information Officer, United Nations High Commission
for Refugees**

In 1986, Francis Kpatindé joined Jeune Afrique magazine as a journalist. He worked with the United Nations assistance mission in Haiti in 1993 and on the first post-apartheid elections in South Africa in 1994. Between March 1995 and October 1997, Mr. Kpatindé served as spokesperson for Africa in the Office of the United Nations High Commissioner for Refugees (UNHCR) before returning to Jeune Afrique as one of the magazine's editors-in-chief. Since May 2005, he is the Senior Regional Public Information Officer for UNHCR in West Africa. Mr. Kpatindé holds a DESS degree in Diplomacy and Administration of International Organisations from the University of Paris XI.

Ms. MARTA LAGOS CRUZ-COKE

Executive Director of LatinoBarometro

Marta Lagos has worked in the public opinion field since 1984, firstly at the Centro de Estudios de la Realidad Contemporánea (CERC), where she was director from 1990 to 1993. She started the Barómetro CERC, a public opinion barometer that has monitored the Chilean transition since 1987. In 1994 she founded her own market and society opinion research company in partnership with MORI in the UK. Since its inception in 1995, Marta Lagos has been the Executive Director of LatinoBarometro, which surveys annually public opinion in 18 Latin American countries.

Author of many publications in the field of public opinion research, she is a member of the World Values Survey team and part of the committee that organizes the Comparative Study of Electoral Systems (CSES). Additionally, Mrs. Lagos, has been consultant on survey issues and the electoral process in transition in 23 countries and in international organizations including IDB, UNDP, World Bank, UN and the EU.

Marta Lagos Cruz Coke holds a M.A. in Economics from Heidelberg University, Germany.

PROFESSOR CHRISTINA MURRAY

Head of Department, Public Law and Director of the Law, Race & Gender Research Unit, University of Cape Town

Christina Murray is Professor of Constitutional and Human Rights Law at the University of Cape Town. Between 1994 and 1996 she served on a panel of seven experts advising the South African Constitutional Assembly in drafting South Africa's 'final' Constitution. Since then she has advised a number of government departments in South Africa on the implementation of the new system of multi-level government and worked with South Africa's national Parliament and many of its nine provincial legislatures. Her most recent constitutional work outside South Africa has been in Southern Sudan, Indonesia and Kenya. She has taught and written on the law of contract, human rights law (and particularly issues relating to gender equality and African customary law), international law, and constitutional law.

MR. CYRIL NDBELE

Former Speaker of the Zimbabwean National Assembly

Cyril Ndebele was a member of the political movement which fought for Zimbabwe's independence, and was part of the Zimbabwe African National Union (ZANU) PF's legal team during independence negotiations. He has held senior positions in the ZANU PF, including membership of its Politburo. He was a Member of Parliament from 1990 to 2000, where he chaired several important committees (privileges, legal, standing rules and orders). He was elected Speaker from 1995 to 2000. As Speaker, Cyril Ndebele was instrumental in introducing parliamentary reforms designed to transform parliament into a more efficient, transparent and participatory democratic institution.

Cyril Ndebele was a founder member of the SADC Parliamentary Forum and has been a resource person at several international meetings on the workings of parliamentary democracy.

After legal training, Cyril Ndebele practised law in the United Kingdom and Zimbabwe. He has been Attorney and Advocate of the Supreme Court of Zimbabwe.

MR. ABDELWAHAD RADI

Speaker of the Moroccan Chamber of Representatives

Adbelwahad Radi was one of the founders of the Union nationale des forces populaires political party, and later the Union socialiste des forces populaires. He has held a number of positions of responsibility within the party, and has served as First Deputy Secretary since 2003. He has also co-founded many civil society and trade union organizations. From 1983 to 1984, Mr. Radi was Minister for International Cooperation.

Mr. Radi was first elected as a member of parliament in 1963. He has been constantly re-elected since 1977, and has served as the Speaker of the Chamber of Representatives since 1997. He is a strong proponent of parliamentary diplomacy and has held senior posts in a number of regional parliamentary organizations. Mr. Radi is a member of the IPU Executive Committee.

MS. LORETTA ANN ROSALES

Member of the Philippine House of Representatives

An acclaimed human rights activist, Rep. Loretta Rosales is a representative of the marginal and under-represented sectors of Philippine society. During the repressive regime of former Philippine President Ferdinand Marcos, her underground activities led Loretta Rosales to be arrested on several occasions.

As Executive Director of the Institute for Political and Electoral Reform in 1994, Rep. Rosales actively lobbied for the enactment of the 1995 party-list law as provided for in the Philippines 1987 Constitution. Since 1998, she has been a member of the House of Representatives where she has chaired the Committee on Human Rights and co-chaired the Committee on Suffrage and Electoral Reforms.

MS. OYUN SANJAASUREN

Member of the Parliament of Mongolia

Sanjaasuren Oyun has been an opposition member of Parliament since 1998 and is currently the Chair of its Committee on Millenium Development Goals and Poverty Reduction policies. She entered politics following the assassination of her brother, Zorig, the Minister for Infrastructure Development and one of Mongolia's main pro-democracy leaders.

As Leader of the Citizens' Will Republican Party, she has made cleaner politics, transparency, accountability and anti-corruption the central pillars of her governance reforms. She is also the founder of the Zorig Foundation, an NGO whose mission is to advance democracy and the rule of law in Mongolia.

S. Oyun earned her PhD in isotope geochemistry from Cambridge University.

Ms. DULCE MARIA SAURI RIANCHO

Member of the Mexican Senate

Dulce Maria Sauri has extensive experience as a legislator and public administrator. She was Governor of the State of Yucatan (1991-1994), and has been elected to either House of the Mexican Congress on numerous occasions since 1982. She was also President of the Institutional Revolutionary Party (PRI) from Dec. 1999 to March 2002.

Since 1 December 2000, Ms. Sauri has been Chairperson of the Senate Asia Pacific Foreign Relations Committee. She is also a member of the Foreign Relations Committee, the North America Foreign Relations Committee and the Finance and Public Credit Committee.

Legislative strengthening organisations

The following is a non-exhaustive list of organisations involved in strengthening parliamentary institutions.

Parliamentary associations

Inter-Parliamentary Union

The Inter-Parliamentary Union (IPU) is the international organisation of Parliaments of sovereign States. It was established in 1889. The Union is the focal point for worldwide parliamentary dialogue and works for peace and co-operation among peoples and for the firm establishment of representative democracy.

The IPU operates a Technical Cooperation Programme under which it assists national parliaments, particularly in developing countries, to improve the organisation of their work and strengthen their infrastructure. Under this programme, which was initiated in the early 1970's, the IPU (i) provides advisory services (ii) offers projects of assistance.

The programme focuses on strengthening the parliamentary institution itself, as well as providing assistance to elected parliamentarians and parliamentary staff. It systematically integrates this work with gender and human rights perspectives. Indeed, certain projects are specifically focused on ensuring greater participation of women in the parliamentary process.

Website: <http://www.ipu.org>

Assemblée parlementaire de la Francophonie (APF)

APF brings together parliamentarians from 73 parliaments or inter-parliamentary organizations spanning the five continents. Its work is aimed mainly at promoting and defending democracy, the rule of law, respect for human rights, promotion of the French language throughout the world and cultural diversity. In close collaboration with the Agence de la Francophonie, it undertakes and implements activities in the fields of inter-parliamentary cooperation and the democracy-building. Its activities are geared towards strengthening a sense of solidarity among parliamentary institutions and promoting democracy and the rule of law, particularly within the community of French-speaking countries. The Noria Programme was launched in 2002 to meet a need for capacity-building in French-speaking parliaments of the South in the areas of production, management and dissemination of internal information of a legislative nature using information and communication technologies. That Programme was a follow-up to the PARDOC Programme, which benefited the document services of French-speaking parliaments.

Web site: <http://apf.francophonie.org>

Commonwealth Parliamentary Association

The Commonwealth Parliamentary Association (CPA) is composed of branches formed in Parliaments and Legislatures in Commonwealth countries which subscribe to parliamentary democracy.

The CPA's mission is to promote the advancement of parliamentary democracy by enhancing knowledge and understanding of democratic governance and by building an informed parliamentary community able to deepen the Commonwealth's democratic commitment and to further co-operation among its Parliaments and Legislatures.

Website: <http://www.cpahq.org>

National Conference of State Legislatures

The National Conference of State Legislatures (NCSL) provides technical assistance in democracies and emerging democracies across the globe with the goal of strengthening the legislative institution. Drawing on its experience in the U.S. states, the NCSL provides assistance on such institutional issues as the legislative process, parliamentary procedure, committee structures and functions, staff organisation, ethics training, leadership training, and constituent relations.

NCSL has conducted a variety of projects in the areas of accountability, civic education, ethics, federalism, legislative management, new member training, and transparency in government. NCSL has also organised a number of workshops that often involve the entire legislature and are usually conducted by U.S. state legislators, legislative staff and/or NCSL staff.

Website: <http://www.ncsl.org/public/internat/Technical.htm>

AWEPA, European Parliamentarians for Africa

AWEPA is an association of parliamentarians that works to support the well functioning of parliaments in Africa and to keep Africa on the political agenda in Europe. Action is undertaken for human resource development with parliamentarians and other elected representatives and institutional capacity building within parliaments and decentralized authorities.

This includes attention to:

- the key role of well-functioning parliaments with regards to democracy, human rights and peaceful conflict management;
- the attainment of gender equality at all levels of political decision-making;
- African-European sharing of parliamentary experience;
- building parliamentary networks at national, regional and inter-regional levels as fora for political and non-governmental interaction.

Website: <http://www.awepa.org>

International organisations

Organization of American States

The Organization of American States' (OAS) Program to Support the Strengthening of Legislative Institutions (PAFIL) has worked with parliaments for several years in order to strengthen their role in representative democracy and in the integration process.

The Program has supported the efforts of national and regional parliaments through its cooperation, harmonization and legislative adjustment initiatives, particularly in those concerning the Inter-American agenda such as: drug trafficking, corruption, terrorism, and natural disasters—challenges that also require minimally compatible and coordinated legislative responses.

Website: <http://www.ddpa.oas.org/opd/pafil/default.htm>

United Nations Development Programme

As part of its Democratic Governance practice area, the United Nations Development Programme (UNDP) provides support to parliaments to ensure that they have the capacity, resources and necessary independence to carry out their core functions effectively.

Parliamentary development is a particularly strategic entry point for UNDP programming and policy advisory services in a bid to harness parliaments' capacity as agents of change and potential promoters of the Millennium Development Goals. The organisation now supports over 50 parliaments around the world. Parliamentary development is one of the fastest growing areas of UNDP's democratic governance practice, with the number of projects up tenfold from a decade ago.

UNDP provides a package of integrated technical assistance aimed at strengthening the three chief functions of parliaments — lawmaking, oversight, and representation. The organisation works to build the capacity of legislators and technical staff, promote institutional reform, and strengthen parliaments' relationships with the executive and judiciary branches of government as well as with civil society.

Website: <http://www.undp.org/governance/sl-parliaments.htm>

World Bank Institute

The World Bank Institute's Parliamentary Strengthening Programme aims to enhance parliaments' capacity to effectively fulfill their responsibilities, especially with regard to government policy implementation and budget oversight.

The Programme's objectives include:

- strengthening the capacity of parliaments to oversee the allocation and use of public funds
- assisting parliaments in better representing the interest of citizens in the policy process, especially in the context of the PRSP
- supporting parliamentary learning networks on key policy issues related to development
- encouraging and promoting leading research on the role of parliaments, where such research can contribute to the better design of World Bank parliamentary support programs.

Website: <http://www.worldbank.org/wbi/governance/parliament/>

Non-governmental organisations

Centre for Legislative Development, the Philippines

The Centre for Legislative Development is a Philippine-based non-governmental organisation, which aims to assist in the capacity development of national and local legislatures and in broadening citizen participation in the legislative process. It provides training, policy research and information development services concerning legislative strengthening, advocacy, gender and public policy, and local governance in the Asia Pacific region.

Website: <http://www.cld.org>

International Republican Institute

The International Republican Institute (IRI) was established in April 1983 as a private, non-partisan, non-profit organisation dedicated to advancing democracy worldwide.

IRI conducts a wide range of international programs to promote and strengthen democratic ideals and institutions. IRI programs are individually structured to meet the needs of the participants in the host country. These programs include training on such issues as civic responsibility, the legislative process for newly elected government officials and the mechanics of organizing political parties and election campaigns.

Website: <http://www.iri.org>

King Prajadhipok's Institute, Thailand

King Prajadhipok's Institute (KPI) is an independent public organisation under the supervision of the Thai Parliament. The institute undertakes academic work in the form of research, training, and dissemination of information about democracy and governance. KPI also provides consultation on topics related to politics and governance at national and local levels.. KPI organizes conferences to encourage the dissemination of political information both to the public and also to policy makers and government. Parliamentarians are among KPI's main target groups

Website: <http://www.kpi.ac.th>

National Democratic Institute for International Affairs

The National Democratic Institute for International Affairs (NDI) is a nonprofit organisation working to strengthen and expand democracy worldwide.

NDI's programs support the professional development of legislatures, encourage greater public participation in the legislative process, address corruption, and promote the principles of transparency and accountability in national policymaking. Programmes address parliamentary organisation, including legislative oversight, internal rules of procedure, public access to information, effective utilization of parliamentary staff, and the role of political party caucuses. NDI programs also promote greater citizen participation in legislative decision making by encouraging public hearings, town hall meetings, and increased communication between elected officials and their constituents.

Website: <http://www.ndi.org/globalp/gov/governance.asp>

Parliamentary Centre, Canada

The Parliamentary Centre is a Canadian not-for-profit organisation devoted to improving the effectiveness of representative assemblies and governance mechanisms in Canada and around the world.

Founded in 1968 to strengthen the capacity of Canada's Parliament, the Centre is now a global agency that also supports democratic institutions in Asia, Africa, Latin America, Eastern Europe and the Middle East. The Centre designs, implements and manages programs; conducts and publishes research; and establishes and expands parliamentary networks. The Centre acts as a broker and facilitator, fostering partnerships and providing access to a range of expertise.

Website: <http://www.parlcent.ca>

State University of New York

The Centre for International Development at the State University of New York (SUNY/CID) assists legislatures, local governments and court systems to function more effectively, and it also helps citizen groups and non-governmental organisations to interact more successfully with governments. SUNY/CID has also coordinated several conferences on legislative strengthening that have served as a forum for practitioners, legislators, and academics to advance the study and practice of improving legislatures.

Website: <http://www.cid.suny.edu>

Also based at the State University of New York, the Center for Legislative Development (CLD) also engages in democratic capacity building work. Since 1970, CLD has worked in over two dozen parliaments in Africa, Latin America, Eastern Europe, the Middle East, and other parts of the Islamic world. CLD performs its mission through a program that includes research and writing on democratization issues, assessments of legislative needs, the design of parliamentary capacity-building programs, and evaluating the results thereof.

Website: <http://www.albany.edu/cld/>

Index

Note: Page numbers in **bold** indicate a figure.

- accessible parliaments, 7, **10**, 69–93
 - citizens and the legislative process, 79–87
 - contact between citizens and representatives, 69–74
 - means of redress, 74–87
 - NGO-parliament cooperation, 87–89
 - role of political parties, 90–92
- accountable parliaments, 7, **10**, 95–113
 - codes of conduct, 98–109
 - corruption, 96, 100–101, 131, 146
 - horizontal/vertical accountability, 95–98, 107
 - parliamentarian account-giving, 96–97
 - public opinion and, 109–113
 - recall of parliamentarians, 97–98
- additional-member systems, 16–17
- affirmative action, 22–23
- Afghanistan, 173
- African Union, 21, 171, 176.
See also specific countries
- Andean Pact Parliament, 176.
See also specific countries
- anti-terrorist legislation, 139
- Argentina, 75–76, **110**
- armed forces, **110**, 131, 137–138, 150
- Armenia, 174
- Article 19, 47–48, 50
- associations
 - Association of European Parliamentarians for Africa (AWEPA), 177
 - Association of Secretaries General of Parliament (ASGP), 118, 119, 185
 - Association of Southeast Asian Nations (ASEAN), 176
 - Commonwealth Parliamentary Association (CPA), 41, 49–50, 52, 175, 177
- asylum seekers, 139
- attendance, parliamentary, 103–104
- Auditor General’s Office, 131, 145, 146
- Australia, 29, 31, 45, 61, **62**, 98–99, 189
- Austria, **110**, 124
- autonomous parliaments, 117–121
 - budgetary processes within, 119
 - control over business, 120–121
- Azerbaijan, 174
- backbenchers, 30–31, 134
- Bangladesh, 23
- banks, 132, 141, 162, 165
- ‘barometer’ surveys, 109–113
- Belarus, 80
- Belgium, 34, **110**, 165, 170
- Benin, Republic of, 174
- bilateral relations.
See inter-parliamentary cooperation
- bills. *See* legislation
- Bobbio, Norberto, 1
- Bolivia, **110**
- Botswana, 57, 63, **110**
- Brazil, 52–53, 77–78, **110**, 165
- budgets
 - constituency development projects, 73
 - gender and, 88–89, 143
 - oversight of governments, 140–146
 - parliamentary, 119
- Bulgaria, **110**
- Burkina Faso, 174, 190
- Cambodia, 176, 178
- Cameroon, 33, 174
- campaigning, party, 104–109.
See also elections, parliamentary
- Canada, 18, 97–98, 99–100, 108–109, 118–119, 189
- candidate selection, 23.
See also elections, parliamentary
- Cape Verde, **110**, 173
- Center for International Environmental Law, 166
- chambers, 7, 19
 - bicameral parliaments, 46, 55, 88, 168, 189, 190
 - digital, 124–125
 - forums for civil society, 85–86, 92
 - parallel, 31
 - upper, 26, 35, 125, 146–147
- children, 19–20, 32, 53, 64–67, 102, 161.
See also education

- Chile, 58, 70, **110**, 135, 188
- China, 70, **110**, 165
- citizens, 4, 5
- campaign subventions, 18, 107
 - contact with parliamentarians, 69–72
 - means of redress, 74–79
 - membership in political parties, 90–93
 - monitoring the opinion of, 109–113
 - NGO-parliament cooperation, 87–89
 - participation in legislation, 79–87
 - political initiatives of, **10**, 90–93
- civil servants, 33, 123, 129, 133, 170
- civil society, 5, 6, **10**, 63, 78, 165
- gender equality, 87–88, 160
 - involvement in parliament, 7, 81, 85, 87–88, 188
 - organisations, 52–53, 82, 96, 143, 162
 - parliamentary efficiency, 117, 130
 - special forums / chambers, 85–86, 92
- codes of conduct, 96, 98–109
- parliamentary attendance, 103–104
 - party financing and campaigning, 104–109
 - public vs. private interests, 100–101
 - register of interests, 101–103
- Colombia, **110**
- committees/commissions
- anti-corruption, 131, 146
 - business, **11**, 29, 120
 - cross-party representation within, 28–29
 - of enquiry, 28, 135–136
 - European Affairs Committee (EAC), 169, 171
 - foreign affairs, 165, 173, 174
 - future development, 193–196
 - human rights, 38, 40, 159, 160–161, 187
 - poverty reduction, 162–163
 - public accounts, 28, 144–145, 146
 - reform procedures, 188, 191
- communications. *See* media, the
- conduct, standards of. *See* codes of conduct
- conflicts
- of interest, 100–103
 - resolution of, 148–152
- constituencies, 15, 59, 190
- and minority community representation, 24–25
 - office facilities, 69–72
- constitutional reforms, 108, 149–151, 178.
- See also* reforms, parliamentary
- cooperation, 155
- inter-parliamentary, 175–176
 - international diplomacy, 172–175
 - NGO-parliamentary, 87–89
 - technical assistance, 176–179
- corruption, 96, 100–101, 131, 146
- Costa Rica, 91–92, **110**
- Cote d'Ivoire, 45, 174, 190
- Croatia, 188
- Cyprus, 28, 44–45, 174
- Czech Republic, 80, **110**
- debts, national, 161, 162, 164
- democracies
- established, 189–190
 - principles of, 3–6, 183
 - role of government institutions, 4–5
 - twenty-first century paradox, 1–2
- Democratic Republic of Congo, 174
- Denmark, 66–67, 75, **110**, 117, 123, 169–170
- deputy speakers. *See* presiding officers
- developed countries, 116.
- See also specific countries*
- development, international, 117, 161–165
- diplomacy, 172–175
- disclosure, rules on, 18, 48, 49, 130, 136
- discrimination. *See* gender equality; human rights
- Ecuador, 47, 58, 92, **110**
- education, 61, 62–67, 161, 165
- effective parliaments, 7, **11**, 115–182
- at the national level, 115–152
 - at the international level, 155–181
 - effectiveness versus power, 115, 155
 - facilities and self-organisation, 116–121
 - legislative processes, 122–126
 - multilateral affairs, 157–167
 - oversight of governments, 127–146
 - parliamentary cooperation, 172–179
 - regional integration, 167–172
- Egypt, 187
- El Salvador, **110**
- elections, parliamentary, 59
- candidate quotas, 23, 25
 - financing and campaigning, 104–109
 - free and fair, 13–15
 - rules and procedures, 13–18
 - subventions from public, 18, 107
 - suffrage, 14, 18, 19, 192

- types of, 8, 15–17, 69
- voter participation, 18, 64
- voting records of parliamentarians, 96
- electronic parliaments, 124–125
- email, 69, 73–74
- environment, the, 161, 165
- equality of rights, **10**. *See also* human rights
 - minority and marginal communities, 34–35
 - women, 19–23, 31–34, 88–89, 160–161
- Estonia, 63, **110**
- ethnic communities. *See* minority and marginal communities
- European Parliament, 166, 171
- European Union (EU), 52, 168–172, 174, 178, 195. *See also specific countries*
- executive appointments, 135
- Faroe Islands, 66–67
- federal states, 7, 26, 78, 125, 146–147, 168. *See also specific countries*
- Fiji, 25–26, 190
- financing, party, 104–109
- Finland, 65, 75, 96, **110**, 123–124, 170, 194–196
- foreign affairs. *See* multilateral affairs
- Former Yugoslav Republic of Macedonia, The, 80, 91
- forums, 58, 85, 90, 92, 195–196
- France, 28, 33, 55, 96, **110**, 174
 - international affairs, 161, 170, 171, 178
 - national effectiveness, 119, 142, 145, 147
- Francophone Parliamentary Association, 175, 176, 177
- freedoms, **10**, 43. *See also* rights
 - of expression, speech, 40, 48–50, 56
 - of information, 46–48, 130
- functions of parliament, 5
- future planning, 193–196
- Gabon, 186
- gender budgeting, 88–89, 143
- gender equality. *See also* human rights; rights
 - affirmative action, 22–23
 - multilateral affairs, 160–161
 - procedures ensuring, 31–34
 - representation of women in parliament, 19–23, 184
 - women's NGOs, 88–89
- Georgia, 174, 178
- Germany, 39, 82, **110**, 137–138, 169, 179
- Ghana, **110**
- globalisation, 156
- Greece, 108, **110**, 117, 124, 125–126
- Greenland, 66–67
- grievance procedures, 74–79
- Guatemala, **110**
- Guinea, 174
- Guinea-Bissau, 173
- health, public, 76–77, 132, 156, 161, 165
- HIV/AIDS, 161
- Honduras, **110**, 162
- Hong Kong, **110**
- horizontal accountability, 95–98, 107
- House of Commons. *See* Canada; chambers; United Kingdom
- House of Representatives. *See* chambers; *specific countries*
- human rights, 49, 173, 177, 183, 190. *See also* gender equality; ombudsmen; rights
 - committees/commissions, 52–53, 74–75, 77–79, 131, 187
 - international affairs, 158–160
 - International Covenant on Civil and Political Rights, 14, 46
- Hungary, 25, 54, 67, 80, **110**, 125, 171
- Iceland, 65, 81
- immunities of parliamentarians, 37–41
- India, 31, 57, 73, 178
 - parliamentary effectiveness, 118, 120, 130, 147
 - parliamentary reforms, 189, 193
 - representation within parliament, 16, 25, 27–28, 35, 40
- individual parliament members, 30–31, 134
- Indonesia, 57, 165, 176
- integration, regional, 167–172
- inter-parliamentary cooperation, 175–176
- Inter-Parliamentary Union (IPU), 17, 58–59, 111, 117
 - human rights of parliamentarians, 36, 37, 38, 40
 - international affairs, 148, 159, 166, 180–181
 - parliamentary cooperation, 172, 173, 175, 176, 177
 - parliamentary effectiveness, 119, 137, 148–149
 - parliamentary reforms, 185, 190
 - technical assistance, 177
 - women, 19, 22, 32

- interests, public, 100–101
- international affairs. *See* multilateral affairs
- international aid, 164–165
- international development, 117, 161–165
- International Institute for Democracy and Electoral Assistance (IDEA), 105–107
- International Monetary Fund (IMF), 143, 162, 165
- Internet, 51, 54
 - email use, 69, 73–74
 - parliamentary libraries, 116, 117
 - parliamentary websites, 58–62
 - voting records, of parliamentarians, 96
- Iran, 173
- Iraq, 9, 21, 138, 173
- Ireland, 75, 95, 100, **110**, 133–134, 174
- Isle of Man, 174
- Israel, 30, 119, 190, 194
- Italy, 1, 25, 29, 31, 91, **110**
 - international affairs, 174, 176, 178
 - parliamentary effectiveness, 122, 124
 - parliamentary reforms, 190
 - parliamentary transparency, 61, 62–63
- Jamaica, 47
- Japan, **110**, 164–165
- journalists. *See* media, the
- judicial functions, 4, **11**, 38, 100, 108, **110**
- Kenya, **110**
- Kiribati, 26–27, 63
- languages, **10**
 - citizen participation in legislation, 84
 - equality of rights for minorities, 34
 - use in parliament, 34–35
- Latvia, 61, 80, **110**, 171, 193–194
- laws. *See* legislation
- Lebanon, 85, 187–188, 190–191
- legislation, 59
 - anti-terrorist, 139
 - citizens' initiatives, 90–93
 - committee submissions/public hearings, 79–85
 - freedom of expression, 48–50
 - freedom of information, 46–48
 - human rights, 46–50, 78, 190
 - implementation and monitoring, 125–126
 - media regulation, 50–53
 - on-line facilities, 124–125
 - quality of, 123–124
 - role of upper chambers, 125
 - timetabling, 122–123
 - 'whistleblower' protection, 135–136
 - women and, 87–89
- Lesotho, **110**
- Liberia, 174
- liberties. *See* freedoms
- Lithuania, 28, 30, **110**
- lobbying, **10**, 73, 82
- lower chambers. *See* chambers; *specific countries*
- Luxembourg, 96–97, **110**
- Maghreb Union, 176. *See also specific countries*
- Malawi, **110**
- Malaysia, 176
- male bias, 19–20
- Mali, 69, 80, **110**, 150, 174, 192
- Malta, 70, 76, 145
- Mauritania, 162
- Mauritius, 25
- media, the, 6, 78, 86, 132. *See also* Internet
 - access to parliament, 44–46
 - freedom of expression, 48–50
 - freedom of information, 46–48
 - regulation of, 50–53
 - television (TV), 51, 52–53, 54–58
- members of parliament. *See* parliamentarians
- Mexico, 14, 55–56, 88, **110**, 155, 165
- Millennium Development Goals (MDGs), 161, 162, 163, 165
- minority and marginal communities, 86
 - equality of rights in parliament, 34–35
 - parliamentary representation, 24–26
- minority parties, 28–29, 128, 134
- minority quotas, 25
- mixed-member systems, 16–17
- Monaco, 17
- Mongolia, 63, **110**
- monitoring procedures, 125–126, 163. *See also* oversight of governments
- Morocco, 21, 173
- Mozambique, **110**, 173
- multilateral affairs, 155–167. *See also* cooperation
 - gender equality, 160–161
 - human rights, 158–160
 - international development, 117, 161–165
 - trade, 165–167

- Myanmar, 176
- Namibia, 77, **110**
- National Democratic Institute for International Affairs (NDI), 74, 103, 105–107, 135–136, 162, 163
- national integration, 146–152
- Netherlands, 44, 92, **110**, 160, 189, 192, 193
- New Zealand, 25, 36–37, 75, 80, 82–83
- Nicaragua, **110**, 162
- Niger, 163
- Nigeria, **110**
- non-governmental organisations (NGOs), 5, 73, 85, 86, 162
- cooperation with parliament, 87–89
 - gender budgeting, 88–89
 - legislative processes, 80–82
 - multilateral affairs, 159, 161
 - oversight of governments, 131–132
- non-plenary parliamentary bodies, 60
- Norway, 29, 65–66, 129, 131, 141
- Oman, 14, 187, 192
- Ombudsmen, 75–77, 131, 159
- open parliaments.
- See* transparent parliaments
- opposition parties, 29, 116, 128
- oversight of governments, 127–146, 180
- aid policies, 164–165
 - budgets and financial control, 140–146
 - executive appointments, 135
 - and non-governmental public agencies, 131–132
 - security policies, 137–140
 - through committees/commissions, 128–131, 135–136, 146
 - through parliamentary questions and "interpellations", 133–135
- Pakistan, 174
- Panama, **110**
- Paraguay, **110**
- parliamentarians, 59, 175.
- See also* parliaments
- account-giving, 29, 96, 96–97
 - attendance, 103–104
 - contact with citizens, 69–72
 - vs. diplomats, 172–173
 - email and, 69, 73–74
 - individual members or 'backbenchers', 30–31, 134
 - recall of, 97–98
 - register of interests, 101–103
 - relationship with the media, 44, 101
 - rights of, 30–31, 37–41
 - role in local development, 72–73
 - salaries, 85, 101
- parliaments. *See also* accessible parliaments; accountable parliaments; effective parliaments; parliamentarians; presidential systems; representative parliaments; transparent parliaments; Westminster-type parliaments
- attributes of, 7–8, **10–11**, 183
 - autonomy of, 117–121
 - bicameral, 46, 55, 88, 168, 189, 190
 - electoral rules and procedures, 13–18
 - electronic, 124–125
 - functions of, 5
 - guidelines for public involvement, 86–87
 - inter-parliamentary cooperation, 175–176
 - oversight function of, 127–146
 - party inclusiveness, 28–29
 - public opinion of, 109–113
 - reforms, 184–196
 - regional vs. national, 168
 - resources and facilities, 35–37
 - role of, 1–2
 - staffing, 116–117, 118–119, 177, 178
- party-list systems, 16–17
- people's assemblies, 84, 86.
- See also* public forums
- Peru, **110**
- petitions, **10**, 74–75, 98, 138
- Philippines, 104, **110**, 120
- international affairs, 165, 176
 - oversight of government, 129
 - parliament accessibility, 77, 84–85
 - representation within parliament, 14, 17
- plurality systems, 15, 16
- Poland, 46, 66, 82, **110**, 168–169
- political parties, 6, **110**
- citizen membership, 90
 - discipline within, 39–41, 127–128
 - financing and campaigning, 104–109
 - floor-crossing, 40–41
- Portugal, 56, 75, 92, **110**, 190
- post-Communist states, 115–116.
- See also specific countries*
- poverty, 161–165
- poverty reduction strategy papers (PRSPs), 162–164
- power, parliamentary, 115, 155.

- See also* effective parliaments
- presidential systems, 7, 115–116
 - career structures within, 119
 - control over business, 120–121
 - oversight of governments, 134–135
 - vs. parliamentary, 117–118
 - parliamentary oversight, 127
 - presiding officers, 26–28, 31, 45, 59, 63, 66, 120–121, 157, 186
 - press, the. *See* media, the
 - private interests, 100–101.
 - See also* corruption
 - private members, 30–31, 134
 - public accounts committees, 28, 144–145, 146
 - public forums, 85, 90, 92
 - public hearings
 - enabling, 82–85
 - procedures, 74–82
 - public interests, 100–101
 - public involvement, 53–67
 - guidelines for parliamentarians, 86–87
 - information centres, 62–63
 - parliamentary websites, 58–62
 - youth, 61, 64–67, 161, 165
 - public opinions, 16, 58, 109–112.
 - See also* elections, parliamentary
 - quotas, 23, 25
 - referendums, 90–92
 - reforms, parliamentary, 184–196
 - examples, 186–190
 - facilitators and obstacles, 190–193
 - sources of, 184–186
 - regional integration, 155–156, 167–172
 - regional parliaments, 168
 - representative parliaments, 7, **10**, 13–41
 - electoral procedures, 13–26
 - fair and inclusive parliamentary procedures, 26–41
 - individual members, 30–31
 - party inclusiveness, 28–29
 - politically, 13–18, 28–30
 - socially, 19–26, 30–35
 - representatives. *See* parliamentarians
 - Republic of Korea, 17, 23, 54, **110**, 124–125, 145
 - Republic of Moldova, 81
 - reserved parliamentary seats, 23, 25
 - rights, 4, **10**. *See also* gender equality; human rights
 - citizens' initiative, 90–93
 - freedom of expression, speech, 40, 48–50, 56
 - freedom of information, 46–48, 130
 - minority and marginal communities, 34–35
 - of parliamentarians, 28–41, 37–39
 - to seek redress, 74–79
 - suffrage, 14, 18, 19, 192
 - veto, 34, 91
 - Romania, 47, 96, **110**, 178
 - Russian Federation, 85–86, **110**
 - Rwanda, 21
 - Samoa, 120
 - Saudi Arabia, 29
 - schools, involvement of. *See* education
 - scrutiny. *See* oversight of governments
 - security, 43, 44
 - anti-terrorist legislation, 139
 - armed forces, **110**, 131, 137–138, 150
 - Senegal, 29, **110**, 134, 142
 - Serbia and Montenegro, 28
 - short lists, 23
 - Sierra Leone, 174
 - Singapore, 176
 - Slovakia, **110**
 - Slovenia, 25, 47, 80, 91, **110**, 118, 170
 - South Africa, 57–58, **110**, 116
 - gender issues, 32, 88–89, 160
 - international affairs, 160, 171–172, 175
 - parliament accessibility, 83–84, 86, 87
 - parliament transparency, 43, 45, 52, 63, 64
 - parliamentary effectiveness, 120, 126, 127–128, 128–129, 146, 147
 - parliamentary reforms, 189
 - register of interests, 101–102
 - Spain, **110**
 - speakers. *See* presiding officers
 - Sri Lanka, 70
 - St. Kitts and Nevis, 66, 84–85, 97, 191
 - staff, parliamentary, 116–117, 118–119, 177
 - standards of conduct. *See* codes of conduct
 - submissions, committee
 - enabling, 82–85
 - procedures, 74–82
 - subventions, campaigning, 18, 107
 - suffrage extensions, 14, 18, 19, 192
 - sunset clauses, 126

- Sweden, 63, 75, **110**, 112, 165
 gender equality, 33, 161
 international affairs, 178–179
 oversight of government, 129, 137, 141–142
 parliamentary procedures, 30–31, 40
- Switzerland, 91
- Taiwan, **110**
- Tanzania, United Republic of, 89, **110**
- taxes, 5, 107, 109, 165
- technical assistance, 176–179
- terrorism, 139, 157
- Thailand, **110**, 165, 176
- trade, 165–167. *See also* multilateral affairs
- transparent parliaments, 7, **10**, 43–67
 party financing and campaigning, 107
 toward journalists and the media, 44–53
 toward the public, 53–67
- treaties, 159, 166
- Trinidad and Tobago, 160–161
- Tunisia, 21, 80
- Turkey, 9, 65, 80, 112, 138, 191
- Uganda, 57, 89, 97–98, **110**, 143
- Ukraine, 9, 76–77, 147–148, 150–151, 188
- United Kingdom, 16, 45, **110**, 190
 codes of conduct, 101, 103
 Guernsey and Jersey, 174
 Northern Ireland, 75, 174, 190
 oversight of governments, 130, 132
 parliamentary procedures, 30, 31, 32
 Scotland, 174, 190
 timetabling of legislation, 122–123
 Wales, 174, 190
- United Nations Development Programme (UNDP), 20, 165, 178
 national integration, 148–149
 parliamentary reforms, 190
 poverty reduction, 162, 163
- United Nations (UN).
See also United Nations Development Programme (UNDP)
- 2005 World Summit, 1, 7, 183
- Cardoso Panel, 156–157
- gender equality, 23, 161
- Office of the High Commissioner for Human Rights, 159, 161
- parliamentary dimension to, 157–167, 179–182
- parliamentary hearings, 181
- United States of America, 56, 73–74, 104, 136, 155, 179
 upper chambers, 26, 125, 146–147.
See also chambers
- Uruguay, **110**, 160
- Venezuela, **110**
- vertical accountability, 95–98, 107
- veto, right of, 34, 91
- Vietnam, 178, 186–187
- voting process. *See* elections, parliamentary
- websites, parliamentary, 58–62, 80, 92, 125
- Westminster-type parliaments, 28, 120
 parliamentary oversight, 128, 140–141
 reforms, parliamentary, 189–190
- women
 equality of rights, 22–23, 31–34, 160–161
 gender budgets, 88–89, 143
 in parliament, 19–24, 31–34
- women's
 caucuses, 33
 contribution to legislation, 20, 87–89
 groups and organisations, 87–89
 parliaments, 88
 participation in parliament, 22–24, 31–34
 representation in parliament, 19–24, 184
- World Bank, 141, 162, 165
- World Trade Organisation, 165–167
- World Wide Web. *See* Internet
- youth, 51, 64–67, 86, 90
- Zambia, 70–71, **110**, 133, 134, 188–189, 191
- Zimbabwe, 28, 71–72, 142–143, 148–150, 191

