



centre for democratic institutions

Workshop for the Standing Orders Review Committee 9th National Parliament of the Republic of Vanuatu

*Tuesday 26th – Wednesday 27th May 2009
Parliament House, Port Vila*

The Centre for Democratic Institutions (CDI) responds to the needs of developing countries in the field of good governance and democratic institutions. Our geographic focus is the Asia-Pacific region. We conduct a series of activities within the region to address these goals.

At the request of the Speaker, Hon. George Andre Wells MP, CDI was tasked with providing facilitation and support services to the Standing Orders Review Committee of the National Parliament of Vanuatu. This took the form of a workshop that would assist members of the Committee in reviewing Parliament's Standing Orders. The intention was to identify practice and procedural developments that have occurred since the adoption of the Standing Orders in 1982, improve clarity, identify gaps and examine practice in Australian jurisdictions to see whether it would be desirable to introduce some of that practice.

The Workshop follows the highly successful induction program in September last year and the equally successful Committees Workshop conducted in March 2009. This degree of involvement represents a major commitment by CDI to the Parliament of Vanuatu. The current project was lead by Quinton Clements, Deputy Director of CDI.

The Team

Because of the extent to which the Standing Orders Review Committee were prepared to consider the growth and development of practice and procedure elsewhere it was decided to draw in experts from several Australian jurisdictions. CDI was indeed fortunate to be able to call on the enthusiastic support of the Hon. Kevin Rozzoli, former Speaker of the NSW Legislative Assembly; Mr Ian Harris, Clerk of the House of Representatives, Parliament of Australia; Mr Neil Laurie, Clerk of the Parliament of Queensland; Mr David Blunt, Deputy Clerk of the Legislative Council of New South Wales; and Mr Podi Kohu, First Clerk Assistant, National Parliament of Papua New Guinea. We were also assisted by Professor Don Paterson, Emeritus Professor of Law, University of the South Pacific. The University's Law Faculty is based in Port Vila. Professor Paterson provided valuable insight into the constitutional implications relating to parliamentary privilege and the impact of Court interpretations and decisions of Speakers.

The Parliament

Once again we were delighted with the high level of cooperation given by Members and officers of the Parliament. We were particularly indebted to the support of the Clerk, Mr Lino Bulekuli dit Sacsac, who provided both leadership and active support to the Workshop. He has been Clerk for almost the entire period since independence in 1982 and is the most valuable local resource in identifying practices that have emerged during the intervening years. We were also fortunate to have as Chairman of the Committee, Hon. Bob Loughman MP, who headed the Committee in the previous Parliament. That Committee had already done valuable work on an analysis of the Standing Orders in terms of perceived needs. All sessions were well attended, averaging twenty eight members, with a mixture of new and continuing Members from both Government and Opposition. The Minister for Finance, Hon. Sela Molisa MP, a continuously serving member since Independence, attended most sessions and played a valuable role.

Although unable to attend, the Speaker, the Hon. George Wells, gave his full support to the Workshop and issued an invitation to all Members to take part. Given the number of acceptances a decision was made to once again hold the proceedings in the Parliamentary Chamber. This was important initiative in engaging Members and underpinning their ownership of the process.

The Planning

Prior to the Workshop all facilitators spent some time reading the Standing Orders and other background material, drawing together relevant material for their presentations. All came exceptionally well prepared and brought to the table a wealth of procedural knowledge. All facilitators had experience in reviewing Standing Orders in their own Parliaments. Monday 25 May was spent meeting with the Clerk and members of the Committee, accessing further material that had been brought to our attention, such as the Procedural Guidelines for Committees and a Consultant's report on Court rulings and Speakers decisions relevant to the Standing Orders, and checking the venue.

The Workshop

The objectives of the Workshop were to take into account:

1. Matters arising from the review carried out by the Standing Orders Committee in the previous Parliament;
2. Decisions handed down by Speakers in previous Parliaments that have a direct bearing on the interpretation of the Standing Orders;
3. Decisions of the Supreme Court on matters referred to it for interpretation, being the Standing Orders and the decisions of Speakers;
4. Practices that have arisen which amplified the meaning of Standing Orders with a view to capturing these practices within the new Standing Orders;
5. Identify problems that have arisen due to lack of direction in the Standing Orders;
6. Identify practice in other jurisdictions that may enhance the functions of the Parliament in session, with a view to increasing the capacity for Members to represent their electorates.

The first day commenced at 8.30 am with a welcome by the Chairman, Hon Bob Loughman, to members and visitors. He gave an outline of why the workshop was being held and what benefits the Committee, individual Members & the National Parliament could expect from it. He then introduced other Members of the Committee &

Parliamentary staff. Quinton Clements responded by saying how good it was to be back working with the Parliament of Vanuatu and how his team hoped to be of assistance with their review. He stressed that the team was there to assist, not to impose their own views as to what Parliament should do, but to offer choices and examples of how similar problems had been dealt with in other jurisdictions. He welcomed the presence of Members other than the Committee saying it showed a high level of interest in the review. He then introduced each facilitator who in turn gave a short talk on their professional background with emphasis on the role they had carried out in the review process in their own Parliament.

The morning continued with a presentation from Ian Harris on the practice of the Australian House of Representatives and how in recent years it had been modified to meet the demand of changing times. This was followed by an address by Kevin Rozzoli outlining the context in which the Workshop would proceed, providing a background to the place of parliamentary practice and procedure in the effective operation of Parliament. He also explained the sources of authority for Standing Orders and their descending scale of relevance and the importance of well established wording which facilitated easy interpretation. Mr Rozzoli stressed again that it was our intention that the basic structure and integrity of the existing Standing Orders would be maintained, that we would be putting forward examples of best practice, and that it would be the responsibility of the Committee to choose what best suited its purpose, and ultimately the decision of the Parliament as to the final form of any amendments.

This was followed by a presentation from Podi Kohu on the Papua New Guinea Standing Orders, which are based on House of Representatives practice, and the amendments made to those orders since their original adoption. Podi Kohu, who has been with the Parliament for twenty nine years, is particularly knowledgeable and his contribution much appreciated by the delegates. Mr Rozzoli continued with an analysis of Parts 111, Sessions, Meetings and Sittings, and IV, Business of the Parliament.

The day concluded with an in depth presentation by Neil Laurie on the Powers and Immunities of Parliament, covering the concept of parliamentary privilege, possessed by the Parliament as a collective body and of its individual members, without which parliament cannot perform its functions. David Blunt then went on to analyse procedures that were important to the Passage of Legislation. These two areas go to the heart of matters members think most important and both evoked many questions, much debate and valuable information for the Committee.

The second day commenced at 9.15 with two presentation from Neil Laurie, the first on Questioning the Government, covering not only written questions and questions without notice but other avenues of debate whereby Members can probe the activity of the Government in a way that is constructive and a visible demonstration of member activity. The role of the media in picking up on matters uncovered by the questioning process was also discussed. The second was on the rules of debate, predicated on the fundamental principle that debate should be conducted in a free and civil manner and elucidating the way rules of debate and decorum have been developed to ensure this happens.

Building on this David Blunt then took the Workshop through firstly, those parts of the Standing Orders relating to the operation of Standing and Ad hoc Committees and issues pertaining to their effective functioning, and secondly, addressing in detail the

Procedural Guidelines recently developed for the Standing Committees of the Parliament of Vanuatu. The final presentation from Kevin Rozzoli was an examination of Part IX, Financial Procedure. In this he recognized the adequacy of the basic provisions but indicated areas that might be considered to strengthen the Parliament's accountability capacity in considering this fundamental responsibility of Vanuatu's elected representatives. An emerging theme during the latter sessions was the concept of a 'Parliament of Vanuatu Act' which would provide the legal basis for some matters referenced in the Standing Orders. These included definitions of parliamentary privilege, parliamentary proceedings and parliamentary precincts, the power to summon witnesses to give evidence before committees and penalties for non compliance.

In drawing the Workshop to a conclusion Quinton Clements moderated a session which reviewed the issues raised and discussed the way forward, after which the Chairman thanked CDI for the high standard of presentations and the quality of facilitators. He expressed the hope that CDI would continue to support their Parliament until the review process was concluded.

Quinton Clements thanked everyone for their participation and gave an assurance of CDI's continuing commitment, after which the four representatives of parliamentary jurisdictions presented copies of their Standing Orders and other resource material to the Clerk.

The Follow Up

Next day the Committee met with Quinton Clements, Podi Kohu and Kevin Rozzoli to develop a plan and a preliminary timetable to move forward. It was agreed that issues identified by the Workshop fell into four categories, these being, major issues which will take time to work through, working changes to bring the Standing Orders into line with overseas practice, further clarification and explanation of existing procedures, and minor textual changes. It was recognized that the Constitution is very clear in respect of certain fundamental principles and that any changes must work within those principles. It was also agreed that, in addition to their initial terms of reference, the Committee would look at drafting a 'Parliament of Vanuatu Act'. In the first instance it would be left to the Committee to determine which matters it wished to place on the review agenda. It was also acknowledged that the process must proceed under the guidance of the Speaker and the Clerk.

A provisional timetable was drawn up as follows.

1. The Committee would meet in a month to draw together the notes taken by Committee members and suggestions brought forward by Members attending the Workshop. To implement this, a notice would be sent to Members asking them to submit their suggestions in writing.
2. The Committee would meet in another month to draw up the list of desired changes for discussion with the facilitation team.
3. While this is happening the facilitators would continue to work on their individual areas, bearing in mind comments from the Workshop, so as to provide a more detailed basis for subsequent discussion.
4. Once the Committee had compiled its report under Item 2 the report would be forwarded to CDI for distribution to the facilitators.

5. Over the next few months negotiations would continue to develop amendments that accorded with the wishes of the Parliament.
6. A decision would then be made on a mechanism for drafting the desired amendments
7. When agreement is achieved on amendments a timetable for the adoption will be drawn up.

The meeting concluded on a most positive note.

Later that day there was a courtesy call to the Australian High Commission to brief Ms. Sue Langford, First Secretary & Deputy Head of Mission, on CDI's work. She expressed her appreciation of the work of CDI and complimented Quinton Clements on the high level of engagement achieved over the three projects so far conducted.

Summary

There is no doubt the Workshop was an outstanding success. The number of members who attended every day, were punctual and stayed to the end was very gratifying. Their interest and engagement was very evident and the fact that both Committee members and other attendees all took copious notes bodes well for the process. There is however still a long way to go to bring the review process to a satisfactory conclusion and although CDI has committed itself to the long haul there will need to be careful management of available resources to keep it moving forward. We left the Committee with a strong assurance, especially from the Chairman that they would continue to progress the work of the Committee with diligence. It was generally agreed that there could well be in three tranches, the first being the more straightforward amendments that tidy up the current standing orders and make changes that are of a high practical priority, such as, the Deputy Speaker taking the chair in the absence of the Speaker, downloading the Procedural Guidelines for Committees, cleaning up the language, introducing the provision for sessional orders, and amplifying existing procedures to make them clearer. The second could take the Standing Orders into territory that will reconstruct the way the Parliament works and could include reordering the passage of legislation, financial scrutiny, Questions without notice, debate of committee reports and so on. The third would move into the more touchy areas of reducing the Speaker's discretion, election and role of the Speaker and the development of a Parliament of Vanuatu Act.

It will be important therefore in maintaining momentum to stage the adoption of the Committee's recommendations. To ensure the greatest chance of success the Committee must at all times be seen to have ownership of the process, the Clerk must be fully engaged, and the Speaker, despite his absence from the Workshop, supportive. From our end it is important to keep the facilitators engaged, particularly Neil Laurie and David Blunt as there is a very useful nexus between State Parliaments and the Pacific Nations. Under Commonwealth Parliamentary Associations policy Queensland is twinned with Vanuatu and New South Wales has excellent Pacific experience through its twinning with Solomon Islands and Bougainville.

Acknowledgements

CDI wishes to express its deep appreciation to the Clerk, Lino Bulekuli dit Sacsac, for his outstanding support and leadership of the parliamentary team, Hon. Bob Loughman MP

for his positive approach to the Workshop, Mrs. Stephanie Mailesi, the Clerk's secretary, for her invaluable behind the scenes assistance, and the Members and staff of the National Parliament who contributed in so many ways. A special thanks must go to the facilitators - Kevin Rozzoli, Ian Harris, Neil Laurie, David Blunt and Podi Kohu, as well as Professor Don Paterson.

And so to the Future

The process of review is a long one. Most Parliaments take several years to complete the process. Maintaining momentum both in energy and resources is a particular challenge. Vanuatu has now had three projects within eight months with very promising results. It is hoped that the process may be completed within the life of this Parliament, that is, within a four year time frame.