



The Centre for Democratic Institutions

WORKSHOP ON ACCOUNTABILITY

**PARLIAMENT HOUSE
PORT VILA, VANUATU
21-22 AUGUST 2001**

The Hon Donald Kalpokas MP, Speaker of the Vanuatu Parliament, attended a Workshop on Accountability, Scrutiny and Oversight, held in Canberra on 23-25 May 2001. That workshop was organised by the Centre for Democratic Institutions in association with the Commonwealth Secretariat, as part of the latter's Deepening Democracy series. Speaker Kalpokas requested CDI to host a workshop with a similar theme for Members of Parliament in Vanuatu. CDI agreed and met the costs of the resource persons while the Parliament met local costs.

The President of Vanuatu, HE Father John Bennett Bani, opened the workshop. He gave his address in Bislama in which he encouraged participants to work actively to improve governance structures in Vanuatu.

The resource persons for the Workshop were Roland Rich, Director of CDI, Simon Pentanu, former Chief Ombudsman of PNG and former Clerk of the PNG National Parliament, and Dr Peter Larmour, Senior Lecturer at the National Centre for Development Studies, Australian National University. The workshop followed an Agenda worked out with the Speaker. Participation was from both Government and Opposition Members of Parliament though the Speaker requested that Members not sit in their usual seats denoting party affiliation but all sit in the area of the cross benches so as to maximise collegiality. Presentations were made in English, French and Bislama. All Members of Parliament chose to speak in Bislama.

The Australian High Commission provided invaluable assistance in the preparations for the Workshop.

The Presentations

There were three formal presentations each followed by a vigorous discussions session. The first presentation by Roland Rich argued that democracy, though originating in Ancient Greece, is a universally applicable concept. This is reinforced by Article 21 of the Universal Declaration of Human Rights, which states that "the will of the people shall be the basis of the authority of government." Reference was made to the works of Professor Amartya Sen and Professor Hernando de Soto. Alternative models of political organisation were discussed including that of the People's Republic of China.

The presentation then turned to the history of the process of limiting absolute power with reference to the Magna Carta in 1215, Montesquieu's doctrine of the separation of powers, the concept of judicial review, the American and French declarations. Vanuatu's system of parliamentary democracy draws on all these influences and adds its own innovations. One is the role of custom and chiefs, which is cemented in the constitution. Another is the inclusion of a Leadership Code in the powers of the Ombudsman.

Accountability is at the heart of parliamentary democracy. The regular elections to office provide a stark method of accountability of the parliamentarians to the people. Accountability and transparency are key requirements of a system that passes laws applicable to the whole population and that spends public money. The role of civil society and the media in this process must also be acknowledged and it is noteworthy that in the previous week a national chapter of Transparency International was opened in Vanuatu.

In this process the role of parliamentarians was fundamental to the establishment of good governance. Parliamentarians must provide leadership, balance the many interests they represent, find a convergence between custom and modern democracy and be a role model for other members of society. The presentation concluded with a quote from Nelson Mandela. In response to a question about the great difficulty of changing South African society, he replied, "Changing society is easy, changing yourself is hard."

Simon Pentanu drew on his considerable experience as Clerk of the Papua New Guinea Parliament to discuss the problem of parliamentary accountability over the Executive Branch of government in the Pacific. The presentation discussed the tension inherent in members of Parliament forming the Executive and the respective roles of Government backbenchers and Opposition Members. The problem of adjourning parliaments for long periods to avoid no confidence motions, a problem both PNG and Vanuatu have faced, was also raised as was Parliament's role in passing legislation.

The presentation also dealt with the role of the Committee system and the Public Accounts Committee in particular. The point was made that parliamentarians often work in a less political and more collegial manner when undertaking committee work.

Simon Pentanu then dealt with the other regulatory institutions such as the Ombudsman, the Auditor-General, the Public Service Commission and the Police. Experience had shown that there was considerable advantage in ensuring that these institutions had Constitutional independence if possible to safeguard from possible interference by an Executive in control of the legislative process. This was the best way to ensure the basic principle of freedom from direction and control. Pacific countries' Leadership Codes had served their purposes quite well but it was important that the Code be enforceable.

The relationship between parliaments and the regulatory agencies was always sensitive. Support of civil society and the media was often an important tool in the hands of the regulatory bodies. Ultimately it may be necessary to have disputes settled by the Supreme Court thus emphasising the critical role played by the judicial branch and the paramount nature of the concept of rule of law.

Dr Peter Larmour began with the various ways one can define corruption including Bislama translations of the term; "dotiwok" (dirty work) or "fasin blong man long gavman I tekem mane blong halpem of bisnesman long fasen we I no stret" (taking money from businessmen for improper purposes).

The presentation then looked at reasons for corruption from the perspective of public administration including weak and ineffective regulatory bodies, weak concept of separation between public and private moneys and the reality of the impunity of senior members of the Executive Branch. The economic explanation has been neatly summarised by Professor Robert Klitgaard as;

$$\text{Monopoly} + \text{Discretion} - \text{Accountability} = \text{Corruption}$$

This pointed to the need to encourage competition and end monopoly structures, reduce official discretion and increase accountability to regulatory bodies and civil society. There was also a political explanation concerning authoritarian rule that did not permit for any form of accountability. Dr Larmour spoke about the need to improve democratic institutions, strengthen media and mobilise civil society as a means to combat the political underpinnings of corruption.

There were also criminological explanations that pointed to the need to limit the opportunity for corruption. The ‘culture’ of the organisation was the way new members learned about acceptable conduct. Organisations had to work on areas of risk, communicate with its members on the issue and set an example from the top.

A particular issue in Pacific countries that had a gift-giving culture was the need to distinguish between gift and bribe. Quoting from President Olusegun Obasanjo of Nigeria, a founder of Transparency International, it was important to look at the open, not secretive, process of gift giving; the token, not substantial, value of the gift; the voluntary, not demanded, element in gift giving; the ceremonial, not hidden, means of giving; the spiritual, not material, worth of the gift. It was particularly important not to allow traditional gift giving to be a cloak for vote-buying practices.

The Discussions

Both in response to the presentations and in reporting on the results of the Working Group, open discussions took place in which all participants took part enthusiastically. For the purpose of this Report, the discussions are reported thematically rather than chronologically.

- Legislation

Considerable time was spent discussing the problems facing Parliamentarians in dealing with legislation before the Parliament. It was often complex and difficult to assimilate. This was particularly true of budget documents. There was also a problem in implementation of legislation and Parliamentarians were often unsure if the capacity was present to apply the legislation. There was often no action on critical reports by the Public Accounts Committee. The role of the Opposition and of individual Government backbenchers was minimal in putting forward legislation.

In response to these issues a number of points arose. There was a suggestion for greater informal caucusing between Government and Opposition Members on key legislative provisions. The use of standing or *ad hoc* committees was also advocated as a means of involving Parliamentarians in the legislative program. There was a need for specialisation among the Parliamentarians as it would be difficult to be expert on all the issues coming

before the Parliament. Parliament might also benefit from having expertise, such as legal advice, available in-house.

- The Comprehensive Reform Program and Privatisation

While committed to work through the broad ranging issues in the CRP, there was also a certain frustration at how the international community's priorities kept changing. Having built up government as part of the 'nation building' effort, the current view was in favour of small government. It was difficult to equate the private sector in Vanuatu with that of industrialised countries and so perhaps the same strictures need not be followed. The use of foreign consultants in the place of former ni-Vanuatu public servants was not popular. There was even a problem in applying basic principles like merit selection as this would lead to the more developed parts of Vanuatu monopolising all the jobs and MPs from the outer islands had to protect the interests of their constituents.

While there was considerable sympathy with these concerns, there was also acceptance of some of the basic reasoning for the adoption of CRP. Government had shown itself to be ineffective at running business. It was well accepted that the process of Government appointments to run businesses were recipes for corruption and inefficiencies. Public service positions could not be looked at as a type of welfare responsibility because this compromised the effectiveness of service delivery. Ultimately, service delivery was the name of the game as this was what the people (the voters) were demanding. Privatisation was a difficult process to work through and there was considerable scope for corruption. It was one area where transparency was critical to ensure the integrity of the system. Foreign consultants should be used sparingly but at least they did not pose a permanent charge on the budget but represented a one-off payment from Official Development Assistance funds.

- Challenges Facing Members of Parliament

Discussion turned to the quality of MPs and suggestions were made for means of pre-selecting better-qualified MPs. Once in Parliament, new MPs should be given an orientation course. The use of the Annual Allocation for each MP in his constituency needed further guidelines. There was a need to protect MPs from the abuses of the system. Perhaps there was benefit in registering political parties and having them declare donations.

In response, the Speaker distributed a Manual for Parliamentarians, which had been prepared after a previous Workshop. It had not been distributed as it was awaiting translation into the other official languages. But the Speaker decided to take action in response to the views expressed. The recently announced Constitutional Review Commission provided another opportunity to look at some of the political architecture of Vanuatu and possible reforms.

- Civil Society, Media and the Role of Women

The discussion took place against the background that, since the 1996 elections, there was not a single woman in the Vanuatu Parliament. Some MPs accepted this as part of the Melanesian reality, which ascribed different roles to men and women. The process of campaigning, public speaking and travelling around the country tended to draw men into this role. Women, including MP's spouses, provide essential support. A Women's political party had been formed at one stage but had not succeeded. This was not seen as a helpful step.

The discussion on this issue was difficult as there were no women present. Simon Pentanu, himself from Bougainville where women had come to play a significant role in the peace process, argued that women's involvement in politics did not contradict Melanesian ways which in any case had to adapt to changing times. Women brought a certain quality to Parliamentary discussion that perhaps men lacked. Participation of women would thus strengthen Parliament and allow it to look at issues from a more rounded point of view. There was also a strong argument that effective democracy required that half the population be represented by Parliamentarians of their own gender. While quotas may not be an appropriate tool in Melanesian countries, it was important that there be a trend towards the greater involvement of women in politics.

There were also concerns about some aspects of civil society and the media. NGOs did not have good accountability structures, nor were they elected by the people. The donor community was moving more and more in the direction of funding NGO activities rather than government activities. The media was weak and it had little investigative skills. Perhaps a press council should be established to strengthen it and to assist it to broadcast to the whole country. TV existed only in Vila and was not a good barometer of the nations' concerns.

The point was made that it was natural for some friction to exist between political leaders and NGOs. NGOs had a vocation to criticise political leadership regardless of the political party in power at any given time. Leaders needed to accept this as a fact of life and deal with it constructively. The best approach was to keep the lines of communications open. There could well be areas where NGOs could contribute significantly to finding solutions to Vanuatu's problems. While improving the media was a laudable objective, experience in other countries had shown that this was not an area where the Government or Parliament had a role to play.

- Money Politics

There were discussions on the involvement of sitting Parliamentarians in business. This had become fairly standard practice in Melanesian countries. Yet it posed a fundamental problem where official decision-making affected the Parliamentarian's business. There may be a need for a code of conduct for Parliamentarians to describe the limits of their commercial activities while in office. Clearly there could not be system that accepted that decision makers had a conflict of interest in exercising their discretions.

Vote buying practices were also discussed. This was an uncomfortable situation for MPs and candidates for office. Voters expected benefits and they were happy to seek direct benefits from candidates. Often the reasons for their request for money were compelling and had to do with education or health in the family. But MPs lamented that the system was unsustainable as the demands never let up and tended to increase. Giving vatu 1,000 to one family may placate them but it may also make five other families sour that they did not receive anything. 52 Parliamentarians could not provide a social security safety net for the entire nation. Better safety nets were needed and voter education was necessary to explain that selling one's vote brought longer-term negative results.

Program

Tuesday 21 August 2001

- 08.30 Opening
09.00 Break
09.45 Accountability from a Global Historical Perspective
Presenter – Roland Rich
Discussion
11.30 Lunch
13.30 Parliament and the Institutions of Accountability
Presenter – Simon Pentanu
Discussion
15.00 Break
15.30 Designing Anti-Corruption Institutions and Strategies
Presenter – Peter Larmour
Discussion
17.00 Close

Wednesday 22 August 2001

- 08.30 Break up into working groups
Selection of topics such as;
▪ What can Parliament do to improve accountability structures in Vanuatu?
▪ How can civil society and the media be strengthened in Vanuatu?
▪ What are the challenges facing the individual parliamentarian in Vanuatu?
▪ Can election structures in Vanuatu be improved to minimise corruption?
▪ What should be the role of the donor community in facilitating anti-corruption strategies in Vanuatu?
10.00 Break
10.30 Rapporteurs of Working Groups report back
11.30 Lunch
13.30 Where do we go from here?
Chaired by the Hon Donald Kalpokas, Speaker
15.30 Break
16.00 Finalisation and Closing

Documentation for distribution at workshop:

- Peter Larmour and Nick Wolanin (editors), “Corruption and Anti-Corruption”, Asia Pacific Press 2001
- Sir Anthony Siaguru, “The Great Game: Politics of Democracy in Papua New Guinea”,
- CDI Annual Address 18 June 2001
- The Parliamentary Centre of Canada, “Controlling Corruption: A Parliamentarian’s Handbook” 1998 in English and French versions.

**List of Members of Parliament who attended the Parliamentary Good Governance
Workshop on
Accountability, Scrutiny & Oversight
21-22 August 2001**

Speaker of Parliament	Hon. Donald Kalpokas
Prime Minister	Hon. Edward Nipake Natapei
Deputy Prime Minister & Minister of Tourism, Trade & Economic Co-operation	Hon. Serge Vohor Rialuth
Minister of Internal Affairs	Hon. Joe Natuman
Minister of Finance & Economic Management	Hon. Joe Bomal Calo
Minister of Agriculture, Forestry & Fisheries	Hon. Willie Posen
Minister of Lands, Geology & Mines, Energy & Water Resouces	Hon. Sela Molisa
Ombudsman of Vanuatu	Mr. Hanington Alatoa
Office of the Ombudsman	Mr. Alfred Maho
Hon. Alick John Robert	Member of Parliament
Hon. Avock Sam Dan	Member of Parliament
Hon. Boulekone Vincent	Member of Parliament
Hon. Bule James	Member of Parliament
Hon. Esmon Saimon	Member of Parliament
Hon. Imbert Jimmy	Member of Parliament
Hon. Kilman Sato	Member of Parliament
Hon. Leingkone Irene Bongnaim	Member of Parliament
Hon. Lini Ham	Member of Parliament
Hon. Litoung Anecito	Member of Parliament
Hon. Moli Josias	Member of Parliament
Hon. Morking Steven Iatika	Member of Parliament
Hon. Nafuki Allen	Member of Parliament
Hon. Naunun Iaris	Member of Parliament
Hon. Nicklam Jimmy	Member of Parliament
Hon. Pasvi I. Philip	Member of Parliament
Hon. Pisuvoke Ravutia Albert	Member of Parliament
Hon. Rakom Foster	Member of Parliament
Hon. Rayaru Wilson	Member of Parliament
Hon. Song Keasipai	Member of Parliament
Hon. Tabl Barnabas Andy	Member of Parliament
Hon. Telukluk Paul	Member of Parliament
Hon. Thyna Jacob	Member of Parliament
Hon. Tamata Leo	Member of Parliament
Hon. Titongoa Amos	Member of Parliament
Hon. Wells George-Andre	Member of Parliament
Hon. Willie John Morsen	Member of Parliament
Hon. Wilson Aru	Member of Parliament
Hon. Yauko Henry	Member of Parliament

Facilitators: Dr. Peter Larmour, Australian National University
Mr. Simon Pentanu, Former Chief Ombudsman of PNG
Mr. Roland Rich, Centre for Democratic Institutions