

FIRST CONFERENCE OF SECRETARIES GENERAL & CLERKS OF WEST AFRICAN PARLIAMENTS, ABUJA NIGERIA, APRIL 2005

TOWARDS THE EVOLUTION OF AN EFFECTIVE PARLIAMENTARY ADMINISTRATION IN WEST AFRICA

Ian Harris, Clerk of the House of Representatives, Australia, and President, Association of Secretaries-General of Parliaments¹

Summary: There are a number of considerations that apply in moving towards an effective parliamentary administration. They include some recognition of the doctrine of separation of powers and the independence of the Parliament, Parliament's financial autonomy, control of the parliamentary precincts and the meeting place of the legislature, the general organisation set-up of parliamentary administration (including library, research, committee support, media services), the independence of parliamentary staff, and the observance of parliamentary values complemented by compliance with codes of conduct by parliamentary staff.

Some of these are outside the direct influence of the secretary-general. In this category I would place the application of separation of powers and the independence of the legislature, and control of the meeting place and the precincts, and in the provision of services such as a parliamentary library and research services, the secretary-general may be limited by resources. However, there are very important considerations where the secretary-general can play a leadership role, setting a role model and leading his or her staff, whether there has been a formal code of conduct adopted or not. The secretary-general can also make a commitment to the development of staff in whom the ideals of effective parliamentary administration are second nature.

The Inter-Parliamentary Union (IPU) plays a leading role in strengthening parliamentary capacity, both in long-established and developing parliaments, to cope with new challenges. In particular, its technical co-operation programme assists national parliaments, particularly in emerging democracies and developing countries, to improve their work and strengthen their infrastructure. The Association of Secretaries-General of Parliaments (ASGP), constituted as a consultative body of the IPU, has over the years given a large amount of consideration to the administration of legislatures and the corresponding role of the secretary-general. The IPU and the ASGP complement each other when it comes to strengthening parliamentary capacity, the IPU mobilising resources from the international community and the ASGP providing technical expertise. I will be referring to some IPU and ASGP studies in the course of this presentation.

¹ This paper reflects the assistance of, and incorporates valuable suggestions by Mr Martin Chungong of the IPU Secretariat, and Ms Claressa Surtees, of the Serjeant's Office, Australian House of Representatives

I would like to begin by indicating what a great honour it is for me to be here with you, representing the Inter-Parliamentary Union and the Association of Secretaries-General of Parliament, for the first Conference of Secretaries General and Clerks of West African Parliaments. In the tradition of the long serving British Prime Minister, Sir Winston Churchill, I have resisted stating that it gives me great pleasure to be here with you. Sir Winston, I am advised, disliked intensely opening presentations using those words, no matter how great the pleasure he experienced. However, on one occasion when he did use the phrase, it was at his debating club. Members drew discussion topics from a hat, and then spoke on them. On the occasion in question, Sir Winston drew a bit of paper from the hat on which were written the words "Making love". Sir Winston said "It gives me great pleasure..." and then sat down. I will be just a little longer, but the pleasure is every bit as intense as Sir Winston's.

I believe that my presence here as a representative of the IPU and the ASGP represents the complementarity with the IPU toward which the ASGP has been seeking to move. The ASGP is a consultative body under the IPU, and I will subsequently expand on the benefits of its complementary role, particularly with respect to parliamentary administration. However, for the moment I must say that I am particularly pleased to be enjoying your company in my role as President of the Association of Secretaries-General of Parliaments (ASGP), as my election to that office depended heavily on my friendships formed over the years with colleagues from African countries. At the first ASGP meeting I attended, in 2000 in Amman, Jordan, I was approached by members from some Scandinavian and other European countries to ask if I would be a presidential candidate. They based their invitation to nominate me on their observation of the relationship that existed between me and members from African countries. I declined at that stage, but some years later I was honoured when my nomination was strongly supported by friends from Africa.

I will draw on IPU and ASGP material during the course of my presentation on effective parliamentary administration. The ASGP itself, and its Executive Committee, has benefited greatly from participation by members from West Africa. Recently, Mr Prosper Vokouma, Secretary-

General of the National Assembly of Burkina Faso and Mr Ibrahim Salim, then Clerk of the National Assembly of Nigeria were members of the Executive Committee. At our meeting in Mexico City last year, Mrs Ahmed Halima delivered a communication on the Parliament of the Economic Community of West African States (ECOWAS), which was eagerly received by members. We can always rely on members from this part of the world to liven up our discussions and question periods. They are very active and effective members of our Association; I will be drawing on their experience during the course of this presentation.

Independence of Parliament – Separation of powers

It is important for parliaments, where possible, to possess autonomous parliamentary assemblies. The concept of the separation of powers first appeared in the 17th Century with the philosopher John Locke and was developed by Montesquieu. Under this theory, the executive, legislative, and judicial spheres of power in a society should be confined to separate, independent organisations that balance each other. Some countries such as France and the United States of America have a true separation of powers. Most countries formed under the Westminster system do not have a pure separation, as the executive and the legislature merge in the cabinet, drawn from the legislature.

However, in practical terms, the philosophy of the separation of powers means that, wherever possible, the Parliament should have sufficient independent financial, human and technical resources to carry out its duties and functions independent of the executive government.

To quote our colleague Mr Salim, “There is no gainsaying the fact that money is the breath of life of any government, however formed”². The same is true of parliaments.

Separate parliamentary appropriation of funds

Some countries, such as Australia, Burkina Faso and the United Kingdom, have a separate item of legislation to appropriate funds for the Parliament. The National Assembly of Burkina Faso enjoys financial autonomy. The Speaker manages the credits allocated (Article 93 of the Constitution)³. In Australia, the annual Budget consists of three bills. All three are introduced into the House of Representatives. One bill is for the ordinary annual services of government and cannot be amended by the

² *Appropriation Procedure-An Aspect of the Budgetary Process of Nigeria*, CPI No. 182(2nd half year 2001, p.273.

³ P. Vokouma, *Parliamentary civil service employees (the case of Burkina Faso)*, CPI No. 183 (1st half year 2002) p25.

Senate (the Senate can only ask the House to amend the bill). The second bill is for capital public works etc. The third bill is the Appropriation (Parliamentary Departments) Bill, and it provides for Parliament's financial needs.

It is important to realise that while budgets for parliamentary administration may be prepared independently from executive government budgets, in practical terms they must be realistic according to the means available to the society and must take into account the political background and the financial and economic imperatives of the state. Even in countries like Australia, where there is separate legislation for the Parliament's financial needs, it is usual that the Parliament will pay heed to general governmental emphases. For example, if there is a percentage reduction in all governmental expenditure, it would be expected that the Parliament make similar reductions. Moreover, while the formalities are observed, the bottom line is that the Government makes the final decision.

Autonomous parliamentary precincts

Autonomy over its own property, such as parliamentary buildings, is another aspect of parliamentary independence but autonomy does not mean that parliament is immune from general legal requirements implemented by the executive, such as planning laws. At the ASGP meetings of the northern spring session of 2002, Mme H el ene Ponceau gave a presentation about the management by a parliamentary assembly of its property. She indicated that the French Senate had stressed the traditional principle of Parliament's administrative autonomy and established a quasi-ownership of the various elements of its property, while asserting its rights over the real estate of the Luxembourg Palace and the surrounding gardens. It had also made additional acquisitions to reflect the new needs of the legislature.

In the ensuing discussion, our colleague Mr Kenneth Tachie mentioned that in Ghana the Parliament was attempting to regularise the situation of its building. At that stage, premises were shared with the State Protocol Office. Australia is fortunate to have a magnificent parliament building. However, I doubt if its construction would ever have been undertaken if not for the fact that the ministry are also accommodated in the building. The Presiding Officers have control over the public and legislative parts of the building and one of the ministers is assigned responsibility for management of the part of the building in which ministers are accommodated. There is a memorandum of understanding on certain aspects of administration between the responsible minister and the

Presiding Officers. One challenge faced by the Parliament is to resist Executive encroachment on legislature areas.

Organisational Constitution of a Parliamentary Administration

There are a number of services that parliamentary administration should provide to be totally effective. In thinking of parliamentary administration, attention is usually paid to the core features such as supporting the legislative chamber, and providing salary and similar services to members of parliament. However, most effective parliamentary services have included library and research assistance, committee support, media services. Library support is usually regarded by members of parliament as essential to their effective discharging of their functions. In many parliaments, the library provides the usual bibliotheque facilities, such as monograph and periodical provision and lending. Facilities have extended to DVD and video services. However, parliamentary libraries often provide a legislative research service, to assist members with their speeches and presentations and to supplement their understanding of specialist topics more generally.

Committee support is an essential part of parliamentary administration in many parliaments. The committees frequently take the parliament to the people. They are judged frequently by the reports they produce, and this is often dependent on the quality of the research of the staff support. Committee staff often analyse submissions to assist busy members of parliament and help frame questions to be asked of witnesses by members of parliament.

The media are an essential part of the operation of a modern legislature. The parliament makes use of the media to get the message out to the people. In Australia, we have paid a great deal of attention, as parliamentary staff, in establishing links with the media. One innovation that has provided extremely successful is an electronic media alert bulletin. This places the media in the ring of knowledge of the operations of the House of Representatives and its committees. Hard-working journalists meeting tight deadlines usually appreciate having their attention drawn to matters in this way. The alert bulletin has become a great favourite among media workers, and the exposure of the House has been enriched accordingly.

The integrity of the parliamentary administration is regarded by many parliamentary services around the world. By this, I mean having staff that are not political and who subscribe to the observance of a set of values,

whether these values are codified in legislation or regulation, or whether they are simply part of the folklore of the service. I will deal with this at greater length subsequently.

The role of the Secretary-General in effective parliamentary administration

Much of the matters that I have described so far are not within the immediate control of the secretary-general's sphere of influence. For example, the Secretary-General is limited by the extent to which he or she can move the governmental system of his country toward observance of separation of powers, if it does not already have it, to bring about the change for the autonomy of the parliamentary budget, or the independence and control over parliamentary precincts. The Secretary-General may be limited by resources in the establishment of library and committee support services. Nonetheless, access to the internet has changed the world of research vastly. Similarly, it is a viable proposition to combine the provision of library research and committee research personnel. Also, in some countries, the universities consider it a privilege to provide research assistance to the legislature. The only cautionary word I would advance in this context is that the Secretary-General must ensure that research staff do not attempt to pursue their own agenda in the provision of such assistance.

However, there is much that the secretary-general, accepting a leadership role, can achieve towards moving his or her legislature to a position of effective parliamentary administration.

The secretary-general plays a very important role in effective parliamentary administration. Most secretaries-general perform a dual role. They are the principal adviser on parliamentary law and the procedures of their legislature. The second role they play is a key one, of ensuring the efficient functioning of their parliament, usually entailing broad management responsibilities for parliamentary staff, budgets and assets.

One important element I believe in exploring the performance of parliamentary duties to the greatest extent possible is in the relationship between the secretary-general and the Presiding Officer. In a recent lecture under the auspices of the Australia/New Zealand School of Government (ANZSOG) entitled *Is Westminster dead in Westminster (and why should we care)*, Professor Rod Rhodes of the Australian

National University spoke of the relationship between public servants and ministers as follows:

Unfashionable though it may be to say so, bureaucracy has its uses. It acts as the repository of specialised knowledge and as a counterweight to short-term political expediency and opportunism. The civil service is the locus of institutional memory and the bearer of institutional scepticism. It stands for integrity and probity against partisan interest and corruption. It is also a political necessity. Ministers may want responsiveness and better services. They also want the older arts. The good department secretaries spot the pot holes before ministers fall in, and pull ministers out after they have fallen in, then pretend they never fell in at all⁴.

The same concepts apply to the relationship between a secretary-general and a Presiding Officer. The Presiding Officer deserves frank and fearless advice on procedural and administrative matters, and it is frequently more advantageous to the Presiding Officers for matters to be explored first with the secretary-general, as the custodian of institutional memory and a source of non partisan/confidential scepticism. Based on a long period of observation of what I regard as examples of an effective secretary-general and a less-than successful secretary-general, there is one characteristic that I would identify. This is **anticipation** of procedural and administrative consequences that any action might bring. If a Presiding Officer appears to be on a course that might result in him or her falling into a pot hole, it is the secretary-general's duty to point this out. Under the systems in which I and many of my colleagues operate, this advice is not limited to the Presiding Officer. We take pride in being able to provide advice to all elements of the political spectrum. In many instances, the Opposition can only turn to the secretary-general and his or her staff for advice, and not to the much larger number of ministerial staff and agencies that serve the government. This apolitical approach, and the appearance of being non-partisan, is a major factor that differentiates the parliamentary service.

Of course, a relationship of this kind grows with trust and understanding. Another major characteristic in successful secretaries-general and their staff is confidentiality. Particularly in our dealings with the Presiding Officer, I do not think it is appropriate that the secretary-general "go public" where there is a difference of opinion. Most of my colleague secretaries-general are not elected members of their legislature. A few are elected members, and there are benefits and disadvantages in both approaches, but this is not the place to pursue them. The bottom line is

⁴ The text of the address is at <http://www.anzsog-research.anu.edu.au/events.html>.

that it is usually the Presiding Officer who is the elected representative, and in many jurisdictions, he or she has been elected by his or her peers. The ultimate decision-making remains with the Presiding Officer, although in a number of nations (including Australia) the Presiding Officer is at arm's length from day-to-day administrative decisions. This distance works to the advantage of the staff, and to the advantage of the Presiding Officer.

I believe that a successful secretary-general lives these principles, adapting them to his or her own parliament and giving effect to them in local practice which is consistent in with their own traditions and customs. By example and by direct training, the secretary-general inculcates them in the parliamentary staff.

In 2003 the ASGP considered as one of the general debates that have become a vital part of proceedings *The Management Role of the Secretary-General*, with Mr Xavier Roques, Secretary-General of the Questure of the National Assembly of France the lead speaker⁵. This followed on an earlier report by Mr Ugo Zampetti, Secretary-General of the Italian Chamber of Deputies (adopted by the Jakarta meeting of ASGP⁶). The considerations that follow stem largely from the 2000 report and the 2003 discussion, illustrated where appropriate from other jurisdictions.

Secretaries General of Parliaments have a key role advising the Speaker/President and the parliamentary chamber as a whole on procedural matters. To fulfil this advisory role effectively it is important that the role can be performed with independence and integrity. How and for how long the Secretary General is appointed, and the circumstances in which the Secretary General can be dismissed, are important determinants of the independence of the position. In Australia, the national secretaries-general are appointed for one 10 year non-renewable term. They can only be removed for specified reasons on a vote of the House after 7 days notice of motion has been given.

The background and experience of the Secretary General contributes to his/her authority in performing the role. A background in law, or long experience working in parliament, assists in providing the Secretary General with the required authority.

⁵ The full text of Mr Roques' presentation, and a summary of the debate that followed is in the journal of the ASGP *Commonwealth Parliamentary Information* (hereafter *CPI*) No. 185 (1st half year 2003), pp5-21.

⁶ *CPI* No.180 (2nd half year 2000).

The way in which parliamentary rules are expressed impacts on the way in which a Secretary General is able to perform his/her duties. There are laws on parliamentary procedure (often known as Standing Orders). These are supplemented by accepted practice and also by Speaker's/President's rulings. There can also be agreements between political parties represented in assemblies as well as more informal rules of parliamentary behaviour. Monitoring of compliance with the rules is easier for a Secretary General where the rules are expressed in a detailed law of procedure. It is more difficult where rules are subject to interpretation.

Independent parliamentary staff

The ability of parliaments to employ their own staff, and to make arrangements for their own security, reinforces the autonomy of parliament. Competitive recruitment processes for parliamentary staff coupled with good salaries help to build a competent parliamentary administration which, in turn, helps to protect the independence of parliament.

Parliamentary independence is also evident where parliamentary staff and the rules which apply to them and their conduct differentiate from the rules applying to civil servants in making special provision for the needs of the legislature.

To ensure a competent parliamentary administration, requirements for the employment of parliamentary staff can include higher education, a high level of professionalism and high integrity.

Codes of conduct for parliamentary staff

It is also desirable to have a code to cover the conduct of parliamentary staff.

Rules governing the employment of parliamentary staff can include a code of conduct for such staff. A questionnaire completed by parliaments from across the world identified the principles and practices that exist in relation to such codes of conduct. A paper presented at the ASGP meeting held in Cairo in September 1997⁷ examined the results of the questionnaire and considered whether some common principles could be deduced from the practices of different parliaments.

⁷ CPI, No.175 (1st half year 1998) pp30 – 82.

Key points

- Common principles governing officials working for parliamentary assemblies include independence and impartiality; operating within a legal framework; and not deriving personal advantage beyond statutory remuneration for activities undertaken as an employee of a parliamentary assembly.
- Traditional administrative rules, such as staff regulations, consist generally of obligations and prohibitions. Codes of conduct, by contrast, contain directives and principles of behaviour.
- A code of conduct sets out a system of values that, for parliamentary staff, encapsulates a fundamental relationship between commitment to the work and commitment to democracy.
- Codes of conduct reinforce the concept of an official enjoying the trust of the community. While staff regulations establish a relationship between the employer and the employee, codes of conduct involve the relationship between the employee and civil society.
- The autonomy of parliamentary administration should be reflected in the autonomy of the code of conduct applying to that administration.
- One function of a code of conduct is to recognise the good official: to highlight and encourage good performance so as to encourage emulation of that performance from other officials.
- Where behaviour that breaches a code of conduct also has implications of illegality, criminal and disciplinary codes or rules automatically apply.
- A common code of conduct for parliamentary staff across the world would not be realistic, even if there might exist a common set of values shared by parliamentary officials, such as probity and impartiality. However, common principles operating across parliaments, as indicated through the questionnaire on codes of conduct, serve as a reference point for or as guidance in relation to this issue.

Burkina Faso and Australia provide examples of formal codes of conduct for parliamentary staff.

In Burkina Faso, the statute of parliamentary civil service of 1999 defines the principle of parliamentary administration autonomy, develops structures for its management, organises the career of its personnel and fixes the ethics rules applicable. The professional code of ethics is simple but effective. It requires obligation:

- To obey service
- To obey hierarchy
- To ensure the responsibility to execute one's duties
- Of professional morality
- Of exclusivity of the post
- To be available.

The staff have a number of specified rights. These include the right to remuneration, welfare benefits, promotion by seniority, job protection, freedom of thought and the right to strike.

In Australia, under the Parliamentary Service Act, the conduct of parliamentary employees is governed by observance of a number of values. These include:

- Support for the Parliament independent of the Executive
- Non-partisan impartial advice and services to each House, and their committees
- The highest ethical standards
- Accountability
- Leadership of the highest standard
- Employment decisions based on merit
- A workplace free from discrimination and recognising the diversity of society
- Workplace relations valuing communication, consultation, co-operation and employee input on work matters
- Achieving results and managing performance
- Use of public resources properly and efficiently
- Equity in employment
- Openness of employment to all community members
- Commitment to democracy
- Provision for review of employment decisions.

There is also a code of conduct including honest behaviour, care and diligence, respect and courtesy for others, and no harassment, compliance

with the law, confidentiality about parliamentary matters, avoidance of conflict of interest, proper use of resources, no abuse of power or use of insider information, upholding the good reputation of Australia when overseas and observance of any specific determination made by the Parliament.

Assistance of the IPU and the ASGP

The IPU operates a technical cooperation programme under which it assists national parliaments, particularly in the world's emerging democracies and developing countries, to improve the organisation of their work and strengthen their infrastructure. Under this programme, initiated in the early 1970s, the IPU:

- Provides advisory services, and
- Offers projects of assistance.

The programme focuses on strengthening the parliamentary institution itself as well as providing assistance to elected members of parliament and parliamentary staff. It takes into account a country's history and culture, its constitutional framework and other basic laws. The IPU is able to mobilise resources from the international community, and it takes these factors into account in identifying suitable experts. I have attached a copy of a paper on "The Inter-Parliamentary Union's Role in Strengthening Parliaments", which provides greater detail on the programme.

Earlier I made reference to the Rules and Codes of Conduct of the Parliamentary Service of Burkina Faso. The IPU played a vital role in the devising of this system. Following the restoration of parliament in the early 1990s, the IPU conducted a programme there along the lines that I have outlined earlier, and the result is regarded as a resounding success.

In short, the IPU can mobilise resources from the international community in strengthening parliamentary capacity, including that of the parliamentary administration. The ASGP has technical expertise, and it is an article of the Association's rules of formation that this expertise be shared, on request. The ASGP sees itself as hopefully complementing the IPU when it comes to strengthening parliamentary capacity.

ASGP Bulletin

The ASGP has recently launched an electronic bulletin for discussing matters of interest to its membership. In the initial issue, we have raised some points about the managerial role of the secretary-general, and the application of codes of conduct for parliamentary staff. The bulletin is accessible on the IPU website (<http://www.ipu.org/english/home.htm> or

<http://www.ipu.org/french/home.htm>) under the link to ASGP – Publications.

I have found that the very valuable attributes of participation in the ASGP include the opportunity to learn about the good practices and high principles that colleagues apply in their own parliamentary experiences. As appropriate, we can then take them, adapt them and make them our own, to the benefit of our administrations and parliaments. This method has become part of the *modus operandi* of the IPU in building parliamentary capability, as I have mentioned. We would be delighted to share the experiences of our colleagues from West Africa, and I look forward to learning from you now in the discussion to follow or in more informal conversation.