



NATIONAL
DEMOCRATIC
INSTITUTE
FOR INTERNATIONAL AFFAIRS

The Role of the Committee in Parliament

A National Democratic Institute for International Affairs Seminar

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TABLE OF CONTENTS

I.	SUMMARY	1
II.	BACKGROUND	2
	A. Recent History	2
	B. The Current Parliament	2
III.	SEMINAR ACTIVITIES	4
	A. Summary	4
	B. Seminar Plenary Sessions	4
	B. Workshops	8
IV.	EVALUATION	10
	A. Seminar Format	10
	B. Trainers	10
	C. Immediate Impact	10
	D. Logistics	11
	E. Suggestions for Future Programs	11
V.	APPENDICES	12
	Appendix A: Agenda for the Seminar on the Role of the Committee in Parliament	
	Appendix B: List of Participants	
	Appendix C: International Trainer Biographies	
	Appendix D: Outline from Simulated Drafting Exercise	
	Appendix E: "Witness Testimony" from Mock Hearing	
	Appendix F: Participant Evaluation Analysis	

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I. SUMMARY

From December 12 to 14, 1997, the National Democratic Institute for International Affairs (NDI) organized a seminar for members of the Ghanaian parliament entitled "The Role of the Committee in Parliament." The program objectives were as follows: 1) to expose MPs to methods for incorporating citizen input into the legislative process; and 2) to enhance MPs' ability to draft and critically review legislation; and 3) to impart the technical skills necessary to help MPs use the committee system effectively. Twenty-eight MPs from three of the four parties represented in parliament attended the conference.

NDI planned the seminar in response to MPs' interest in improving their ability to research, draft and amend legislation and be more responsive to their constituents. Topics of discussion at the seminar included the following: legislative committees in the lawmaking process, techniques for reviewing, amending and drafting legislation, and minority/majority relations within the committee.

NDI invited an international delegation of former and current legislators from both established and emerging democracies and a professional legislative drafter to facilitate discussion during plenary sessions and workshops. The international delegation of experts comprised Hennie Bekker, member of the South African Parliament; Charles Alan Boright, Counsel for the Vermont Legislative Council, Karan English, former member of the U.S. House of Representatives; and Jim Mitchell, member of the Irish Parliament.

According to post-workshop evaluations, the seminar succeeded in providing participants with skills necessary for reviewing, amending and drafting legislation. Participants commended NDI for the structure and content of the training, stating that the interactive approach was particularly useful in imparting information. Participants also found the international trainers' comparative perspective and knowledge of other relevant systems to be very useful. They suggested additional workshops on committees structures in other African countries, the role of the party caucus and how to successfully introduce private member bills.

II. BACKGROUND

A. Recent History

In 1957, Ghana became the first West African country to gain independence. After a brief flirtation with democratic government that devolved into one-party rule, the First Republic was overthrown in 1966 by the first of a tumultuous series of military coups and counter coups. For more than two decades, military rule was interrupted only twice by short-lived attempts at reinstating a civilian, democratic system of government.

Faced with pressure by democratic elements within Ghana and the new wave of democratization around the world in the late 1980s, the military government led by Flt. Lt. J.J. Rawlings moved slowly towards the restoration of constitutional government. In 1991 Rawlings organized a Consultative Assembly that discussed the principles and provisions of a new constitution. Assembly delegates pushed for a fully restored multiparty system, as opposed to the attenuated version proposed by Rawlings. In April 1992, the draft constitution was approved in a national referendum, and the 11-year ban on political activity was lifted a month later.

Presidential elections took place on November 3, 1992. Incumbent President Rawlings was declared the winner in the first round, obtaining 58.6 percent of the votes cast compared to 30.1 percent for the second place candidate. Opposition leaders claimed wide-scale fraud, refused to acknowledge the election results and petitioned the Supreme Court to no avail. Rioting followed the elections in Kumasi, a stronghold of one of the major opposition parties. The opposition's boycott of the December 22, 1992 legislative elections gave the ruling party almost all of the seats in parliament.

On December 7, 1996, presidential and parliamentary elections were held in Ghana, marking the first time in the country's history that a transition from one civilian government to another was determined through the ballot process. Incumbent President Jerry Rawlings was elected to another four-year term, with Rawlings' National Democratic Convention (NDC) garnering a majority in parliament. Three opposition parties also won seats in parliament. The 1996 elections witnessed the involvement of several thousand domestic observers and party pollwatchers, as well as a large contingent of international observers. The elections were considered by both national and international observers an accurate reflection of the will of the Ghanaian people.

B. The Current Parliament

The December 1996 elections resulted in the first truly multipartisan, representative legislature in recent history. The new parliament, known as the Second Parliament of the Fourth Republic, began its four year term on January 6, 1997 with 182 men and 18 women. Four political parties gained representation in parliament: National Democratic Congress (NDC) with 133 MPs; New Patriotic Party (NPP) with 61 MPs; Peoples National Convention (PNC) with five MPs; and People's Convention Party (PCP) with one MP.

After the 1996 elections, Ghana's nascent democratic institutions, including its parliament, enjoyed unprecedented public confidence. According to many Ghanaian and international observers, parliament was poised to play a significant role in the consolidation of the country's democracy by serving as a forum for public debate, a focus of public input into legislation, and as an institution exercising oversight of the executive branch of government. The Ghanaian public seemed eager to interact with its representatives. Many citizens communicate regularly with their MPs, and numerous NGOs have shown an interest in monitoring and reporting on the activities of the Ghanaian parliament.

Ghanaian MPs stated that they wanted to be more responsive to their constituents, and raise the public profile of parliament in the governance process by enhancing their own skills in reviewing and drafting legislation. However, as MPs have sought to strengthen parliament as an institution and to incorporate public input into the legislative process, they confront a number of challenges. These include an underutilized committee system, lack of legislative research, review and drafting skills and a dearth of resources, and an unfamiliarity with techniques in constituency outreach.

III. SEMINAR ACTIVITIES

A. Summary

The seminar provided a forum for MPs to discuss both technical and political questions and issues with international participants who represented a cross-section of legislative systems and experiences. The agenda (see Appendix A) included a briefing day for international participants, two days of seminar and workshop deliberations and a program evaluation session. The seminar was divided into two major plenary sessions (and a third plenary to review the workshops) and two workshops. Each plenary session was followed by an in-depth question and answer period designed to give participants (see Appendix B for a list of participants) an opportunity to explore the plenary topics in an interactive setting. By simulating a public hearing and drafting mock legislation, the workshops enabled participants to implement the ideas and techniques discussed in the plenary sessions.

B. Seminar Plenary Sessions

- *Plenary I: The Legislative Committee as the Nucleus of the Law Making Process*
Presenters: Hendrik Bekker, Karan English, Jim Mitchell
Moderator: Dennis Delaney

During this session Bekker, English and Mitchell described the function, structure and powers of committees in their respective legislative systems (see Appendix C for trainer biographical information). Hendrik Bekker opened the discussion by referring to the similar challenges that African nations face in transitioning to and consolidating democracy and to the notion of democracy with an "African face." He acknowledged the importance of Ghana as a regional role model since it became the first African nation to achieve independence. He then used the South Africa experience to touch on a number of critical facets of the democratic process such as negotiation, the existence of a loyal opposition and the importance of a committee system for fine tuning legislation. Bekker noted that, despite the fact that governing-opposition party debates are often played out at the committee level as well as in plenary, committees also offer a unique opportunity to transcend party differences and focus on the substance of good legislation.

Mitchell concurred with Bekker's assessment, adding that because of their size committee meetings often promote increased cooperation and consensus in a way that plenary debates do not. Mitchell emphasized the need for a democratic system to evolve in response to public need, historical opportunity and changing political context. He mentioned several significant changes that the Irish parliament has introduced in the last decade: the power of committees to introduce legislation; the creation of select committees that shadow specific ministries (designed to promote better oversight); a shift from closed to open committee meeting; and the power given to committees to call ministers before them to discuss draft legislation. Mitchell then discussed the process of negotiation and compromise between governing and opposition parties that characterizes the legislative process in Ireland.

Karan English emphasized the importance of transparency in the U.S. committee system, as evidenced by open hearings and meetings, recorded voting, public outreach and the existence of an ethics committee. She also spoke about some of the tools and practices that are necessary to make a committee system effective, such as a thorough knowledge of parliamentary procedure, the solicitation of expert testimony that reflects the range of opinions on a given issue, and the holding of public meetings.

Questions and Answers

Consensus Building Across Party Lines

One MP asked how it was possible to arrive at a consensus when the natural tendency for a legislator is to vote along party lines. Bekker responded that consensus is not always possible but, by involving the public, parliamentary debate can serve a positive purpose. English noted that the U.S. system of interest and issue-based caucuses frequently allows legislators to build coalitions across party lines. She described how the bipartisan women's caucus in the U.S. Congress was successful in securing the passage of an anti-gun amendment to a crime bill that both Republican and Democratic women's caucus members strongly supported.

The Whip System

One member asked how the whip system functioned in other parliaments. English responded that the U.S. model of weak party discipline and lack of formal sanctions for voting against one's party is uncommon and not found in many other legislative systems. Mitchell replied that voting against the party position in Ireland will cause an MP to forego his/her party affiliation and therefore effectively lose influence in the parliament. Bekker observed that each party in the government of national unity in South Africa maintains its own whip who enforces discipline for the party. At the same time, the South African whips and coalition also act in concert, discussing policy and positions at weekly joint whip meetings.

Committee Oversight

Several MPs asked questions about communications between a committee and ministry and the methods by which committees exercise oversight of ministries. Mitchell noted that, in Ireland, communications between the committees and ministries are facilitated by rules that require the minister to respond within three months to the recommendation of the relevant shadow committee. In addition, the system of "parliamentary questions" requires that each minister appear at the house once a month for questions from MPs. Mitchell also stated that the Speaker of the Irish parliament acts to protect the rights of both government and opposition members in to question ministers and call an emergency debate.

English added that a committee's prerogative in the U.S. -- to receive regular information from its corresponding departments, call officials to testify and hold officials accountable to their

commitments -- is reinforced by the committee's power of the purse and ability to withhold funding from that department. Bekker then discussed the procedural methods whereby a committee member could receive more information on a particular issue from a ministry. Because members of the opposition usually have fewer resources than the majority, Mitchell noted that Irish opposition members had created a voluntary advisory group to provide the expert advice that the majority could afford to have done by consultants.

Initiating Legislation and Amendments

Several participants asked about member-initiated legislation and amendments. Bekker described the standard process in South Africa: draft legislation is generated through a series of executive branch proposals and committee responses, with opportunities for public input at every stage, and a review of amendments by the committee before the bill is debated. Mitchell added that in Ireland, as in South Africa, the majority of legislation comes from the executive branch; however, a recent innovation allows committees to require that a ministry present a draft bill to the committee to review. This enables the committee to be more active in shaping legislation in the early stages of the process.

Committee Financing

One MP asked how salary decisions for members of parliament are made in other legislative systems. Both Mitchell and English observed that legislators' salaries are a very sensitive issue with the public. Bekker and English told MPs that members in their systems do not receive additional money for serving on a committee. On the other hand, South African committee members are levied a small fine for failing to attend committee meetings.

- *Plenary II: The Process of Amending, Initiating and Drafting Legislation*
Presenters: Jim Mitchell, Al Boright
Moderator: Karan English

This session provided MPs with a thorough explanation of the bill drafting process in different legislative systems, with an emphasis on practices, techniques and examples that can be applicable in a variety of contexts.

Boright explained the role and operation of the drafting office of the Vermont Legislative Council. He explained that the goal of the drafters -- each of whom works with a particular committee -- is to serve as independent sources of advice and as "mouthpieces" who transform members' policy prescriptions into proposed legislation. He stressed that public opinion on policy issues can serve as free expert advice, and noted that obtaining such input requires the legislature to clearly identify for the public who the legislation affects, what its objectives are and what its effects will be. Boright also addressed the importance of teamwork in developing legislation; committee members, drafters and the public, including interest group representatives, are all critical to the

process. Using examples, Boright outlined some of the essential steps in drafting and reviewing legislation, while underscoring the importance of using clear language and of anticipating potential loopholes in the legislation.

Mitchell, too, emphasized the importance of securing a wide range of input, both from the public and from the ministries involved, before the initiation/drafting process enters the advanced stages. This approach, Mitchell said, lays the groundwork for more cooperation and consensus in the latter stages. Using anecdotal examples from his experience in parliament, Mitchell discussed the variety of amendments and the potential misinterpretations that can arise when dealing with differing word definitions. Mitchell elaborated upon a recent Irish initiative that encouraged governing-opposition compromise in the drafting process by requiring a time motion for the consideration of a bill that is agreed upon by both parties. He noted, however, that this had resulted in legislation not being sufficiently examined before passage and, as a result, being challenged frequently in court. Mitchell concluded by stating that the partisan debate that characterizes legislative review is frequently the best way to achieve well-crafted legislation that reflects the widest possible range of interests.

English followed Boright and Mitchells' points by noting that the U.S. Congress maintains a daily record of floor debate to clarify legislative intent and preempt *post facto* courtroom debate on the purpose of the legislation. Courts look to this legislative record for guidance when a statute's meaning is challenged in court.

Questions and Answers

Staff as Legislative Drafters

One MP asked how staff could be expected to have the requisite knowledge to write legislation on technical issues, while another MP expressed concern that drafters might inadvertently change the intent of the legislators. Boright explained that the drafter is expected to act as a "wordsmith" and call upon the advice of experts for technical issues. The drafter's role is to collect, synthesize and articulate information, but not serve as an encyclopedia. Boright then explained that misinterpreting legislators' intent was not a common problem because drafting is a multistage process that involves continued consultations between the draftspersons and legislators.

Mitchell said that it is critical for legislators themselves to be actively involved in the drafting process because they are ultimately accountable to the people for legislation. In response to another query about limited resources, Mitchell noted that the Irish parliament was without secretaries for a long time and had to rely on voluntary assistance. Boright emphasized that staff time and resources can be conserved by borrowing legal terms and concepts from past legislation.

B. Workshops

- **Workshop No.1: Analyzing, Amending and Drafting Legislation: A Simulation Exercise**

This workshop sought to provide MPs with an opportunity to put into practice knowledge acquired in the second plenary session by participating in a simulated committee bill-drafting session. MPs were organized into four mock committees in the fictitious Republic of Xanadu and given a 10-point table of contents that could form the outline for a proposed bill. Each committee was asked to discuss and review the 10 points, reach consensus on whether these points adequately addressed all the issues that should be considered in the legislation, add or delete items as appropriate, and identify and list items to be highlighted under each of the 10 headings (see Appendix D).

NDI had selected the issue of campaign finance reform for this drafting exercise because the topic was relevant to the current political debate in Ghana and was one that invited cooperation across party lines. This enabled MPs to concentrate on the process of reviewing the arguments and debating the details on the basis of good legislation rather than political expediency. In deliberating over the merits of public financing and contribution and expenditure limits, MPs were asked to take into consideration a number of components and effects of the proposed legislation, including the intended beneficiaries of the legislation, the conditions for campaign finance grants, and regulations on political advertising.

- **Workshop No. 2 and 3: Preparation and Conduct of Simulated Public Committee Hearing**

In organizing this simulation, NDI sought to orient MPs toward the committee hearing as an arena for information-gathering and problem solving and to strengthen MPs' skills in preparing for hearings, questioning witnesses and soliciting relevant information.

Before the exercise, the following background information was discussed with the MPs:

The session is premised on the consideration of a [hypothetical] prospective bill on a public policy issue that had been referred to the relevant parliamentary committee. To better inform the committee's preparation of the bill, a [mock] hearing will be organized during which five civil society representatives with clearly defined stakes in the issue addressed by the bill, will testify both in support and in opposition to different aspects of the legislation. At the conclusion of each testimony, committee members will pose questions to the witness, with a view to gathering targeted information, critically evaluating the testimony, and discerning what facts and issues are relevant to the scope of the future bill. A rapporteur will track and

summarize the principal issues that emerged during the hearing and at the end of the hearing the committee will vote on which issues to address in the legislation.

Each MP was provided with an abbreviated version of the bill (to avoid focus on legislative minutiae and technical detail) and background information on the proposed hypothetical legislation. Following a review of these materials, the full group chose 11 MPs to be "committee members" during the hearing, and five MPs to serve as NGO/civil society witnesses. The remaining participants acted as informal advisors and observers. The international experts then assisted the "committee members" in developing questions for the witnesses and focusing on the specific information to obtain through the hearing to make good public policy decisions. The "witnesses" were also provided with short testimonies that highlighted the stakes of the various NGOs in the issue in a few, constructive sets of points (see Appendix E for witness testimonies).

The hearing began with an opening statement by the committee chair, followed by witness testimony and a question and answer period. Both "committee members" and "witnesses" played their roles with enthusiasm and energy. The MPs who represented committee members asked pointed and relevant questions that underscored the multifaceted policy implications of the issue and were technically appropriate, indicating that MPs had familiarized themselves with the issue before the seminar. The MPs who served as NGO representatives were successful in challenging the committee to take their views into account by delivering their concise and impassioned testimony that was relevant to the policy choices at hand. The question and answer period was followed by a rapporteur summary and then a vote on which points raised during the hearing should be incorporated into a solid waste disposal bill introduced by the committee at a future date. A vote was simulated to underscore the impact that NGOs and topical experts can have on the policymaking process. Seven of the eleven issues raised, including enforcement provisions, budget allocations for technology acquisition, and public education campaigns, were accepted to be included in future legislation.

After the vote was taken, MPs reconvened as a group to discuss and evaluate the hearing and lessons learned. The MPs agreed that the workshop was useful in providing an opportunity for MPs to practice the procedures and skills required in managing a public hearing and in acquainting them with the potential, positive role that civil society can play in the public policy process.

NDI selected the issue of solid waste disposal for the hearing for several reasons. As an issue with straightforward facts but many perceived implications, waste disposal lent itself to the simulation in that it allowed MPs to focus on the different perspectives of the witnesses rather than a debate over the facts. In addition, the issue presented many policy hooks such as environmental protection, public health/sanitation, revenue generation, waste disposal and technology improvements. Public waste disposal also has both local and national policymaking implications and, according to recent polls, is an issue about which the majority of Ghanaians feel strongly.

IV. EVALUATION

Based on feedback from seminar participants, international experts and NDI staff, the committees seminar met or exceeded the expectations of program participants (see Appendix F for full analysis of participants' answers to the NDI evaluation questionnaire). Questionnaires were distributed at the end of the seminar and participants were asked to assess what they found most and least useful from the seminar, what other topics could have been addressed, and other suggestions for future NDI seminars. The success of NDI's seminar is attributed to several factors, including seminar format, trainer expertise, emphasis on "how to" information and logistical arrangements.

A. Seminar Format

Organizing the seminar around both plenary sessions and workshops was important for two reasons. The plenary format allowed MPs to address frankly any questions or issues on the experts' presentations. It also permitted the experts to offer differing perspectives on points made by their colleagues, thus exposing MPs to a range of views on the seminar topics. The smaller workshops, on the other hand, allowed MPs to utilize concepts and skills discussed in the plenaries as they drafted mock legislation and simulated a public hearing.

MPs praised the interactive nature of the workshops as well as the question and answer sessions for the "practical insight" that they provided. Many commented that the mock hearings increased their confidence in organizing public hearings and helped them recognize the importance of including public opinion in the legislative process.

B. Trainers

The international trainers' variety of rich professional experiences proved to be a crucial element in the program's success. The four trainers represented different legislative experiences and different views on the role of committees. Two of trainers had served in both the executive and legislative branches of government, while three had served terms as both ruling and opposition party members. The trainers either moderated, presented or participated in all of the plenary sessions and workshops, thereby maximizing the amount of time each spent interacting with Ghanaian participants. MPs said they appreciated the trainers' comparative perspective as well as their ability to relate their experiences to the Ghanaian context. Participants also stated that more time should be given in future programs for individual interactions with the trainers, and that additional African trainers be included.

C. Immediate Impact

According to the evaluations, the seminar provided MPs with clear ideas on how they could use the information acquired during the session. One participant wrote, "we need to look at our standing orders again and consider some amendments to our procedure." Another suggested that "real question time for ministers needs to be taken up by parliament." Many MPs recommended that

public hearings should be a regular part of the legislative process and that committees should play a larger role in scrutinizing legislation and soliciting public opinion. Based on the evaluations, the seminar encouraged MPs to use their newly acquired skills to make the legislature more effective. One MP wrote that s/he would use the information "to agitate for change and make more informed contributions to committee working sessions," while another stated that s/he "shall use the information on the floor and in my constituency to defuse tensions and solve problems." Participants uniformly praised the usefulness of documents (seminar agenda, trainer biographies and NDI publications, including *Presiding Officers in Legislatures* and the *Role of Committees in Legislatures*) distributed by NDI and noted that they would share the NDI publications with the entire parliament.

D. Logistics

NDI held this seminar in Elmina, located 120 kilometers from Accra, in response to MPs' suggestion that being outside of the capital would help them focus on the seminar. Also at the request of the participants, NDI invited the spouses of MPs to accompany them to Elmina and to attend the opening dinner. In response to participants' concerns about the amount of per diem provided for the seminar, NDI agreed to examine further the per diem issue before subsequent seminars.

E. Suggestions for Future Programs

MPs wanted to learn more about the roles and responsibilities of committee chairs and committee members, procedures for committee debate and how to successfully introduce private member bills. Several MPs requested training on specific topics relevant to their committee assignment such as finance, environment, and security issues. Others recommended additional programming to focus on constituency relations and establishing cooperative relationships with Ghanaian NGO representatives. Several participants also requested that NDI conduct follow-up training to include more simulation and group activities.

Follow-On Activities

Many of the comments and suggestions raised by the seminar participants are consistent with the conclusions NDI drew from its baseline assessment and previous consultations with MPs. Per recommendations from the committees seminar, in February 1998 NDI held a two-day workshop on the party caucus. This workshop was designed to assist MPs in reconciling their complex and sometimes conflicting roles as caucus members, legislators and constituent representatives. Additionally, NDI is providing technical assistance to selected Ghanaian civic groups interested in monitoring and becoming more involved in the legislative process. In March 1998 NDI held a seminar for more than 80 NGO representatives on the principles and techniques of civic advocacy. At this seminar, several MPs outlined the stages of the legislative process, and addressed the impact that NGOs could have on legislation. NDI will continue fostering collaboration between civil society and MPs by helping the two groups to organize joint constituency outreach forums.

V. APPENDICES

- Appendix A: Agenda for the Seminar on the Role of the Committee in Parliament
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