
**Building Strong Committees:
Legislation, Oversight and Public Participation
in the Northern Ireland Assembly**

A National Democratic Institute for International Affairs (NDI) Workshop

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Introduction

Elections in June 1998 provided the people of Northern Ireland the opportunity for self-governance through the new Northern Ireland Assembly. The Assembly has been operating in “shadow” mode since July 1998 to set up the institutions and structures necessary for devolution of power from Westminster. In assessing the political framework and the operation of the Assembly to date, and based on NDI’s recent programmatic experience, NDI concluded that holding a workshop on building strong committees was the logical next step in the Institute’s program to assist the political parties and members of the new Northern Ireland Assembly.

The plans for the Assembly emphasize committees as a significant component and members told NDI that they lacked comparative knowledge of how a strong committee system operates. In addition, the nature of the committee system offers better opportunities for cooperation among members than plenary sessions, which tend to be contentious. NDI brought three international experts to Newcastle from April 29 to May 1, 1999 to provide Assembly Members with comparative examples of committee structure and operations and to strengthen the capacity of committees to play an effective role in the lawmaking process, oversee the executive, and provide opportunity for citizen input. Before the main workshop, NDI conducted a mini-workshop with Assembly and political party staff members to examine the role of staff in the committee process. The workshops marked the third and final activity in the first phase of NDI’s work with the political parties in the Northern Ireland Assembly.

Although the Assembly has made substantial progress in establishing the structures necessary for devolution of power from Westminster, obstacles remain for completing the transition to a fully-functioning legislature. Meanwhile, Assembly members continue to request assistance in the politics of governing.

Background

NDI's Work in Northern Ireland

NDI has contributed to facilitating dialogue between political parties and strengthening a nonviolent and democratic political process in Northern Ireland since 1985 by providing party-building assistance to a widening circle of parties. In June 1994, NDI began a program to strengthen political parties and the practice of politics in Northern Ireland while examining issues of politics in a divided society.

In June 1997, in cooperation with the McCormack Institute at the University of Massachusetts, NDI brought together 27 leaders from nine Northern Irish political parties with more than two dozen of the South Africans who actually negotiated the historic transition to all-race elections and democratic rule. The program, conducted before the Belfast talks that led to the Agreement, took place at a secluded military air base in the Western Cape where participants were isolated from political distractions. South Africa's Department of Constitutional Development sponsored the program and dubbed it an *indaba* – Zulu for a “gathering of the minds.”

The South Africans described the challenges they faced to reach a “workable” negotiating model. They examined “real life” situations where deliberations broke down, and the actions taken to reconcile differences and resume the negotiation process. The participants developed a common understanding of the concepts and skills of negotiation necessary to identify common ground for peace.

In September 1998, NDI sent an assessment team to Belfast to consult with political leaders on ways in which NDI could assist political parties in the new Assembly. Across the board, leaders welcomed NDI assistance, and as a result, NDI continues to assist political parties in the new Northern Ireland Assembly in the context of the evolving peace and reconciliation process. Given the opportunity presented by the Agreement, the Assembly will provide the primary forum for cooperation and consensus-building while also providing to the people of Northern Ireland a regional legislature and government for the first time in a quarter century.

The initial three-part program began with a two-day seminar for Assembly members in November titled, “The Politics of Governing: Political Parties and the Northern Ireland Assembly,” that brought together legislators from North America and Europe to share their experiences on the effective functioning of political party groups in a legislature. A third of the Assembly members participated, and as a typical comment, one said the “range of information—expertise and experience of individual contributors—and their flexibility and helpfulness, were outstanding.”

The second component was a consultative visit for Northern Ireland party leaders to South Africa in December to investigate party relationships in the executive and the Assembly in the context of power-

sharing arrangements. Assembly members witnessed how South Africans are strengthening political trust at a time when they are building and testing new political institutions, and the growing impatience of a war-weary public willing to try peace. The Northern Irish especially appreciated the discussions about inter-party relations in the context of a power-sharing arrangement, the importance of seeking consensus within a shared executive, the need for coalition-building and the idea of the executive formulating a code of conduct for political parties. The multiparty make-up of the delegation helped toward building working relationships between parties. One party leader commented, “Maybe those who have spoken to each other here for the first time will now speak to each other in Belfast. The importance of this should not be underestimated.”

The workshop on which this report is based was the third component of the program. From April 28-May 1, 1999, NDI invited members of the Northern Ireland Assembly to discuss more specific issues related to parties and legislatures with three legislative experts: **Johnny De Lange**, member of the South African Parliament; **Vicki Douglas**, member of the West Virginia Legislature and **Jim Shannon**, former member of the United States House of Representatives. NDI planned the seminar on committees drawing upon NDI’s experience working with the Assembly Members to date and following extensive consultations with the political parties and the leadership and members of the Assembly. For the first year of the Assembly’s operation, the committees that had met operated with much less sectarian overtones and divisiveness than seen in the full plenary sessions. Assembly Members say they want a strong committee system, but admit that most Members either have no prior legislative experience or have only the experience of Westminster’s “weak” committee system. Assembly Members were interested in training not only on basic structures and operations of committees, but also on more difficult issues such as how much time should be spent on legislation versus oversight of the executive. Assembly Members were particularly keen on understanding the role of the committee in overseeing the actions of the executive.

The goals of this two-day workshop were to provide Assembly Members with comparative examples of committee structure and operations, thereby strengthening the capacity of committees to play an effective role in the lawmaking process, oversee the executive, and provide opportunity for citizen input. Originally, NDI planned the seminar for April, expecting the committees to be up and running. Because the formation of the executive and committees has been delayed, NDI considered carefully whether to hold the seminar or wait until committee assignments had been made. After wide consultations with the political parties, NDI decided to move forward with the thought that imparting the comparative information could help spark thinking on how the committee system might work in practice. NDI also plans specific follow-on work on committees once they are all working.

**Northern Ireland
Assembly:
Envisioned
Structure of
Committees and
Issues**

The 108-member new Northern Ireland Assembly has met a total of 16 days since last July in “shadow” form to set up the structures necessary for devolution of power from the UK government. It elected David Trimble of the Ulster Unionist Party to be First Minister (Designate), Seamus Mallon of the nationalist SDLP to be Deputy First Minister (Designate), and Lord John Alderdice of the Alliance Party to be the Initial Presiding Officer.

The Standing Orders Committee and Presiding Officer's (or "Business") Committees have been meeting continuously to discuss rules of procedure and the business matters of the Assembly, such as agenda-setting. An Ad Hoc Committee on the Port of Belfast has also been meeting. By all accounts, these all-party committees are functioning well with few sectarian overtones. At the same time, the Northern Ireland Office and the Assembly leadership worked on setting up the structure for the rest of the committees and ministries. In recent months, the Assembly has met more often trying to prepare for the devolution of power. The tone of the plenary debates has been quite sectarian in nature, and at times disrespectful of colleagues.

As of July 1998, the formation of the executive and the committees in the Assembly has been delayed over the question of whether a cabinet can be formed – with Sinn Fein members – before decommissioning of weapons begins. Unionist parties are reluctant to allow Sinn Fein Assembly members to join committees and gain ministerial posts before any decommissioning of arms has occurred. Sinn Fein argues that the Agreement stipulates no requirement for decommissioning prior to the formation of the executive. In February 1999, the Assembly passed another hurdle by agreeing upon the structures needed – formation of the executive, North/South bodies and Civic Forum – to allow for devolution of power to occur. In March, the Assembly approved its Standing Orders. With the structures now outlined, the Assembly awaits resolution of the political impasse to finally move out of shadow mode into a fully-functioning Assembly.

The Executive

The executive will consist of 10 departmental portfolios and functions, with some functions remaining within the Office of the First Minister and Deputy First Minister. That Office will retain control over matters such as equality, European affairs and international matters, economic policy and liaison with outside bodies like Civic Forum and the Northern Ireland Office. The other 10 departments include: Agriculture and Rural Development; Environment; Regional Development; Social Development; Education; Higher and Further Education, Training and Employment; Enterprise, Trade and Investment; Culture, Arts and Leisure; Health, Social Services and Public Safety; and Finance and Personnel. Ministerial posts will be allocated by party strength according to the D'Hondt system, which means that the UUP and SDLP will each have three ministers while the DUP and Sinn Fein will each have two. The number and remit of Deputy Ministers are still being determined.

Committees

The Assembly will have Standing Committees, Statutory Committees and Ad-Hoc Committees. The Standing Committees include the Committee on Procedures, the Business Committee, the Public Accounts Committee, the Committee on Standards and Privileges and maybe a Special Committee on Conformity with Equality Requirements. The Statutory Committees will be set up to "advise and assist each Minister in the formulation of policy with respect to matters within his/her responsibilities as a Minister," and will reflect the departments outlined above. Ad-hoc Committees will be established when necessary.

Allocation of committee chairpersons and deputy chairpersons will also be done on a party strength basis. Chairpersons of statutory committees must be from a different political party than the relevant minister. Assembly members who are also Ministers or Deputy Ministers cannot hold a leadership position on any committee. Each 11-member committee will be comprised with respect to party strength and proportion in the Assembly. Sub-committees may be created as needed.

The Standing Orders provide no guidelines for committees' oversight of the executive, though they do outline specific rules for the committees' role in legislation. A Minister or Member of the Assembly may introduce a Public Bill. Once introduced, a general plenary debate is held with an opportunity for Members to vote on the bill's general principles. The bill is referred to a relevant committee for detailed investigation and report back to the Assembly. When a bill falls under the remit of more than one committee, the relevant committee chairpersons determine which committee should consider it. If such a determination cannot be made, the matter is referred to the Business committee for decision. Regardless of which committee takes the lead, the other committee(s) must be consulted.

Although the executive and its relevant committees have yet to be formed in the Northern Ireland Assembly – and therefore Members are unsure of the roles they might play – Assembly Members urged NDI to provide assistance, including a workshop on committees, so they can start with the advantage of an information base.

Role of Committees in the Legislative Process – Why Committees Matter

Former United States Representative and member of the House Ways and Means committee **Jim Shannon**, member of the South African Parliament and Chair of the Rules committee **Johnny De Lange** and member of the West Virginia Legislature and chair of the Oversight committee **Vicki Douglas** opened the workshop by speaking about the role of committees and why they are important to the legislative process. [See appendix for expert biographies and workshop agenda.]

According to Shannon, legislatures around the world are relying more heavily on strong committees than ever before. This trend, at least in the United States, is not new. Former U.S. President Woodrow Wilson, while a graduate student in political science in 1880, wrote Congressional Government, a book that focused on the strength of committees in the legislative process. He said, “Congress in session is Congress on public exhibition; whilst Congress in committee is Congress at work.”

Woodrow Wilson wrote:
“**Congress in session is Congress on public exhibition; whilst Congress in committee is Congress at work.**”

The quotation above is as true today as it was in 1880. Committees do the real work of the U.S. Congress.

Why are committees so important?

Efficiency

Committees help build members’ expertise, thereby increasing efficiency in the legislative process. Legislatures today deal with complex issues that require a high level of expertise. For example, Shannon knew little about the details of tax policy before joining the House Ways and Means committee. Through public hearings, legislative study groups and focusing attention on this subject area, he quickly learned enough to be considered an expert on tax issues by his colleagues. Committees allow legislators to examine issues in more detail than the plenary, which looks at broad issues. Too most effectively build expertise, Shannon suggested that Assembly Members remain on the same committee(s) for their entire careers.

Facilitate public participation

Committees help facilitate public participation by offering a forum through which the public can express their opinions. Hearings on issues and specific bills and open committee sessions ensure that committees (and the legislative process) are accessible to the public. They hold that hearings gather information, to explore

ideas and to reach out to the public. They can ensure greater, more diverse public participation when held both within the capital and in other areas of the country. Encouraging public participation is very important for a new legislature – to build legitimacy, to show citizens that legislators are addressing their needs and to show that legislators are open to hearing the public’s concerns. Public participation also helps members prioritize issues depending on the response from constituents.

Oversight of the executive

Overseeing the executive is a very important role of committees in a modern democracy. This oversight ensures that legislative mandates are fulfilled and keeps the executive from overstepping its bounds. Oversight gives the legislature (committees in particular) leverage over ministers. This role should not be confused with the separate and distinct investigative role committees can play – oversight of the executive should be based on mutual trust, not contention, and is an ongoing process.

Ensure all members have tangible input into the legislative process

Committees allow all members of the legislature the opportunity to provide input into the legislative process. Of the 435 members in the US House of Representatives or the 108 members of the Northern Ireland Assembly, few have the chance to meaningfully participate in the full plenary sessions. According to Shannon, some legislators (especially backbenchers) sit “like potted plants,” waiting for instructions from the executive on how to react to legislation. Committees allow all members to participate more actively in the law-making process and increase members’ sense of ownership of the legislative process.

Encourage relationships with the executive and political parties

The success of a committee’s work depends on good relationships with both the executive and political parties. South African MP De Lange works very closely with the executive and executive staff throughout the legislative process to ensure that the ministry “buys-into” the process. Committees help build relations with political parties (particularly in Parliamentary systems), because caucuses must agree to support legislation for it to pass. The stronger the relationships, the smoother the process.

For these reasons, committees add important elements to the legislative process and play crucial roles in ensuring public participation, transparency and

“I believe in strong legislatures. If you study the transitions of the last decade, you see that the systems with strong legislatures also have strong committees and strong executives. There is a creative tension between them - the executive actually works as a team with the committees and legislatures.”

– Johnny De Lange

effectiveness. Though no one way exists to run a legislature, Jim Shannon, Johnny De Lange and Vicki Douglas agree that strong committees are the backbone of strong legislatures.

Committee Structure and Organization

Committees are structured and organized differently in each legislature. Shannon, De Lange and Douglas described the committee structure and organization of their respective legislatures and discussed how their legislatures have addressed agenda setting and scheduling, formal and informal committee rules, the role of staff and maintaining a record of committee meetings and public hearings.

Comparative Examples of Committee Systems

In the **United States**, the scope, strength and range of committees have changed over the years. Although only one committee is actually mentioned in the U.S. Constitution, committees have always played an important role in the legislative process in the United States.

The first role of a committee in the U.S. is to formulate and review legislation. The second role of a committee is to lead the debate in the plenary on bills reviewed by the committee. When discussing a bill in the plenary, the committee chair will present the committee's opinion on the bill. The committee's ranking opposition member will usually present an opposing argument. The third role of a committee is to provide oversight of the executive, which implements legislation passed by the legislature. Though the investigative function of oversight is a very small part of the overall committee role, it receives an inordinate amount of attention (especially from the media) when used.

The **South African Parliament** is a mix between the Westminster system and the United States system. Committees in South Africa, as in the United States, accomplish much of the parliamentary work. South African committees, however, often lack the financial and human resources to conduct business effectively.

The committee's process of reviewing a bill in South Africa is as follows: when the Justice Committee in South Africa, which De Lange chairs, receives a piece of legislation from the executive, the Chair issues a press statement, letting the public know that the committee is considering a specific issue and encouraging people's comments. De Lange sends the statement to an appropriate network of people who have a specific interest in the bill. He encourages both written and oral statements on the draft bill. After a hearing is held and all public responses are collected, De Lange has the ministry staff draft a memo summarizing all testimony (written and oral), and the committee uses the memo to evaluate each suggested amendment. The committee reviews each suggestion, providing every member the opportunity to speak on amendments they support. Once amendments have been agreed upon, the committee drafts final

amendments to capture the approved testimony and the bill is resubmitted to the plenary. Often, when this process is completed, the bill has been completely rewritten along the way.

In **West Virginia**, the legislature has 30-40% turnover after each election. Though the two

Focus on a Committee: Government Affairs West Virginia House of Delegates	
<ul style="list-style-type: none"> C 25 members on committee (as others in the house), majority party leadership decides chairs and co-chairs, opposition appoints the same; C meets four to five days a week during two-month annual sessions; C chair meets with staff to review agenda; C committee meets and establishes a quorum; C staff orally presents bill and its details – members receive a written abstract and the entire bill; C members decide whether to go ahead on a bill or move it to a subcommittee; 	<ul style="list-style-type: none"> C amendments are taken in order of being received – must be written, can be amended once and then voted upon; C a public hearing might be held; C committee can send a bill to the floor (plenary) with or without a recommendation (it has never brought a bill out of committee without a recommendation); C The bill is read in plenary three times unless suspended due to time constraints.

year legislative terms are an effective litmus test for approval of the legislators, the high turnover makes it difficult to maintain institutional memory and develop expertise among legislators. Without committees, there would be no ability to focus attention on a single group of issues.

**Agenda-Setting
and Establishing a
Schedule**

One important issue addressed throughout the workshop concerned agenda setting and establishing a schedule. Shannon, De Lange and Douglas agreed that it will be important for the committees in Northern Ireland to organize their schedules to increase efficiency in the lawmaking process.

Assembly members asked who establishes the schedule. Shannon commented that, in the Assembly’s initial days, party leaders and whips are likely to play a large role in establishing a schedule. In the United States, despite the leadership’s responsibility to set the schedule of bills, members can petition to move bills forward should chairs decide to “bottle them up” in committee. Committees prioritize bills that require careful cooperation with the executive. Members should remember, however, that no matter

how much planning a committee does, unexpected bills often come up and interfere with the committee's planning.

To resolve the problem of bills that arise unexpectedly, De Lange tracks issues on a "continuous agenda," leaving room for flexibility. By maintaining close communication with the executive, which introduces most of the bills in South Africa, De Lange tries to anticipate bills that will be coming to the committee and prioritize the schedule accordingly in advance. Scheduling is more difficult, however, because the executive does not engage in the same type of planning. In the end, the executive largely drives the agenda. Even so, De Lange finds it helpful to set the program for the committee. He also considers it important for the chair to bring the schedule to the committee for review.

In South Africa, the initial establishment of committees was complicated by the fact that each member wanted to be on every committee. Each member, for example, was concerned with education, hospitals, roads and other social issues and thus wanted to have a say on those committees. To avoid a political crisis over the organization of committees, membership in the committees was opened so that any

Time Management

member can attend any committee meeting, though without voting rights. (26 members hold permanent, voting membership on each committee.) This resolution, though, created scheduling difficulties for committee meetings because committees had a huge number of members. The leadership decided to have members prioritize committees. Each member has a first priority committee, which they are always expected to attend. They prioritize the other committees they wish to attend, and there is never a scheduling conflict. Because everyone is entitled to be everywhere, no one goes to every meeting, and when they wish to attend more than one committee meeting, their highest priority always rules. These were successful, non-political solutions that answered important procedural questions.

In West Virginia, scheduling is key to dealing with the heavy legislative workload. The Speaker assigns all bills to committee. Committee chairs determine when and if a bill is placed on the committee's agenda. Committees have a finite amount of time to consider legislation; thus, it is very important that the committee stay with its schedule. Though the executive only offers a limited number of the overall bills reviewed by the committee, Douglas saves time during every legislative session for the governor's bills. This is important because the committee may not receive a government bill until near the end of its short, two month session. When there are too many bills to be considered in the short session, bills are often bundled together to speed up the process. Members give chairs permission to set the agenda, and in return, chairs inform the committee of what must be done and what is forthcoming. Committee Chairs, members, ministers and staff should try to agree to a reasonable schedule and then be flexible if changes become necessary. Committees in West Virginia are always kept on a tight schedule. Committee staff estimate a timetable for specific bills, and are responsible, with committee members, for shepherding bills through the process. When scheduling committee meetings, Douglas places difficult issues in the morning when minds are freshest and then intersperses different bills and issues throughout the rest of the day.

Scheduling is Key to Dealing with the Heavy Workload of Legislators

Rules – Formal and Informal

Each committee has its own formal rules, yet Shannon, De Lange and Douglas agree that a legislature’s informal rules and customs really dictate how the legislature is run. Informal rules developed through trial and experience set the precedents and fill in the gaps in the written rules. The experts noted that in a new legislature like the Northern Ireland Assembly, decisions made early on will set the precedents that will last long after its first session. It is thus important that the members of the Assembly carefully consider each decision and think about possible long term implications.

“Committee work is like making sausage – you don’t want to see how it is done, but the end product is pretty good”
Jim Shannon

In more established legislatures, the rules by which committees work have been developed over time and are heavily based on tradition and precedent. Committee rules, according to De Lange, are always a work in progress and should be allowed to change with time, or else the legislature will stagnate. For Northern Ireland and other young legislatures, the written, formal rules are important because they allow the members and the public to understand the process. In time, however, the informal methods of getting work done put “flesh on the bones” of the written rules. Although every committee within a legislature should have some common rules, Shannon, De Lange and Douglas agreed that each committee should be allowed to develop independently.

The Role of Staff

Another important issue the Northern Ireland Assembly must address is the role of staff in the committee’s work. In the United States Congress, South African Parliament and the West Virginia Legislature, staff play very different roles. In both of the US examples, the staff helps committee members research and review legislation. They also educate members about the pros and cons of legislation and identify problem issues within bills.

Shannon related experiences in Congress where very powerful staff members were more important than the members themselves. In Northern Ireland, where committee staff (former civil servants) will not necessarily be working on committees relevant to their prior experiences, he sees little chance that staff can become so powerful.

Douglas depends heavily on the institutional memory of a 23-year veteran staff member. In South Africa, however, legislators have few staff members to help them. Because the legislature lacks both financial and human resources, members have few good researchers and qualified staff, which makes it a struggle to get reports done. In an effort to get around the problem, members use ministerial department staff, build relationships with party staff and make use of interest groups to gather research. Committee chairs then manage the information received.

**Maintaining
a Record**

Maintaining a record of debate and discussion on bills is very important to the legislative process. Often, a committee record is essential to the next reading of a bill because legislators need a record of what was discussed so they can build on the learning of the committee. Narrative reports of committee hearings, according to De Lange, are very important to help the rest of the legislature understand the committee's justification for decisions and their intent. They ensure that the public has access to committee discussions, which increases transparency, and they allow ministers to read debates without attending hearings. Debate and public hearings can be recorded in notes or can be videotaped, as De Lange and Douglas suggest.

Narrative reports help the legislature understand a committee's intent

Initiating, Drafting, Reviewing and Amending Legislation

The Standing Orders of the Northern Ireland Assembly provide the committees with substantial power. Committees can develop policy, initiate legislation, scrutinize bills, consult with the executive and the citizenry and control the executive's budgets. Committees can offer amendments and fix vague language in bills, and examine the financial and other implications of a particular piece of legislation.

Initiating Legislation

The first role committees play in the legislative process in Northern Ireland involves initiating legislation. This role gives the committee the ability to shape legislation. However the workshop revealed that neither Northern Ireland members nor staff currently understand the role committees will play in initiating legislation.

Citizens, private members, committees and the executive have the ability to initiate legislation in Northern Ireland. The ideas for most bills will most likely begin with the parties, according to Shannon. The parties in the executive will be able to develop legislation, which will then be offered by the ministry to the executive committee, which can be considered the "government cabinet." Each party will develop legislation and the government

Research and Development Tax Credit – a US example of legislation – Former Congressman Jim Shannon

"During the Reagan administration, the executive branch was of a different party (Republican) than the legislative branch (Democratic). I represented an area of Massachusetts with a high number of computer firms that paid disproportionately more in taxes than other companies because they used less capital equipment. To level the playing field, I introduced a proposal to establish a Research and Development Tax Credit (RDTC). I worked with the companies, committee staff and other experts to write appropriate language for a bill. To strengthen the bill, I wooed co-sponsors, including several Members from California, which has similar technologically-oriented companies. I spoke with the Chairperson of the House Ways and Means Committee, Dan Rostenkowski, and asked him to assign the bill to the relevant subcommittee. The other co-sponsors and I brought people in to testify and to create a record of support for the bill, which became the first written document in favor of the bill.

The Administration (executive) was against the bill and the prospects of getting the bill adopted did not look good. That year, major tax bills came through Congress with differing ideas on the Democratic and Republican sides. As the debate went on, the Democrats wanted to make their bill as attractive as possible and we thought that making the RDTC bill a part of the Democratic tax bill might help it pass. The Republicans who supported the bill talked to the Administration and said that while they would like to support the Republican tax bill, they wanted the RDTC bill to pass, too. The Administration was therefore forced to put my bill in their tax bill as well.

will prepare a joint program that will be introduced as a bill to the legislature.

The process of introducing legislation varies from country to country. In South Africa, only one-tenth of the bills introduced in parliament are initiated by committee - the rest are initiated by the executive or by private citizens. In West Virginia, half of the bills introduced come from the public.

**Drafting
Legislation**

Hand in hand with initiating legislation comes the actual drafting of bills. This is an important step, but also one of the most difficult. The legal aspects of legislation are complex and confusing. Bills require specialists to draft and to turn the author's legislative intent into an effective law. In the United States Congress and West Virginia legislature, there are paid staff whose job it is just to draft bills. In Congress, any mistakes made when drafting bills are corrected through "technical corrections bills." In Northern Ireland as well, legislators can depend on bill drafting staff attached to the legislature to draft legislation. To begin the drafting process, members will communicate their intent for a new bill to the drafting staff, who will draw the legal language together into a bill that will accomplish the member's goals.

**Reviewing
Legislation**

The committee's largest role will be in reviewing legislation. Committees will be a forum for developing multi-partisan consensus on bills. When members work in small groups with shared expertise, which is what committees provide, consensus tends to emerge, despite party differences. De Lange, Douglas and Shannon have all had experiences where an entire committee will take one position in front of the larger assembly after reviewing a bill. Usually, in the United States and in South Africa, the larger assemblies defer to the committee because of the committees' level of expertise in the subject of the bill.

When reviewing legislation in committee, Douglas, Shannon and De Lange agreed that it is important that members be given adequate time to respond to bills. In West Virginia, Douglas allows all committee members to ask two questions in the beginning of a review session and continues around the room until everyone has had the chance to ask all the questions they want. This is important, as questions often expose problems within bills. Members must be recognized by the chair to speak, though they can ask for consent of the committee members to address the committee if they are not recognized. Douglas always recognizes those members who want to speak, though if their comments are off the topic being discussed, they will be asked to speak at a later time.

Although members tend to grandstand and attempt to impress their colleagues in the full plenary, this does not happen in committee when reviewing legislation. One-on-one, serious debates are the backbone of committee work, and usually occur while committees are reviewing legislation. If members attempt to grandstand, or speak without being fully informed about a topic, the chair or other members quickly put them in their place by asking questions and engaging them in a debate.

Sub-committees

Often, committees become overloaded with bills that need to be reviewed before the end of the legislative session. In West Virginia, it is not uncommon to have more than 2000 bills to review in the short 2 month legislative session. It is therefore important to prioritize what needs to be done. One solution to the overload is to create subcommittees to research issues or to look into detail at difficult or complex issues or bills and then educate the full committee. Members are appointed to these subcommittees to reflect party and regional balance, and there are permanent subcommittee chairs that rotate around the different subcommittees as issues warrant their creation. This not only helps the full committee deal with the high numbers of bills, but also gives members the opportunity to develop expertise in leadership.

**Amending
Legislation**

Amending legislation is another important committee role. De Lange and Douglas mentioned that they often completely redraft bills in an attempt to resolve technical flaws. De Lange spends a good deal of time gathering both written and oral public input and working with the Ministry to meld committee approved ideas into amendments.

To ultimately get legislation passed through the full plenary, convincing their party caucuses to support a bill is important for members in South Africa. In Northern Ireland, this will be important as there is strong party discipline. In the United States, this is not the case, and members tend to defer to the committee's opinions on the bill.

**A bill that didn't pass in West Virginia
– Vicki Douglas**

Ī An executive bill was sent to the legislature without consulting the relevant committee or the public. It proposed changes in the way the state's hospital system was run.

Í The bill came to her Government Affairs committee with no forewarning and under time constraints, but the committee gave it fair consideration nonetheless.

Î The bill was confusing – and as written, would have had dire consequences to the quality and availability of health care in West Virginia.

İ The committee and its staff tried to understand what the intentions of the bill were and what it actually did.

Ï The bill's author held a public hearing to tell citizens what he proposed, but did not ask for public input.

Ĩ The committee met with the author, the hospital association and others and couldn't come to an agreement for a sensible way forward.

Ò The committee then tried to take all sides of the issue and write a bill that all could agree to. In doing so, the original meaning of the author's bill changed.

Ó The bill passed and went to the governor, who vetoed it.

Ô The author ultimately realized that the original intent of the bill was flawed and did not attempt to revive the bill.

Committees' Relationship with the Executive on Legislation and Oversight

The relationship between committees and the executive is an important one – it is mutually beneficial, but can be contentious. A wise minister, according to De Lange, will team up with the committee, which helps them get the ministry's bills through committee more easily. The committee also benefits from the increased communication. Cooperation early on in the legislative process and along the way is important so as to avoid surprises and confrontation. Ministers gain legitimacy by working well with committees. Strong committees offset the power of the executive, placing the legislature and executive in a more reasonable equilibrium.

Though it is easy to let the executive drive policy and legislation, De Lange suggests that the process is easier when committees and the executive are both invested in it. It is also easier to get cooperation from the ministries' civil servants, who have access to crucial information, when the committee has a good relationship with the executive.

Relationship-building in the West Virginia House of Delegates

When Douglas began her chairpersonship of the Oversight committee, she thought it unseemly to ask the executive to come to her, so she made introductory calls to all the cabinet officials to talk about necessary changes, outlined plans that might require bills this year and justifications for these plans. It was important that she contacted the executive early so as to avoid misunderstanding and polarization in their relationships. Douglas made a decision to trust the executive and to work on her relationship with the executive because they needed to work together.

In South Africa, the President has total authority to select ministers. Only two ministers can be chosen from outside parliament. The President considers gender, race, class, and even ethnic groups when choosing ministers in an effort to select a representative executive. It is a very complicated process that often excludes those who were historically advantaged in favor of those who have been disadvantaged.

In Northern Ireland, a further challenge – that committee chairs and ministers must be from different parties – has been built into the system. But dealing with an executive that is from a different party than the legislature is common in many political systems. When Shannon was a

member of Congress, which was controlled by the Democratic party, they had to work with a Republican party executive. Their relationships were very contentious, but the U.S. system does not require the same cooperation between branches as does the system in Northern Ireland. De Lange offered that in South Africa, often members of the same party have worse relationships than with those outside the party. In Northern Ireland, in spite of the built-in party differences, there is a drive for consensus.

At the executive level, broad principal consensus tends to emerge, according to Shannon, despite party differences. The ministers deal with issues in general terms, in contrast to committees which must examine issues in detail. Ministers often rely on the committees to examine details, so they do not have to. If the committee can build up trust with the executive, there will be a stronger, more effective working relationship.

Relationships with the ministries take time to develop, as does the dynamic between the ministers. De Lange, Douglas and Shannon agreed that there was a possibility that the executive could become a cohesive group. The more united the executive, there is a risk that it would be less likely to consult the committee.

The committees must relate to the executive in two areas: legislation and oversight.

**Relationship with
the Executive on
Legislation**

When initiating legislation, Shannon, De Lange and Douglas agreed that it is critical to talk to the executive early. The process should begin with a consultation with the appropriate minister. The Northern Ireland Assembly, by linking committees to the ministries has set the stage for close relations between the two branches.

De Lange finds that if the committee and executive staff can work together in redrafting bills that come to committee, they will learn from each other and the next ministry bill will be improved because of the cooperation. The Ministry staff will understand what the committee is looking for in a bill and vice versa.

It is also important to remember that if a ministers position is uninformed and one-sided because they have only heard from one side of an issue, this becomes evident in the context of a hearing. Hearings afford the committee the opportunity to educate the minister and balance his or her position. Both De Lange and Douglas suggested that this is the point when the committee should work with the minister to develop a bill that is more comprehensive, well-rounded and effective.

**Relationship with
the Executive on
Oversight**

The legislative/executive relationship can be problematic at times, and, in the worst case scenario, the executive can even attempt to ignore the committee. They are forced to work together, however. According to Douglas, political power equals the ability to persuade others, and the committees have the power to persuade the executive to cooperate because committees perform oversight of the executive. It is very important to remember, however, that the oversight function is distinct and separate from the investigatory function, and need not be

confrontational. With the power of oversight, the committees have the ability to look into how the executive is carrying out the laws and how the ministry's money is being spent. To do this, De Lange, Shannon and Douglas agree that the committee must have the power to subpoena both personal testimony and documents. While the committee may have the power to bring the executive to the committee, it is often only the threat of such action that motivates the executive to cooperate. De Lange said that after calling ministers to testify in front of his committee only a few times, he now needs only suggest that they appear and they cooperate with him. When used infrequently, this can be an effective tool.

When you do call someone from the executive in front of the committee to testify, sometimes the most knowledgeable people you can ask for are staff. In South Africa, the Directors General, the highest level staffers, are often asked to provide information for the Ministry. They tend to be the most knowledgeable and, when called, the request is not perceived by the ministry to be as threatening as when the minister is asked to appear. De Lange offers that most public officials are well-meaning, if too narrow in focus. There are not always big secrets to hide, and when you open up the process and make it transparent, officials start coming to you. Douglas recommended that it is also very important that committees build networks within the department or ministry, learn how it works, who is responsible for what and where to find information.

When officials come in front of committees it is an easy opportunity for members to humiliate them. Shannon urges members to refrain from this practice, as it is gratuitous and unproductive.

Legislation vs. Oversight

The committee has both the legislative role and the oversight role to play. But what is the division of time

that should be spent on each responsibility?

Example of a Committee's Oversight Function

The Government Affairs Committee in West Virginia oversees the sunset process, whereby the committee oversees the executive through "performance audits." Chair Douglas and her committee conduct an agency performance audit at least every 6 years. These audits are to ensure that the agency is conducting business legally, holding open meetings, reporting to the necessary authorities and handling money properly. Often, when there are discrepancies, agencies are merely repeating developed traditions, but don't realize that they may not actually have the authority to do certain things. The committee can help change the code to give the agency the authority it needs to conduct its business, or it can shut down that function or the agency. These audits are a good way to ensure that antiquated methods are eliminated.

In the South African Parliament, De Lange's committee passes about 10% of the legislation that it reviews, and is currently overwhelmed by the workload. His committee does not have enough time to do as much oversight as is necessary. The Justice committee meets Monday, Tuesday and Wednesday mornings and all day Friday. The committee spends the vast majority of its time dealing with bills, though he might spend two weeks a year on budgetary oversight. Other committees in South Africa are different. The Sport committee, for example, spends about 95% of its time on oversight. The socio-economic committees also spend more time on oversight, as well as more time on taking evidence and fact-finding.

As the legislature

matures, there will be more time for oversight. In the first five years, however, the parliament has focused on dealing with legislation.

In the United States Congress, there is an emphasis on legislation but some opportunities exist for oversight. To ensure that oversight is addressed, the US has formed subcommittees on oversight that conduct hearings and perform investigations. Shannon is hesitant to recommend this for Northern Ireland, but suggested that it is important for committees to gather facts through hearings. The Ways and Means Subcommittee on Oversight was very active, while the committee as a whole spent approximately ten percent of its total time on oversight.

During the legislative session in West Virginia, the division is approximately 30% of the time spent on oversight and 70 percent of time spent dealing with legislation. Nearly 100% of the oversight, however, results in some sort of legislation to fix the problems that the oversight uncovers. Douglas suggests that the budget provides an important avenue for oversight. When bills are passed in West Virginia, they are like skeletons and the executive needs to enact regulations to make the laws operational. Oversight involves assessing whether regulations are within the agency's authority. Other times, the regulations may be so poorly written that the bill becomes ineffective. In such a case and needs to be rewritten.

Committees Role in Encouraging Public Participation

Public participation is one important aspect that cuts across all areas of the legislative process. The committee chair can make a decision as to how much public participation he or she will allow in the process – with less public participation you will have less problems, but the process will also be less legitimate. The public will provide you with research, and will make the committee look good. When the committee process is open to the public, it has more legitimacy – people know that there is a place where their views, interests and concerns will be weighed. De Lange, Shannon and Douglas agreed that it is critical to engage the public in as many ways as possible.

Allowing the public to participate in the process increases transparency and lessens the perception of any bias. In the South African Constitution, one of the entrenched powers is public access to the legislative process, showing the importance South Africa places in the public's role. To ensure balanced participation, committees must encourage wide participation from different regions, interest groups and ethnicities. Because hearings provide the committee process with legitimacy, they provide committees with leverage in dealing with ministers.

Holding Public Hearings

One of the most important mechanisms through which to gather input from the public is hearings.

In South Africa, every bill goes through a public hearing, where oral and written evidence is gathered from presenters who are given approximately 10-15 minutes to present their case. The hearings are advertised one month in advance so as to encourage participation. After each presentation, committee members have the opportunity to ask two questions,

Important Tip:

Logistics can make or break an effective public hearing and staff are key in organizing the logistics of hearings. They must ensure, for example, that the sound system is adequate, the room is set up to accommodate everyone, and that enough copies of the bill and its abstract are available.

beginning with the opposition. Everyone testifying at a public hearing is treated with respect, no matter how inflammatory their testimony may be. When planning a hearing, if De Lange gets the impression that the participants will be slanted to one side or another, he tries to get encourage the other side to attend, bringing in the most balanced group possible.

In West Virginia, the public or committee members can ask for hearings on pending legislation, though most bills are not controversial enough to warrant

a hearing. To prepare for hearings, Douglas asks her staff to gather information on the gist of the bill, anticipate problems, weigh pros and cons of the bill and evaluate the financial costs. They then draft an explanatory memo for the committee. A week before the hearing, Douglas advertises the topic and date of the hearing, and encourages submissions of comments, which is important to a successful hearing. Douglas also allows constituents to telephone in comments and questions, giving those without the access to the capitol the opportunity to participate. Each participant is given a set amount of time to present their arguments. During the hearing, committee members are allowed to ask questions, lasting about one half hour. The hearing is taped and added to the public record. If there are too many participants, Douglas asks for a spokesperson to represent groups. Sign-in sheets are available to record the guests' names and addresses and she follows up by sending them a summary, prepared by staff, of all the information presented at the hearing for feedback. Speakers are also asked to declare whether they agree, disagree or are neutral on a piece of legislation so the hearing is not dominated by one side. Generally, Douglas waits to have committee discussion and debate on an issue or a bill until after the hearing to allow members to absorb and sift through the information provided. One of the most important aspects of a hearing is that they allow all members the chance to hear all the information on a bill or issue at the same time. This cuts down on the distortion that can come out of hearing different versions of the same story at different times.

Finding a Solution

In the US, Jim Shannon faced an issue involving some tragic deaths of children while they were in foster care. No clear solution to the problem was obvious but it concerned many. He faced questions like how foster parents were chosen, how were they supervised, etc. He held public oversight hearings to listen to ideas on how to improve the situation and alleviate the alarming rate of problems in foster care. After taking public testimony, he eventually formulated a bill that addressed the consensus reached on how to solve the issue. In short, he:

- C Identified the problem
- C Gathered information and public input
- C Found a possible solution
- C Formulated legislation

Role of NGOs

The critical aspect of hearings is that the committee needs to gather well-balanced information. De Lange, Douglas and Shannon have held hearings outside the capitol to encourage those who would not usually participate in a hearing to have the opportunity.

NGOs are important to the legislative process. In Northern Ireland, Civic Forum guarantees the participation by some members of the NGO community. Shannon, De Lange and Douglas warned against relying on the group to offer the opinions of “the public at large.” When groups such as Civic Forum are given “official status”, they appear to represent the will of the people, though they may not be comprehensively representative. It is more important that citizens can make their opinions known.

The Role of the Media

Media involvement in the legislative process can encourage public participation. Though there is the possibility that the media can turn the process into a circus, they cannot do that if the committee chair maintains control. Shannon offered that there are three attitudes one can take towards the media: you can keep them out of the process and sacrifice transparency; you can ignore them – anyone can use the committee as a soapbox and mischaracterize the process; or, you can try to communicate the committees’ points of view to the press.

De Lange makes clear that parties are allowed to go to the media, but cannot make a circus of hearings and committee meetings. It is appropriate for committees to have a press relations procedure and to consider the importance of the public information function. He recommends that chairs be as creative as possible, to entice the media and make hearings sound interesting and important to ensure coverage. Three or four times per year, De Lange organizes a large briefing to tell the media what the committee is doing. The burden is on the chair to get the media interested when necessary.

Getting Out to the People

In the US several years ago, heating oil prices went up and caused concern over how some low income people, particularly the elderly, would be able to afford heat during the winter. In an effort to find the most positive solution, the House Ways and Means committee held hearings in several cities around the country and invited such groups as senior citizens, local politicians, NGOs, heating oil distributors, insulation companies, and companies providing alternative energy sources. Since it was impossible to get all the members to go to each location, three members of the committee went around the country and galvanized public opinion. They made people aware of the issue, gathered information and it provided a basis for the members’ credibility in arguing for a particular solution.

Getting public support for ideas to find solutions to problems is an important political tool. Think about establishing the precedent early of holding hearings outside the capital – it will help build

Mini-Workshop for Political Party and Assembly Staff

On the day before the start of the seminar for Assembly Members, NDI held a half-day workshop for Assembly political party and committee staff members. This session aimed to provide staff with some basic information on how committees work and the role staff play. It also helped introduce staffers to each other as most Assembly staffers do not yet know, much less consult, one another. The agenda was a condensed version of the main workshop, with much time allotted for questions and answers. Over thirty staff members from different political parties and areas of Assembly staff concentration attended. Because much of the mini-workshop discussion centered on topics that came up in the main workshop, the narrative here will focus on issues that came up in the staff workshop but that are not covered sufficiently elsewhere in this report.

Respective Staff Responsibilities

As described by a Committee Clerk, a Clerk's primary responsibilities are arranging meetings; coordinating research; helping make public information statements; drafting reports; liaising with ministries/departments, organizations, party staff, and members; and advising on procedures and protocol. Assembly staff are accountable to the Assembly. A political party staff member's responsibilities vary widely from party to party and member to member, but might include scheduling, advising their member on all aspects of their responsibilities and liaising with other members, staff and constituents.

Responsibilities of All Staff Members

Most glaring during the discussion was the issue of relationship-building between political party and committee staff members. Several participants noted that they had never seen some of the faces around the table beforehand, and they realized that they would need to build relationships with each other for the Assembly to work effectively. Staff members who can work together and get things done can make the Assembly Members' lives much easier. Staff members can keep each other informed.

Relationship-Building

Gathering and Consolidating Information

Staff members play a vital role in helping to gather and consolidate information. Staff should develop resources and networks that can provide the information needed to research an issue. They can help put information from different perspectives into context. They can assist in sorting out the differing slants and angles of the information received. They should play a role in assessing the integrity of the

information gathered. As mentioned by a participant in the workshop, staff members should not be embarrassed if they lack knowledge on a topic. They simply need to go to a variety of people – other legislators, Assembly staff, party staff, ministry staff – and ask questions. Staff members will eventually develop or hone their expertise in the issues with which they regularly deal. Again, in the meantime, the legislative experts suggested staff cultivate resources. For example, De Lange pointed out that any staff member working on the Justice Committee or with a member on that committee will develop a network of resources to use – judges, magistrates, lawyers, NGOs, etc. Staff members can also form study groups on different topics early on that will help in developing the questions that need to be answered during the official process of dealing with an issue. The pressures on members' time will mean that more and more staff will take up these responsibilities.

Developing Expertise

Civil Service

In a working group during the main workshop, several members, a committee clerk and Johnny De Lange discussed how the civil service might adjust to their new circumstances with the Assembly. De Lange stated that he told the civil servants left from the Apartheid era, "I don't care what you did before 1994. All I want to know is what are you going to do from 1994 on? You need to work within the new system." That attitude worked and staff in South Africa for the most part adjusted.