



Malawi National Assembly
Committee Study Mission to South Africa
September 1998

In September 1998 NDI sponsored a study mission to Cape Town for Hon. L.P. Chiundira, Hon. A.G.Makhalira, Hon. F.L. Makuta, Hon. G.E. Zulu, and Clerk R.L. Gondwe to investigate the Committee system in the South African Parliament. Principal observations and recommendations of the delegates are summarized below.

Committee Membership and Operations

- 1) MPs who are knowledgeable about specific topics should be appointed to Committees dealing with those topics. Committee members with personal and professional experience will give the whole House greater confidence in Committee judgments.
- 2) Committee membership should not change annually. MPs should remain on Committees and become experts in Parliament on specific issues.
- 3) In South Africa Committee Chairs are selected through party caucus system.
- 4) Almost all Committee meetings should be open to the public and media.
- 5) Committee members should be required to attend Committee meetings. (In South Africa MPs are fined if they miss Committee meetings or votes in plenary.)
- 6) Committees should prepare annual budgets for their work plans and seek funding from Parliament to carry them out. (In South Africa a Committee on Committees regulates membership and budgets. Members do not get allowances for attending Committee meetings.)
- 7) In South Africa, some bills are referred to more than one Committee, either jointly or concurrently. This practice should be considered in Malawi.

- 8) In South Africa, Committees work in a deliberate, continuous manner. In Malawi, Committees stop and start too much to accomplish significant work.
- 9) The delegation recommended monetary penalties for MPs absent from the House without permission.
- 10) In South Africa, Parliament has an Administration Committee that controls the budget, conditions of service, and code of ethics and conduct for MPs. The delegation expressed interest in knowing how budgets for Committee staff, travel, MP offices, support staff, and constituency services are determined and administered in Malawi. They recommended creation of a Committee on Committees to work with all other Committees, scheduling meetings, assigning staff, administering budgets, etc.

Portfolio Committees (Committees with oversight of government ministries)

- 1) Committees should be able to conduct substantive debate on legislation dealing with their ministry portfolios.
- 2) Committees should be authorized to amend bills, and to report them for consideration as amended by the full House.
- 3) Committee members should use Parliament's research facilities, Study Groups, and input from Ministries and civil society to become knowledgeable about their areas of responsibility.
- 4) In South Africa, Committees "go to the bush" from time to time for input and information.
- 5) Committees should reduce the time the whole House needs to consider legislation, and improve all Members' understanding of legislation, by playing a more active role in reviewing legislation.

Relationships between Committees and Government

The delegation decided that making Government and Parliament more interactive is critical for Malawi's democratic development.

- 1) Ministries should designate Liaison Officers to Committees that handle matters related to their portfolios.
- 2) Liaison Officers should communicate with Committees before legislation is drafted, while it is being drafted, and after it is introduced in Parliament, both at the Committee stage and in

plenary. (In South Africa, Ministries consult with Committees through party caucuses and share information before legislation is introduced. They rely on each other for information.)

- 3) Each Committee should designate one individual to serve as primary contact with Ministries. This person must be reliable and trusted by all Committee members.
- 4) More time should be allowed for questions from MPs to the government and answers from government.

Relationships between Committees and Civil Society Organizations

Meetings with civil society organizations in South Africa enlightened the delegation. They were impressed with cordial relationships that were helpful to Committees.

- 1) In South Africa Committees routinely invite civil society organizations to attend Committee meetings and hearings on bills and issues that concern them. Civil society organizations often attend Committee meetings without specific invitations.
- 2) Committee Clerks place advertisements in newspapers soliciting public input on legislation and issues. Civil society organizations also submit unsolicited information to Committees. They advise Committees on the impact of legislation and monitor implementation once bills become laws.
- 3) Civil society organizations and Committees give each other useful information. (The delegation said they believed that good relationships with NGOs are needed in Malawi, and that NGOs are within their rights to organize and be pro-active on issues.)
- 4) Civil society organizations have pressed Committees to act even when Ministries do not want action.
- 5) Some civil society organizations work directly with Ministries. This has built trust and good will for all parties.
- 6) Some civil society organizations are partisan, but can still interact constructively with all. Understanding each other's affiliations does not hinder interaction. It is simply a filter through which information is understood.

Committee Study Groups

The delegation recommended implementing Study Groups within Committees in Malawi.

- 1) Committees in Malawi should use Study Groups to generate expertise among Committee members. In South Africa Study Groups made up of members of a Committee from a single

party often study issues and legislation before these matters are considered by the whole Committee.

- 2) In Study Groups party caucuses can study issues and legislation at their own pace, ask rudimentary questions without embarrassment, and learn the nuances of party positions. Parties can use Study Groups to formulate strategies for handling legislation. Unlike Committee meetings, Study Group meetings are closed to the public and the press.
- 3) Study groups create informed party caucuses within Committees who can play active, constructive roles in Committee deliberations and in plenary.
- 4) Study Groups encourage parties to work together. Informed Committee members can find common ground, as well as differences, between party positions on issues.
- 5) Members hone legislative skills in Study Groups by making presentations and motions, suggesting amendments to legislation, etc.
- 6) In South Africa, in general, if a member does not attend a Study Group when it considers an issue or legislation, the party does not allow the member to participate in debate in full Committee, and in some cases, in plenary.
- 7) Study Groups maintain close contact with Government Ministries, and rely on them for information and education.

Minority Roles in Committees

The delegation met with variety of political players, including representatives of minority parties who advised them on how to be effective when in the minority.

- 1) Minority parties should not try to force their views on the majority. They should make their points courteously.
- 2) Committee work should be oriented toward finding mutually acceptable compromises and solutions to problems. Most of the work of minorities involves reaching compromises with the majority. Often they do not receive credit for their work.
- 3) The key to being effective is making subtle but important changes. To get credit for subtle changes, minorities must use media, and make sure that media understand the nuances.
- 4) Minority parties should publicly expose the majority party's unwillingness to compromise only as a last resort. They should be sure the majority's position and their position are reported accurately and clearly. They should not make general accusations.

- 5) Committee work is valuable for minority parties. Atmospheres within Committees are less adversarial than in plenary. Minorities can express their views and have them heard by the majority party.
- 6) The majority party is elected to govern. Minority parties are elected to provide checks on governing by the majority.

Staff for Committees

The delegation met with Secretaries (Clerks) of the National Assembly and the National Council of Provinces, library staff, and research staff. They were impressed with the support available for Parliament in South Africa, and recommended increasing staff support as a priority in Malawi.

- 1) Malawi's Parliament should hire more staff and Clerks, preferably one per Committee, as well as Administrative Assistants. While it is not possible to hire this many people at this time, there must be a fair system for sharing staff among Committees.
- 2) The Clerk must be a strong, respected, and impartial leader. He must inspire all staff with a sense of duty and pride in their work to compensate for hard work and limited financial compensation.
- 3) Malawi's Parliament should investigate all potential sources of training for staff to increase their value to the House. Right now Parliament relies on too few people to do too much.

Library, Research Unit, and Information Technology Services

The delegation was convinced of the importance of the Library to Committees and to individual MPs.

- 1) Malawi's Parliament should form a Library Committee to oversee the facility, facilitate its development, and establish protocols for its use.
- 2) The goal of the Library should be to offer information services to Parliament staff and MPs, and not just be a storage and lending facility for publications.
- 3) The Library should incorporate a staffed Research Unit to offer services to MPs and Committees.
- 4) All research requests should be made on confidential forms, and the Research Unit should keep copies of research reports in confidential files for reference and future use.

- 5) If the Research Unit can not handle a research request, the Unit should identify another source for the information. The Unit should inform the MP making the request in advance of the cost (if any) of obtaining the information. The MP should be responsible for the cost, or for finding a source of funds to cover the cost.
- 6) The Library should catalogue and archive documents about Malawi, and articles about Malawi in local, regional, and international periodicals.
- 7) The Library should hold documents of regional interest, and work with organizations like SADC, the UN, the OAU, Westminster Foundation, the IPU, and the EU to obtain materials and resources.
- 8) The Library should have an exchange program with other organizations and libraries to share resources.
- 9) The Library should be selective about books and documents that are retained and shelved, and give books and documents that are not useful to Parliament to other libraries (schools, community centers, university etc.)
- 10) Library staff should be trained to use information technology and do research on the Internet. They should be able to show other staff of Parliament and MPs how to use computers to find information on the Internet.
- 11) The Library should be designated a legal depository for all publications in the country.

Research Unit – Services to Committees

The delegation was convinced of the importance of establishing a Research Unit.

- 1) A Research Unit should assist Committees finding information on Parliament's proceedings in plenary and in Committees, preparing briefing materials, and doing research. Research reports should typically be included in Committee reports.
- 2) The Research Unit should keep MPs informed about Committee activities by publishing indexes of Committee meetings and reports.

PARLIAMENTARY TRAINING PROGRAMME

MODULE 6

COMMITTEES OF PARLIAMENT

PT 600 SERIES

MODULE 605: COMMITTEES OF PARLIAMENT

A. RATIONALE

The aim of the course is to provide knowledge and develop understanding of Parliamentary Committees, their purpose, function and operations including:

- Their scope and type
- Basis and derivation of powers
- Chairman's role and responsibilities
- Activities including enquiries
- Administration and Staffing

B. LEARNING OUTCOMES

- By the end of the Course, the participants should be able to
- identify the various Committees of Parliament
- appreciate the role of Committees in the functions of Parliament
- use Committees effectively
- read and digest Committee reports
- make proposals for change in the working of the Committee system

C. TOPICS

UNIT 1 - NATURE OF COMMITTEES

- TOPIC 1. Legal Foundations of Parliamentary Committees
- TOPIC 2. General Committee Theory
- TOPIC 3. Appointment and Membership of Committees
- TOPIC 4. Types of Committees
- TOPIC 5. Role of Committees in the Legislative Process

UNIT 2 - FUNCTIONING OF COMMITTEES

- TOPIC 1. Powers of Committees

TOPIC 2. Conduct of Committee Proceedings

TOPIC 3. Conduct of Inquiries

UNIT 3 - COMMITTEE REPORTS

TOPIC 1. Compilation of Reports

TOPIC 2. Presentation of Reports to the House

UNIT 4 - BUDGET, STAFF AND FUTURE

TOPIC 1. Budgets

TOPIC 2. Staff

TOPIC 3. Future

UNIT ONE

TOPIC 1 LEGAL FOUNDATION OF PARLIAMENTARY COMMITTEES

1.1 CONSTITUTIONAL PROVISIONS

Section 56(6) of the Constitution of Malawi reads:

"Parliament may establish any committees of its members and may form joint committees for the scrutiny of legislation and performance of other functions, except voting on motions and Bills."

Section 56(7) of the Constitution of Malawi reads:

"In addition to any committee appointed under subsection (6), there shall be a Public Appointments Committee, a Budget Committee and a Legal Affairs Committee of the National Assembly which shall each -

- (a) be appointed by the National Assembly with proportionate representation from all parties represented in the National Assembly;*
- (b) appointed within thirty days of the first sitting of the National Assembly after a general election and thereafter annually; and*
- (c) perform such functions as are conferred on them by this Constitution or by an Act of Parliament or by the Standing Orders of Parliament."*

Section 96(1)(e) of the Constitution of Malawi reads:

"The members of the Cabinet shall have the following functions

To be available to Parliament for the purpose of answering any queries or participating in any debate pertaining to the content of the policies of the Government."

1.2 COMMENTARY ON SECTION 56(6) AND (7) OF THE CONSTITUTION ON SECTION 56(6) AND (7) OF THE CONSTITUTION

I wish to comment on Section 56(6) and 56(7) as it relates to Committees.

(1) Nature and Types of Committees

That Parliament appoints Committees of Parliament under the authority of the Constitution. Such Committees can either be Standing

Committees i.e. permanent (for the life of Parliament) or Select i.e. adhoc or temporal (dissolve soon after reporting to the House). Committees are not Parliament but a creation of Parliament to help it in ways determined by it, i.e either to collect information, study some matter in detail or hear public views. Committees are not independent of Parliament but subordinate to it hence their duty to report to Parliament before the end of the Session in which they were appointed.

(2) **Membership of Committees**

That person to be appointed to Committees are Members of Parliament. Any person who is not an elected person cannot be appointed by Parliament to be on any Committee. For example, a Minister who is appointed by the President under Section 94 of the Constitution by virtue of which he or she sits in the House cannot be appointed by Parliament to any Committee.

(3) **Number of Committees**

Parliament can appoint as many Committees as it wishes or it can appoint no Committee at all. Should it decide not to appoint any committee, it is compelled by Section 56(7) to appoint three:

- Public Appointments Committee
- Budget Committee
- Legal Affairs Committee

Under the Standing Orders, Parliament resolves itself into a Committee of the Whole House that is a Committee of all Members of Parliament to look at the Committee Stage of Bills and is chaired by the Deputy Speaker and members speak more than once on the same question. Under Section 162 of the Constitution, the Defence and Security Committee is created as to have such functions as are conferred on it by the Constitution. So in effect the Defence and Security Committee and the Committee of the Whole House should be added to the three Committees making five Committees to be appointed by law.

The three Committees are in addition to any number Parliament wishes to appoint.

(4) **Joint Committees**

If Senate were in existence, Parliament could appoint joint Committees i.e. consisting of members from Senate and National Assembly to

scrutinise legislation and perform other functions. Joint Committees cannot be appointed to have a joint vote on motions and bills. The joint Committees could either be Select or Standing.

(5) **Party Representation**

Membership of Committees is determined by party strength in the House. A party with more seats in the House has more members on the Committee and vice-versa. For example, UDF(6), MCP(4) and AFORD (3), which is the practice at the moment.

(6) **When Committees are Appointed**

Appointment of Committees should be done by Parliament after a general election during the first meeting, at least within 30 days (for the three Committees). Under the Standing Orders (140), the Business Committee does make the appointments at the commencement of a session and thereafter annually. Annual appointments have not been well received by members because members are replaced before they know Committee work well. It is suggested that, appointments be for a five year term i.e. the life of Parliament.

(7) **Mandates of Committees**

Parliament Committees especially the three in Section 56(7) perform such functions as are conferred on them by the Constitution or Act of Parliament or by Standing Orders. All Committees have their mandates (terms of reference) stated in the Standing Orders. However the three Committees, to the extent that they are mentioned in the Constitution have some of their functions mentioned in various sections of the Constitution. The three Committees mentioned in the Constitution can be referred by name in any Act of Parliament which is not the case with other Committees mentioned only in Standing Orders. This appears to be the drafting practice e.g the Public Appointments Committee is mentioned in the corrupt Practices Act as responsible for confirming the appointments of the Director or Deputy Director of the Anti-Corruption Bureau.

Activity 1

List the Parliamentary Committees you know together with their functions

TOPIC 2 - GENERAL COMMITTEE THEORY

"Any complex matter put before any large association of men is commonly dealt with in four ways: by appointing a small committee; by giving that committee as precise a definition of its functions as possible; by giving the committee as much time as possible; and by including among the committee technical experts or giving it access to such experts. Few of the activities of the House, measure up to such a standard."(Crick)

1. What is a Committee?

A Committee is defined as a body of one or more persons, elected or appointed by an assembly to consider, investigate or take action on certain matters or subjects or to do all of these things.

Committee theory generally states that Committees are either elected or appointed for a definite period which is never longer than the period of an electing or appointing body.

A Committee is not the Assembly and is generally subject to the following restrictions:

- a. Cannot act independently of the appointing body since it is acting on its behalf.
- b. It may not go beyond the scope of the particular duties entrusted to it.
- c. It must report its proceedings to the appointing or electing body and be prepared to give any further information required. It should, therefore, arrange to hold its meetings at convenient times before the meetings of the appointing or electing body.
- d. No decision of the Committee is binding unless the meeting was properly constituted in terms of the quorum and leadership.
- e. The Assembly may accept, reject or ignore the report of the Committee.

2. Why do Parliaments need Committees?

Committees are important to Parliaments. What this means, will be explained later. The need to have Committees is accepted but not without resentment

. There are arguments for Committees and against Committees according to some parliamentary commentators.

2.1 *Arguments for Committees*

- (a) The first one relates to size: experience has proved that a small group of persons can consider, plan, and carry out a piece of work more efficiently and with greater scrutiny and accuracy than a large and unwieldy organisation.
- (b) A Committee can work more quickly and effectively, because it is removed from the pressure of other business and from prejudice of lengthy debate. It can therefore devote more time to any subject under consideration.
- (c) A Committee has greater freedom of discussion usually conducted under informal procedures, unlike in the House where rules of debate do not allow a member to speak more than once to a motion.
- (d) Committees are privileged in that they can conduct hearings where representatives or organisations and experts on particular subjects may be invited to give advice.

2.2 *Arguments Against Committees*

The following arguments are advanced against Committees.

- (a) They distract attention from the proper parliamentary forum, the Chamber. No other group should attract people's attention other than the Chamber itself.
- (b) They create two classes of Members: first-class ones who are on committees and therefore have access to a great deal of information on individual subjects; and second-class ones who are denied that information. This means that debates are dominated by the first class members with the second-class ones left behind, ignorant and powerless. Furthermore, the better-informed committee members would inevitably develop a self-defeating affinity with the executive.

3. **How important are Committees?**

One of the questions which comes up when discussing committees is how important are these committees in the legislative process or how strong are these committees to influence legislative outcomes. "Importance" or "Strength" means the Committees ability to influence the legislative outcomes. Whether a Committee is important or strong in parliament will depend on the following factors according to some authors:

1. Whether the Committees exist in a Parliamentary or Presidential System. It is generally thought that Parliaments in Parliamentary Systems are reluctant to devolve real power to Committees and therefore Committees in such systems are relatively weak or perform informational duties only because Committees are agents of their parties. In Presidential Systems, there is separation of powers and a greater degree of devolution of power to Committees hence their strength in influencing legislative outcomes.
 - (b) The relationship between political parties and committees. In a Parliament where parties determine the membership of the Committee, party loyalty and cohesion are high and committees tend to be weak.
 - (c) The likelihood of the ruling party becoming an opposition party at one stage tends to make the ruling party sensitive to the needs of the Committees and therefore Committees may influence legislative outcomes.
 - (d) The level of the country's development tends to affect the strength of Committees. Countries which have less urbanisation and industrialisation may not need complex Committee systems which are necessary for professional reports to influence legislative outcomes.

A strong committee system is value for money because the business of the House is further considered by a smaller group with power to interview a lot of citizens on the said business. When members meet with knowledge that their contributions in a report will affect the outcome of business, they sit with zeal and seriousness and develop a sense of importance in the decision making process of the Assembly.

4. Conclusion:

In the words of Laundry, "Committees offer solutions to problems, sometimes they simply identify them, frequently they make proposals or recommendations which may or may not prove effective. Sometimes their proposals are acted upon, sometimes they are rejected, at other times simply ignored. On occasion the influence of a committees work emerges only with time the passage. Some investigatory committees expose abuses. Committees also play their part in refining and improving legislation. It is not always possible to exclude partisanship from committee work, but is frequently far more subdued, and co-operation and common purpose between political adversaries is by no means unusual when working together in a committee. The evidence indicates that the contribution of committees to the parliamentary process is positive and of incalculable value. Few Parliaments, even among the smallest, would be able to operate without them."

Activity 2**Questions for Discussion**

1. Members who are not in committees of parliament may not know as much as members who are in committees. Do you agree? Give your reasons.
2. Parliament can do legislative work without committees and this has been so in Malawi since 1964. Do you agree? Give your reasons.

UNIT 2

TOPIC 1 POWERS OF COMMITTEES

1.1 Main Principles.

Mandate

Committee powers are determined by the House. Committees cannot do something which the House had not mandated them. If more power is needed, the Houses's authority must be sought. Power has to be given; it cannot be assumed.

Collective Use of Power

Power is for the Committee as a collective not for its individual members to exercise it. Power has to be exercised by decisions taken at a properly constituted meeting in terms of the quorum, notice, agenda etc.

Types of Power

Power can either be a general power or specific power. A general power is power exercised by all Committees of Parliament while a specific power is power specific to a Committee. General powers are spelt out in the Constitution, Standing Orders, National Assembly (Powers and Privileges) Act. These general powers are:

- Power to call for persons and documents (Standing Order 141, Section 9 of National Assembly (Powers and Privileges) Act);
- Power to investigate any matter (Section 60(3) of the Constitution);
- Power to examine and enquire into all matters referred to the Committee by the House (Standing Order 141);
- Power to create Sub Committees of members (Standing Order 141(2));
- Power to report to the House from time to time (Standing Order 141(1));
- Power to meet when the assembly is sitting or adjourned (Standing Order 141(1)).

Specific Powers

Specific powers are spelt out in Standing Orders and in the Constitution. Some of the specific powers for some specific committees are:-

- To Confirm High Commissioners, Ambassadors and other principal diplomatic staff by Public Appointments Committee. (Section 190 of the

Constitution). This power is exclusive to this Committee and it is a specific power.

- To review and report on the Public Accounts of Malawi and all reports of the Auditor General by the Public Accounts Committee (Standing Order 145).

1.2 Examination of some general Powers.

We are going to examine the following general powers:

(i) *Power to send for persons, papers and records:*

This is a very important general power. Under the National Assembly (Powers and Privileges) Act, any committee of the House, can order any person to attend before a Committee and give evidence or produce any paper, book, record or document in his/her possession or under the control of such person (Section 9). The order is signed by the Clerk of Parliament (even if he is not the clerk of the committee concerned) on the directions of the Chairman. The order should state the time and place where the person summoned should attend and the particulars of documents to be produced. Such order to be served by Police Officer or Officer of the Assembly (Section 10, NAPPA) on the person summoned. If the person summoned does not appear before the Committee, the Speaker should be told by the Chairperson so that an appropriate warrant, is issued for the arrest of the person named in the warrant by Police (Section 11, NAPPA). A person ordered to appear before the Committee may give evidence on oath or refuse to answer questions put to him or refuse to produce documents on grounds of documents being of private nature and the Chairperson should report such matters to the Speaker who might excuse the person to give evidence or produce documents on the grounds given (Section 13, NAPPA). It should be noted that Committee proceedings are judicial proceedings (Section 17, NAPPA) and therefore witnesses before committees or documents produced before committees enjoy the same status as witnesses or documents in a court of law. Answers or documents given by any person before a Committee cannot be used against him or any criminal proceedings (Section 14, NAPPA). However, Civil Servants appearing before committees cannot give evidence or produce papers relating to naval, military or air force matter without the consent of the President. Civil Servants cannot refuse to give evidence or produce documents relating to the Civil Service unless such evidence or documents are contrary to the public interest in the opinion of the President (Section 14, NAPPA). section 16, NAPPA states that the usage and practice of the House of Commons in the United Kingdom shall be used to determine any question relating to whether a Committee has power to examine any document or hear or admit any evidence or document.

Activity 3

1. What is the distinction between general and special powers.
2. How do you deal with a Committee member who acts on his own without the Committee?

UNIT 3**COMMITTEE REPORTS****Topic 1 Compilation of Reports***(ii) Power to meet and report:*

Committees should meet soon after being appointed by Parliament. The first meeting has to be convened by the Clerk in consultation with the members. All subsequent meetings are summoned by the Clerk on the direction of the Chairman. If the Chairman is not known, the Clerk shall summon the meeting and the Committee shall elect one of its members as chairman. The Committee can meet anywhere in Malawi at Parliament's expense in terms of accommodation for members, travel expenses, and subsistence allowances. The same expenditure is incurred for support staff. The meeting should be convened on appropriate notice and be in public unless a majority vote to the contrary is upheld. A proper notice of the meeting must be given to all members of the group. All members of the group are entitled to such a notice of the time, place and purpose of the meeting this notice enable members to attend and participate. Failure to give such a notice will invalidate actions taken at the meeting. (Mason:XII) The names of members attending the meeting should be recorded by the Committee secretary and the conclusions of the Committee on each question moved by member should be recorded by the Secretary. If a division becomes necessary on a question, the Clerk should preside over such division and report to the Chair the results of such division. Lawyers appearing before a Committee on behalf of their clients should be robed (Standing Order 159)

Under the Standing Orders, a Committee can either present to the House a final Report or a Special Report (Standing Order 163) before the end of the Session in which it was appointed. A Final Report or Special Report should contain at least minutes of the proceedings and evidence on matters referred to it by the Assembly. A Special Report is about the Committee requesting for authority from the House or requesting for guidance on procedural matter or for merely informing the House about some part of the proceedings (McGee:240). A Final Report is about reporting to the House final conclusions on the matter referred to the Committee by the House. A Final Report bars the Committee from dealing with the matter further unless another inquiry is initiated by the Committee. But the question still remains, what is a report?

Definition of Report

Winfrey defines a report as a document written in business, technical, or scientific prose for the purpose of conveying information to a higher

echelon of the management of the organization. Although this definition is in terms of a written document in prose form, a report may be made orally or through a motion picture or other graphic device. Winfrey suggests the main features of a report as follows:

- (i) A report is usually at the request of a superior or a client. A report is seldom prepared by the author upon his own initiative.
- (ii) A report is prepared and read not by free choice, but in the line of duty; reading of a report is for business or professional gain and not for entertainment or relaxation.
- (iii) A report is factual. When opinion and conclusions are given they are labelled as such and their basis is made known to the reader.
- (iv) A report will contain a complete description of the methodology used in getting together the information contained in the report, and in addition all relevant information in detail.

(b) *Critical Parts of a Good Report*

What then are the recognised parts of a report? They include: title page; forward; abstract or summary; contents list; introduction; body of report (which may have any number of parts); conclusions, index, and illustrations. None of these stages should be omitted. Standing Order 163 states that a report of the Committee should contain **minutes of the proceedings and evidence**. When Committees meet, they normally meet in formal meeting with an agenda, a person in charge of the chair and someone taking minutes. According to Paul Brown the chair has four tasks:

- state items on the agenda;
- elicit views; and
- specify conclusion and subsequent action: everyone should leave the meeting with a clear sense of the conclusion and action to be taken.

Parts of the Report

(i) **Introduction**

The report has to be written in third person. The introduction may include:

- (a) **Terms of Reference:** Clear agreed instructions are the foundation upon which a report is built. Where they are provided, the technical name for them is Terms of Reference. They outline the objectives of the report and of the work that precedes it. Terms of Reference define the scope of a report and the lines the writer is required to follow. They outline the aspects to be considered and indicate the limitations to be observed.
- (b) A short history of the case or subject.
- (c) Reasons for writing the report or for conducting the investigation;
- (d) The name of whoever asked for the report;
- (e) The scope of the report;
- (f) The limitations of the report;
- (g) The way the subject is to be treated;
- (h) Any special consideration that apply to it.

The introduction, though appearing at the beginning of the report, should always be written after the body of the report when the writer is in a better position to assess what is needed. The message should be brief- usually occupying not more than two-thirds of a page.

(ii) **Body of Report**

The body of the report gives the facts and findings, how they were arrived at and the inferences that are to be drawn from them

(iii) **Conclusion**

The purpose of the conclusion of a report is to gather up the threads of the argument and to present a considered judgement upon them. The conclusion or conclusions should be sound and thoroughly sustained

by what has gone before. Nothing new should be introduced at this stage.

(iv) **Recommendations**

Sound recommendations are the hallmark of a good investigator. Often a report will argue recommendations that are clear-cut and admit of no alternatives. The recommendations are obvious, even before the reader comes to them.

Recommendations should be:

- (a) sound;
- (b) Well-defined;
- (c) concise;
- (d) itemised;
- (e) discreet, especially towards the feelings of person likely to be affected;
- (f) fully considered, including their consequences, which should be stated and costed, where appropriate.

Completion and Presentation of a Report.

A report is compiled by the chair at the end of the meeting. The Chair presents the report to a Committee on a question that the report be the report of the Committee to the Assembly. Members may debate this question and those who disagree with some paragraphs in the report might add a dissenting view to the report. The Chair or any member elected by the Committee may present the report to the Assembly using the following procedure:

1. The report lies on the Table without question put (Standing Order 163(3) under presentation of papers item.
2. The report is presented to the Assembly on a Motion (A day's notice) that the report of the Committee be agreed to (Standing Order 163(4).
3. Where a report recommends "changes to policies or legislation and administrative practices", it is advisable for the Chair to present a report on a motion that the report be noted. This gives government time to read through the report and come up with a response to the recommendations. A motion that the report be agreed to or adopted is good for reports that are not

- recommending any changes to policies or administrative practices.

Under the Constitution, all official reports or publications or proceedings of Committees are privileged. Similarly utterances made by members during committee proceedings wherever published, are protected by absolute privilege (Section 60(3)). This means that no person can use Committee publications as a basis for suing members for libel.

Activity 4

Participants to be given a sample Committee Report for analysis. Is it a good report?

(iii) *Power to examine and enquire into any matter:*

The Constitution gives the National Assembly power to investigate any matter and this power has been given to all Committees in Standing Order 141 that Committees shall have power to examine and enquire into all matters. It should be noted that power to investigate and power to enquire may not be the same. Power to investigate according to some authors involves the right of Parliament of Committee to inform itself and the people about the State and conduct of Government and private activity that may call for legislation and is therefore largely fact finding and questioning. It can be initiated by a Committee. Enquiries which otherwise might be known as "oversight hearings" are characterised by fact finding hearings on State programmes and operations. For example, the Public Accounts Committee performs an enquiry or oversight function into state expenditure. Investigative or oversight are generic terms and should not be used as words in watertight compartments. Malawi Parliament has had no investigative hearings by its Standing Committees or Select Committees. There however have been oversight hearings by the Public Accounts Committee, which has proceeded as follows:

1. The Annual Report of the Auditor General is tabled first in Parliament by the Minister of Finance.
2. Members convene a meeting to discuss the report.
3. At the meeting, matters of poor administration are detected.
4. The Committee Secretary is asked by Chair to summon the Principal Secretaries involved to comment in writing on matters of poor administration by given date.

5. Written submissions from Principal Secretaries are received by the Committee Secretary and circulated to all members.
6. The submissions are studied by the Committee in the presence of the Auditor General and where the Committee is satisfied with the submission the Clerk is told to inform the Principal Secretary that the submission is satisfactory and therefore will not appear before the Committee, where it is not satisfied with the submission, the Clerk is informed to advise the Principal Secretary that the submission is not satisfactory and further oral evidence is required and that he or she should appear before the Committee on an appointed date to give such evidence.
7. The Principal Secretaries are heard orally and the minutes of the proceedings are recorded by the Clerk. The meetings are held in public unless a vote to the contrary is upheld by the Committee. However the submissions are taken in camera. Evidence taken is not on oath. The evidence is taken in the presence of the Auditor General and Accountant General as special advisers on Public Account to the Committee. Public servants are expected to be politically neutral in their presentation of evidence and therefore are not required to express opinions on government policies. The Committee may have to call for relevant Ministers to express such opinions.
8. The Chairperson compiles the report of the proceedings and takes the report to the full Committee for deliberation and adoption that the report be presented to the Assembly.

Commonwealth Practice

In other Commonwealth Parliaments, like Australia inquiries are conducted by Committees according to the following procedure:

1. The Committee determines that the enquiry into a matter of general public interest be held.
2. The Committee determines that submissions are necessary for informed judgement and proceed as follows:
 - (a) They advertise their terms of reference to the public and invite submissions. Persons or organisations with specialist knowledge

or representative views may be specifically invited to make a submission.

- (b) Office seeks information from relevant departments and agencies or do their own research.
- (c) Committees examine the submissions by asking witnesses to appear before them to answer questions and further comment on their submissions.

3 The Committee Staff supports the Committee in these Parliaments by:

- Arranging hearings;
- preparing questions to be asked of witnesses if required;
- analysing and summarising submissions and evidence;
- preparing draft reports and monitoring government and other responses to reports.

TOPIC 3

DOES THE MALAWI COMMITTEE SYSTEM HAVE A FUTURE

An efficient and effective Committee System is important in the running of Parliament. Parliament does not have the time to examine every matter before it in detail. Committees have time at their disposal to examine such matters in detail. Committees can talk to the public about matters before them through interviews or submissions. A good Committee System should have time or at least find time to do its work. The Malawi Committee System does not appear to have time or at least find time to do its work. This is largely due to budgetary constraints. Budgetary allocations for Committee work do not exist under the National Assembly Vote. Committees use money which is meant for Parliament itself. If Parliament is busy with its own work, Committees will have no share of the budget and therefore will have no meetings in that particular year. And if Committees cannot meet, it means that their power to report to the House has been lost. All of the Seventeen Parliamentary Committees, not more than three are meeting each year. The office has attempted to prepare budgets for each Committee and these budgets have been rejected by Treasury.

There are other matters which are equally frustrating to the development of the Committee System in Malawi. The membership of the Committees is

determined by parties. Parties submit names to the Business Committee which announces the membership of each Committee at the commencement of each Session. These memberships are annual and not for five years. Parties submit different names annually to the Business Committee and this weakens Committees because no experience is accumulated by members in any field. The Chairmanship of the Committee. Chairmanships also changes annually in some cases because parties submit different names and a different person will be elected and this also weakens the integrity and leadership of the Committee System.

Parliament staff is small. One clerk serves more than three Committees. What we have seen is that not all Committees are serviced in the same way, some are serviced better than others. It would be desirable that one clerk should service one Committee for efficient and effective service.

Finally, some Committees meet but they do not produce reports. This is true of the Public Appointments Committee. In future we wish to see all Committees meeting and reporting to the House so that the House benefit from the work of the Committees.

The conclusion that one may draw from the foregoing is that the Committee System in Malawi is under utilised because of budgetary reasons and is not effective because of varying leadership and membership. The future of the Committee System will depend whether the matters mentioned are addressed by Parliament.

Activity 5

Make recommendations on the composition and working of the Parliamentary Committees.

ESSENTIAL READING

1. Smith S.S. and Deering J.C., Committees in Congress, Second Edition.
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10. The Scott, Foresman; Robert's Rules of Order, Robert, H.M. and Evans, W.J. (Editors), 9th Edition.
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15. Bruce M. Cooper Writing Technical Reports, Great Britain, C.Nicholls and Company, 1964.
16. Philip NortonParliaments in the Modern World, Oxford University Press, 1990.
17. Philip Norton, Legislatures, oxford Univeristy Press,1990.
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19. Various Malawi Parliament Committee Reports to the House since 1994 including Public Appointments Committee Reports, Budget and Finance Committee Reports on the Judges Conditions of Service, Parliamentary Procedure Reports, Conditions of Service Committee Reports and Legal Affairs Committee Reports

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