

Unit 4: Introduction to Parliamentary Procedure and Aspects of Debate

Learning Objectives **Why Procedure Matters in Parliament**

After studying this unit, you should be able to:

- Understand the broad approaches to the work of a typical parliamentary session or day
- Appreciate the reasons for the use of various parliamentary procedures
- Describe some of the important aspects of the conduct of debates in parliament

Evolution and Sources of Parliamentary Procedure

Democratic parliamentary procedure has evolved towards a system in which a legislature can fulfill its mandates while respecting the rights of the various groups within it. For instance, democratic parliamentary procedure will allow the government to initiate procedures to attempt to get its legislative program through the House and provide a forum so that the opposition and private Members of Parliament (that is, those who do not hold office) may criticize proposed legislation or initiate counter-measures. Parliament attempts to ensure that, like the laws it passes, its procedures are fair and protect minority groups in the House.

The first and most important sources of parliamentary procedure are found in the constitution of the country. This document spells out the powers of the parliament to exercise the legislative power it derives from the people and the limitations placed on it and other entities, including the head of state. The constitution will also always specify the manner in which it may be amended by parliament.

Secondly, legislation passed by the parliament itself may be a source of parliamentary procedure.

By far the fullest source of parliamentary procedure is the legislature's own Standing Orders, which are created for the orderly functioning of the parliamentary process, generally with constitutional authority. Standing Orders are statements describing the manner in which parliament should proceed under various circumstances. These statements can be amended by parliament by a simple majority vote.

However well drafted Standing Orders may be, they cannot attempt to meet every situation and may occasionally become obstacles to the consideration of some special item of business. The Standing Orders can never be ignored or violated, but the House can amend them or vote to suspend one or more of them for a particular, relevant occasion. The most common instances of suspension deal with extended sittings of the House or alteration of sitting days, or a day when the House or Parliament meets.

Parliament may also adopt Sessional Orders that have the same force as Standing Orders but that automatically lapse at the end of that session of parliament. They are, among other things, a useful means for testing out a new procedure during a set period before a decision is taken whether or not to include it in the Standing Orders.

Because Standing Orders cannot ever be complete enough to cover every contingency, Commonwealth parliaments rely also on two other sources of parliamentary procedure: conventions that are derived from consistent practice, and rulings given by Speakers. Not all parliaments accept that a Speaker's ruling is a precedent for the future. While Speakers will take into account existing rules and practices in giving rulings, and while proceedings in parliament including Speakers' rulings cannot be questioned in the courts, it is only the continued and consistent adherence to a ruling that will allow it to be regarded as a precedent in such parliaments.

Parliamentary Terms, Sessions and Days

A parliament is elected for a term of years fixed by the constitution (see Box 1). Within this period, parliament sits for a session at a time, usually of about a year's duration but technically

of indeterminate length. Within Commonwealth countries, parliaments have met for sessions of just a few days to a number of years. A session is initiated by a summoning of parliament by the head of state and ends with a prorogation, proclaimed by the same authority, which is a recess between sessions. At the end of a parliament's term, however, there is dissolution rather than a prorogation, or the period between two sessions of a legislative body, and fresh elections are called.

Parliament sits throughout a session, usually meeting on days specified by the Standing Orders.

Box 1 Parliamentary Terms in Years							
Antigua & Barbuda	5	Ghana	4	Mozambique	5	Solomon Islands	4
Australia	3 & 6	Grenada	5	Namibia	5	South Africa	5
Bahamas	5	Guyana	5	Nauru	3	Sri Lanka	6
Bangladesh	5	India	5	New Zealand	3	St. Lucia	5
Barbados	5	Jamaica	5	Nigeria	4	Swaziland	4 & 5
Belize	5	Kenya	5	Pakistan	4	Tanzania	5
Botswana	5	Kiribathi	4	Papua New Guinea	5	Tonga	3
Cameroon	5	Lesotho	5	Saint Kitts and Nevis	5	Trinidad and Tobago	5
Canada	5	Malawi	5	St. Vincent & the Grenadines	5	Tuvalu	4
Cyprus	5	Malaysia	3 & 5	Samoa	5	Uganda	5
Dominica	5 & 3	Maldives	5	Seychelles	5	United Kingdom	5
Fiji Islands	5	Malta	5	Sierra Leone	5	Vanuatu	4
Gambia	5	Mauritius	5	Singapore	5	Zambia	5

Source: <http://www.electionguide.org>

A session adjourns during the intervening periods, which are usually quite short. Adjournments are matters for decision by parliament and no other authorities are involved.

As noted above, a session of parliament is initiated by the Head of State. If it were the first meeting after an election, the first item of business would be the election of a Speaker, after

which Members would be sworn or affirmed in to their positions. There would then be a ceremonial opening of parliament by the head of state at which the Speech from the Throne (sometimes called a Statement of Government Policy) would be delivered. In some jurisdictions it is possible for parliament to commence business without such a speech. But even where it is possible, such a situation is very much an exception as much of parliament's business for any session is the consideration of policies outlined by the government in that statement.

For the business of parliament to take place, the constitution or Standing Orders would usually specify that a minimum number of Members, or a quorum, shall be present at all times. It is customary for the Speaker to carry on with business until the lack of a quorum is drawn to his or her attention. If the question is raised and the lack of a quorum is proved, the Speaker will

allow a few minutes for the necessary number of Members to be found, usually with the ringing of a quorum bell. If the quorum is still not found, the Speaker will adjourn the House until the next sitting. However the Standing Orders of some parliaments allow the Speaker not to adjourn the House but merely to hold over the business that was under consideration until the next sitting day, with the House meanwhile proceeding to the next item of business.

Daily Business in the House

The arrangement of business for a typical parliamentary day is usually specified in Standing Orders but varies considerably amongst the parliaments of the Commonwealth. However a listing based on sample Order Papers will demonstrate that all Commonwealth parliaments ultimately discuss the same broad range of business:

- Oath or Affirmation by a new Member
- Messages from the head of state (particularly in countries where the head of state occupies an executive position)
- Announcements by the Speaker
- Presentation of Papers by the Speaker or a Minister
- Presentation of reports of parliamentary committees
- Petitions presented by a Member on behalf of a citizen
- Questions to the Prime Minister or government Ministers
- Votes of Condolence on the death of former Members
- Motions for Leave of absence
- Ministerial Statements
- Personal Statements by Members
- Questions of Privilege
- Motions at the commencement of Public Business not requiring notice
- Motions at the commencement of Public Business requiring notice
- Public Business
- Private Members' Business
- Adjournment

Matters relating to motions and debate are taken up in some detail in the following sections of this unit.

Motions and Debates

A motion is the basic building block of parliamentary procedure. It is simply a proposal to the House on which a decision is sought. It is achieved by the process of debate, which occurs between the moving of a motion and the final vote upon it. Members also use the term 'debate' more freely to describe the contributions to proceedings in parliament.

Motions are substantive if they can stand independently, by making a statement and seeking agreement by the House. They can give rise to subsidiary motions, which are derived from the content of a substantive motion or are dependent upon it, for example, an amendment to the original motion. Other descriptions can also be applied to certain types of motions, for instance, procedural, which deal with reopening of points of the agenda.

There are several stages observed in the process of moving a substantive motion through the House. The first is to publicize the motion to the Members ('giving notice' of it) so they are aware of the matter being raised. In most Commonwealth parliaments, any Member can move a motion provided that he or she has a seconder, or someone who also supports the motion. A seconder is required in all cases except those in which government business is reserved to Ministers.

Once a motion is on the Order Paper for the day it cannot be withdrawn unless the Member who submitted the motion seeks the agreement of the House to do so. In some legislatures it is a requirement that such agreement should be unanimous.

The Member who proposed the motion will move the motion to debate. The Speaker will try to give opportunities to supporters and opponents of the proposition to allow their voices to be heard. The Speaker may also accept amendments for debate if he or she considers that these are relevant.

Part of the responsibility of the Speaker is to ensure that debates are cogent and do not waste the time of the House. To do this Speakers will be very strict on irrelevancies and repetitions by those debating. Reference to other debates in the House will not be permitted unless relevant

and anticipation of further debates is also frowned upon. Members are also required not to comment on matters, which are before the courts (sub judice). However, exceptions may be allowed by Speakers especially where legislation is being debated so as not to constrict parliament's legislative competence.

Time for the overall debate may be limited or there may be limits on the length of individual speeches. Each country's parliament creates its own conventions and methods for handling these situations.

At the end of the debate, the Speaker will put the question under debate to vote, taking a vote or division on each amendment. Votes may be taken by voice, head count or electronically. In some countries, MPs have to divide themselves into different lobbies, or divisions, which is a time-consuming operation. If agreed to, the motion then becomes a resolution of the House.

There are various ways in which private Members, and those of the opposition, can raise matters of importance or interest. Standing Orders permit, for instance, motions or questions at Adjournment, which allow matters relating to public policy rather than individual grievances to be raised. While no vote is taken on adjournment motions, they are an effective way of keeping contrasting views in the public eye.

A Member who is speaking is allowed to continue without disturbance, but two exceptions are allowed to this. The first, which requires the agreement of the Member who is speaking to give way, is an intervention to seek clarification of what has been said. The second is a point of order, which is a question raised by a Member as to whether a violation of procedure has occurred: the Speaker will give an immediate ruling on this (and the Member who was speaking can then continue) but Speakers will always be wary of those who try to make debating points under the guise of points of order.

One last point must be reiterated about debate, which applies whenever a Member speaks in the House. This is the issue of personal or pecuniary interests, in which a Member has an interest that could monetarily affect him or her. These should always be declared but most Members would rather not speak in debates where their interests may be called into question.

Unit 4 Questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

1. Make a summary of all motions moved in your parliament during the last three months and attempt classifications for them.
2. Votes are taken on amendments before the vote on the main motion. Can you explain why this should be so?
3. Do you think that the opposition in your country makes effective use of the opportunities given to them to raise issues in parliament?
4. In what ways do debates in parliament differ from debates in society?

Relevant Abbreviations

CPA	Commonwealth Parliamentary Association
IPU	Inter-Parliamentary Union
NDI	National Democratic Institute for International Affairs
UNDP	United Nations Development Program

Relevant Internet Resources

Commonwealth Parliaments Association
<http://www.cpahq.org/>

IFES Election Guide
www.electionguide.org

Inter Parliamentary Union
<http://www.ipu.org/english/home.htm>

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