

Unit 10: Ministers, Members, Staff and Public Servants

Learning Objectives How the Cycle of Stakeholders Interacts

After studying this unit, you should be able to:

- Understand the responsibilities of Ministers in parliament;
- Appreciate the way in which Members are to conduct themselves in and outside parliament;
- Describe how parliamentary staff and public servants relate to the work of parliament.

Ministers in Parliament

In Commonwealth parliaments, Ministers are Members of Parliament and the executive is chosen from the legislature. One of the primary reasons for this is to ensure the accountability of the executive to parliament.

Accordingly, Ministers must be available to parliament to answer for governmental policy in their ministries or departments. Sometimes this is done through senior civil servants who provide their expertise in such areas as agriculture, labor, education, justice, and many other areas. Questions, issues or requests for information raised by MPs in the House or in committees must be answered in an open, transparent, and truthful manner. The extent to which a Minister can be compelled to answer may vary among legislatures. However, there may be, for instance, some security considerations that prevent a Minister from giving a full answer to a specific question, but a Minister who willfully and knowingly misleads the House will not have the confidence of that body and, in such circumstances, might have to face a charge of contempt of the House and resign when the true facts are exposed.

Senior civil servants may also be questioned by parliament, usually at a committee. There have been questions raised as to whether it is reasonable for parliament to require the attendance of

a particular public official. While parliament will certainly expect persons of appropriate seniority and responsibility to be sent before a committee, the choice of who attends is normally left to the Minister. However, the Minister must accept that whoever attends is able to represent and speak for the department or Ministry and therefore, the Minister.

In a few countries there is a convention for Ministers to resign their offices if there is a disaster or scandal in the Ministry or department that may become the subject of a public inquiry. This is not necessarily an acceptance of responsibility but an assurance of non-interference with the inquiry. A Minister who observes this convention shows that he or she is taking the issue of accountability very seriously.

The concept of accountability is seen in sharpest focus in the position of the Minister of Finance. Where the parliament is bicameral, the Minister of Finance is selected from the membership of the Lower House, which is always directly elected by the People. Taxation and representation remain very closely connected in Commonwealth parliaments.

Members of Parliament: Privileges and Responsibilities

From the moment they are elected, Members of Parliament become subject to conventions and rules that govern their conduct both within and outside the House. If they are appointed to an office such as that of the Speaker or Minister, they will have specific responsibilities to accept and additional rules to follow but even private Members, as non-office holding MPs, must be aware of the level of behavior expected of them.

They are reminded of these when they subscribe to an oath or make an affirmation as their first duty in parliament. This is subsidiary only to the duty of electing a Speaker who administers the oath or affirmation to them.

With that oath, parliamentarians must now make the work of the House a priority over other duties. Absence from the House over extended periods without being granted leave could lead

to the vacating of their seat in certain parliaments. Repeated absence from meetings of parliamentary committees may similarly lead to the vacation of the seat on that committee.

Some parliaments have consolidated the conventions and rules governing the conduct of Members into codes of conduct. These remain enforceable by parliament rather than by the courts even if some of the articles are matters of common law.

A declaration of financial and other interests is required in many parliaments and the data released are made available to the public. If Members take part in a debate in the House or a discussion in one of its committees dealing with a matter where their personal interests are relevant, they are usually required to acquaint their audience of that fact.

Standing Orders always require Members not to espouse any view or represent any individual, group or institution for a fee or reward in proceedings in the House or in committees.

While the greatest stress is always laid on financial and other material factors, MPs are asked by these codes to bear in mind that their conduct must be determined by the imperative of strengthening public confidence in the institution of parliament and upholding its dignity. Codes may therefore go into some detail as to matters of accountability and transparency in the broadest usages of these terms.

Parallel to these responsibilities, Members are provided with certain privileges and immunities from prosecution in the courts that enable them to carry out their duties in the manner envisaged. Thus they are guaranteed freedom of speech in parliamentary debate subject only to the orders governing debates in the House. MPs are protected from actions for libel in the courts but may be punished by the House if their conduct is offensive. There is an interesting and growing body of case law on the extent to which this privilege may extend outside of parliament.

Another major safeguard provided to many Members is freedom from arrest. This is said to have originally arisen from the need to protect Members from arrest for debt or other civil matters that would prevent the Member from representing his constituents in parliament. It

does not protect the MP from arrest on a criminal charge though there are additional formalities to be observed in such cases.

Parliament also protects its Members from intimidation or disturbances in the performance of their duties. This extends also to improper influence such as bribery or other pressure to carry out an act.

Parliamentary Staff

As with Members of Parliament, the staff of parliament are also given certain privileges by parliament in regard to carrying out their work. This distinguishes them from other public servants (who may of course be separately protected by some specific law applicable to them).

It would be contempt of the House to obstruct a member of the parliamentary staff in the execution of the duties devolved on them by the House by way of threats, physical restraint or any act that may be regarded as an inhibition to deter them from doing their work in the future.

Parliament is the sole judge of the correctness of its procedures and proceedings: members of the staff of parliament are protected from the necessity of giving evidence in the courts or elsewhere about any aspect of these procedures and proceedings.

It is necessary to note that the term 'parliamentary staff' may not include all persons working within the precincts of parliament. For instance, at any given time, there may be persons working as personal assistants to Members who do not fall into this category.

Public Servants

The great majority of civil or public servants will come into contact with parliament through such work as advising their Minister. A significant few will however be required to attend a

parliamentary proceeding, for instance, to give evidence to a committee. If necessary, they could be asked to attend or even summonsed to do so but they would in most such cases be representing their Minister.

In certain circumstances public servants may find themselves having to carry out an instruction of parliament. Refusal to do so may be dealt with as contempt of parliament. Similarly, anyone who molests a public servant in the course of carrying out an instruction of parliament would be guilty of the same offence.

Unit 10 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. Do you think that Ministers should be allowed to excuse themselves from giving evidence to parliamentary committees on the grounds that they are always open to question in parliament?
2. Draw up a basic list of immunities and privileges given to Members of Parliament: what does society think of them?
3. In what ways is the parliamentary staff in your country protected in carrying out its duties?

Relevant Abbreviations

CPA	Commonwealth Parliamentary Association
IPU	Inter-Parliamentary Union
NDI	National Democratic Institute for International Affairs
UNDP	United Nations Development Program
USAID	United States Agency for International Development
WBI	World Bank Institute

Relevant Internet Resources

Commonwealth Parliamentary Association
www.cpahq.org

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