'Powers of PACs to set their own work program and the subsequent influence on their resources'

Paper presentation by:

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The essence of my remarks today is that although PACs have substantial powers to set their own work program, the extent to which these powers are fully utilised to effectively exercise legislative oversight, is significantly influenced by resourcing, particularly that of institutional and committee capacity.

Powers of PACs to set their own work program…

In general, the powers of public accounts committees are considered unique among parliamentary committees and thus give the committee a significant degree of independence from the Executive arm of government.

The evolution of these powers, which assists the public accounts committee to exercise legislative oversight (thus setting their own work programs), finds solace in the committee's historical origins.

The origin of this scrutiny function can be traced back to transformation of the UK Parliament from being a consultative forum, summoned for business and under procedures regulated by the Sovereign, to a level where it could ask the Crown to account for the monies collected from the people in the form of taxes. This arose from the financial needs of the Monarch. As the stature and authority of Parliament grew, it devised processes by which to transact the business at its disposal as a way of ensuring effective oversight.[1]

As a consequence, the first Commonwealth Public Accounts Committee was appointed by the UK House of Commons, in 1861, at the instigation of the then Chancellor of the Exchequer, William Gladstone:

'…for the examination of the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure'.[2]

Since the days of William Gladstone, the powers of PACs to set their own work programs have undergone modification aimed at better equipping Parliaments to exercise effective oversight over the Executive.[3]

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[1] Chibesakunda, N. M. 2002, Clerk of the National Assembly of Kenya, *The Report of a CPA Workshop, Nairobi, Kenya*, December 2001, p 2.

[2] UK Committee of Public Accounts, History and order of reference, http://www.parliament.uk/parliamentary committees/committee_of_public administration.cfm, 14/1/2006.

[3] Chibesakunda, N. M. 2002, Clerk of the National Assembly of Kenya, *The Report of a CPA Workshop, Nairobi, Kenya*, December 2001, p 2.

As mentioned previously, the cornerstone of the work program of a PAC is to scrutinise government administration and management in terms of efficiency, effectiveness and economy.

The powers which assist PACs to craft such an important work program include, the:

Power to investigate or oversee public expenditure broadly...

All of the public accounts committees in Australian and New Zealand jurisdictions have the mandate to review public accounts and Auditor-General reports and the power to investigate any item or matters in connection with those accounts or reports.[4]

By way of a permanent reference to examine the public accounts and Auditor-General's reports, PACs have the opportunity to examine questions of economy, efficiency and effectiveness, depending, of course, on the type of information provided by the Auditor-General and the motivation of the Committee.

I believe that the power to oversee public expenditure provides the public accounts committee with a broad mandate and target audience. It gives the PAC a vantage point with respect to a wide range of public services, and an entry point into the administration of many departments and agencies even if other parliamentary committees are involved in their policy aspects.

From my observations, the wider the mandate of a public accounts committee, the greater its potential to deter waste and wrongdoing and encourage better management of public resources.

Power to choose subjects for inquiry and review without government direction...

Such a power provides the public accounts committee with the freedom of action to focus on relevant, important matters. Having a broad inquiry mandate is of little use if the committee is unable to identify major issues or if the government directs the committee away from these.

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[4] KPMG, *The Parliamentary Public Accounts Committee: an Australian and New Zealand Perspective*, 2006.

In a World Bank Institute study (2005), PAC chairs reported that they are most effective if they can initiate inquiries on their own as necessary, without having to wait for a specific reference from the government. According to the study, the elements of speed and surprise are often important. If the committee can act quickly to select incisive issues, and if the choice and timing cannot be predicted by the government and the public service, the committee's inquiries can have a deterrence effect.[5]

All but one[6] of the public accounts committees in Australian and New Zealand jurisdictions has the power to undertake self-initiated inquiries.[7]

In summary, the ability of PACs to determine their work program should not be limited to issues referred by the legislature or included in Auditor-General's reports. Further, from my observations, the power to initiate its own inquiries makes the work of PACs more personally rewarding and relevant to the public.

Power to report publicly...

The power to report publicly would have to be valued by all public accounts committees. This includes: the ability to report substantively to the legislature and make recommendations; requiring the government to respond formally to these recommendations; and following up on the implementation of said recommendations.

In the majority of Australian and New Zealand jurisdictions, the government is formally required to respond to the recommendations contained in PAC reports. The timeframe ranges from three to six months with ministers encouraged or required to submit an explanatory statement if more time is needed to respond.[8]

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[5] Stapenhurst, R., et al., 'Scrutinizing Public Expenditures: Assessing the Performance of Public Accounts Committees', *World Bank Policy Research Working Paper 3613*, May 2005.

[6] The NT PAC does not have the ability to undertake self-initiated inquiries (KPMG, *The Parliamentary Public Accounts Committee: an Australian and New Zealand Perspective*, 2006, p. 14).

[7] KPMG, *The Parliamentary Public Accounts Committee: an Australian and New Zealand Perspective*, 2006. p. 13.

[8] *Ibid.*, p. 42.

Power to access accounts, records and people...

The powers of Australian and New Zealand PACs to access accounts, records and people are considerable. This includes the power to summon witnesses to appear before the committee and provide documentation. In the event that a witness fails to appear or documentation is not provided, the committee has to report the facts to both Houses of parliament (or in the case of a unicameral parliament, such as the ACT Assembly, it would report the facts to the Assembly) and the Parliament then decides what action will be taken.[9]

Whilst this power is generally limited to the scrutiny of public administration within government, including government departments and agencies, statutory authorities, publicly owned enterprises and other public bodies over which the government has control, it nonetheless provides considerable scope for the work program of PACs.[10]

Power to hold committee proceedings in public...

An integral element of public accounts committees is their public nature: they have high visibility that often attracts media attention, public hearings are open to the public and the media, and full verbatim transcripts are made available to the public.

This openness goes beyond public awareness to one of the work program playing a meaningful education role. It has been advanced, by some, that the public accounts committee's main contribution toward accountability is providing a formal public forum for the investigation of issues, something that Auditors-General cannot do themselves. While written committee reports and recommendations can be important and influential, the ability to publicly examine issues and place information before the public and media is most valuable.[11]

The subsequent influence of these powers on PAC resources...

Even the strongest mandated powers will not guarantee a committee's effectiveness without appropriate resources. By appropriate resources, I mean institutional and committee capacity.

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[9] KPMG, *The Parliamentary Public Accounts Committee: an Australian and New Zealand Perspective*, 2006, p. 36.
[10] *Ibid.*
[11] CAF-FCVI, *Parliamentary Oversight – Committees and Relationships: A Guide to Strengthening Public Accounts Committees*, 2006, p. 13.

As noted in the recent KPMG study, *The Parliamentary Public Accounts Committee: an Australian and New Zealand Perspective*, there is broad consistency in the core powers and responsibilities of PACs within Australia and New Zealand. However, in exercising these powers and responsibilities, there is significant diversity in the nature and sources of PAC inquiry.[12]

Whilst having the ability to exercise effective oversight over the Executive, the public accounts committee must also have the capacity to put those powers into practice.

In my view the ability of a PAC to exercise such powers effectively is influenced by institutional and committee capacity.

Firstly, by institutional capacity, I mean the level of resources (including staff) available to assist the PAC.

These resources are many and varied and include both financial and human resources.

Financial resources

It is imperative that financial resources are sufficient for the Committee to achieve its mandate. PACs have little or no formal role in the determination of their annual budget. Ultimately, committee expenses (including staffing) are funded through the appropriation for the relevant parliamentary department. Within this appropriation, the level of funding for all committees is a matter determined by the Presiding Officers of Parliament.[13]

As it is the government of the day and not the Parliament that determines the budget of the relevant parliamentary department, it could be surmised that the PACs exist at the pleasure of the serving government.[14]

Human resources

It is also imperative that PACs should have appropriate research and technical support, including politically neutral research staff that are highly knowledgeable in public administration and accountability. Processes should be put in place to ensure continuity of staff. Good advice and information is necessary for the PAC to select the right issues and to be able to follow them through to an appropriate conclusion.[15]

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[12] KPMG, *The Parliamentary Public Accounts Committee: an Australian and New Zealand Perspective*, 2006, p. 28.
[13] *Ibid.*, p. 40.
[14] Uhr, J., 'How Democratic is Parliament? A case study in auditing the performance of Parliaments', *Democratic Audit of Australia*, June 2005, p. 32.
[15] CCAF-FCVI, *Parliamentary Oversight – Committees and Relationships: A Guide to Strengthening Public Accounts Committees*, 2006, p. 26.

In an examination of the role of the PACs of the legislatures of Canada's senior governments, it was reported that the roles of the committee secretary and researchers are important, particularly with respect to corporate memory. Further it was highlighted that without sufficient resources and standing, the PAC's ability to set influential work programs is limited.[16]

By committee capacity, I mean the synergy of the committee, the behaviour of its members and the functioning of the committee itself.

The success with how PACs exercise their powers does not depend exclusively on institutional capacity, but it also, and more importantly, depends on the behaviour of its members and the functioning of the committee itself, in other words, the synergy of the committee.

Committee synergy requires the co-operation of all parties on the committee. If there is a highly partisan atmosphere, the committee's ability to choose subjects freely will be reduced. Further, with a government majority on the committee, some restrictions in selection will be inevitable.

Committee synergy also requires a clear focus on accountability which instils a unity of purpose. If all committee members can agree with the objective of holding the government accountable for spending, and for the stewardship of public assets, then the committee can focus on implementation of government programs rather than government policy matters, and focus on the accountability of public servants for administrative and financial operations rather than on the political accountability of ministers.[19]

It is also up to the Committee to set the scope of its own interest and thereby alert the public service to those issues that it regards as pertinent to an efficient public sector. As I have previously stated, in the context of output based management:

> *'It's up to the committees of the parliament to set the tone of debate and to make it clear that they are much more interested in looking at reporting formats; performance indicators, benchmarks, targets and their relevance; incentives provided; and holding the government accountable, than chasing the minutiae of (say) compliance with an internal procedures manual of no interest to the public.'*[20]

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[16] CCAF-FCVI, *Parliamentary Oversight – Committees and Relationships: A Guide to Strengthening Public Accounts Committees*, 2006, p. 26.

[19] Pelizzo, R., et al., 'What Makes Public Accounts Committees Work? A Comparative Analysis', *Politics & Policy*, Volume 34, No. 4 (2006): 774-793.

[20] Mulcahy, R.J., 'Does output based management add value and how do Public Accounts Committees get the information they need?', *Australasian Council of Public Accounts Committees Conference*, Brisbane, 2 February 2005.

This also applies to setting the direction on any issue. The Committee should make clear to the public sector, through its questions, its reports and its general attitude, the scope of its interest and the desired results.

This will help at all stages of a committee's work program.

Conclusion...

To conclude, in 2002, David McGee wrote a comprehensive report on two important elements in the system of financial accountability, namely the office of the Auditor-General and the PAC parliamentary oversight committee.[21]

McGee sought to identify possible courses of action to improve outcomes through more effective use of PACs. One of three main priorities he identified was capacity building. According to McGee, this was the need to improve the ability of Parliaments and their PACs to carry out their functions by being provided with adequate resources, training and access to relevant expertise.[22]

As highlighted, public accounts committees have substantial powers to set their own work program, however, the extent to which these powers are fully utilised is significantly influenced by both committee and institutional capacity.

PACs have the powers to craft work programs to exercise effective oversight of the government. The extent to which these powers are fully utilised is dependent upon building optimal committee and institutional capacity.[23]

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[21] McGee, D., *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London, 2002.
[22] *Ibid.*
[23] Jacobs, K., & Jones, K., 'Governing the Government: The Paradoxical Place of the Public Accounts Committee', *Public Sector Governance and Accountability Research Centre, La Trobe University*, October 2005, p. 19.

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Powers of PACs to set own work program...

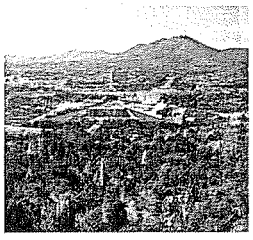
- powers considered unique...
- powers to effectively exercise legislative oversight are significant...
- historical origins of PAC powers...

Powers of PACs to set own work program...

Power to:

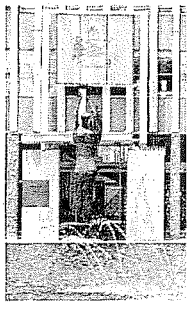
- investigate or oversee public expenditure broadly...
- choose subjects for inquiry and review without government direction...
- report publicly...
- access accounts, records and people...
- hold committee proceedings in public...

Influence of PAC powers on resources...



- mandated powers no guarantee of effectiveness without appropriate resources ...
- appropriate resources are having optimal institutional and committee capacity...
- effective exercise of powers is influenced by institutional and committee capacity...

Institutional capacity...



the level of resources (including staff) available to assist the PAC...

some thoughts...

- financial resources...
- human resources...

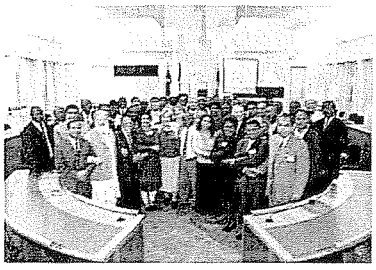
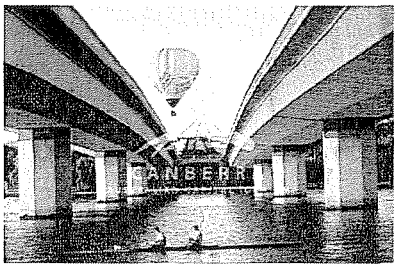
Committee capacity...

the synergy of the committee...
(behaviour of its members & functioning of the PAC itself)

some thoughts...

- co-operation of all parties on the committee...
- clear focus on accountability (unity of purpose)...

Concluding remarks...



Questions?