The Third CDI Pacific Parliamentary Retreat was held in Brisbane from 3-7 December 2001 involving elected representatives from Fiji, New Caledonia, Papua New Guinea and Samoa. The Solomon Islands elections and the voting on the Vanuatu budget were both being conducted that week and it was not possible for parliamentarians from these two countries to attend.

CDI was honoured to host the following 15 elected representatives nominated by the Speakers of the various Assemblies. Four of the 15 participants were women and each delegation had at least one Opposition member;

**Fiji:**
- Mr Millis M. BEDDOES
- Ms Ofa DUNCAN
- Mr Gyani NAND
- Mr Emasi QOVU

**New Caledonia:**
- Ms Bianca HENIN
- Mr Robert Paouta NAXUE
- Ms Nicole WAIA

**PNG:**
- Mr Ajax BIA
- Mr Bernard MOLLOK
- Mr Stahl MUSA
- Mr Bart PHILEMON

**Samoa:**
- Mr AEAU, Peniamina
- Mr LEVAA, Sauaso
- Mr TUUU, Anasu Leota
- Ms SAFUNEITUUGA, Paaga Neri

The focus on this year’s Retreat was Accountability and CDI was privileged to have as a partner organisation the Key Centre for Ethics, Law, Justice and Governance of Griffith University (http://www.gu.edu.au/centre/kceljag/). The Key Centre is particularly well placed to deal with these issues as in July 2001 it published the Queensland Handbook of its Australian National Integrity Systems Assessment which it undertook in collaboration with Transparency International. The Director of the Key Centre, Professor Charles Sampford, participated throughout the Retreat.
The program (below) for the Retreat interspersed presentations about the Queensland experience with discussions about the Pacific experience. One of the documents referred to was the Guiding Principles of Best Practices for Forum Island Countries’ Legislatures known as the Nuku’alofa Declaration of 27 April 2001, attached below.

The Queensland System

There are two aspects of the Queensland system that are of particular interest to many Pacific island nations. One is that since 1922, the Queensland Parliament has been unicameral as are most Pacific parliaments (Fiji being an exception). The other point of interest is that Queensland came to recognize that it was racked with corruption and in response, throughout the 1990s, set out to deal systemically with the problem.

The investigation of corruption in Queensland was undertaken by the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (known as the 'Fitzgerald Inquiry' in reference to its chairman, G E Fitzgerald, QC). It was intended to last about three weeks and to report simply on whether there was evidence to support the allegations of police misconduct. As it transpired the Fitzgerald Inquiry sat publicly for 238 days, examined 339 witnesses and received 2,304 exhibits. Its terms of reference were expanded twice to cover all official misconduct or public impropriety during an unlimited period. The relevant legislation was also expanded, increasing powers of such inquiries to compel the production of evidence and engage in surveillance and detection. The inquiry found extensive, systemized police corruption in a pattern that had been established since the 1950s and the political condoning of that corruption in return for support and favours. Its direct outcomes included:

- Confessions from most of the police officers investigated by a 1963 inquiry that they had then been engaged in organized, systemized corruption that had continued and grown since that time;
- The prosecution, conviction and imprisonment of the police commissioner and several other senior police officers for corruption;
- The prosecution, conviction and imprisonment of 5 government ministers for dishonesty offences;
- The prosecution of the Premier for perjury in relation to his evidence at the inquiry;
- The appointment of a Special Prosecutor to continue investigations and criminal prosecutions of public officials after the cessation of the inquiry;
- A collapse of public confidence not only in police integrity but in all institutions of public governance that had failed to uncover or respond to such widespread corruption over the previous three decades;
- The establishment of powerful and independent government agencies to oversee reform of the police and the political, legal and administrative structures within the State.

The Retreat examined a number of the new structures established as a result of the Fitzgerald enquiry. Professor Sampford explained that the Fitzgerald enquiry insisted on the need to ask the right (and often hard) questions about current practices, then to
set a broad goal of what needed to be achieved, to establish a process that would lead to those goals and to win public support for that process.

While the Queensland experience is not a direct precedent for Pacific island nations, the broad lesson in terms of methodology is broadly applicable;

- Ask the right questions
- Arm investigators with the necessary powers
- Set broad ethical and management goals
- Establish a process to achieve those goals
- Win public support for that process.

A Brief Look at certain Queensland Government Institutions

The Queensland Government made a series of presentations to the Retreat covering a wide array of institutional innovations and reforms that had been implemented in the wake of the Fitzgerald enquiry. These included;

The **Office of Government Owned Corporations** (GOCs), which provides GOCs with information, advice, education, planning and financial appraisals and monitors their compliance with government policies. The guiding principles behind its work of oversight of 22 GOCs generating $25 billion in revenue include the need for clear objectives (including untangling social and commercial objectives), management of autonomy (through the concept of two shareholding Ministers), accountability for performance and competitive neutrality vis-a-vis the private sector (eg by paying corporate tax equivalence to the State government).

The Ethics and Integrity Area of the **Office of Public Sector Merit and Equity** (OPSME) plays a central role in promoting ethical behaviour by public servants – through policy development, education, training and research support. It also manages an appeal process dealing with traditional promotion and discipline appeals as well as an innovative fair treatment appeal process.

The **Queensland Integrity Commissioner** provides conflict of interest advice to senior elected and appointed officials and has a role in raising public awareness on integrity issues. The concept behind this office is ‘prevention is better than cure’. By having a process whereby officials can seek advice on a conflict of interest situation, it is hoped to avoid those costly public confidence-sapping enquiries when an accusation of conflict of interest arises.

The **Queensland Audit Office** conducts financial audits on Queensland's public sector agencies and relevant bodies. Its reports to the Public Accounts Committee of the Queensland Parliament allowing the Parliament to make informed assessments about the probity and quality of public expenditure.

The **Ombudsman** investigates citizen complaints about public administration, with the power to recommend but not direct agencies to alter decisions, policies and practices and report any failure to comply to Parliament. The Ombudsman therefore focuses on maladministration rather than criminal conduct.
The **Information Commissioner** can investigate and override the refusal of agencies to provide citizens access to requested documents under Queensland’s freedom of Information legislation. Access to government documents with only limited categories of exemption is a fundamental requirement for accountability.

The **Criminal Justice Commission** soon to be renamed the **Crime and Misconduct Commission** is an independent authority investigating official misconduct within the public sector and is instrumental in instigating reform of the police and criminal justice system. Recent history has given it the largest role in the Queensland integrity system, emphasising the compliance aspects of that system. Since its establishment 2,474 charges have been brought following CJC investigations including 1,455 against police. It also has a proactive corruption prevention role.

**A Brief Look at certain Queensland Parliamentary Institutions**

Retreat Participants had the privilege of meeting a number of Members of the Queensland Parliament including the Speaker who hosted a lunch in their honour. The Speaker also formally welcomed the group when it observed Question Time in the Legislative Assembly, which was typically rowdy in the tradition of Australian Parliaments. The range of issues covered at Question Time was broad covering global issues flowing from 11 September, comparisons of educational attainments in OECD countries, native title issues, local issues concerning agriculture and dingo populations on Fraser Island. Retreat participants noted with considerable interest the large number of women in the Queensland Parliament (33 out of 89).

The round table discussion with Queensland Parliamentarians focused particularly on the work of committees. The Queensland Parliamentary Committee System involves cross-party committees in examining legislation, policy and governmental action – often with public involvement. In particular, the Parliamentary Public Accounts Committee's role is to assess the integrity, economy, efficiency and effectiveness of Government financial management by examining Government financial documents and by considering the annual and other reports of the Auditor-General. The role of committees was particularly important in a unicameral legislature without a House of Review.

Queensland parliamentarians took their committee work very seriously and engaged in it in as collegial a way as possible in Australia’s disciplined party system. The Chairs had a particular responsibility to steer the work of the committees in productive directions. Some parliamentarians thought that there were two parliamentary career streams; one leading to appointment as a Minister and the other focusing on committee work. A bipartisan approach by the chairs and other committee members was necessary where possible.

Dr John Uhr of the Political Science Program of the Research School of Social Sciences at the ANU was the facilitator for the parliamentary issues aspects of the program and shared his insights with participants pointing in particular to the key role of support staff for parliamentarians. They were essential to the workings of the committee system and the links between the various independent accountability bodies and the parliament creating a useful division of labour that emphasised the strengths of each institution. While the former had the investigative skills, the latter
had the means to translate the findings into political action, often under the glare of media attention.

An important institution on which the Retreat participants were briefed was the Queensland Office of Parliamentary Counsel, responsible for preparing drafts of legislation for both the government and as private members’ bills. The office produced some 10,000 pages of legislation and subordinate legislation each year. It did so under the terms of the Legislative Standards Act 1992 which, *inter alia*, requires that all Queensland legislation meet specific ‘fundamental legislative principles’ which protect rights and liberties, have regard to natural justice, limit the exercise of delegation of power to officials and require sufficient regard to Aboriginal tradition and (Torres Strait) Island custom.

**Applicability of Principles Underlying Queensland Institutions to the Pacific**

The reference to tradition and custom provides a useful intersection with Pacific island practices. Throughout the Retreat discussion among participants returned to the question of how best to apply the underlying principles to the Pacific context. At the outset it was argued that the institutions of representative democracy, the workings of parliaments and the concept of formal voting processes were all imported into the Pacific. The challenge was to localise these institutions and to find the correct balance with local custom. All participants agreed that there was still a long way to go in achieving the right balance in each of their respective countries.

Certain underlying principles were of particular relevance. It had to be accepted that, just as in Queensland, assuring a system of democratic accountability and governance was a complex process requiring various institutions to support each other. The parliament alone could not ensure the right result. It needed to be able to work with the Executive Branch, rely on the Judicial Branch and be supported by an active and informed civil society and media. Difficulty in integrating the various institutions of governance and having them work together was one of the more acute problems faced by Pacific island nations.

The pressure from civil society and the media was for integrity and probity but the pressure from constituents was for favouritism and support. Pacific politicians were at the intersection of these conflicting pressures and therefore subject to criticism from all quarters. In societies where illiteracy remained a significant handicap it was difficult to explain that a vote in favour of the successful candidate should bring only indirect benefits to the voter in the form of sound policies, competent legislation and sustainable development projects. Most Melanesian voters wanted more direct support from their local member to assist with the immediate cost of living (and dying) expenses. The problem was compounded for Opposition members if their constituencies were disadvantaged in terms of government’s development priorities. It was even harder to demonstrate benefits to the community from the Opposition benches.

On the whole, Pacific parliamentarians had little support from their political parties. While Samoa had developed in effect a two party system, the other Pacific countries had a shifting mixture of political parties with few parties enjoying a long pedigree. The Prime Minister’s party in Fiji had won a handsome victory though presenting itself for the first time. In PNG the weakness of the political party system and the
resulting insecurity of incumbent administrations had led to a change in the system to penalise parliamentarians who changed parties in mid-term. The challenge was for this ‘loyalty’ to be repaid in the form of policy and campaign support from the political party.

Ultimately the solution lay in a more educated electorate. Civics education was the key. Retreat participants noted with interest the number of school children visiting the Parliament and observing Question Time as well as learning about parliamentary democracy. In the course of the visit to the Supreme Court of Queensland they were also interested to see that the court conducted a special program for school children complete with interactive screen displays and the reconstructed Smoking Room of the QGSR\textit{L}uc\textit{I}nda aboard which the Australian Constitution was drafted.

Another general problem of applicability concerned the elaborate nature of the Queensland integrity system. Queensland, typical of most industrialised country models, had a plethora of institutions with very specialised functions all at significant cost to the budget. It was of course very useful to have an office with some twenty officials to oversee government owned corporations but this was well beyond the means of Pacific countries. The Queensland government owned corporations turned over $25billion annually and could thus justify the cost of establishing an oversight office. The Integrity Commissioner was seen as an interesting innovation but it would be considered a luxury in the Pacific context. The challenge for Pacific countries was therefore to extract the principles involved and attempt to design institutions that applied the principles at an affordable price.

In New Caledonia the burden was largely carried by the French government and its institutions of state extended their reach to New Caledonia. Indeed since the Noumea Accords there has been significant investment in both development and governance structures for the two provinces with majority Kanak populations. In PNG there was a long history of inadequately funded institutions of governance. Entrusting the management of the Leadership Code to the Ombudsman’s office was an attempt to cut the cloth to meet the means. Fiji was feeling the effects of the economic downturn while grappling to make the institutions established under the 1997 Constitution more effective. Making the Ombudsman the head of the Human Rights Commission was another means of rationalizing institutional design in Fiji. Samoa was progressing down the path of economic and institutional reform trying to design solutions it could afford.

Pacific parliaments were well-established institutions but they could nevertheless benefit from further improvements in organization and working procedures. One of the key issues emerging from the Retreat was the need to improve committee systems in Pacific parliaments. Samoa and Fiji had quite well established committees, the latter’s mandated under the Constitution. Fiji also followed the practice of having an Opposition member chair the Public Accounts Committee. PNG needed to resurrect its committee structure and breathe life into the Public Accounts Committee in particular. All parliaments in the region needed to professionalize the work of their committees by strengthening Secretariats. An interesting practice in this regard was the policy of the Queensland Public Accounts Committee in having officials from other agencies seconded for periods of one or two years to the Committee secretariat.
Pacific parliamentarians were also subject to various ethical guidelines. These might take the form of leadership codes or rules for the disclosure of assets. A critical issue was the application and enforcement of the rules.

**Custom and Democracy**

The marriage of custom and democracy is one of the most difficult processes to manage in the Pacific. Each society has to find its own path and there is room for debate about the best approach. In Samoa, the Matai system remains strong and well respected and Matai birth is thus a qualification for membership of parliament. This was seen as a means of respecting custom while embracing representative democracy. In Fiji, the concept of communal electorates and the integration of the Great Council of Chiefs as an institution under the Constitution is an attempt in the same direction. In New Caledonia, the creation of the Customary Senate is another example of the marriage of custom and democracy. PNG’s ‘Big Man’ concepts fit in more neatly with electoral democracy but its implementation in the form of money politics creates many problems.

This difficult balancing act requires considerable management and oversight. Examples were given of programs in aid of the indigenous people backfiring in their effect. The argument was advanced that affirmative action for Fijians may be having a negative effect by lowering standards and not encouraging excellence. Similar concerns were expressed about programs for Kanaks in New Caledonia. Affirmative action should be aimed at the underprivileged regardless of communal membership.

There was also a detailed discussion of gender issues in the Pacific. All agreed that Melanesian culture described different roles for men and women. But universal norms required movement towards equality. Here was a concrete problem of custom and democracy that needed resolution. While some argued for the maintenance of the traditional roles others pointed out that culture was not a static concept and that it too must evolve to meet the new situation. The forces of globalization and democratization could not be ignored in that they were universalizing basic norms including gender equality.

The French law requiring gender parity in candidates for election was being applied to New Caledonia. Here then was a Melanesian society that must quickly come to grips with a fundamental change in its traditional concept of the role of women. As some participants pointed out, this was not an easy process as the willingness and skills may not be present in sufficient supply to meet the parity rules. Some argued for an exception for Melanesia but others asked why Melanesian women were less deserving of equality than other women around the world. Clearly the issue needed to be addressed by all Pacific countries.

Another aspect of the intersection of custom and democracy is in the work of civil society. This calls for society to organize in non-traditional ways according to interests and opinions, not necessarily based on identity and kinship. Parliamentarians have mixed views about NGOs and often find them irksome but they nevertheless play a critical role in a functioning democracy. They act as a sounding board for issues and as lobbyists for change. The effect is essential for accountability. The challenge for Pacific parliamentarians is to find ways of interacting positively with civil society beyond their own regional and ethnic connections.
There were difficulties in knowing how representative individual NGOs or civil society organizations are. Professor Sampford suggested that one should look at issues such as numbers of members as well as their record in influencing the debate and the passion with which they attacked the issues. Parliamentarians have a certain advantage in being formally elected to office but this did not obviate the need to take account of the views of NGOs. For NGOs to enhance their effectiveness, it was argued that they should themselves practice more transparency. The question of foreign funding for local NGOs is a thorny one. One had to be aware of the possibility of state capture of NGOs and also foreign government capture.

The means by which civil society reaches the broader public is through the media. Parliamentarians also need to get their message across through the media. Traditional means would concentrate on oratory and personal contact thus allowing personality and people skills to come into play. Newspapers, radio and TV require more compressed messages with crisper substance and policy content. The media thus creates an intermediary through which political actors reach their audience. This puts the spotlight on owners and journalists. The Pacific had some strong journalists but there were also inexperienced journalists who might be unduly influenced in various ways. Journalism in Fiji needed improvement. Samoan media also had difficulties though the Samoan Observer had recently won awards and Samoan media based in Australia and New Zealand were particularly assertive. PNG newspapers were a mixed bag with some reputable investigative reporting in the Independent. Australian journalists often led the way. Marie-Louise O’Callaghan’s reporting on Sandline was an eye opener to locals in PNG.

There is also a problem of bias sometimes based on the economic interests of the media owners. This is reflected in New Caledonia where Robert Hersant is the major media proprietor and his publications tended to pursue conservative politics. The various media are in the hands of political partisans including the Kanak independist forces.

Possible Best Practice Precedents

Participants agreed that it was difficult to transplant institutions from one country to the next. Some of the Queensland precedents are not applicable to small Pacific countries because they are over elaborate, too expensive or are too intimately tied to the recent history of the state. The Integrity Commissioner makes good sense in Queensland but would be seen as superfluous in the Pacific.

The collegial and bi-partisan way the Public Accounts Committee worked is of considerable interest even though Australian parliaments do not follow the practice of appointing Opposition members as chair.

The link between parliamentary committees and independent oversight bodies is also seen as a concept deserving of further thought in the Pacific context. Implementation is often the problem in the Pacific and this link might provide a means of improving follow-up processes.

The process adopted by the Fitzgerald inquiry is also worth examining. Each country has its own way of investigating accountability problems but the methodology
adopted by Fitzgerald provides a useful template for asking the right questions and adopting the right process.

**Evaluation**

Participants expressed great enthusiasm for the 2001 Retreat and the study of the Queensland institutions under review. The mix of observation, information gathering and discussion was seen as particularly valuable. As in previous Retreats, participants regretted that there was not even more time for further discussion including the critical discussions among the Pacific parliamentarians themselves. They agreed that they would stay in touch to continue the dialogue.

There was unanimous support for the continuation of the Retreats with lively discussion about future venues. Some participants wanted to see the Retreat held in a Pacific capital in future years with Apia and Noumea mentioned as possible venues. Other participants saw the value of studying Australian models and believed the Queensland model holds particular relevance for Pacific countries.

The 2001 Retreat could not have taken place without the excellent preparations and participation of the Key Centre. CDI’s gratitude goes out to Charles Sampford and his team. Australian High Commissions in Apia, Port Moresby and Suva and the Consulate-General in Noumea also played a much appreciated liaison role. The Speakers of the various parliaments provided great support for the Retreat and CDI is grateful for their continuing assistance. Thanks also go to the three interpreters who assisted the participants from New Caledonia, Annick Bouchet, Siobhan Brownlie and Nelly Lahoud.

Finally, CDI expresses its appreciation to the Pacific parliamentarians for their enthusiasm, cooperation and friendship in the course of the 2001 Retreat. We hope that they benefited from the experience as much as we enjoyed hosting them.
Program

Sunday 2 December
Arrival at Quay West Hotel

Monday 3 December
9.00 Key Centre for Ethics, Law, Justice and Governance (KCELJG)
Griffith University
9.30 Overview - General discussion of accountability
The Four Waves of Accountability and Integrity in Anglo-American countries
- Magna Carta and Parliament: Written and Institutional Constraints on Royal Power
- Separation of Powers and Judicial Review - acting lawfully
- The Westminster System and Parliamentary Government
- accountability to Parliament
- accountability to the people The Fourth Wave
Discussion leader: Professor Charles Sampford
11.00 Morning Tea
11.30 The Queensland Experience
- Queensland before Fitzgerald - the limits of one dimensional accountability
- The Queensland Fitzgerald Inquiry and EARC: a case study in political, legal and administrative reform
Discussion leader: Prof Charles Sampford
13.00 Lunch
13.00 Bus to Lone Pine Koala Sanctuary
19.00 Dinner at the Queensland Club

Tuesday 4 December
8.55 Walk to Parliament House
9.00 Executive Agencies (in Parliament)
- Department of Premier and Cabinet
  - Queensland Integrity Commissioner - Katherine Navin, Executive Officer to the Commissioner
  - Office of Public Service Merit and Equity and Whistleblower Legislation - Susan Allard, Jeff Loof
- Queensland Treasury
  - Office of Government Owned Corporation – Peter Dann
- Department of Public Work (and its role in government purchasing)
Discussion leaders: Ms Susan Allard and Prof Charles Sampford
12.50 Walk to Gardens Café
13.00 Lunch (at the City Botanical Gardens Café)
15.00 Discussions at KCELJG
17.30 Finish

Wednesday 5 December
9.15 Parliamentary Committee System
Mr Neil Laurie, Deputy Clerk and Clerk of Committees
9.45 Privilege/Ethics and Disclosure
MEPPC - Mrs Julie Attwood, Chair, Mrs Joan Sheldon, Deputy Chair,
Mr Bill Flynn, Ms Anita Phillips, Mrs P Croft
10.15 Morning Tea
10.40 Question Time in Queensland Parliament
11.25 Accountability
LCARD - Ms Karen Struthers, Chair, Mrs Liz Cunningham, Ms Rachel Nolan
PAC - Hon Ken Hayward, Chair, Mr Tim Mulherin, Ms Jan Jarrett, Mr Ray Hooper
SLC - Mr Warren Pitt, Chair

12.30 Tour of Parliament
13.00 Lunch – Hosted by Speaker of the Queensland Parliament
Attended by Members of Parliament
14.30 Office of the Queensland Parliamentary Counsel
Mr Peter Drew, Deputy Parliamentary Counsel
15.15 Afternoon Tea
15.45 General Discussion
Discussion leaders: Dr John Uhr and Mr Roland Rich

Thursday 6 December
9.00 Criminal Justice Commission
- Parliamentary Commissioner for Administrative Investigations (Ombudsman) - Mr Frank King
- Criminal Justice Commission and its relationship with Parliament
- Queensland Audit Office - Mr John Findlay, Director of Audit Policy and Reporting
- Office of the Information Commissioner (Qld) - Mr Greg Sorensen
Chair: Mr Roland Rich

13.00 Return to apartments
18.30 IMAX Theatre

Friday 7 December
10.30 The Judiciary (Supreme Court of Queensland)
- Rule of law and constitutionalism
- Role of administrative law
11.30 Morning Tea
11.45 General discussion
Discussion leaders: Justice Bob Douglas, Prof Charles Sampford
13.20 Lunch
14.40 The Role of civil society and the media in accountability
- Media as a watchdog
- Civil society as a whole
Discussion leaders: Mr Roland Rich, Prof Charles Sampford
16.30 Concluding Drinks with KCELJG
GUARDING PRINCIPLES OF BEST PRACTICES FOR FORUM ISLAND COUNTRIES’ LEGISLATURES

I. FIC Legislatures

1. The legislative function is the primary responsibility of the legislature as the elected body representing the people.

2. Speedy and effective steps should be taken by the legislature to implement its country’s international human rights obligations by enacting appropriate human rights legislation.

3. The legislature to raise awareness and encourages people to enforce their rights through courts, the Office of the Human Rights Commission, the Office of the Ombudsman and other institutions.

4. All Members of Parliament and Congress to have access to human rights education.

II. Preserving the Independence of the Legislature

1. Article 9 of the Bill of Rights 1688 is reaffirmed. This article provides:

   “That the Freedome of Speech and Debates or Proceedings in Parlyement ought not to be impeached or questioned in any court or place out of Parlyement”

2. Security of members during their term is fundamental to legislative independence and therefore:

   (a) the expulsion of members from the legislature as a penalty for leaving their parties (floor-crossing) should be viewed as a possible infringement of members independence; anti-defection measures may be necessary in some jurisdictions to deal with corrupt practices;

   (b) laws allowing for the recall of members during their elected term should be viewed with caution, as a potential threat to the independence of members;

   (c) the cessation of membership of a political party of itself should not lead to the loss of a member’s seat.

3. In the discharge of their functions, members should be free from improper pressures and accordingly:
(a) the criminal law and the use of defamation proceedings are not appropriate mechanism for restricting legitimate criticism of the government or the parliament;

(b) the defence of qualified privilege with respect to reports of parliamentary proceedings should be drawn as broadly possible to permit full public reporting and discussion of public affairs;

(c) the offence of contempt of parliament or congress should be drawn as narrowly as possible.

4. The legislature must have an adequate and independent budget and an all-party committee of Members of Parliament or Congress should formulate and review the legislature’s budget, which should not be subject to amendment by the executive.

III. Legislative Ethics

1. Codes of Conduct for all Members of Parliament and Congress should be developed and published;

2. Conflict guidelines, Codes of Conduct and Rules and Procedures of Parliament or Congress should require full disclosure by Ministers and Members of their financial, monetary and commercial interests;

3. Members of Parliament or Congress should not hold any other paid public office;

4. Members of Parliament or Congress should be appropriately remunerated for their participation in legislative committee works;

5. Whilst responsive to the needs of society and recognising minority views in society, Ministers and Members of Parliament and Congress should avoid improper influence of lobbyists and special interest groups.

IV. Executive Accountability to Parliament/ Congress

Legislative procedures should provide adequate mechanisms to enforce the accountability of the executive to parliament. These should include:

1. A committee structure appropriate to the size of the legislature, adequately resourced and with the power to summon witnesses, including Ministers. Governments should be required to announce publicly, within a defined time period, their responses to committee reports;

2. Standing orders should empower Speakers to allow for Members to question Ministers, full debate on legislative proposals and to disallow gagging of debate;
3. The Public Accounts should be independently audited by the Auditor General who is responsible and reports directly to the legislature. For State-Owned Enterprises, the Auditor General should appoint an independent audit firm to audit the account of the SOE, paid for by the SOE concerned, and certify and forward the audited account to the legislature;

4. The chair of the Public Accounts/Expenditure Committee should normally be an opposition member;

5. All state institutions including public bodies such as the Courts, Offices of the Ombudsman, Human Rights Commission and other constitutional offices should report directly to Congress or Parliament on their operations each financial year;

6. The Public Accounts/Expenditure Committee should be empowered under relevant laws to initiate prosecution for all offences relating to public accounts arising from its own investigation.

V. The Law-Making Process

1. Gender-neutral language should be used in the drafting and use of legislation to promote a more gender balanced society.

2. Procedures for the preliminary examination of issues in proposed legislation should be adopted and published so that:

   (a) there is public exposure of issues, papers and consultation on major reforms including draft bills;

   (b) standing orders provide a delay of some days between introduction and debate to enable adequate representation of public comment unless suspended by consent or a significantly high percentage vote of the chamber; and

   (c) major legislation can be referred to a select committee for the detailed examination of such legislation and the taking of evidence from members of the public.

3. The legislature should be serviced by professional staff independent of the regular public service. In small FIC legislatures professional staff of the legislature may continue to be regular public servants, however, their deployment elsewhere in the public service should be done only after the Speaker has agreed to the reshuffle.

4. Adequate resources to government and non-government back benchers should be provided to improve legislative input and should include provision for:

   (a) training of new Members;

   (b) secretarial, office, library and research facilities;
(c) drafting assistance including private member bills.

5. Appropriate legislation should incorporate international human rights instruments to assist in interpretation and to ensure that Ministers certify compliance with such instruments, on introduction of the legislation.

6. The legislature must have the service of an independent legal counsel.

7. Subordinate legislation and regulation established by Ministers must be tabled in the legislature as soon as they come into force.

8. An international Treaty or Agreement must be referred to Parliament/ Congress before Government commits the country to its implementation by signing it.

VI. The Role of Institutions other than the Legislature

1. The legislature shall safeguard the freedom of the press and appropriate standard of responsible reporting by journalists.

2. The legislature and the executive should ensure that all constitutional institutions, such as the Auditor General, the Public Defenders, State Prosecutors, the Human Rights Commission, the Courts, the Leadership Code Commission, the Office of the Ombudsman and others play key roles in the promotion of good governance and rule of law issues and adequate funding and resources should be made available to enable them to discharge these functions.