

Radical Democracy on Committees in an MMP Parliament

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This article takes a first-hand look at attempts to model a process of reform through leadership on a select committee. At the heart of this model is what I have called 'radical democracy', which in essence provides for all participants in committee processes the right to a voice. It discusses the role of inquiries in facilitating good process and developing policy, and argues that the procedures outlined are essential for committees properly to undertake their key role of scrutiny. However, the article also argues that Quigley (2000) was too ambitious in his earlier claims for the development of a broader political consensus, and argues in fact that consensus is less rather than more likely in an MMP environment. Nevertheless, the article ends on an optimistic note by arguing that, in the complex and shifting relations which characterise MMP parliaments, it is possible that committees, operating properly, may offer transformative political moments for the larger Parliament.

Proportional representation has brought new challenges and opportunities to the New Zealand Parliament, stemming from increased diversity and a general move away from the model of a single party in Government and another in Opposition. Our Parliament today is one of the most diverse in the world. Thirty percent of members are women,¹ considered by many to be the benchmark figure for effective representation. There are fifteen Maori members, roughly corresponding to the proportion of Maori in the community. We have MPs from Pacific nations and from Asia. We have the highest proportion of openly gay members of any parliament in the world. Notoriously, we even have a dope-smoking Rastafarian. There are seven

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¹ As the World Bank's (2000) report *Engendering Women* notes, internationally women's representation in parliament has increased by only one per cent per decade since 1974. The surge in numbers in the New Zealand Parliament occurred in two steps: a large influx of women MPs in 1984, and then a second increase under the new voting system in 1996.

political parties in Parliament: Labour, National, Alliance, Association of Consumers and Taxpayers, Greens, New Zealand First and United. Government is, and will now probably always be, based on shifting coalitions and alliances of interest between parties of differing sizes.

New Zealand has a fine left-right balance, which means that most elections are quite close. That was the case in 1996 and 1999, which helped to force genuine power-sharing in parliamentary structures.

The move to mixed member proportional representation (MMP) was accompanied by changes to the set-up of the committees of Parliament. Under the first past the post (FPP) system, committees were made up of either a balance of Government and Opposition members, or a Government majority, with the chair also having a casting vote. Numbers won the day at every stage. From 1996, committees faced new challenges, with, on most, an equal representation of Government and Opposition groupings, based on the proportion of votes each party holds in Parliament, and made up of parties with often quite diverse agendas. The chairperson's casting vote was abolished. Each vote was to be won or lost on its merits (or, more likely, on the party policy). It was within that brave new world that I entered Parliament in 1996 as a new parliamentarian in a small, left wing, opposition party.

The reformers expected, even from that early date, that committees would benefit from the new configuration. As Mai Chen noted:

One of the features that virtually all commentators are agreed upon is that select committees are likely to become even more important in the future than they have been in the past. When one considers that New Zealand select committees have been among the most potent among Commonwealth Parliaments, this is a very significant development. For some years now it has been established that all bills of any importance will go to select committees for scrutiny and public submission. This has had a very beneficent effect on legislation. With MMP it is likely that the select committees will become the place where political compromise and consensus is hammered out.²

In my first term I became my party's representative on the Education and Science Committee because I was education spokesperson and also had a relevant background in the area. My experience on that committee between 1996 and 1999 was less than enthralling, and certainly did not represent the politics of compromise and consensus. Due to my opposition/small party/new member status, I always got to ask my questions last, and accompanied by a comment: 'time's up' or 'keep your questions short' and so on. Coming from a background as a voluble and respected academic with a long-standing expertise in education policy, I found this very hard to cope with. What particularly struck me was what might be called a wastage of

² Mai Chen (1997) 'The New Parliament Under MMP', *Legislative Studies* 11(2): 13–22.

human talent. A key role of committees is scrutiny, whether of annual accounts, draft legislation, the workings of the public sector and of issues of concern to the public. It seemed to me that our committee was so bogged down in inter-party power struggles that our power (and responsibility) was being diluted.

At its worst under MMP, committee procedure is an oppositional, grumpy affair where business proceeds grudgingly in an atmosphere of malign distrust.³ All committee members, and those giving evidence, are affected. It can be intimidating, and sometimes deliberately so. Having experienced a committee which was frequently bad-tempered and punctuated by quite personal attacks, I was determined, in my second term, to lead change towards a better and more effective committee procedure, where Mai Chen's spirit of compromise and consensus could flourish. My opportunity came early in 2000 when, as a result of negotiations within the new Labour/Alliance Coalition Government, I was offered the chair of the Education and Science Committee.

This article documents the principles which I have used to try to forge a highly effective committee, despite evident political differences among the members and with highly contested policy issues on the agenda. It reflects my own views on what we have done; other members of the committee may have a different perspective. I should perhaps caution that it is less than six months since the committee I describe here was set up. While at present we appear to be on course towards a new kind of politics (at least within the committee if not in the larger arena), a week is a long time in politics.

A radical democratic approach: committees as the gateway to the people

I have quite strong views about democracy. It is not merely constituted by the people's vote, delivered on a set day at a polling booth, and followed by a period in which the politicians take action, only to be judged again in three or four years time. This is a minimalist view of democracy, and is neither functional nor dynamic. However, it is difficult to foster continued interaction between the needs and aspirations of the people and the work of elected representatives in an organised way. In my view, that is the central role of committees: to provide a gateway through which dialogue can be opened up on a range of issues of concern to the people. Committees thus act as a conduit. Not only do they invite people in (or committees, keep them out), but they also set the context wherein voices are heard. Thus, committees, at best, act as an instrument of radical democracy, fostering and enhancing the democratic process and inviting and providing opportunities for political struggle and change. Because of my views about democracy, it became

³ Mixed Member Proportional Representation. Under this system, parties are elected to Parliament on a strictly representative basis, provided that they get either one constituency MP or a minimum of 5 per cent of the vote. See Rod Donald (1999) 'Unicameral Parliaments Do Work', *Legislative Studies* 13(2): 30–46.

important to me, when I took on the chair of the Education and Science Committee, to try to forge a co-operative and effective team of members, Government and Opposition, who would work together to further the business of the committee.

I must admit to some self-interest here. I thrive in co-operative settings and detest personal conflict (as opposed to policy conflict). I believe one can be strong without being strongly oppositional. I hated sitting for hour after hour in the kind of climate experienced in the 1996-99 committee, and was a sporadic attender. In his 1999 paper to Australasian Study of Parliament Group (ASPG), Marcus Ganley⁴ concludes that members of Parliament need to accept some responsibility for the negative perception of Parliament. I agree, and part of the cause is an apparent failure of politicians to empathise with, listen to or attempt to understand the will of the people.

To be co-operative does not imply that there is no conflict. Conflict about policy goals is the driving force of western-style democracies. On our committee, as I will explain below, all positions get a good hearing. We have dealt with some extremely contentious matters this year — yardstick political positions — without compromising openness or resorting to the sort of formality required because relationships are weak. The one moment of real difficulty so far when, after a long Friday of hearing evidence, group after group in 20 minute bursts, I ended up facing a barrage of points of order from both sides of the table (yes, we still sit oppositionally). I first assured both sides that each would continue to get their say on these very contentious matters, reminded everyone that there were strong positions on both sides and urged that we get on with the job. They did. In a more oppositional situation my assurances would make no difference. The fact that the situation was easily defused demonstrated that some trust has begun

Voices

At the heart of the radically democratic committee is voice: the right to be heard. The Education and Science Committee now operates on the simple principle that every person, member or visitor, has an absolute right to be heard in a benign context. I believe this principle has to start with the committee members, who must believe that they will always be heard if they have something to say. There are voices and voices, of course. My aim is to foster at all times, except in those few moments where the formal voting requirements of Parliament must be met, a free-flowing and informal dialogue.

I have found that much of the tension that can permeate committees comes from an anxiety by members that they will not get their say. Justifiable anxiety, too. Historically, committees have worked on a system of numerical dominance, where those with the numbers have drowned out the voices of opposition. Small party

⁴ Marcus Ganley (1999) 'Public Perceptions of the New Zealand Parliament', paper presented at the Australasian Study of Parliament Groups conference, Sydney, September, 8.

members, in particular, have had to fight to be heard. This is the difference between a closed and open system. An open system provides opportunity for open debate while a closed system, at its worst, ruthlessly shuts it down. There is a political difference between having the numbers to win a point, and using them to shut out oppositional views.

The Education and Science Committee is an unusually knowledgeable and experienced group of parliamentarians in the subject areas covered by the committee. On the Opposition side there are three former ministers, including a Minister of Education, an Associate Minister of Education Review and a Minister of Research and Technology. The fourth Opposition member is a Maori woman with 25 years of experience in education matters. On the Government side is an ex-teacher (turned union leader), a science specialist (also an ex-unionist) and a young Maori woman with a range of experience and concerns in education, including Maori education failure. All are in Parliament for their second or subsequent term. In my view it is unthinkable that such a high level of knowledge and experience should be constrained by rigid protocols designed to shut down, rather than work through, differences.

The committee did not start out as a cohesive group — far from it. At the first meeting, where members who have aspirations to chair a committee have to nominate themselves using the embarrassing and grammatically unsound phrase: ‘I nominate me’, Government and Opposition members split 4–4 and, after two votes, the question of who would chair the committee was referred to the House. After a short debate, where I was announced to be too left wing to chair a committee, I was elected by majority vote. This was the worst possible start, because it postponed the work of the committee by two months and set up an oppositional culture before the committee’s work began.

As a result, the work of forging a more democratic model of committee work had to be won from a most unprepossessing start. As members in at least our second term, we had interacted before. I had been involved in disputes with all three of the ex-ministers at one time or another, and did not have close working relationships with any of the new members. However, the committee began working constructively together from a very early stage. One of the things that the Opposition members liked was that I was as eager as they to uncover irregularities in the procedures of government departments. One exchange between heads of a department and me over the previous chief executive officer who had left under a cloud, where I quite bluntly (too bluntly) gave my view of the person and questioned the subsequent health of the organisation, earned me credit for plain speaking.

I worked on three different fronts (although it was hardly planned so systematically) to foster good process. First, I invited the committee to put forward their ideas on the work program, in particular on possible avenues for inquires (see below). Second, I attempted to model a leadership style which was open, friendly, receptive

and, above all, informal. There are formalities attached to committees but plenty of scope for minimising them.⁵ Third, I have tried to facilitate the work of the committee. Members sometimes like short meetings and time off, and other times like to work quickly through some items. Our pattern tends to be hard work followed by well-earned rest.

I have always tried, as chair, to give an absolute assurance to members that their contributions were always welcomed and always valued, Government or Opposition. Further, that active participation would benefit not only themselves, nor just the work program, but also Parliament as a whole, in that acting democratically (and being seen to do so) enhances our reputation. While interactions over time were very instrumental in developing the committee's open outlook, I was, however, also very keen to shape our workload to meet democratic goals.

The Inquiry as a model of democratic action

Committees of the New Zealand Parliament have quite wide-ranging powers to inquire into anything within their sphere of influence. There have been some high quality and effective inquiries during the past few years, and I was hopeful that I could persuade the committee to use the inquiry model frequently. Inquiries can come from a number of sources. First, Cabinet, or individual ministers, can 'suggest' to a committee that they carry out an inquiry into a particular matter. Committees are not necessarily pleased to have such requests placed on them, as it is not their role to carry out the requirements of the executive. Second, some event might occur which seems to require an examination by politicians, and in such cases there is often a strong desire by a number of members on the relevant committee to inquire. Third, an individual member may put forward a strong argument for an inquiry, to which the committee may agree. Finally, a member of the public might petition the committee on a matter that leads to an inquiry.

I stated my view from the start that I wished the Education and Science Committee to hold lots of inquiries. I believed that there were many unsolved policy problems in the areas for which we had responsibility, and was very open to examining as many of these as possible. As a result members, both from small parties, suggested inquiries and one, an inquiry into Reading in New Zealand, is currently under way. Others will be considered later in the year. The Cabinet suggested that the committee inquire into the operation of the student loans scheme and after much debate we decided to launch a wide-ranging examination of the resourcing of tertiary education, for which submissions have been called.

⁵ Let me give two examples here. The first is speaking rights and speaking order. I do not say 'through the chair, please.' In general, questioning proceeds freely and when too many people want to speak I take a speaking list and facilitate that. I do not see it as my role, generally, to limit what questions are asked or what members say. The second example is voting. I always try to reach a consensus so that, when we finally vote, it is a formality. Where stark political differences remain, I might preface the process with 'let's grit our teeth and get this over with.'

I have learnt retrospectively that another committee, in the last term of Parliament, took an inquiry-based approach to its work. The Foreign Affairs and Defence Committee, under Derek Quigley, a member of the ACT party (another small party) had, in the previous parliamentary term, 'embarked on a wide-ranging program of inquiries in addition to its usual workload'.⁶ Quigley notes that this was only possible because of a comparatively light workload for the committee and yet, he states, scrutiny of this kind is a key responsibility of committees.

At its best, lying outside of the Government's program of work, the inquiry is a model for using co-operation to develop cross-party consensus. This is certainly what Quigley worked towards, and almost achieved, in his committee's key inquiry into defence. However, just as MMP provides the basis for more co-operative ways of working, it also inserts more voices into the process and makes agreement in full less likely. Nevertheless there is significant scope for effective work on a range of issues and parliamentary committees may hold the Government to account.

I cannot yet evaluate my committee's success in undertaking inquiries, as we have yet to complete one. My current goal is that we do it well, and come up with some politically useful and achievable solutions to the problems we have taken on. I am interested to discover what new dynamics may be forged within the committee as a result of dealing with really substantive political issues in an in-depth way.

However, some points can be taken from Quigley's documentation of the experiences of the Foreign Affairs and Defence Committee. His work deals, more or less thoroughly, with three issues of interest in the context of this discussion. The first relates to the conflicts that may emerge between consensus on the committee and wider political realities, and the tension between those. The second is whether a new model of politics is emerging as a result of MMP, a model perhaps fostered through the work of committees and eventually transformative of the way we do politics *per se*. These big questions, and smaller ones, are taken up below.

The limits to autonomy and the reality of political struggle

Quigley makes the case for committees to fill the gap of policy uncertainty which necessarily accompanies coalition governments, by providing an arena in which 'practical multiparty' agreements⁷ can be forged. He argues:

In contrast with government departments and political parties, select committees are, in my view, in a better position to consult with the public on a wide range of issues, and as a result are more likely to arrive at more enduring policy decisions.⁸

⁶ Derek Quigley (2000) 'Select Committees and Multiparty Policy-making', *The Parliamentarian*, April, 132-4.

⁷ Quigley, *op. cit.* 133.

⁸ *ibid.*

The assumption in Quigley's analysis, of course, is that policy-making is merely a rational activity. It is not; it is also highly political. Policy is not a zero-sum activity. Bubbling under the surface of all political activity are fundamental questions: 'whose side are you on'; 'whose interests do you defend'; rich versus poor, haves and have-nots, and so on. Informed sources can unpick the effects of policy. Expert witnesses can outline unforeseen consequences. But no committee of a broad MMP Parliament is going to agree to 'solve' key political differences. Committees can, however, as I outlined earlier, manage those differences effectively by turning potential acrimony into useful debate and questioning.

Quigley's committee nearly reached a consensus on defence priorities before the realities of an election year and conflicting Government policy forced differentiation. The collision of consensus with political reality will necessarily arrive when a committee, working effectively, comes up with an agreed policy position which clashes with Government policy (or, realistically, Opposition policy also).

Quigley was a minority party chair, as am I. Although I am a Government parliamentarian, I have no party relationship with any of the ministers whose portfolios impinge on my committee's work. It may well be that as small party members, Quigley and I have an advantage. We have to create consensus because, on committees, we hold/control only one vote. A parliamentarian from a small party has, in effect, little power except the power to facilitate a consensus. Further, our more distant relationship with ministers perhaps fosters an autonomy which would otherwise be absent.

In the end, however, the failure of Quigley's analysis, and possibly the sad reality for consensus committee work, is that MMP, in bringing more positions into the political melting pot of Parliament, has actually increased, rather than decreased, contestation between political parties. The dominant metaphor of politics had always been war rather than peace, and despite the appearance of a kinder, friendlier politics, brought about probably because of the proliferation of women in the chamber, if anything the conflicts have escalated.

It is not hard to see why this is the case. All parties (more or less) are voting for vote-rich centre ground (either on their own or with a potential coalition partner), while all seek also to stake a unique patch by which they may be known, yet at the same time seeking a broader appeal. The old left/right days of dualist party politics, with its core disputes over labour versus capital, public versus private and poor versus rich are well and truly over. This is not to say these battles have been left behind, because they are, in fact, as prominent as ever despite postmodern assertions of the fragmentation of politics. However, they have become overlain by a more complex grouping of forces which reflects shifting alliances and, at heart, an intensification of political struggle. More armies on the battlefield does not bring peace, unfortunately, although groups may sometimes hold their fire in an appearance of truce in order to ensure they do not shoot their allies.

Conclusion

Select committees have the potential to open up the portals of Parliament to the people. This article has argued that democracy is fostered in a spirit of openness, voice and co-operation. At their best, select committees embody this spirit, and use it to examine, scrutinise and explore issues. I have advocated, I hope strongly, for real democracy, trust and empowerment within the committee process.

However, what matters is if we win everything by a radical democratic approach and then are absolutely constrained by the rigidities, many of them necessary, of the system. The other reality of the MMP system is that, with so many parties crowding and contesting the political spectrum, all avenues will be used to secure political advantage. Even if it is possible to fence off committee work from the other processes of Parliament, the limits of change are generally quite constrained.

The hope for my committee and for all committees is that there is enough in the issues alone to satisfy all participants. My committee is currently undertaking an inquiry into reading in New Zealand. All members have their own personal and political interest in this: smaller class sizes, or phonics-based instruction, or a critique on reading recovery, teacher education and basic school resources. There is enough there to satisfy the most demanding political agenda. By marshalling our differing interests to target important matters of public concern, the possibility (no more than that) is that, in doing so, we might also invent for ourselves a new politics along the way. ▲