

PARLIAMENTARY LEADERSHIP AND EXECUTIVE DOMINATION – WHAT SHOULD BE DONE?

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INTRODUCTION

Imagine the following quotation and what it conjures in your minds.

”Silly bladders! Self-advertising, irresponsible nincompoops. How I hate Members of Parliament. They embody everything that my training has taught me to eschew – ambition, prejudice, dishonesty, self-seeking, light-hearted irresponsibility, black- hearted mendacity.”

This is what a Permanent Secretary wrote about Members of Parliament in the United Kingdom in the 1940s. The question is, has the situation changed today? Permit me through your indulgence Chairperson to refer to another quotation.

” The MP is often seen [by civil servants] as an actual or potential adversary, to be helped as little as possible!”

With the kind of thinking illustrated above, it is inconceivable for MPs to exercise their role of oversight over the Executive if civil servants adopt such a hard, obstructionist, and adversarial posture towards them. Something is definitely wrong somewhere.

HAS THE SITUATION CHANGED?

Judging by the above quotes one might be inclined to conclude in the negative. Developments in the latter part of the century we are about to close are convincing that the role of the State has shifted dramatically. The State has been put under pressure to respond to the fast changing environment, to address the most pressing issues such as poverty and sustainable development, globalisation, technology, the environment and a plethora of other related matters.

Countries have responded differently to all these issues and thus Parliaments have not remained immune to these developments. Parliamentary systems have undergone tremendous change, be it committee systems, political representation, administration and oversight on the executive.

People are putting the State under scrutiny, demanding to know its role, calling for good governance, transparency and accountability. There are demands for new ways of doing things in terms of good governance and the legislature's role of oversight, representation, co-operation and participation in the creation of a new society based on democratic principles. It would not be wrong therefore to conclude that Parliament has gone through tremendous transformation. Critical to this transformation is the acknowledgement by many Parliaments that lawmakers are not necessarily immune from corruption. For this and many other reasons the need to establish internal audit and control systems within Parliament will go a long way in assisting to eradicate corruption in politics.

PARLIAMENTARY OVERSIGHT – A PERSPECTIVE

Parliament as an institution, has to create a legal framework to prevent corruption and promote government accountability, exercise oversight over government departments, provide a forum for questioning and where members of the executive account for their actions. Equally important will be the need to ensure that issues are debated in committees and policies that inform the various legislation proposed by members of the executive are in line with electoral mandates.

One of the essential messages that emerged at a regional seminar on good governance in Uganda in 1998 is that many parliamentarians fail to exercise their accountability role because of lack of political will and capacity associated with executive domination of government.

Further, parliament in the process of exposing failures and maladministration and corruption, can only recommend action but does not have the power to implement its recommendations.

Intrinsic in the fundamental role of parliament to have oversight over the executive is to check that the public treasury is properly utilised for the function intended and that no acts of corruption have occurred. The normal process that all of us are familiar with is through the Public Accounts Committee which is backed by the Office of the Auditor General. In simple terms, Parliament has the right and responsibility to guard against executive extravagance. However, it begs the question whether that right is absolute.

The fact that the sovereignty of parliament is entrenched in constitutions of most democratic countries is indicative of its significance and therefore a catalytic tool of governance. I will take the latitude to illustrate the experience we have gone through in South Africa especially in the Legislature I come from, Gauteng Province.

One of the most important developments that one vividly remembers about the writing of the Rules was to ensure that the Legislature through its committees had substantial oversight over the executive. To that end committees have the power to summon members of the executive to appear before them when material information is required. It however remains the prerogative of the member of the executive to bring his or her team along to answer questions.

The cardinal rule still remains that the member of the executive council is politically accountable for his or her department and therefore is and remains answerable to the legislature whilst the civil servants are responsible to the member of the executive concerned. Perhaps it is more the reason why Ministers and their officials resent MPs. The above legislative instrument is meaningless if not accompanied by strong support service for both committees and the different MPs because it will be relatively easy for Ministers to bombard legislators with large volumes of documents that mean absolutely nothing.

It is for that reason that committees should and must have good research backup and suitably qualified staff. This then leads me to the next point about legislative scrutiny and accountability.

LEGISLATIVE SCRUTINY AND EXECUTIVE ACCOUNTABILITY

The age old conundrum of ensuring that the executive is accountable to the legislature while at the same time the legislature is intent on using its scrutiny muscle is in the main about power-play. It is common knowledge that more often than not "the duties of a back bench MP and the task of representing a constituency may be sufficient satisfaction in themselves for some MPs. But for many, membership of parliament is a prelude to obtaining office or, if their party is not in power, prominence as a front bench spokesperson." Gillian Peele in his book '*Governing the UK*' couldn't have put it better. Indeed the question of legislative scrutiny does have a measure of subjectivity and will therefore require careful monitoring.

The crux of the matter is however, the need to optimally ensure that parliament exposes corruption and maladministration and deal harshly with any semblance thereof. Delegates to the regional seminar held in Uganda in 1998 repeatedly pointed out the fact that leaders in most African countries lack the political will which is a critical and fundamental element to develop sustainable and effective anti-corruption strategies and programmes. " We were told in the beginning that we have a lot of powers which we have exercised. Many people, including the President, have made strong statements about how Parliament should go ahead and fight corruption. We go ahead and get the thieves and suddenly the government develops cold feet." This was said by Ms Sarah Kiyangi Namusoke, chairperson of the of the parliamentary committee on presidential affairs. The question we need to ask is why does the government develop cold feet.

CAN PARLIAMENTARY LEADERSHIP CREATE A BALANCE IN THE RELATIONSHIP BETWEEN THE EXECUTIVE AND PARLIAMENT?

Parliament is empowered by the constitution to provide mechanisms to ensure that all executive organs of state are accountable to it and to maintain oversight of the executive including the implementation of legislation. In order to make sure that there is no question of compromise between the two bodies, it may be necessary to set up an Ethics Committee that is constituted of both members of the executive in their capacity as MPs

and ordinary MPs. What may be required for effectiveness is to devise clear rules that can easily deal with any possibilities of conflict of interests so as to lend credence and credibility to the parliamentary system.

The reasons for this are very simple. More often than not Ministers have a tendency to intimidate MPs when they become too inquisitive and ask probing questions about their respective departments. This attitude is also displayed in caucuses or study groups of the ruling parties in most countries.

The solution to this adversarial approach lies in the building of trust between colleagues both in those who are in the executive and those outside. The notion of 'guarding turf' should be dispelled if indeed the criterion for appointment to the executive was based on merit and not on patronage.

There is a temptation to argue that once in parliament all members are equals. The danger in this temptation is that equality is a complex relationship between persons mediated by a series of social goods; it does not consist in an identity of possession. In other words, the degree of distinction is quite elaborate with regard to functions and responsibilities between the executive and parliament. In spite of what has been mentioned about equality, there is a sense of belonging to a political community that accepts a specific language of civil intercourse. It is prescribed by rules and norms of conduct to be subscribed to in seeking self-chosen satisfactions and in performing self-chosen actions. The identification of those rules of civil intercourse creates a common political identity among persons otherwise engaged in many different enterprises.

This modern form of political community is held together not by a substantive idea of the common good but a common bond, a public concern.

It is for this and many other reasons that MPs from different political perspectives would close ranks to defend the independence of parliament if they have reasons to believe that the institution is under siege from the executive.

The fact that civil servants sometimes assume an executive mentality and believe strongly in the right of government to govern, often regarding Parliament as a nuisance is source of grave concern. It is the traditional role of Parliament in a multi-party democracy to ensure that MPs in the Portfolio Committees expose both broad errors of government policy and mistakes, which may have harmed groups or individuals. The essence is to avert problems before they occur or provide remedies to general grievances.

In discussing parliamentary leadership one needs to look into political parties through which members come to Parliament be it the leading or opposition party.

We must not take for granted that the Parliamentary framework will produce party policies and patterns of behaviour conducive to effective oversight and monitoring. We must closely examine how individual parties behave in a variety of circumstances to determine where there are weaknesses that impede the legislature's ability to oversee the

executive and bureaucracy. I would like to use the Gauteng Legislature as a frame of reference for this issue. Well aware of the Parliamentary mechanisms for oversight and accountability we know that these mechanism for numerous reasons are not necessarily adequate in coping with existing problems and adapting to new developments in corruption.

Within the ANC, at the national and provincial level, we have "Study Groups", which operate within the government, and "Policy Units" which function within the party apparatus. These two ensure the development and implementation of ANC policies is in line with objectives set and the party philosophy. Nevertheless, to what extent do they incorporate "National Integrity Systems" and oversight concepts?

I believe that a strengthening of internal party structures is necessary. For a governing party, especially one as dominant as the ANC, it is essential that it develop mechanisms to monitor itself. But, in such a case, it is even more crucial that opposition parties increase their awareness of how they structure their role of holding the government to account. For example, do they also have a framework for "National Integrity Systems"? How will they pursue this. We all know that one of the roles Parliament plays is to allow for the type of debate that will bring qualitative information to the public. Yet volumes show that Parliament has become a platform for the opposition to humiliate the government which results in a game of "information hide-and-seek". The Government is disinclined to offer-up information, because it assumes the opposition will find what it wants to highlight. What the opposition does pursue is usually narrowed to what it can humiliate the government with, disregarding the issues that can improve governance through proper debate.

It has become a game and what is lost is the type of constructive criticism that results in good governance and the continual improvement of governance through accountability.

CONCLUSION

The question of parliamentary accountability and ministerial or executive responsibility has to a large degree been reduced to an academic exercise and would really require careful consideration. In the first instance, it is imperative for the executive to appreciate that parliament is an autonomous institution that is expected to fulfil a specific responsibility relating to elected representatives.

Secondly, it is incumbent upon the executive to make sure that questions asked by MPs are dealt with truthfully and sufficiently and not present a perfect answer that is brief, appears to answer the question completely, if challenged can be proved to be accurate in every word, gives no opening for awkward "supplementaries", and discloses really nothing. This bureaucratic arrogance should definitely be nipped in the bud. Thirdly, the Public Accounts Committees must be reformed in such a manner that they stop functioning like archaeology – uncovering the past. Rather they must be able to receive preliminary reports of early warning mechanisms put in place by various

departments before crises occur. Hopefully a breeze of fresh air will be able to blow in the realm of the legislative framework. Finally, it would serve a progressive purpose if Parliaments were to put in place very clear guidelines on annual reports from departments to include performance targets, impact of policies espoused and the extent of financial accountability related to them.