

UNITED NATIONS DEVELOPMENT PROGRAMME

TUVALU LEGISLATIVE NEEDS ASSESSMENT

COUNTRY VISIT DECEMBER 2000

MISSION REPORT

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CONTENTS

	Page No.
1. INTRODUCTION	1
1.1 Political Context	2
1.2 Recommendations	3
2. THE PARLIAMENT OF TUVALU	4
2.1 Background	4
2.2 Structure	4
2.3 The Members of Parliament and Constituencies	6
2.4 The Attorney General	8
2.5 The Speaker	8
2.6 Parliamentary Officers	9
2.6.1 The Clerk	9
2.6.2 The Assistant Clerk	10
2.6.3 Administration/Reporting Staff	
2.7 Budget	
2.8 Sessions	
2.9 Committees	
3. AREAS FOR INSTITUTIONAL AND CAPACITY STRENGTHENING AND RECOMMENDATIONS	
16	
3.1 Existing Key Legal Documents	16
3.1.1 Constitution	
3.1.2 Rules of Procedure	
3.2 Parliament-civil society relationship	
3.2.1 Decentralisation – The Falekaupule Act 1997	
3.3 Legislative Procedures	
3.3.1 Constitutional Provisions	
3.4 Oversight Role of Parliament	
3.5 Human Resources	
3.6 Role of Women in political process	
APPENDICES	
Appendix A: Mission Terms of Reference	
Appendix B: Program	
Appendix C: Current Structure of Parliament Office	
Appendix D: Proposed Structure of Parliament Office	
Appendix E: Consultant	

EXECUTIVE SUMMARY

The Report of the *National Workshop on Accountability for Leaders of Tuvalu*, held in Funafuti from 24 to 25 August 1999, noted that many in Tuvalu believed that ‘Parliament has failed miserably in seeing for itself whether the regulatory framework it provides was effective or adequate, and whether public institutions expend public resources as intended and in the best interests of the public’. In the view of many workshop participants Parliament was not ‘effective legislatively’ or ‘in holding all officials and public institutions to account for the use of public resources in a timely manner’. The Report makes a number of recommendations to overcome what many of the workshop participants perceived as the inability of Parliament to fulfill its constitutional role. It was clear to the participants of this 1999 workshop that the ‘capacity of Parliament has to be enhanced urgently to restore and/or establish integrity systems of good governance in the Parliament and between Parliament, government and civil society’.

These recommendations are as follows:

- a) Induction training and orientation soon after a general election or by-election for new Members of Parliament;
- b) Introduction of a Handbook outlining their role, responsibilities and entitlements for Members of Parliament;
- c) Provision of specialised training for members of the Public Accounts Committee;
- d) Introduction of a more appropriate oath of office for Members of Parliament emphasising the standard of conduct members agree to uphold;
- e) Implementation of a Leadership Code for leaders of Tuvalu including Members of Parliament;
- f) Greater use of parliamentary committees to investigate and scrutinise government action;
- g) Strengthening of the capacity of the Public Accounts Committee (PAC) through the broadening of its role, in particular following up the implementation of PAC

- recommendations agree to by Parliament and scrutinising reports from constitutional office holders other than the Auditor-General;
- h) Establishment of the Office of Ombudsman;
 - i) The position of Chair of the Public Accounts Committee to become full-time;
 - j) Appointment of non-parliamentarians to the Public Accounts Committee;
 - k) Establishment of a secretariat for the Public Accounts Committee under the Office of the Speaker as part of strengthening the Office of Speaker generally;
 - l) Scheduling meetings of the Public Accounts Committee between parliamentary sessions;
 - m) Introduction of a new corporate culture in Parliament emphasising bipartisan approaches to crucial national issues, but also discarding the misconception that Parliament is an arm of the government-of-the-day;
 - n) Empowering the role of the Speaker to foster this new corporate culture through giving Parliament autonomy over its budget;
 - o) Recruitment of research officers to assist private members with research and briefings on issues before the Parliament;
 - p) Appointment of a non-parliamentarian to the position of Speaker in order to assert the impartiality of the office;
 - q) The involvement of all Island assemblies, Falekaupule, in the preparation of the national budget; and
 - r) The establishment of an independent body to determine the remuneration of Members of Parliament.

Of these 18 recommendations made by the participants of the 1999 workshop, only two have been accepted by the Parliament and implemented, the appointment of non-parliamentarians to the Public Accounts Committee and the scheduling of meetings of the Public Accounts Committee between parliamentary sessions. A third recommendation, the appointment of a non-parliamentarian to the position of Speaker, is also included as a recommendation of the Constitutional Review Committee's 2000 Report still to be tabled in Parliament.

Tuvalu is a functioning parliamentary democracy with the Westminster system as its basis. The Parliament of Tuvalu, however, has experienced a number of problems that has limited its effectiveness particularly with respect to its constitutional role in monitoring or overseeing governments' financial management and performance. The capacity of the Parliament to assist the government of Tuvalu in adopting best practices of good governance and in implementing the Forum's "Eight Principles of Accountability", therefore, has been somewhat constrained.

In the six areas for institutional and capacity strengthening, the following problems as well as strengths were identified together with a number of recommendations.

- 1. Conduct a review of the existing key legal documents to assess if the legal framework is adequately contributing to effective law making process in Tuvalu and recommend ways to improve the current legal and institutional system.**

- 2. Assess the existing parliament-constituency relationship to suggest better mechanism aimed at strengthening parliamentarians' accountability vis-à-vis their constituents.**

Lack of availability of and access to information about government

Lack of a general understanding of the role of parliament by MPs and the public.

Interviewees highlighted a general lack of understanding and appreciation of the role/functions of Parliament on the part of the public as well as Members of Parliament themselves. A lack of understanding has resulted in unrealistic expectations being placed

on Members of Parliament by constituents, the popular perception of Parliament as part of the Government, and consequently the failure of Members of Parliament to properly scrutinise the activities of Government. It was the view of those interviewed that without addressing these areas Parliament would not have the capacity to fulfil its constitutional role, in particular as a watchdog on government activity. Sitings of Parliament are broadcast live.

3. Assess the law-making procedures of Parliament and recommend ways in which this process might be improved.

4. Assess the oversight role of Parliament and the effectiveness of the Public Accounts Committee in holding users of public funds to account. Recommend ways in which this function might be improved.

Limited independence and autonomy of Parliament and a tendency for the Executive to dominate Parliament

There appears to be limited understanding of what separation of powers means, which in practice results in parliament being seen as part of the government. Interviewees expressed concern at the dominance of Parliament by the Executive. Independence of parliament and of constitutional office holders is notional and therefore not always translated into practice. Interviewees emphasised the need for greater autonomy for Parliament, especially in terms of Parliament's operational budgets and staffing requirements. For example, parliamentary officials believed they are treated as “just another department” and were subject to the Finance Ministry’s control when it came to internal funding and budgetary issues.

There is no formal party system in Tuvalu. Members of Parliament are elected on the basis of personal characteristics rather than policy platforms. Members of Parliament coalesce into loose formations of government and opposition. The impact of these loose formations is not discernible on the effectiveness of parliamentary oversight. Fluid alliances between individual Members of Parliament does sometimes result in a degree of parliamentary instability, for example, through no-confidence motions.

Small political size poses some important conundrums for parliaments. Questions arise such as whether there are enough Members of Parliament to service committees adequately; should public servants, or members of the public, serve on committees?

The committee system has been identified as a major area of Parliament that should be strengthened, especially the Public Accounts Committee. Interviewees highlighted particular difficulties such as the skill level of committee members, and delays in receiving reports from Government and public enterprises.

5. Assess the existing human resource constraints that limit the effective functioning of the Parliament and parliamentarians, in order to develop a comprehensive strategy/plan for addressing the current needs of parliamentarians to improve their professional capacity.

Scarce financial, human and technical resources for Parliament

Human resource development issues (including education and skill levels)

There are problems of limited human resource development which when combined with rapid career advancement truncates the development of parliamentary skills. It is not uncommon for individuals to find themselves appointed to positions beyond their ability and there is some concern as to whether parliamentarians have the necessary skills to perform their duties. The level of consideration of issues is often seen to be superficial

due to these problems. Scarce staffing and technical (library, research) skills available to Parliament also impacts on its effectiveness.

- 6. Review the current policies and practices of the parliament, parliamentary factions, and NGOs aimed at moving from 'de jure' to 'de facto' equality and strengthening women's participation in political leadership in general and women's representation in particular. Recommend ways in which potential and existing women leaders will be assisted in building skills, confidence and opportunities through training and other support activities; advocacy through media and gender sensitive surveys/researches to address problems relating to social relations and attitudes which perpetuate gender inequality.**

1. INTRODUCTION

This report provides background information on and a comprehensive needs assessment of the Parliament of Tuvalu in order to serve as the basis of a support programme to strengthen the role of Parliament in Tuvalu. In addition, the report will assist in the generation of key generic principles of best practice for Pacific legislatures based on the notions of parliamentary democracy, participation, equity, accountability, transparency, efficiency, representation, integrity and fair elections. The report is divided into three sections:

- ? Section One forms the introduction to the report, describing the context in which the mission took place – that is, the death of the Prime Minister of Tuvalu, Honorable Ionatana Ionatana, two days prior to the commencement of the mission and the start of the process for filling the vacancy in the constituency of Funafuti caused by the death of Hon Ionatana Ionatana and electing a new Prime Minister for the remainder of the current parliamentary term, due to end in 2002;
- ? Section Two provides background information on Tuvalu and its political system. The current structure of the Parliament of Tuvalu is outlined, including Members of Parliament and their constituencies, parliamentary staff, the parliamentary budget, and the standing and select committees for the current Parliament; and
- ? Section Three details the current situation within each area identified for institutional and capacity strengthening and provides a number of recommendations in these areas.

The Mission Terms of Reference, program undertaken by the consultant, and information on the consultant is outlined in the appendices.

1.1 CONTEXT OF THE VISIT

The Prime Minister of Tuvalu, Honorable Ionatana Ionatana, CVO, OBE, CPM, and CPLSM, died in the evening of Friday 8 December 2000. The State Funeral was held on Tuesday 12 December 2000 on Funafuti island. Parliament was suspended, all

government activity ceased on Monday 11 and Tuesday 12 December. The government became a caretaker government in accordance with Section 71 of the Constitution. This government is led by the Deputy Prime Minister and Minister for Finance and Economic Planning, and now Acting Prime Minister, Honorable Lagitupu Tuilimu.

Parliament resumed on Friday 15 December 2000 and passed the motion to advise the Head of State, the Governor General, to prorogue Parliament. Schedule 2 (Section 63) of the Constitution provides for the Election and Appointment of the Prime Minister. If the Prime Ministership becomes vacant Schedule 2 (Section 63, sub-section 2) provides that the Governor General shall call a meeting of Parliament for the purpose of electing a Prime Minister. If the vacancy occurred because of the death of the Prime Minister, the meeting cannot be called until after the declaration of the result of the consequent by-election.

In the case of the death of Hon Ionatana Ionatana, a by-election will be held in the late Prime Minister's constituency of Funafuti. According to the Acting Attorney-General, Mr Afele Kitiona, it is expected that the process of the by-election will take at least 11 weeks. Once the result of the Funafuti by-election has been declared, the Governor General will call a meeting of Parliament to elect a new Prime Minister. The Prime Minister is elected by the Members of Parliament from among their ranks. The Governor General presides over the meeting, which is closed to the public, and conducts the election which is by secret ballot. The election of a new Prime Minister is not expected until March 2001. Parliament will reconvene following the election of the Prime Minister to consider the 2001 National Budget. At its meeting on Friday 15 December 2000, Parliament passed a Government motion to authorize the release of funds to enable the Government to meet its expenditure commitments until Parliament reconvenes and the 2001 Budget is passed.

1.2 RECOMMENDATIONS

The major challenge for Tuvalu and its democracy is to sustain the democratic changes in society and to maintain continued support for reforms among its governance institutions.

In order to meet this challenge in terms of the key democratic institution, the Parliament, the following recommendations are made:

Initiatives proposed by the Speaker and Clerk of Parliament:

- a) A Handbook containing information on the structure and role of Parliament and related information on the Parliament for both Members of Parliament and members of the public;
- b) Workshop/orientation for new Members of Parliament – bringing out someone from the smaller regional for Australian legislatures to conduct the workshop;
- c) Improvements in the process for sending Bills to island communities for discussion by the community – effective discussion of the Bill is dependent on the Island Secretary providing an adequate explanation of the Bill to the island council and assembly – this procedure is sufficient if the legislation is not complex and/or controversial, but with more complex legislation legal advisers from the Attorney-General’s Office need to be sent out to explain the legislation – Members of Parliament are inconsistent in terms of returning to their respective constituencies to explain proposed legislation, and often a Member’s political agenda/bias may inhibit a balanced explanation – improvements to this process would involve sending qualified legal advisers to each island community in turn to provide a balanced and easily understood explanation of proposed legislation or for the Attorney-General’s Office to prepare more detailed and easily understood explanatory memorandums to be sent out to each island council and assembly;
- d) The establishment of a parliamentary research unit whose task would be to produce briefing papers on proposed legislation and other issues Members need information on – this would serve to increase the awareness of knowledge of Members of issues they must deal with – access to the internet is an important part of this initiative;
- e) Training of staff and of Members of Parliament, especially technical courses such as computer training, and attachments to small regional or Australian legislatures such as the ACT or Northern Territory Legislative Assemblies. The current parliamentary staff have benefited from attachments to other Parliaments – eg. the

Clerk was attached to the New Zealand and Fiji parliaments; two Hansard reporters have been attached to the Fiji Parliament, and there is a proposal to send a Hansard reporter to the Northern Territory Legislative Assembly. In addition, newly elected Speakers would benefit from short attachments to other legislatures of similar size.

2. THE PARLIAMENT OF TUVALU

2.1 BACKGROUND

Tuvalu is a constitutional monarchy with Her Majesty Queen Elizabeth II as the Sovereign of Tuvalu and Head of State. Section 51 of the Constitution of Tuvalu provides for the role of the Sovereign to be exercised through the Governor-General who is appointed by the Sovereign on the advice of the Prime Minister in consultation with the members of Parliament. The current Governor-General is His Excellency, Right Honourable Sir Dr Tomasi Puapua KBE. Tuvalu is a member of the United Nations and the Commonwealth.

Tuvalu achieved independence from Great Britain on October 1, 1978. Formerly part of the British Gilbert and Ellice Islands colony, the Ellice Islands separated from the Gilbert Islands (now Kiribati) after a referendum in 1975. Tuvalu consists of nine islands with a total land area of 26 sq km, and a population of slightly more than 10,000. The main island and seat of government is Funafuti with roughly 4,000 to 5,000 residents. There is a Tuvaluan language, generally considered to belong to the Samoic branch of the Polynesian family of languages. Each island has its own dialect.

Tuvalu has a unicameral Parliament. Effective executive power lies with the cabinet consisting of a Prime Minister and five ministers. Under Section 74 of the Constitution cabinet is collectively responsible to Parliament for the performance of the executive functions of government.

2.2 STRUCTURE

The Parliament of Tuvalu, the Palamene o Tuvalu, is established under Part VI, Section 81 of the Constitution of Tuvalu. The Constitution vests the Parliament with power to make laws for the good governance of Tuvalu (Section 84). Parliamentary terms are for four years.

Constituencies are based on each principal, inhabited, island in the Tuvalu group. There are eight constituencies. Except for Nukulaelae which has one elected representative, each island has two elected representatives. An amendment to Schedule 1 of the *Electoral Provisions (Parliament) Act* in May 2000 increased the number of elected representatives for the constituencies of Nui, Nukufetau and Nanumaga from one to two. The number of Members of Parliament therefore increased from 12 to 15. By-elections for the extra representatives for these three constituencies were held in November 2000. The newly elected representatives attended their first session of Parliament in December 2000. Another Bill, the *Electoral Provisions (Parliament) (Amendment) (No 2) Bill 2000*, awaiting its First Reading proposes to increase the number of elected representatives for the constituency of Nukulaelae from one to two, giving Tuvalu 16 Members of Parliament. This Bill has a Certificate of Urgency attached to it, meaning it will not be circulated to the Island Councils, but, according to the Clerk, the Certificate of Urgency is likely to be withdrawn by the Government when the Bill receives its First Reading.

Members of Parliament are elected through a first-past-the-post electoral system. Members of Parliament are full-time representatives and cannot hold other public offices or be employed in the civil service. As of 2000 an ordinary Member of Parliament receives a salary of A\$8,300, a motorcycle, an allowance for telephone rental and charges of A\$60, free postage and fax for official business, a subsistence allowance of A\$25 when on official business (ie. attending sessions of Parliament), and free internal and overseas travel when on official business (eg. attending sessions of Parliament, travelling to constituency or travelling overseas as part of a delegation). The Speaker receives a salary of A\$16,718, a car and additional allowances. Ministers receive the same salary level as the Speaker, a vehicle, and additional allowances. The Prime Minister receives a salary of A\$19,700 as well as an official residence, a vehicle and additional allowances.

In its 2000 Report the Privileges Committee, chaired by the Speaker, proposed increases in the parliamentary salary, the Speaker's salary, ministerial and prime ministerial salaries, and to the allowances and services provided to Members of Parliament. The

Privileges Committee Report has been tabled in Parliament but has not been debated because of the short December session of Parliament.

There are no political parties and no party system in Tuvalu. However, of the 15 Members of Parliament, 10 describe themselves and are publicly identified as members of the Government, and four describe themselves and are publicly identified as members of the Opposition. The Government is comprised of the Prime Minister and five ministers. In 1998 the position of Special Ministerial Adviser was introduced through legislation by the then Government of Prime Minister Bikenibeu Paeniu. There are currently four special ministerial advisers. There are no government backbenchers. Although there is no provision in either the Constitution or Parliament of Tuvalu Rules of Procedure for a Leader of the Opposition, both the Parliament and the Tuvaluan public recognise such a position. The current Leader of the Opposition is the Member for Nukulaelae and former Prime Minister, Rt Hon Bikenibeu Paeniu.

2.3 THE MEMBERS OF PARLIAMENT

The constituencies and their current representatives (and parliamentary/executive position) are:

1. Nanumea (The island of Nanumea)

Hon Kokea Malua (Member of the Opposition, Chairman of the Public Accounts Committee)

Hon Lagitupu Tuilimu (Acting Prime Minister & Minister for Finance and Economic Planning)

2. Nanumaga (The island of Nanumaga)

Hon Namoto Kelisiano (Minister for Natural Resources, Energy and Environment - newly elected, first session 7 December 2000)

Hon Otinielu Taauteleimalae Tausi (Member of the Opposition & Chairman of the Private Members' Business Committee)

3. Niutao (The islands of Niutao and Niulakita)

Hon Tomu M. Sione (Speaker of Parliament & Chairman of the Constitutional Review Committee and the Privileges Committee)

Hon Samuelu P. Teo (Special Ministerial Adviser in the Ministry of Education, Sports & Culture and Ministry of Health)

4. Nui (The island of Nui)

Hon. Alesana Kleis Seluka (Member of the Opposition, member of the Public Accounts Committee)

Hon Amasone Kilei (Minister for Education, Sports & Culture and Minister for Health - newly elected, first session 7 December 2000)

5. Vaitupu (The island of Vaitupu)

Hon Teagai Esekia (Minister for Works, Communications and Transport)

Hon Koloa Talake (Special Ministerial Adviser in the Office of the Prime Minister/Chairman of the Public Sector Reform Committee)

6. Nukufetau (The island of Nukufetau)

Hon Faimalaga Luka (Minister for Local Government, Women & Youth)

Hon Saufatu Sopoanga (Special Ministerial Adviser in the Ministry of Works, Communications & Transport - newly elected, first session 7 December 2000)

7. Funafuti (The island of Funafuti)

Hon Teleke P Lauti (Special Ministerial Adviser in the Ministry of Local Government, Women & Youth)

Hon Ionatana Ionatana (deceased – Prime Minister and Minister for Foreign Affairs)

8. Nukulaelae (The island of Nukulaelae)

Rt Hon Bikenibeu Paeniu (Leader of the Opposition)

2.4 THE ATTORNEY-GENERAL

The Attorney-General, the principal legal adviser to the government, in accordance with Section 79 of the Constitution and Rule 50 of the Rules of Procedure, attends all sittings of Parliament and its committees, is allowed to take part in proceedings but is not entitled to vote. The Attorney-General, Mr Feleti P Teo, resigned in November 2000 to take up the position of head of the Forum Fisheries Agency. Mr Afele Kitona is currently Acting Attorney General.

2.5 THE SPEAKER

The Speaker of the Tuvalu Parliament is provided for in sections 103-107 of the Constitution. The Speaker is elected by the members of Parliament from among their ranks following each general election or vacancy in the office of Speaker. Following the election of the Speaker the Head of State will formally appoint the Speaker. The Speaker serves for the life of the Parliament unless he resigns, is removed, becomes incapacitated or dies, or ceases to be a Member of Parliament before the term ends. The Speaker presides at all sittings of Parliament and of committees of Parliament unless the Rules or Act of Parliament provides otherwise. Provision is also made in the Constitution and the Rules of Procedure for election of an Acting Speaker.

The Hon Tomu Malaefono Sione OBE is Speaker of Parliament. This is his first term as Speaker. Hon Tomu Malaefono Sione was first elected to House of Assembly in 1970 at age of 29. He is from Niutao island and represents Niutao (and Niulakita island which is part of the constituency of Niutao) in Parliament. He served as the fourth Governor General between 1993 and 1994. He has served as Minister in several governments. Except for the period 1993 to 1998, part of which he served as Governor General, Hon Tomu Sione has been a Member of Parliament. He was re-elected as a Member of Parliament in March 1998 and elected as Speaker at the first session of the new Parliament.

2.6 PARLIAMENTARY OFFICERS

The Parliament of Tuvalu employs five full time staff. These are:

- ? Clerk of Parliament
- ? Assistant Clerk of Parliament
- ? 1 Clerical Officer (Administration/Accounts)
- ? 2 Typists (Hansard)

Currently there is an extra typist employed on a temporary basis to assist with the production of Hansard. The staff of Parliament are civil servants. The Parliament of Tuvalu does not have a separate Parliamentary Service. Section 115 of the Constitution provides for a Clerk of Parliament and other officers as necessary for the proper conduct of the business of Parliament who are to be members of the Public Service. Appointments to the Parliament Office are made by the Public Service Commission, and Parliamentary officers are regarded as civil servants. The Clerical Officer and the typists can be transferred to other ministries. This means that there is a turnover of administrative staff which affects the operation of the Parliamentary Office. As staff trained in the functions of the Parliamentary Office are transferred elsewhere in the civil service, new staff have to be trained. The Clerk has often had to ‘fight’ to retain trained staff.

2.6.1 The Clerk

Mr Paulson Panapa is the Clerk to Parliament. Mr Panapa graduated from the University of the South Pacific (Suva) in December 2000 with a Bachelor of Arts in Management. He started with the Parliament Office as Assistant Clerk in 1991. In 1996 he became Clerk to Parliament. Mr Panapa is from Vitapu island.

The Clerk is appointed by the Public Service Commission in accordance with Section 115 of the Constitution. In accordance with Rule 9 of the parliamentary Rules of Procedure the Clerk has the following functions:

- ? Table Officer – when Parliament is in session;
- ? Secretary to Select Committees;

- ? Supervision of parliamentary staff;
- ? Hansard Editor;
- ? Gazette Editor;
- ? Assists the Speaker, including accompanying the Speaker on official visits abroad;
- ? Secretary – Tuvalu Reserve Fund; and
- ? Under Section 104 (2) of the Constitution presides as Chairman of the meeting of Parliament to elect the Speaker or Acting Speaker.

The Clerk receives a salary in the middle range of Civil Service salaries, level 6/5, which is approximately A\$9,300. The Permanent Secretary of a Ministry receives a salary between A\$16,000 and A\$17,000. In his *Parliament Office Proposal 2001*, the Clerk recommended an upgrading in the position's salary to \$15,730, and increases in salary for the other Parliamentary officers. The Clerk argued that the role and responsibilities of the position resemble those of Permanent Secretaries of Government ministries and include additional responsibilities not required of Permanent Secretaries. In the Clerk's view, the position of Clerk of Parliament has been perceived for 'a long time' as that of a 'very low-level manager'. This perception has meant that for the past 20 years the salary paid to the Clerk has been in the lower half of the Government salary structure. To counter this perception and equate the constitutional position of Clerk of Parliament with that of Permanent Secretary, the Clerk has proposed that the title Clerk of Parliament be changed to Secretary to Parliament. The Clerk submitted his *Parliament Office Proposal 2001* to the Government but it was rejected.

2.6.2 The Assistant Clerk

There is an Assistant Clerk appointed by the Public Service Commission in accordance with Section 115 of the Constitution.

Mrs Lily Faavae is the Assistant Clerk. Mrs Faavae was on annual leave during the country visit, and one of the typists, Mrs Lakaaga Uniuni was Acting Assistant Clerk to Parliament. The Assistant Clerk is appointed by the Public Service Commission. Mrs Lily

Faavae started as Assistant Clerk in 1997. In accordance with Rule 10 of the parliamentary Rules of Procedure the Assistant Clerk assists the Clerk of Parliament with the various duties and functions of Office of Clerk and acts in the position of Clerk in the event of an absence or vacancy.

2.6.3 Administration/Hansard Staff

The Parliament of Tuvalu employs three full-time administrative/Hansard officers. These three officers are women. The Clerical Officer has the following functions:

- ? Registry;
- ? Collection of mail from post office;
- ? Dispatch of mail;
- ? Entitlements and salaries for Members of Parliament;
- ? Maintenance of the Library; and
- ? General duties, including setting up the Chamber for parliamentary sessions and assisting the typists with recording Parliament minutes during sessions.

The typists have the following functions:

- ? Type proceedings on Bills for distribution to the Island Falekaupules;
- ? Type Hansard;
- ? Type Gazettes;
- ? Type Reports of parliamentary select committees;
- ? Maintenance of the Library;
- ? Vote Controller;
- ? Hansard Editor – when Clerk is unavailable;
- ? Entitlements and salaries for Members of Parliament; and
- ? General duties, including setting up the Chamber for parliamentary sessions.

2.7 BUDGET

In the 2000 National Budget (the Tuvalu financial year is the calendar year) the Parliament had a total budget of A\$287,679. This was divided into non-statutory expenditure of A\$93,505 including staff salaries, allowances, travel, and office expenses, and statutory expenditure of A\$189,174 including Speaker's and Parliamentarians' salaries, allowances and travel.

The Parliament Office is a Division within the Office of Prime Minister. This means that the Parliament is in effect treated like any other division within government ministries.

2.8 SESSIONS

Parliamentary sessions are usually held three times a year; Section 116 (2) of the Constitution stipulates that 'no period of 12 months intervenes between the end of one session and the beginning of the next'. The Rules of Procedure for Parliament stipulates that there should normally be at least two sessions of Parliament in every calendar year. Parliament normally sits for seven working days each session. In 2000 the Parliament held sessions in May, August and December. Each Parliamentary session was for seven working days, except the December session. This session, which commenced on 7 December 2000, was shorter due to the death of the Prime Minister, Hon Ionatana Ionatana, on Friday 8 December 2000.

Parliamentary sittings are conducted in the Tuvaluan language, although a Member may speak in English. Under Rule 3 of the Rules of Procedure, the written records of proceedings in Parliament are kept in Tuvaluan. Bills are written in English but the explanatory memorandum is written in Tuvaluan.

2.9 COMMITTEES

The Parliament of Tuvalu Rules of Procedure, sections 45-49, provide for the establishment of parliamentary committees. There is no constitutional provision for parliamentary committees. The Rules of Procedure provides for both Standing Select committees and Select committees as necessary. The Speaker is responsible for

appointing the Chair and members of select committees. Under Section 106 of the Constitution, the Speaker may appoint himself Chair of any select committee. A select committee may co-opt as non-voting members former Members of Parliament up to a limit of one third of the Members of Parliament on the committee. Select committees are given the authority under the Rules of Procedure to have access to any document or inspect any place in the course of their inquiries. The Clerk or Assistant Clerk usually act as Clerk to any select committee.

2.9 1 Standing Committees

There are four Standing Committees stipulated in the Rules of Procedure. These are:

- ? Business Committee;
- ? Rules Committee;
- ? Privileges Committee; and
- ? Public Accounts Committee.

Business Committee

The Business Committee, established under Rule 46 of the Rules of Procedure, is composed of three private Members appointed by the Speaker to ensure balanced representation. The Business Committee is responsible for determining the order of Private Members' business for each parliamentary session. The Business Committee is an active committee, meeting before the commencement of each session.

Rules Committee

The Rules Committee, established under Rule 47 of the Rules of Procedure, is composed of three Members appointed by the Speaker at the commencement of each Parliament. The Rules Committee inquires into the practices and procedures of Parliament generally, and into specific cases where the rules may be deficient or in conflict with other legislation as determined by the Speaker. The Attorney General serves as adviser to the Rule Committee. The Rules Committee last met to consider the practices and procedures of Parliament in 1999.

Privileges Committee

The Privileges Committee, established under Rule 48 of the Rules of Procedure, is composed of three Members appointed by the Speaker. The Privileges Committee inquires into and reports on complaints arising from the application of the Prescription of Salaries Act relative to the entitlements and privileges of Members of Parliament, and reviews these entitlements and privileges as determined by Parliament. The Privileges Committee currently has four members:

Chairman: Hon Tomu M. Sione (Speaker of the Parliament)

Members: Hon Faimalaga Luka (Minister for Local Government, Women and Youth)

Hon Teleke P. Lauti (Member for Funafuti)

Hon Alesana K. Seluka (Member for Nui)

The Committee is advised by the Attorney General. The Clerk serves as Secretary to the Committee. Following the tabling in Parliament in May 2000 of the Salary Review Commission's Report on the proposed salaries of Members of Parliament, the Privileges Committee met in June and July 2000 to consider the Commission's Report. The Committee's report will be tabled at the next session of Parliament.

Public Accounts Committee

The Public Accounts Committee (PAC), established under Rule 49 of the Rules of Procedure, is composed of three Members of Parliament and three non-Members of Parliament appointed by the Speaker at the commencement of each Parliament. The non-parliamentary members of the committee were appointed by the Speaker in accordance with a motion by the Prime Minister that was passed in the December Session 1999 for Parliament to endorse the appointment of ordinary citizens as Members of the Public Accounts Committee. The proposal to co-opt members of the public to the Public Accounts Committee was one of the recommendations in relation to Parliament arising from the 1999 *National Workshop on Accountability for Leaders of Tuvalu*.

The inclusion of non-parliamentary members of the PAC marks the first such change to the composition of PAC in its history. This was a step taken by the government to encourage greater accountability and transparency practices.

The committee is presently composed of the following members:

Chairman: Hon Kokea Malua, Member for Nanumea
Members: Hon Koloa Talake, Member for Vaitupu
Hon Dr Alesana K. Seluka, Member for Nui
Rev. Piita Tanle, EKT Pastor
Mrs Kiliuli Simeona, Retired Treasury Officer
Mrs Hellani Tumua, AusAID Officer (also ex- Treasury officer)

The following officers were appointed to assist the Committee in its deliberations:

Committee Adviser: Auditor-General
Committee Secretary: Clerk to Parliament

The function of the Public Accounts Committee is to consider any report of the Auditor-General on the public accounts of Tuvalu, the control of public money and property, all transactions with or concerning public money or property, and the accounts, finances and property of any statutory body which must report to Parliament.

2.9.2 Select Committees

In 2000 there were two parliamentary select committees in operation – the Constitutional Review Committee (CRC) and the Parliament Building Design Committee.

The primary task of the Constitutional Review Committee is to review the Constitution and recommend amendments as the committee sees fit. During 2000 the CRC has engaged in public consultations with the island communities on Funafuti and all the outer islands. The committee has produced a report which was due to be tabled in the December session of Parliament, but owing to the unexpected curtailment of this session, it is likely to be tabled at the next session in March 2001.

The Parliament Building Design Committee is considering a proposal to construct a purpose built Parliament House for Tuvalu and the requirements of any design prior to calling for designs to be submitted.

3. AREAS FOR INSTITUTIONAL AND CAPACITY STRENGTHENING AND RECOMMENDATIONS

3.1 EXISTING KEY LEGAL DOCUMENTS

The existing key legal documents examined by the consultant and discussed with the Clerk are the Constitution and the Rules of Procedure. The Constitution, Rules of Procedure and Gazette are written in English.

3.1.1 Constitution

The Constitution of Tuvalu is a comprehensive document composed of a Preamble and set of Principles, and ten parts. These parts are as follows:

- I. The State and the Constitution;
- II. Bill of Rights;
- III. Citizenship;
- IV. The Sovereign and the Governor-General;
- V. The Executive;
- VI. Parliament and Law-Making;
- VII. The Courts;
- VIII. Public Employment;
- IX. Finance; and
- X. Transitional Provisions relating to Independence.

The Constitution is the supreme law of Tuvalu. All other laws are subject to the Constitution. Schedule 1, *Rules for the Interpretation of the Constitution*, provides the guide for interpreting the Constitution. Section 4 (3) provides that the Constitution shall be interpreted and applied in such a way to promote fair and democratic government consistent with Tuvaluan values. The Constitution may be amended by an Act of

Parliament but requires a two-thirds majority of all Members of Parliament at its final reading.

There have been three reviews of the Tuvaluan Constitution. The Constitutional Review Committee of Parliament completed the third review in 2000. The committee's report, written in Tuvaluan, is based on the recommendations of the previous Constitutional Review Committee and public consultations with all the island communities. The committee's report is yet to be tabled.

3.1.1 Rules of Procedure

Section 108 (1) of the Constitution provides for parliamentary rules of procedure 'for the regulation and orderly conduct of Parliament's proceedings and the discharge of business at sittings of Parliament'. Section 108 (2) of the Constitution provides that the rules of procedure must ensure that 'in the conduct of the business of Parliament there is a reasonable opportunity for all members to be heard'.

The Parliament of Tuvalu Rules of Procedure is a comprehensive document containing 56 rules that govern the conduct of proceedings in the Parliament. The 56 procedural rules cover all aspects of the operation of Parliament ranging from the election of the Speaker to types and functions of parliamentary committees. In certain areas such as the election of Speaker (Rule 4) or the procedure on bills (rules 30 to 33) the Rules of Procedure expand upon the provisions of the Constitution (sections 104 and 111). Feedback from the Speaker, Members of Parliament and the Clerk indicated that Rules of Procedure operate well. It appears that Section 108 (2) of the Constitution – that the Rules of Procedure must ensure all Members are given an opportunity to be heard – has been implemented in theory and practice.

3.2 PARLIAMENT-CIVIL SOCIETY RELATIONSHIP

The Speaker, Hon Tomu M. Sione, notes that people in Tuvalu hold the Parliament in high regard. As a result of the legislative process which enables people to have some input into the framing of Bills and through the devolution of administrative responsibility to the local community councils and assemblies, according to the Speaker, people are better informed as to the processes and policies of government. Peoples' views on proposed legislation are given voice in parliament through the legislative process. The legislative process, according to the Speaker, is transparent.

As His Excellency the Governor-General, Rt Hon Sir Dr Tomasi Puapua KBE, points out parliamentary rule is foreign to Tuvalu. Therefore there is a need to make people aware of the political system. People, especially outside Funafuti, tend to focus on local issues. However people are gradually understanding and accepting the political system. People tend to vote according to the personal character of candidates, rather than on issues or for parties. Members elected to Parliament for the first time may be appointed ministers. There is generally no period of service as an ordinary Member of Parliament, learning the procedures of the House and understanding the political system more broadly, before taking on the responsibilities of positions such as committee chair or minister. The position of Special Ministerial Adviser introduced in 1998, however, does provide the opportunity for some Members to serve an apprenticeship prior to taking on the full responsibility of a ministerial portfolio. As a result of the absence of a period in which new Members can learn the procedures of the House and their responsibilities as Members of Parliament, governments tend to be comprised of inexperienced Members. Their inexperience increases the Members' reliance on civil servants.

His Excellency the Governor-General points out that Parliament should be more independent. People tend to believe that a Member of Parliament should act according to what his constituents want – that is, to focus on local constituency issues rather than national issues, and to be dictated by the wishes of his constituents rather than his own beliefs and views. Voter turnout has increased since 1978, according to His Excellency

the Governor-General. In some island constituencies there is a high turnover of Members of Parliament.

His Excellency the Governor-General points out that workshops on parliamentary democracy, practice and procedure, open to the public and Members of Parliament, and held both on Funafuti and the outer islands, would contribute significantly to the political awareness of people and lead to greater improvement in the political process in terms of accountability and transparency.

The Minister for Local Government, Women and Youth, Hon Faimalaga Luka, notes that as a Member of Parliament ‘you have to do what people want’. As there is no orientation or training for newly elected Members, and often no period in which to learn the procedures and practices of the House or how to effectively perform the role of Member of Parliament, former civil servants who stand as candidates and are elected tend to find the role of Member of Parliament easier. Each parliamentary sitting is broadcast live over the government radio network. Sittings are conducted in the Tuvaluan language. According to Hon Faimalaga Luka, ‘some people are interested in Parliament and view it as important’. However, Hon Faimalaga Luka, notes that there is ‘not much need for the education of youth on the role of Parliament’.

3.2.1 Decentralisation - Falekaupule Act 1997

In 1978 the Parliament passed a Local Government Act based on the Local Government Ordinance of 1966. In 1997 the Parliament passed the Falekaupule Act. The Falekaupule Act 1997 replaced the 1978 legislation – every local government council established by the Local Government Act was disbanded and replaced by a Kaupule. Under the

Falekaupule means the traditional assembly in each island of Tuvalu which, subject to the 1997 Act, is composed in accordance with the traditional local customs and norms, the ‘Aganu’, of each island. In the area of authority of each Falekaupule there is a local government council or ‘Kaupule, the executive arm of the Falekaupule. The Kaupule performs all executive functions of the Falekaupule. The Falekaupule elect the president

of the Kaupule, the ‘Pule o Kaupule’, have approval of the island budget, the by-laws, and appointments to Kaupule offices.

Each Kaupule has six members elected by registered voters. Candidates for election to a Kaupule cannot be public officers. Members of a Kaupule are elected for a four year term, can seek re-election, but can only serve two consecutive terms.

Kaupule function in a similar fashion to Parliament. Each Kaupule has Standing Orders in the Tuvaluan language, minutes are kept of meetings, and committees are appointed. Each Kaupule has Standing committees on health; agriculture and fisheries; education; communication, transportation and infrastructure; and budget and appropriations.

The role of the Falekaupule, through the Kaupule, is to ‘maintain order and good government and promote development within the area of its authority’. This includes preparing and implementing development plans in conjunction with the community and other relevant parties, coordinating and monitoring development projects, mobilising the people for development efforts, and ensuring the proper management and use of the natural resources in the Falekaupule area.

Each Kaupule is required to set up a general fund into which all revenue is paid and from which all expenditure is paid. Kaupule have the legal authority to raise revenue in their area through the imposition of taxes and rates, rents, fines, fees and other charges, and through loans. Each Kaupule prepares an annual budget which has to be approved by the Faekaupule Assembly.

Each Kaupule has at a minimum five permanent staff – a Secretary, Treasurer, Community Planning and Development Officer, Clerk, and Women’s Community Worker.

The Falekaupule Assembly, consisting of all residents in the Falekaupule area aged 18 years and over, meets in March and at three monthly intervals each year.

There are eight Falekaupule. The name of each Falekaupule and their area of authority are as follows:

Falekaupule o Funafuti	Funafuti atoll
Falekaupule o Nanumaga	Nanumaga atoll
Falekaupule o Nanumea	Nanumea atoll
Falekaupule o Niutao	Niutao and Niulakita atolls
Falekaupule o Nui	Nui atoll
Falekaupule o Nukufetau	Nukufetau atoll
Falekaupule o Nukulaelae	Nukulaelae atoll
Falekaupule o Viatupu	Viatupu atoll

3.3 LEGISLATIVE PROCEDURES

3.3.1 Constitutional Provisions

Section 111 of the Constitution and Rule 31 of the Parliament's Rules of Procedure outline the procedure for bills. There are two types of bills – ordinary bills and bills with a certificate of urgency.

Under Section 111 (1) of the Constitution any Member of Parliament may introduce a bill in Parliament, or propose a motion for debate in Parliament, or present a petition to Parliament. Under Section 111 (2), after the first reading of a bill Parliament shall not proceed with the bill until the next session of Parliament. The Clerk is then required to circulate the bill to all island councils for consideration and comment.

The Tuvalu Gazette, under Rule 52 of the Rules of Procedure, is tabled as a paper by the Minister responsible for its publication at the next session after its publication. The Clerk provides copies of the Gazette to all Members of Parliament as soon as possible after publication.

3.4 OVERSIGHT ROLE OF PARLIAMENT

The 1999 *National Workshop on Accountability for Leaders of Tuvalu* noted that the Parliament was not effective in the performance of its oversight functions. The Workshop Report pointed out that “the failure of the Public Accounts Committee (PAC) thus far to demand, let alone scrutinise, the audited accounts of government and public enterprises on a timely basis says a lot about the role Parliament plays today” (1999, p. 13). A number of recommendations in relation to the role and functions of the Public Accounts Committee were produced at the 1999 *National Workshop on Accountability for Leaders of Tuvalu*. These recommendations were:

1. Specialised training for PAC members;
2. Widening of the functions of the PAC through granting of the legal authority to follow-up on PAC recommendations endorsed by Parliament and to scrutinise reports from other constitutional offices;
3. The position of PAC Chair to become full-time;
4. Appointment of non-parliamentary members to the PAC;
5. Establishment of a secretariat under the Office of the Speaker to support the PAC;
and
6. Meetings of the PAC to be scheduled between parliamentary sessions.

Of these six recommendations, two have been implemented – appointment of members of the public to the PAC, and scheduling PAC meetings between parliamentary sessions.

The current Chairman of the PAC, Hon Kokea Malua, is a member of the Opposition. It is a normal practice for the Speaker to appoint a member of the Opposition as PAC Chair. In addition to the three Members of Parliament on the PAC, there are three members of the public, two retired civil servants from the Finance Ministry and a pastor. The appointment of members of the public to the PAC has ‘worked well’ according to the

current Chairman. The Speaker appoints the three members of the public in consultation with the Prime Minister, and Parliament approves the appointments.

Although Hon Kokea Malua is in his third term as a Member of Parliament, this is the first time he has been a member of the PAC.

The process undertaken by the PAC is as follows. The Auditor-General's Report is tabled in Parliament. The Report is referred to the PAC to examine the recommendations of the Auditor-General. The PAC has the authority to call as witnesses any Heads of Departments and Secretaries of Ministries. The PAC has the authority to follow-up issues of concern, but, according to the Chairman, the Government can choose to ignore the PAC's requests generally by replying 'we are doing our best'. According to the current Chairman, in previous years the PAC was not active in following up issues of concern.

The 2000 Auditor-General's Report is focused on the accounts for the period 1994-97. The accounts for the period 1998-99 have not yet been received by the Auditor-General for auditing. The Government accounts are two years behind. In its consideration of the 2000 Auditor-General's Report the PAC conducted interviews with permanent secretaries and heads of departments in order to be in "a better position to understand where exactly the problems outlined by the Auditor-General may have occurred and propose recommendations". The PAC spent one and half days at the Vaiaku Lagi Hotel on Funafuti conducting a public hearing. In its Report to Parliament the PAC noted its concern that the audited accounts of the government were not up-to-date and that only the 1993-97 accounts have been audited and reported to Parliament. The PAC noted that the reason for this is the "late compilation of the annual accounts by the Treasury Department thus failing to meet deadlines set out in Section 31 of the Public Finance Act".

The Chairman suggests the following areas for improving public accountability:

? The recommendations of the PAC need to be implemented;

- ? The PAC requires more legal authority to fulfil its functions; and
- ? Members of the PAC require training in terms of the committee's role and in understanding the material they are required to examine.

Section 170 of the Constitution provides for the Office of the Auditor-General, currently occupied by an Australian, Mr Ted Williams, who is on a two year contract.

There is no Office of the Ombudsman in Tuvalu. The 1999 *National Workshop on Accountability for Leaders of Tuvalu* recommended the establishment of an Office of the Ombudsman, but this recommendation has not been implemented to date.

The Speaker, Hon Tomu M. Sione, points out that whilst the Constitution does not recognise the existence of political parties, in practice Parliament operates along the lines of a party system, with strong echoes of the Westminster system in the form of a government and opposition on the floor of the House. The Speaker sees this division between government and opposition, and the development of parties more generally, as a positive move, providing for 'more lively debate and different views'. The Opposition, in the Speaker's view, helps keep the government accountable and its actions transparent. The Speaker also notes that, because of the flexible nature of the political alliances that comprise the governing coalition of Members, the government backbench is not bound to the government if Members have different views to that of the government. Members are expected to follow and advocate their community/constituency's views.

His Excellency the Governor-General notes that an effective parliamentary committee system needs experienced members.

3.5 HUMAN RESOURCES

The Clerk to Parliament, Mr Paulson Panapa, prepared a *Parliament Office Proposal for 2001* that was submitted to the government for consideration and possible implementation. The Proposal was rejected by the government. The Proposal provides a

comprehensive assessment of the human resource capacities and needs of the Parliament Office.

The Parliament Office was established in 1978 with the Clerk to Cabinet also serving as Clerk to Parliament and the Parliament Office forming part of the Prime Minister's Office. In 1979 the Parliament Office was separated from the Prime Minister's Office. With the addition of an additional typist in 1990, the staffing levels of the Parliament Office have remained the same since 1979 with a full-time Clerk, Deputy Clerk, one clerical officer, and two typists.

The Speaker, Hon Tomu M. Sione, notes that he maintains the independence of the Office of Speaker. The Constitutional Review Committee, in its Report to be tabled at the next session of Parliament, recommends the election of non-parliamentarian as Speaker. Hon Tomu M. Sione supports this recommendation, suggesting that the Speaker of the Parliament be elected by the Island Kaupules.

The Speaker, Hon Tomu M. Sione, notes moves to establish Parliament as a separate, independent institution with full autonomy over its budget and staff.

3.6 ROLE OF WOMEN IN POLITICAL PROCESS

The participation of women in the formal political structures and public discourse in Tuvalu is limited. Since independence in 1978 only one woman has been elected to Parliament. The number of women in the senior ranks of the public service is limited to two female secretaries of ministries. At the middle level there are two female directors of departments. The majority of women in the public service are employed in lower level, primarily clerical, positions. At the Kaupule level four women hold elected positions.

There are traditional constraints preventing women from participating fully in the formal political structure in Tuvalu. Historically, women have had a ‘behind-the-scenes’ role in politics. Opportunities for women to actively participate in the formal political processes are also limited by socio-economic factors. Women may be prevented from active participation by ‘heavy domestic workloads’ and consequent lack of time. According to the Department of Women Affairs, ‘the major obstacle encountered by women to the decision making levels is the lack of support from appointing authorities’. Although it is mandatory for all government agencies to consult the Ministry of Health, Women and Community Affairs in relation to women in each agency, in practice this consultation is rare.

As the Minister for Local Government, Women and Youth, Hon Faimalaga Luka, points out that there are traditional, cultural constraints in relation to the involvement of women in the formal political process. Women, for example, generally do not speak in the community meeting house. However, according to the Minister, women are ‘slowly getting involved’ in the formal political structure.

The Department of Women Affairs has produced a National Action Plan which outlines a number of strategic objectives and action plans to promote and achieve the equal participation of women in the formal political structure. These objectives are as follows:

- a) Training in communication, presentation and writing skills and in political education for women – an important aspect of this is legal literacy for women so they are aware and understand the Constitution and laws of Tuvalu and legislative process;
- b) The development of support mechanisms such as strengthening and/or establishing women’s committees in key organisations and providing funds to support female candidates for election to Parliament, and the dissemination of information on a range of issues in order to change the entrenched political culture;

- c) Expansion of awareness-raising activities to encourage women to stand as candidates for election to Parliament and to encourage people to vote for female candidates, thereby changing the popular perception that ‘politics is not a suitable pursuit for women’;
- d) Leadership training designed to provide women with the necessary skills to successfully stand as candidates for election to Parliament;
- e) Expansion and strengthening of existing networks and lobby groups to promote the notion of female candidates;
- f) Encouraging all government agencies to address women’s issues rather than the current ‘ghettoisation’ of women’s issues into one department; and
- g) The expansion of development programs aimed at addressing the socio-economic position of women generally.

APPENDICES

APPENDIX A

Terms of Reference

Tuvalu Legislative Needs Assessment

AREAS FOR INSTITUTIONAL AND CAPACITY STRENGTHENING

The major challenge for Tuvalu and its democracy is to sustain the democratic changes in society and to maintain continued support for reforms among its governance institutions. Capacity- and institution-building support to the Parliament will be of great value for strengthening parliamentary democracy on the one hand, and for enhancing legislative–parliamentary, parliamentary oversight and parliamentary-constituency relations, on the other.

Tuvalu’s parliamentarians lack the knowledge and skills required for undertaking a sound professional analysis of draft laws prepared by Government agencies, particularly on such critical issues as budget preparation, market economics, aid co-ordination and aid management, the role of state in a modern democracy, decentralisation, etc. The *existing human resource constraints* in the Parliament limit the effectiveness of parliamentarians in performing their mandated tasks and make difficult the practical implementation of weak and vaguely formulated laws. There is a need for technical expertise to provide support to all MPs on various issues to help them scrutinise proposed legislation and contribute effectively to parliamentary debates. Technical expertise is also needed so that proposed laws can be harmonised with existing ones.

It is important that *parliament-constituency relationships* are enhanced by introducing appropriate mechanisms to improve parliamentarians’ accountability vis-à-vis their

constituents. This mechanism should enable the electorate to assess the effectiveness of MPs in representing their aspirations in the public decision-making processes, as well as their ability to explain the importance of decisions made and laws adopted by Parliament.

Most important to be improved is the *Parliament's oversight* role. Parliament needs to consider whether it is now appropriate to establish other oversight committees of Parliament. The role of the Public Accounts Committee has to be strengthened in accordance with the changes in emphasis of the National Budgets, where resources are now allocated based on achievable targets. The Committee needs to have the appropriate powers to demand disclosure and prompt accountability from any government agency, public enterprise and any other entity, including NGOs, who received public funding. Also, Falekaupule (local governments) over the years have been accorded greater autonomy in the management of their resources and, therefore, parliamentary oversight has to be reviewed in light of this trend.

Legislating procedures of parliament needs to be reviewed to determine whether there are sufficient mechanisms for the inclusion of people in the legislative process. The Rules of Procedures of Parliament needs to adequately provides for peoples' views on proposed legislation, even if a Government certified a proposed legislation as urgent. Regulatory provision should also be sufficient to allow for all parliamentarians to have adequate understanding of proposed legislation before parliamentary debate.

Many parliamentarians recognise *a need for reviewing the Law on the Legal Status of Members of Parliament and their codes of conduct*. The national workshop on governance for leaders of Tuvalu mentioned above recognises the importance of all Parliamentarians to live by examples and to be accountable for their entitlements paid to assist them with their public obligations. The training needs and a "codes of conduct" for all parliamentarians should strengthen the performance of MPs as well as the integrity of Parliament.

OBJECTIVES OF THE NEEDS ASSESSMENT STUDY

1. Assess the existing national legislation related to the Parliament and Members of Parliament;
2. Review the existing mechanisms for legislative–parliamentary, parliamentary oversights and parliamentary-constituency relations;
2. Conduct a needs assessment to address the gender imbalance in parliamentary representation and legislative consideration;
3. Based on the above three objectives, develop a report with the recommendations on a concrete set of initiatives to be implemented by the Parliament of Tuvalu.

TASKS & RESPONSIBILITIES

The assessment mission, under the over-all direction of the Regional Programme Manager of GOLD and the Resident Representative of UNDP for Tuvalu will:

Conduct a review of the existing key legal documents, including the Constitution of Tuvalu, Electoral Laws, and Rules and Procedures of the Parliament of Tuvalu, to assess if the legal framework is adequately contributing to effective law making process in Tuvalu. In this effort, consultations with members of the Standing Committee, present and former Members of Parliaments, representatives of the Executive Branch, the Judiciary, civil society organisations (including women NGOs), and the media will be undertaken. As a result of this assessment, the concrete recommendations on how to improve the current legal and institutional system will lay the groundwork for a solid proposal on a technical assistance to the Parliament of Tuvalu.

Assess the existing parliament-constituency relationship to suggest better mechanism aimed at strengthening parliamentarians’ accountability vis-à-vis their constituents. This mechanism should enable the electorate to assess the effectiveness of MPs in representing their aspirations in the public decision-making processes, as well as their ability to explain the importance of decisions made and laws adopted by Parliament.

Assess the law-making procedures of Parliament and recommend ways in which this process might be improved. The improved process should maximise the participation of all constituents in the legislative process. The new proposed mechanisms (if any) of this improved process should provide people the opportunity to articulate their comments on proposed legislation in a timely manner.

Assess the oversight role of Parliament and the effectiveness of the Public Accounts Committee in holding users of public funds to account. Recommend ways in which this function might be improved, including the role of the Auditor General and the relevant powers required by oversight committees to impose consequences for non-compliance by government agencies with their accountability deadlines.

Assess the existing human resource constraints that limit the effective functioning of the Parliament and parliamentarians, in order to develop a comprehensive strategy/plan for addressing the current needs of parliamentarians to improve their professional capacity.

Review the current policies and, what is more important, practices of the parliament, parliamentary fractions, and NGOs aimed at moving from 'de jure' to 'de facto' equality and strengthening women's participation in political leadership, in general and women's representation, in particular. This review will be undertaken through existing policy documents as well as active discussions with present and past MPs, heads of women NGOs and other civil society organisations.

Recommend ways in which potential and existing women leaders will be assisted in building skills, confidence and opportunities through training and other support activities; advocacy through media and gender sensitive surveys/researches to address problems relating to social relations and attitudes which perpetuate gender inequality. Emphasis should be placed on involving both women and men throughout of the design and implementation of a support programme for the Parliament of Tuvalu.

VII. EXPECTED OUTPUTS

Upon completion of the assessment mission and discussions with key stakeholders, the consultant is expected to deliver a report with the recommendations on concrete initiatives to be implemented by the Parliament of Tuvalu.

APPENDIX B

COUNTRY VISIT PROGRAM

The country visit took place between 11 and 17 December 2000. A program was prepared by the Clerk to Parliament, Mr Paulson Panapa, in conjunction with the consultant. The program was as follows:

Sunday 10 December 2000

En route from Canberra

Monday 11 December 2000

Arrival on Funafuti Island; briefing and orientation by the Clerk, Mr Paulson Panapa

Tuesday 12 December 2000

Attendance at the official State Funeral of the late Prime Minister, Hon Ionatana Ionatana

Wednesday 13 December 2000

- 9.00am – 9.45am: Meeting with the Speaker, Hon. Tomu Malaefono Sione OBE (fourth Governor General 1993-94 & fifth Speaker 1998-)
- 9.45am – 10.30am: Meeting with H.E Governor-General, Rt Hon Sir Dr Tomasi Puapua KBE (second Prime Minister 1981-89; fourth Speaker 1993-98; fifth Governor General 1998-)
- 10.30am – 11.15am: Meeting with the Acting Prime Minister and Minister for Finance & Economic Planning, Hon Lagitupu Tuilimu
- 11.15am – 12.00pm: Meeting with the Minister for Local Government, Women and Youth, Hon Faimalaga Luka
- 2.00pm – 2.45pm: Meeting with Minister for Works, Communications & Transport, Hon Teagai Eseki
- 2.45pm – 3.30pm: Meeting with the Member of Parliament for Nukufetau and Special Ministerial Adviser in the Ministry of Works, Communications & Transport, Hon Saufatu Sopoaga

Thursday 14 December 2000

- 9.00am – 9.45am: Meeting with the Member for Funafuti and Special Ministerial Adviser in the Ministry of Local Government, Women & Youth, Hon Teleke P Lauti
- 9.45am – 10.30am: Meeting with the Secretary to Government, Mr Panapasi Nelesone
- 10.30am – 11.15am: Meeting with the Acting Attorney-General, Mr Afele Kitiona
- 11.15am – 12.00: Meeting with the Director of Women, Mrs Susie Polau
- 2.00pm – 2.45pm: Meeting with the President of the Ekalesia Kelisiano o Tuvalu (Church of Tuvalu), Reverend Eti Kine
- 2.45pm – 3.30pm: Meeting with the Member for Nukulaelae and Leader of the Opposition, Rt Hon Bikenibeu Paeniu (third and fifth Prime Minister 1989-93 & 1996-98)

Friday 15 December 2000

- 9.00am – 9.45am: Meeting with the Member for Nanumaga and Chairman of the Private Members' Business Committee, Hon Otinielu Tauteleimalae Tausi
- 9.45am – 10.30am: Meeting with the Member for Nui and Member of the Public Accounts Committee, Hon Alesana Kleis Seluka
- 10.30am – 11.15am: Meeting with the Member for Nanumea and Chairman of the Public Accounts Committee, Hon Kokea Malua (third Speaker 1989-93)
- 11.15am – 12.00: Meeting with Rt Hon Sir Toaripi Lauti GCMG (former Member for Funafuti; first Prime Minister 1978-81 & third Governor General 1989-93)
- 2.00pm – 2.45 pm: Meeting with Mr Vasa Fonunku Vave (former Member for Niutao, second Speaker 1981-89)
- 2.45pm – 3.30pm: Meeting with the Speaker, Hon Tomu M Sione (de-briefing)
- Evening: Farewell dinner hosted by the Speaker

Saturday 16 December 2000

Review of the existing key legal documents in collaboration with the Clerk

Sunday 17 December 2000

Review of the existing key legal documents in collaboration with the Clerk

18-20 December 2000

En route to Canberra and report writing

APPENDIX E

CONSULTANT

Mr Quinton Clements is a Senior Research Officer in the Committee Office, Department of the House of Representatives, Parliament of Australia. He has served as Inquiry Secretary to the Joint Standing Committee on Electoral Matters. Mr Clements is currently completing his PhD at the Australian National University. Mr Clements was previously engaged by the United Nations Development Programme to undertake Legislative Needs Assessments of the Parliaments of Nauru, Kiribati and Solomon Islands. He also attended the *Pacific Regional Conference on Governance for Parliamentarians* held in March 2000 in Nadi, Fiji.