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Mechanisms of Change: The Role of Parliamentary Committees in Road Safety

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Abstract:

Road safety problems are frequently complex and do not have a simple solution. Parliamentary road safety committees are an important mechanism for consulting with interest groups and the general public to achieve system-wide changes. Parliamentary committees are provided by their respective parliaments with significant inquiry powers to monitor, examine, investigate and report on issues with recommendations.

The *World Report on Road Traffic Injury Prevention* released on World Health Day 2004 highlights the particular importance of parliamentary road safety committees in creating effective road safety policies.

Knowledge about the role and functions of parliamentary committees and their contributions is often limited. This paper will discuss: the history, constitution and role of parliamentary road safety committees in Australia including their investigative, scrutiny and advocacy functions; their contribution to road safety interventions in Australia; and their specific roles as catalysts to foster accountability, reform and change. The paper will also provide information on how individuals and organisations can participate in the work of parliamentary committees for the advancement of road safety.

Introduction

The business of achieving road safety improvements has become a lot more complex. There are few, if any, magic silver bullet solutions left to discover in road safety. The days of a lone agency achieving significant benefits through a single action are all but gone. Multi-pronged, cross-agency or inter-governmental initiatives are now becoming the norm. Implementing initiatives is also harder. Agencies must run the gauntlet of an ever-expanding plethora of interest groups and stakeholders as well as a public who are growing in their willingness and ability to voice concerns.

At the pinnacle of the policy and law-making processes of democratic governments lie the institutions of parliament. It is the role of parliaments in their collective decisions to reconcile the competing interests and views of the community. Parliaments are assisted in this role by committees. Parliamentary committees have made an important contribution to road safety.

Parliaments and parliamentary committees¹

Parliament, defined in its simplest of terms, is the forum where the elected representatives of the people meet, plan, deliberate upon and review the government of the State and make laws for the effective and efficient conduct of the State.²

Australian (and New Zealand) systems of government are derived from the concept of responsible government inherited from the British Parliament. This system of responsible government rests on two basic principles:

- (a) that the government will be collectively responsible to parliament; and
- (b) that individual ministers will be individually responsible to Parliament for the administration of their portfolios.

To enable parliaments to operate effectively and give members access to more detailed information and the capacity to develop expertise on specific matters, small, specialised committees were established to investigate specific issues and report back to the larger forum. All parliaments delegate part of their workloads to committees. (EARC, 1991, p.4)

The National Democratic Institute For International Affairs in the United States described the ideal committee in 'almost all democratic legislatures' as being composed of a small group of members designated to do the detail work of the House. (NDIIA, 1996, p.1) The committee offers a less formal, less partisan atmosphere in which members can consider estimates or legislation with less control from the executive arm of government. Committees, if functioning in the ideal state, can be the focus of public input and the pipeline between the constituents and the government. (Barnhart, 1999)

Britain's House of Commons and House of Lords, on which all Westminster parliaments are modelled, have used committees since the sixteenth century. (EARC 1991, p.51) Parliamentary committees have operated in Australian and New Zealand

¹ The term 'committee' originally signified an individual to whom a bill had been committed.

² Government of the 'State' in this context includes national governments.

parliaments for as long as the parliaments themselves have been in existence. The first Queensland Parliament (1860-63) had 15 select committees to 'inquire and report'. (EARC,1992, p.51)

Legislatures with strong policy-making powers have highly developed committee systems which enable them to divide the legislative labour in such a way that a degree of legislative expertise is generated in most policy areas. (Mezey,1979) Parliamentary committees are an asset in any functioning parliamentary democracy and help to ensure that governments make the right decisions at the right time and for the right reasons.

The investigative powers and immunities of parliamentary committees

The power of a committee of inquiry to obtain evidence determines, in large measure, the potential scope and thoroughness of its inquiry. Parliamentary committees are well equipped to investigate complex policy issues, consult with those involved and affected by it, including the general public, and informing their parliaments of their findings. They have significant coercive powers to gather information (including information held by government and expert witnesses that is not public) and to protect the confidentiality of this information. They also enjoy immunities from prosecution, direct access to the parliament and a system that ensures their reports and recommendations are considered by government and responded to. The following sections discuss committee powers and immunities generally however the Travelsafe Committee of the Queensland Parliament has been used as the model unless stated otherwise.

Coercive powers

Parliamentary committees have extraordinary coercive powers to carry out their investigations. These powers provide essential back up for the committee's scrutiny role and enable them to gather pertinent facts. Depending on how they are constituted by their parliaments, committees' coercive powers are likely to include the power to call for persons, documents and things. Committees can summons people to appear before them to answer questions and produce documents, videotapes, audiotapes or computers for their examination.

There are limits on a committee's use of these powers and a number of grounds on which people may contest their orders to appear. Committees are also obliged to consider any claims of special immunity such as legal professional privilege, commercial-in-confidence, sub judice and public interest. These claims would at least warrant that the evidence is heard privately or 'in-camera'. Having heard the evidence, committees must then determine whether publication of the evidence would be in the public interest. For instance, a committee's request for a document tabled in Cabinet is likely to invoke a claim of special immunity on the grounds of public interest.

Usually, the mere existence of coercive powers provides adequate incentive for individuals to cooperate. Committees almost always get what they are entitled to receive simply by asking for it. Disobedience to orders of a committee given in the proper exercise of its authority is a contempt of the House. (May, 1997,p.146)

To 'prevent, delay, obstruct or interfere with the execution of the orders of the committees' also constitutes contempt. (May, 1997, p.147)

Parliaments enforce compliance with their committees' orders. Contempt of parliament is a very serious offence punishable by disciplinary action, fines and/or imprisonment.

Confidentiality provisions

Parliamentary committees are bound by confidentiality provisions laid down in the 'Standing Orders' of their parliaments. These provisions prevent committee members and staff from divulging evidence or other information collected by the committee without the committee's prior authority. On request from witnesses or submitters, committees may also agree to preserve the confidentiality of evidence witnesses provide. Failures to conform to the confidentiality provisions are enforced by parliament as contempt.

Parliamentary privilege

Parliamentary committees enjoy the full immunities and protections from prosecution that are afforded to parliaments. When acting within their jurisdictions, parliamentary committee inquiries, papers and properly constituted proceedings such as hearings are protected. This includes the protection of 'parliamentary privilege'. In a properly constituted committee proceeding, Parliamentary privilege protects committee Members and witnesses from being sued as a result of anything said or done in the course of the proceedings. This protection ensures freedom of speech without fear of reprisal.

Standing Orders

Standing Orders, the rules that govern the conduct of parliament, apply to committee hearings and meetings. Committee chairs can use these orders to caution and eject witnesses, remove unruly people from the audience and counsel committee members for 'unparliamentary' behaviour.

Obligations on governments to respond to reports and recommendations

The legislation and Standing Orders that govern the conduct of parliamentary committees impose obligations on government ministers to respond to reports and recommendations committees make from their investigations.

In Queensland, the *Parliamentary Committees Act 2001* stipulates the timing and form of ministerial responses. These responses must be provided in writing and tabled in parliament. The responses must state whether or not recommendations have been accepted and, if so, give a timetable for their implementation. For recommendations that are not to be accepted, ministers must provide reasons.

Consultation

Parliamentary committees enhance the democratic process and provide a mechanism by which members of the public, acting individually or collectively, can voice their concerns directly to elected representatives. Arguably there is no better

level of consultation for anyone with an issue in the community. Parliamentary committees are adept at gauging public sentiment. Anyone can talk to the experts and the organised lobby groups but members of parliament are especially placed to tap into the general community. (Weber 2000).

Public submissions and other evidence can add greatly to committees' knowledge of issues and give balance to the input received from government officials. Often the public is aware of specific issues and impacts of which committees and perhaps the government are unaware.

Parliamentary transport committees in Australia

With the growth and public interest in transport issues, parliamentary committees with specific responsibility for transport issues have become a feature of modern parliaments around the world. In Australia, the Federal Parliament³ and the Victorian, New South Wales and Queensland state parliaments have committees with specific standing responsibilities for transport:

- the House of Representatives Standing Committee on Transport and Regional Services of the Federal Parliament;
- the Road Safety Committee of the Parliament of Victoria;
- the STAYSAFE Committee of the Parliament of New South Wales; and
- the Travelsafe Committee of the Parliament of Queensland.⁴

The Transport and Industrial Affairs Committee of the New Zealand Parliament has a similar role to its Australian counterparts. In other parliaments portfolio, public accounts, public works or scrutiny of bills committees may examine issues affecting transport and road safety.

The following sections give a brief description of the Australian road safety committees.

House of Representatives Standing Committee on Transport and Regional Services

The Federal Parliament's committee that conducts inquiries into road safety issues is the House of Representatives Standing Committee on Transport and Regional Services. Its predecessors were the Standing Committee on Communications, Transport and the Arts and, prior to 1998, the Standing Committee on Communications, Transport and Microeconomic Reform). The primary purpose of the committee is to carry out investigations and report the findings to the House of Representatives in relation to its portfolio areas of transport and regional services.

³ Under the Standing Orders of the House of Representatives, standing committees are appointed for the life of the parliament. The 40th Parliament was prorogued and the House of Representatives dissolved on Tuesday 31 August 2004 for a general election on Saturday 9 October 2004.

⁴ The Travelsafe Committee pages on the Parliament of Queensland website <http://www.parliament.qld.gov.au> has links to parliamentary transport committees in Australia, New Zealand, Great Britain, the United States and Canada.

The committee is empowered to inquire into and to report only on matters referred to it by either the House or a Minister, or annual reports or reports of the Auditor-General which stand referred to the committee. Its last report, *National Road Safety – Eyes on the road ahead* tabled on 21.6.04 made 38 recommendations to reduce the national road toll.⁵

The Road Safety Committee of the Victorian Parliament

The Victorian Parliament's involvement with road safety inquiries commenced in 1967 with the establishment of the first Joint Select Committee on Road Safety. This committee operated until 1982⁶. It was followed by the Social Development Committee which conducted road safety and social issues inquiries and, finally, the first Road Safety Committee established in 1992.

The Road Safety Committee remains a joint⁷ investigatory committee with members drawn from the Legislative Council and the Legislative Assembly. The functions of the Road Safety Committee are, if so required or permitted under this Act, to inquire into, consider and report to the Victorian Parliament on any proposal, matter or thing concerned with road trauma, safety on roads and related matters (S.15 *Parliamentary Committees Act (Vic) 2003*).

Matters are referred to the committee either by resolution of the Council or the Assembly of the Parliament, or an Order of the Governor in Council published in the Government Gazette. Inquiries referred to the committee in this manner take precedence over all other matters. The committee may further inquire into, consider and report to the Victorian Parliament on an annual report or other document relevant to the functions of the committee that is laid before either house under a requirement imposed by or under an Act.

STAYSAFE Committee of the New South Wales Parliament

The New South Wales Parliament's – Joint Standing Committee on Road Safety, known as the STAYSAFE Committee, was first established in 1982. The primary functions of the STAYSAFE Committees have been:

- to monitor, investigate, review and report on road safety matters affecting New South Wales; and
- to review and report on countermeasures aimed at reducing death and injury through road crashes and reducing the social and economic costs to the New South Wales community of road crashes.

Prior to the establishment of STAYSAFE, the last parliamentary inquiry into road safety in New South Wales occurred in 1947 when the Legislative Assembly appointed a select committee to inquire into the road casualty rate (STAYSAFE report 60,p.9).

⁵ House of Representatives Standing Committee on Transport and Regional Services (2004) 'National road Toll – Eyes on the road ahead', House of Representatives, Canberra.

⁶ Aitken, B., (2002) History of Victorian Parliamentary Road Safety Committees (unpublished).

⁷ joint committees comprise members from both houses of bi-cameral parliaments.

The Travelsafe Committee of the Queensland Parliament

Since 1990, successive Legislative Assemblies have established Travelsafe select committees. These committees have monitored, investigated and reported on all aspects of road safety. Since 1996, Travelsafe Committees scope broadened to include all aspects of public transport in Queensland.

The Travelsafe Committee of the 51st Parliament was established by a motion of the Legislative Assembly on 18 March 2004. The committee's terms of reference and inquiry powers are unchanged from its predecessor committees.

Contribution to road safety

Experience worldwide demonstrates that effective road safety policies can arise out of the efforts of informed and committed members of parliament⁸. (Peden et al 2004, p.16) It is difficult, however, to quantify the benefits of parliamentary road safety committees. This is because of the dearth of research in this area and the inherent difficulty of linking and measuring the benefits of both tangible and intangible outcomes with specific committee inputs. Some of the benefits from past road safety committees is a matter of history. Parliamentary road safety committees in Australia were instrumental in highly successful road safety reforms.

In 1968, following a parliamentary committee inquiry, Victoria became the first Australian Parliament to pass legislation requiring that new cars be supplied with fitted seat belts. In 1970, Victoria became the first jurisdiction in the world to make the wearing of seat belts compulsory. Other notable reforms assisted by Victorian road safety committees include the introduction of 0.05 BAC legislation, random breath testing, mandatory helmet wearing for cyclists, improvement in vehicle occupant protection and the revision of speed limits in Victoria⁹.

Similarly, in New South Wales, the work of successive STAYSAFE Committees over two decades has contributed to speed enforcement, drink driving laws and random breath testing. The committee's periodic reviews of the road safety situation in New South Wales are a potent accountability tool.

Travelsafe Committee inquiries have helped to achieve enhancements to road safety management, random breath testing, the evaluation of road safety initiatives, strategies to combat drug driving, a national road safety strategy for international visitors, fleet safety improvements and the introduction of speed cameras.

House of Representatives standing committees inquiries continue to address key transport and policy coordination issues at a national level.

These are a minute sample of the range of issues parliamentary road safety committees in Australia have researched, investigated and reported to their parliaments.

⁸ Peden, M., Scurfield, R., Sleet, D., Mohan, D., Hyder, A., Jarawan, E., & Mathers, C. 2004, World Report on Traffic Injury Prevention, World Health Organisation, Geneva, p. 16.

⁹ Aitken, B., (2002) History of Victorian Parliamentary Road Safety Committees (unpublished).

In terms of policy development, parliamentary road safety committees have demonstrated their value for:

- achieving greater action and commitment at a whole of government level;
- highlighting the achievements of projects by researchers, governments and others;
- placing emerging issues on the radar scopes of government;
- attracting attention to issues at the boundaries of agencies' responsibilities;
- accelerating sluggish reform processes; and
- exploring new ideas without the political costs to government.

Participating in the work of parliamentary committees

Through their inquiries, parliamentary committees provide an opportunity for the public to see, and take part in, the operation of their parliament. Public participation is an important and necessary ingredient in committee investigations. By calling for public submissions and holding public hearings, committees provide an opportunity for interest groups, researchers and private citizens to contribute to an important review and evaluation process.

Committees progress through several stages in their inquiry process. Most provide opportunities for public participation. While inquiries will always differ, the following stages are typical:

- selection of an inquiry topic;
- release of preliminary research and call for submissions;
- further research, hearings and meetings;
- analysis of the evidence and preparation of a report; and
- tabling of the report.

Selection of an inquiry topic

Road safety committees in Australia may have an inquiry topic referred to them by the House. Depending on the committee, they may also select their own inquiry topic. Committees consider issues identified through their own research as well as issues brought to their attention in their monitoring role. Committee members may be aware of further issues through work in their electorates with constituents. Departments, interest groups and members of the public may participate in this stage by providing written to committees about their concerns.

Release of preliminary research and call for submissions

A parliamentary committee may publish short background or issues papers based on their preliminary research to inform people about their inquiries. These papers provide information about the committee's role and inquiry terms of reference, the issues under investigation, the particular aspects the committee is examining and guidance on preparing submissions. Committees will also advertise, using a variety of mediums, the call for submissions.

A submission is perhaps the most important contribution that departments, interest groups and individuals can provide. Anyone can provide a submission.

Further research

The committee may wish to learn more about the issues under inquiry through briefings and site visits. The committee may also engage consultants to provide it with expert advice. At this stage, the committee may contact individuals or organisations and ask for assistance with their research.

Hearings and meetings

The committee may also conduct hearings and meetings. Public hearings provide committee members with a forum to question witnesses about any matter that the committee deems relevant to the issue under inquiry. Committee members can ask witnesses to: clarify points raised or not raised in their submissions, comment on matters raised in submissions by other groups or individuals or comment on any other matters that are relevant to the inquiry.

To supplement evidence gathered at hearings, committees may hold public meetings. In this more informal environment, individuals may feel more comfortable discussing issues with a parliamentary committee. The majority of committee hearing and all public meeting are open to the public. Anyone can attend to observe the proceedings. Members of the audience may also be invited to address the hearing.

Analysis of the evidence and preparation of a report

After considering all the evidence, and data collected during its inquiry, the committee will meet privately to discuss their conclusions and recommendations. The chair then prepares a draft report with the assistance of committee staff. The chair presents the draft to the rest of the committee for consideration. After consideration of the report, the committee adopts the draft with any amendments by a resolution.

Tabling of the report

The report is now printed and tabled. Once tabled, committee reports are public documents. Committees continue to monitor progress by departments to implement agreed recommendations.

Conclusions

This paper provides an introduction to the powers and immunities of parliamentary committees. The function of Australian parliamentary road safety committees and their contribution to road safety are highlighted. The paper also notes the need for further research to more accurately identify the contributions that committees. The paper concludes with a discussion of the committee inquiry stages and opportunity for public participation.

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