

**Speech to 35th Commonwealth Parliamentary Association
(CPA) Australia and Pacific Regional Conference
Rarotonga 27 November – 1 December 2016**

Clare Curran

Member of Parliament, Dunedin South, New Zealand

E nga mana

E nga reo

E nga tapu

E Te whanau o te whare paremata

Tena koutou katoa

Kia orana

Talofa lava

Malo e lelei

Fakaalofa atu, Namaste, Bula vinaka, giddy to the
Australians and warm Pacific greetings to you all.

My name is Clare Curran. I am the member of parliament for Dunedin South (which is... southern city at the bottom of the south island. Average temperature is about half what yours is, though we made it into the 30s last week, we do get some snow in winter and four seasons in a day is pretty much everyday. But we have some of the best wildlife and scenery in the world at our doorstep, such as the Royal Albatross colony nesting at the tip of the Otago Peninsula, we produce

great music and we also make good beer if you've heard of Emersons.

I am a Labour member of parliament in opposition. I have been an MP for 8 years and this is my third CPA conference.

Amongst other things I am Labour's open government spokesperson (or shadow minister). It's an unusual portfolio to have. There aren't many open govt Ministers in govts around the world. Iceland has an open govt spokesperson in opposition. Some parliaments are becoming more aware of the importance of open-ness and transparency. As an example, Canadian PM Justin Trudeau, has released *Open and Accountable Government*, a guide that sets out his expectations for the conduct of his Ministers and their roles and responsibilities in Canada's system of responsible parliamentary government.

The document lays out both individual and collective ministerial responsibilities, as well as details on Ministers' relationships with the Prime Minister and Cabinet, their portfolios, and Parliament. It outlines the standards of conduct expected of Ministers – including accountability and ethical guidelines – and addresses a range of administrative, procedural, and institutional matters.

That's promising. But is it real? Will it be kept to and reported on?

I want to talk to you today about the relationship between government and its citizens.

In this age of the internet and social media, the ongoing decline of mainstream media and the rise of citizen journalism, citizens in many nations have on first glance an unprecedented amount of access to politicians through social media, through petitions and through direct actions such as protests.

I am very active on social media and as an electorate MP I receive a lot of direct contact from my constituents. I probably get about a third to a half of constituent cases coming through social media as my constituents realise that they can actually interact directly with a member of parliament and they will answer back. In some countries this is unheard of but I do believe it is changing. This is a good thing.

But these are individual interactions with individual politicians. It's not about citizens engaging more directly with the political process.

Do these citizens truly have any more access, not just to politicians but to the machinations of politics, the decisions that are made, the information that sits behind those decisions, knowledge about the influencers of those decisions, the lobbyists and pressure groups? And then once decisions are taken do they have access to the analysis of how those decisions have impacted their lives, perhaps adversely?

I would say no. I think it's becoming obvious that civil society is becoming more and more frustrated and angry and

disenchanted with governments that selectively release information, use spin and timing to downplay the importance of information releases while disenfranchising and under-resourcing the watchdogs which are supposed to be keeping an eye on things and keeping everything accountable.

In the last few years we've seen massive data dumps through Wikileaks that have shone uncomfortable light on the behind the scenes decision-making of major governments around the world. The release of the Panama Papers this year touched many countries, including my own and exposed flaws in our anti-corruption laws and checks and balances which have allowed a stream of foreign cash to flood into New Zealand trusts in order to avoid tax offshore.

These flaws are being fixed but it took a major international scandal to expose them.

We've seen Brexit and now Trumpsit emerge out of enormous rage and disengagement, huge numbers of people railing against politics and the political process delivering a huge message that should, in my view, be a wake-up call to every political party and every politician. Which is that most people are sick to death of bloody politics and politicians and it's time we woke up to that.

I'm sorry to be delivering that message at a CPA conference which includes many people who are clerks of the parliament and who are committed to good process and good governance. Nevertheless I believe it has to be said.

On a light-hearted note some of you may remember a rather cutting British comedy that ran during the 70s and 80s called Yes Minister? Well I want to recount a little story from that show which seems relevant today:

James Hacker wins the election for his seat and is appointed Minister at the Department for Administrative Affairs where he meets his Principal Private Secretary Bernard Woolley and his Permanent Secretary Sir Humphrey Appleby. Jim immediately wants to get started with fulfilling his Party's promise of open government. Although he expected a lot of resistance from the Civil Service, Sir Humphrey has already prepared a white paper on the reform of the Civil Service, and proposes to call the paper Open Government. Jim Hacker is impressed!

He demands that his political advisor Frank Weisel will get an office near his, and that Frank will get all the paperwork that he gets. The next week Sir Humphrey has a meeting with Sir Arnold Robinson (the Cabinet Secretary) at a club for senior civil servants. There he learns that the PM is anxious to close a defense trade agreement with the United States, and that nothing should be done to rock the Anglo-American boat. Sir Humphrey immediately phones one of his employees to put an invoice for American computer equipment in one of the red boxes.

When Frank Weisel and Jim Hacker find this invoice they are outraged that the order was not placed with a British manufacturer. They want this order to be cancelled, but Sir Humphrey points out this is beyond their power. Under the open government principle Jim Hacker therefore wants to

publish this order and make a speech blaming the previous government and the criminal nature of American salesmen. Sir Humphrey makes sure this speech is circulated to all relevant departments and is released to the press.

Then all hell breaks loose at the PM's office when they see Jim Hacker's speech. He is summoned to come to the PM's office, where he get a talking-to by the Chief Whip. Sir Arnold is appalled by his indiscretion and asks Sir Humphrey what he was thinking of. Sir Humphrey claims he and his Minister believe in open government, but Sir Arnold observes that this is the closed season for open government.

I think the point here is that the more things appear to change, the more they stay the same and it's up to those of us in the system who really care about transparency, public engagement and public integrity to determinedly try to effect real change.

This means a lot more than some pretty sounding words on a page with very little follow-up and reporting I'm going to use some examples from my own country because that's what I know.

At the very heart of our democracy, of our democratic system is the simple but powerful idea that governments and institutions work better for citizens when they are transparent, engaging and accountable. We might all nod at that, but do we practise it?

But what is democracy? What lies at the basis of our political systems?

IN any jurisdiction, the Government of the day has be allowed the freedom to govern and make decisions and to stand by its decisions. The Opposition has to be able to act freely to scrutinise, criticise and uncover the information behind the decisions and actions of government, the media also plays a critical role in holding both government and opposition to account and communicating effectively with the public. Watchdogs, such as the Ombudsman, the Auditor General, the Privacy Commission, the Human Rights Commission have to be resourced and have independent respected roles and voices that are listened to.

Citizens through their civil society organisations are crying out to be more included in public policy making and participation in decision-making.

I know we are having a session during this conference on the role of committees of parliament; select cttees of course are one of the ways where people can have input into lawmaking. But I would contend that much of the time its pro forma and very limited participation. Many people don't know what a select cttee is. They don't know they can submit and even if they do they are not always listened to. Select cttee processes are often short and perfunctory. In my view they are of very limited value and should be re-thought.

So my challenge today to you is to consider whether your country and your parliamentary system is one where access

to information and transparency are prized values of all parties, in particular the government in power and the bureaucracies that serve them? Or are things becoming less transparent and where the perception of corrupt and flawed practice is being raised more and more by angry parts of society?

Take my own country, which to be honest on many scales of measurement generally has a reputation for good governance.

But I say to you today, there is worrying **slippage**. Firstly, what is the state of transparency in New Zealand? In January this year New Zealand slipped from two to four on the Transparency International corruption perception index, after being at the very top for 8 years, and, as we know, transparency is all about perception.

In a report written by a board member of Transparency International New Zealand, it was said: "It is impossible to actually measure real corruption—by its very nature corruption is somewhat hidden and intangible—and therefore other metrics are necessary as proxies. For example, when Transparency International commissioned a survey of public opinion about corruption in New Zealand in 2013, it found that 65 per cent of New Zealanders said corruption had increased over the previous three years. Other surveys have also provided alarming evidence. The State Services Commission Integrity and Conduct Survey of 2013 found that 15 per cent of public servants 'reported

observing illegal conduct in the previous 12 months'. And in 2011 a TVNZ poll asked: 'Is New Zealand the least corrupt country in the world?', with 57 per cent choosing the option 'No, we're deluding ourselves'."

And there is lip service. There is the open Government partnership amongst 69 countries that we signed up to three years ago, which sounds good, but we have not been fulfilling our requirements. The Open Government Partnership was launched in 2011 to provide an international platform for domestic reformers committed to making their governments more open, accountable, and responsive to citizens. Since then, OGP has grown from 8 countries to 69 participating countries. The aim is that in all of these countries, government and civil society are working together to develop and implement ambitious open government reforms.

I can't speak for the other 68 countries but in NZ the reality doesn't match the rhetoric. In its first National Action Plan, a requirement of the Open Govt Partnership, the NZ Govt committed itself to just four objectives; two of which it was already doing. The average of all the other countries signed up to the partnership was 22 objectives so it gives you some context.

The once over lightly approach by the Govt to the partnership did not go un-noticed and in March this year a warning letter was sent from the partnership director to the NZ Govt saying that we had acted contrary to the process and may lose our status in the partnership.

So the government has since undertaken some more work to get itself back on track to meet more of the objectives it signed up to. That means adding another seven objectives. Its progress I guess. Some of those objectives are quite good; such as committing to an open Budget: presenting budget data in ways that make it easier to understand; improving access to official information by publishing responses to requests on govt websites and developing principles for more proactive release.

NZ is also making great strides in access to open data.

This is good. But the proof of the pudding is in the eating and the government's record of acting on these things is not fabulous.

Which brings me to my next point which is: **stonewalling**.

NZ's Official Information Act 1982 was intended to give the public easy and timely access to quality information.

Transparency of government decision-making was its goal.

The act was adopted "to increase progressively the availability of official information to the people of New Zealand in order to enable their more effective participation in the making and administration of laws and policies; and to promote the accountability of ministers of the Crown and officials and thereby to enhance respect for the law and to promote the good government of New Zealand". This is not happening as it should. In fact there is something rotten at the core of the system that the objectives of the OIA Act have been turned on their head and the objective seems to now be how not to provide information.

There are interminable delays to responding to Official Information Act requests. This has got so bad that the previous Ombudsman did an inquiry last year. The result for the government was a slap on the hand, but at least the new Ombudsman has said that he will institute league tables. I think he will make good on that threat.

The increasing tactic of refusing to answer official information act requests on time, or deferring them to another Minister to delay the process and then redacting large amounts of information that should be made public which then requires you to put in a complaint to the Ombudsman, who is so overworked that investigating complaints can take months and sometimes years all adds up to a culture of obfuscation and perceptions that there's something to hide. The current government didn't invent these tactics but they have entrenched and worsened them and it represents an abuse of the Spirit of the Official Information Act which is one of the few mechanisms for public scrutiny of government decision-making and government process. If it doesn't work then what remedy does the public have, the media have and the Opposition? It makes a mockery of democracy.

I'll give you an example. Over the past few months, Labour has asked the Ministry of Health how much the national bowel cancer screening programme will cost DHBs, in capital and treatment costs; because we were keen to see whether the funding announced will be sufficient.

DHBs are already overstretched in trying to make "efficiencies" - the new, glamorous word for cuts - required by the minister. The ministry did not provide the information directly to the questioner, as required by the OIA. Rather, it chose to publish the information online - after having blacked out all the financial costings.

We have been interested in a national cancer screening programme since 2005, when it was first mooted by Labour. Such a programme should reduce cancer mortality, and ensure detection and treatment in a timely manner.

But there are serious warning flags around developing and planning a national programme, which could put the whole programme (and its patients) at risk. The first was the failure to gain cabinet approval for the business case during Budget 2016 because of a lack of detail and costings. A second version of the case was approved by the Cabinet in September; however, we are none the wiser on how much this programme is going to cost DHBs and where they are going to get the money from. In this example, as in many others, opposition parties and media are frustrated in their proper role of holding the Government to account for the quality of decision-making.

It is hard to escape the conclusion that the OIA is being undermined by a government that now considers itself above the law.

Another worrying trend is the **gagging of whistle blowers**. The system that protects whistle blowers is out of date and ineffectual. Our law is weak and has not been looked at for 15 years. There is a tendency to pursue whistleblowers instead of actually addressing the problems of waste and unlawful behaviours that they expose.

And if you are in any doubt that there is an issue with transparency in the NZ political system then consider this recent example:

The NZ Auditor-General recently completed a 15-month investigation into a deal done by the NZ [Foreign Minister](#) where millions of dollars were given by the government to a disgruntled billionaire Saudi sheikh who felt he'd been misled about the resumption of live sheep exports and was using his influence with Saudi politicians to block the progress of a free trade deal with the Gulf States.

First it was revealed the government had built Sheik Al-Khalaf a \$6 million agrihub on his farm in the Saudi desert to placate him. Then, it had also given him \$4m cash.

The public became increasingly incredulous when it was discovered the government had also [spent \\$1.5m hiring a Singapore Airlines plane](#) to fly 900 heavily pregnant sheep to the Saudi desert - where nearly all their lambs immediately died.

More than 10,000 New Zealanders, and [MPs](#), called on the Auditor General to look into the deal which ultimately cleared the minister and officials of acting corruptly but

found the deal was simply a "guise" - the settlement of a personal grievance, dressed up by Mr McCully as a contract for services.

It found "significant shortcomings" in the information the Foreign Minister presented to Cabinet justifying the deal - and repeatedly criticised the government for its lack of transparency.

In the second to last paragraph of her report on the Saudi sheep debacle, the outgoing Auditor-General made this extraordinary statement just weeks ago: "My final thought relates to transparency. New Zealand has worked hard to have an ethical and transparent public sector. Accusations of corruption and bribery should be of concern to us all. During my time as Auditor-General, I have seen an increase in these accusations. None of my inquiries have upheld those accusations. However, complacency is not an option. We should all continue to demand transparency in how our public resources have been used and what was achieved with our money. Transparency is the best foil for corruption."

My final warning sign relates to the role of the media. You will all have your own stories to tell about how media does, or doesn't function effectively in your country. And when it does function it is increasingly becoming a participant, a player, rather than an observer, recorder and analyst of history.

In NZ, the news media is somewhat in crisis, funding for our only public broadcaster Radio New Zealand has been frozen

for the last eight years and struggles to undertake the job it is meant to do and uphold the standards it holds dear. NZ is the only country in the OECD which does not have a public television broadcaster and we are a poorer nation for that. Our commercial media environment is shrinking with the collapse of the traditional business models, and the number of news media outlets is shrinking and trying to merge or going out of business—that is a real worry for our democracy.

To wrap up; Well-functioning democracies require ethical governments, effective opposition parties and strong media organisations. These help ensure an engaged public. If any of these are compromised then democracy is compromised.

Whether cynically or through inattention, governments that fail to honour the spirit of the Official Information Act and other laws that promote accountability and transparency frustrate the roles of both media and opposition which are an essential part of our democratic system. The transparency underpinning good government suffers, ultimately affecting the public's ability to contribute to effective decision-making in the best interests of New Zealand.

Integrity is precious. Perception of honesty, fairness is important. It is something we should value highly and keep trying to attain. These things matter for public confidence.

My final message is that I fear the cornerstones of good democracy are slowly eroding almost without our knowledge. Certainly without enough attention.

If there is demonstrable slippage in a country like NZ, then what is happening elsewhere? Are we worried about it? Or are we letting it slip under the radar as more erosion occurs?

Brexit and Trump did not occur in isolation. More and more people are becoming disenchanted with what they see as a political class which says one thing and does another. We fail to heed them at our peril.