

# SAARC PARLIAMENTS



LOK SABHA SECRETARIAT  
NEW DELHI  
JULY, 1995

# SAARC PARLIAMENTS

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LOK SABHA SECRETARIAT  
NEW DELHI

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अध्यक्ष, लोक सभा  
SPEAKER, LOK SABHA

12 July, 1995

## FOREWORD

The South Asian Sub-Continent is characterised in many respects by a remarkable degree of homogeneity. The peoples of this region are bound by many common ties including our tradition of parliamentary democracy.

The countries of this region have developed parliamentary institutions in a manner suited to native needs. Implanted institutions do not take deep social roots unless they are adapted to the culture and traditions of a particular country. Therefore, the Parliament of one country need not, and often does not, resemble that of another country. Yet, the spirit behind the institution of parliamentary democracy remains the same, which is to provide a forum to the representatives of the people to express their views and facilitate formulation of policies as per the aspirations of the majority of the people.

While all South Asian countries have Parliaments, there is not much authentic information about the functioning of our respective parliamentary systems available in a single volume. There is also a need to disseminate information about the different Parliaments in this region. Once we understand the functioning of a system, we can appreciate it better. Understanding and appreciation are qualities that can build bridges of friendship and brotherhood amongst different peoples. If the present volume can familiarise us with each others' parliamentary systems more closely, it can also promote the noble ideal '*Love thy neighbour as thyself*'.

Our goals and aspirations are the same. We want to live in harmony with our neighbours and achieve prosperity through a common endeavour. In this, Parliaments as instruments of socio-economic change have a crucial role to play. Knowledge about the functioning of the different Parliaments and their interaction with other institutions is, therefore, valuable and beneficial to one and all. Appropriately, it is brought out for the First Conference of the Association of SAARC Speakers and Parliamentarians.

A handwritten signature in black ink, consisting of several loops and a horizontal line at the bottom.

(Shivraj V. Patil)

## **PREFACE**

This volume containing detailed articles on various aspects of parliamentary systems prevalent in our region is brought out on a significant occasion when Speakers and Parliamentarians of the SAARC are meeting for the first time in a formal forum.

We all feel the urge to know how the vital organs of governance such as the Legislature, the Executive and the Judiciary function in different polities. For a smooth governance of a society these three organs have to respect the domain of one another. Yet law emanates from the Legislature alone and once a law is made it is binding on everybody or at least that is what Dicey's rule of law means. However, Legislatures do not function in a vacuum and the Legislature's relations with other organs assume important connotations in the context of a parliamentary democracy where checks and balances play a very significant role. Therefore, how these three organs interact becomes an important aspect of study for the students of Government and politics of modern states.

The workload of modern Legislatures is ever on the increase. However, the time available is so short that the Legislature as a whole body cannot possibly look into every matter that comes up for deliberation and decision. What is more, modern day governance is so complex that most issues require special knowledge or particular interest for proper comprehension. It is for this reason that the Committee System is attracting a great deal of attention in recent years. The Committee System not only raises the efficiency of parliamentary supervision over and interaction with the Executive domain but also enables members to associate themselves with subjects of their personal interest. India has also introduced a system of departmentally related Standing Committees to scrutinise the Demands for Grants with greater care and to examine other matters as laid down under the relevant rules. This is a recent innovation in our parliamentary democracy and the results have, so far, been quite promising.

All the above issues, which are on the Agenda of the First Conference of the Association of SAARC Speakers and

Parliamentarians, are dealt with at length in this work. The hon'ble Speaker of the Parliament of Sri Lanka, the National Assembly of Pakistan and Secretaries-General who have contributed informative articles at short notice deserve our special thanks. But for their whole-hearted support and cooperation it would not have been possible to bring out this publication in time for the Conference.

It is hoped that this volume would be found useful by the delegates to the Conference and all others interested in the working of the parliamentary system in SAARC countries.

NEW DELHI;  
15 July, 1995

R.C. Bhardwaj  
*Secretary-General*  
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PART I

**ARTICLES ON SAARC PARLIAMENTS**

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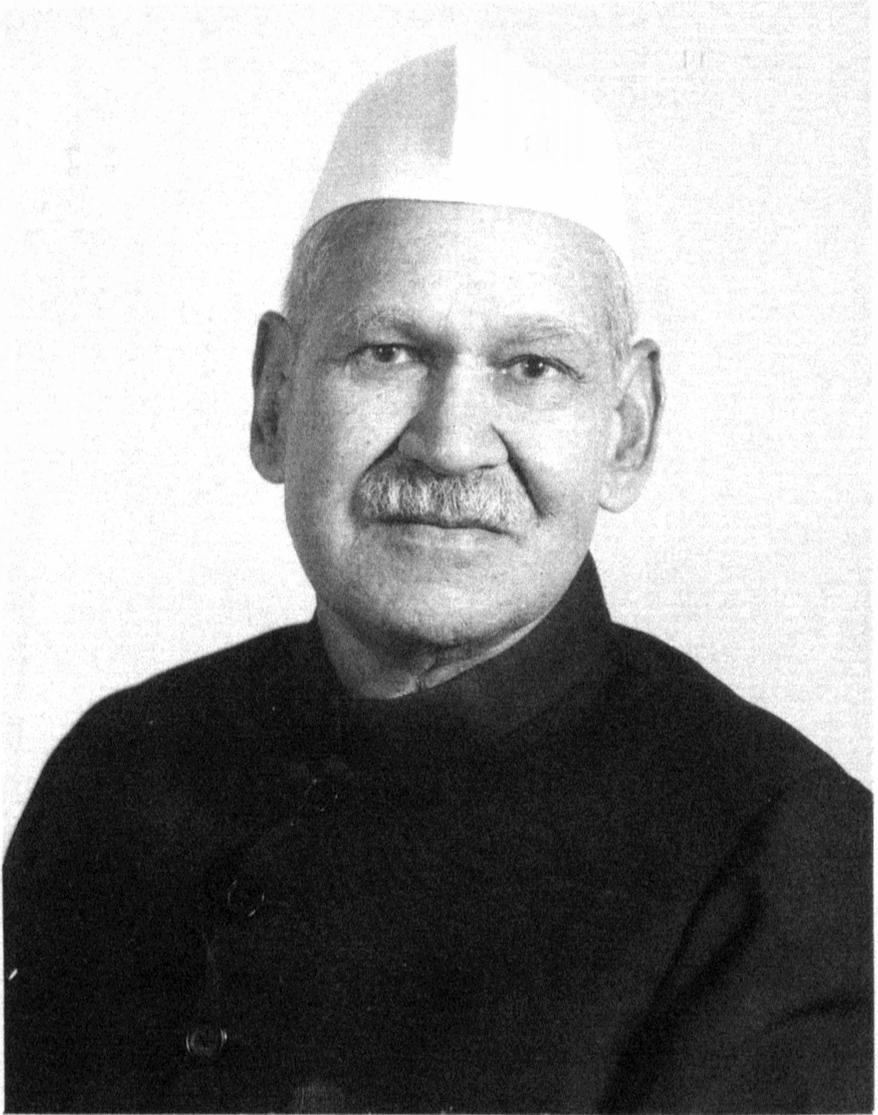
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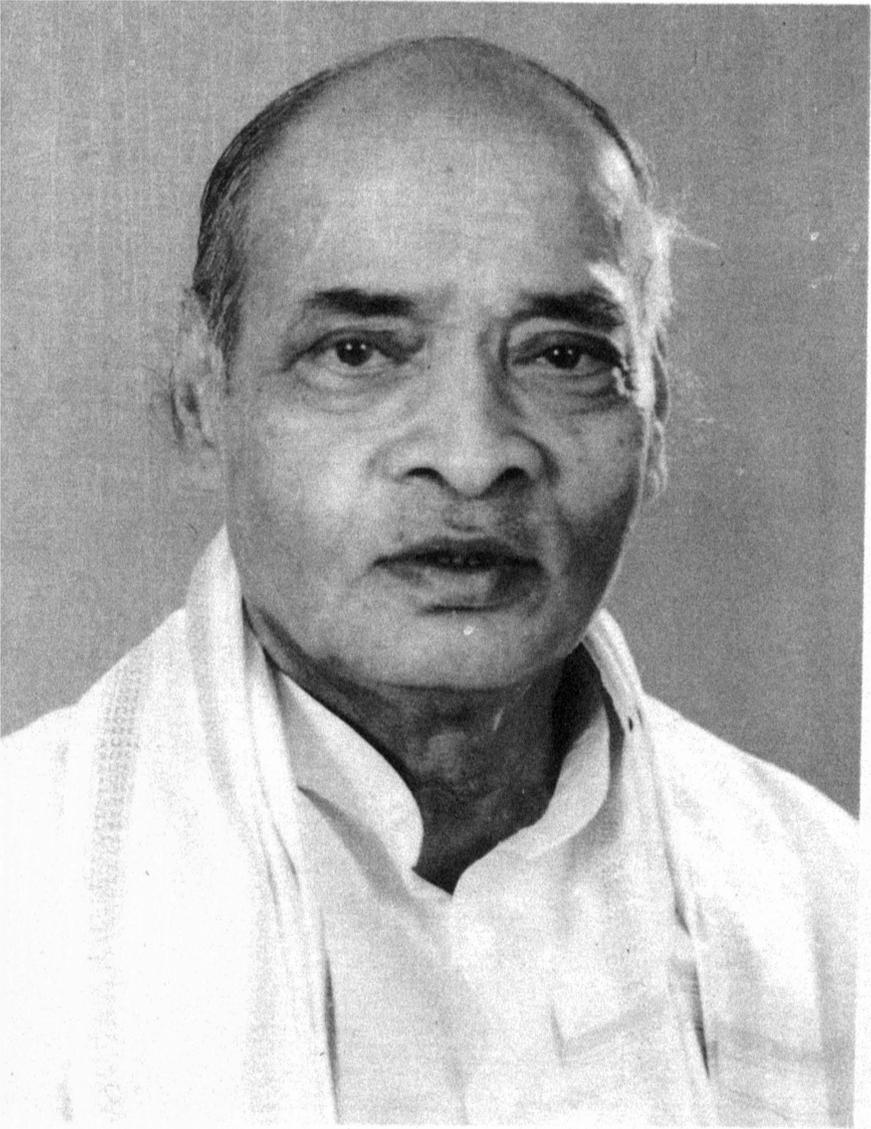
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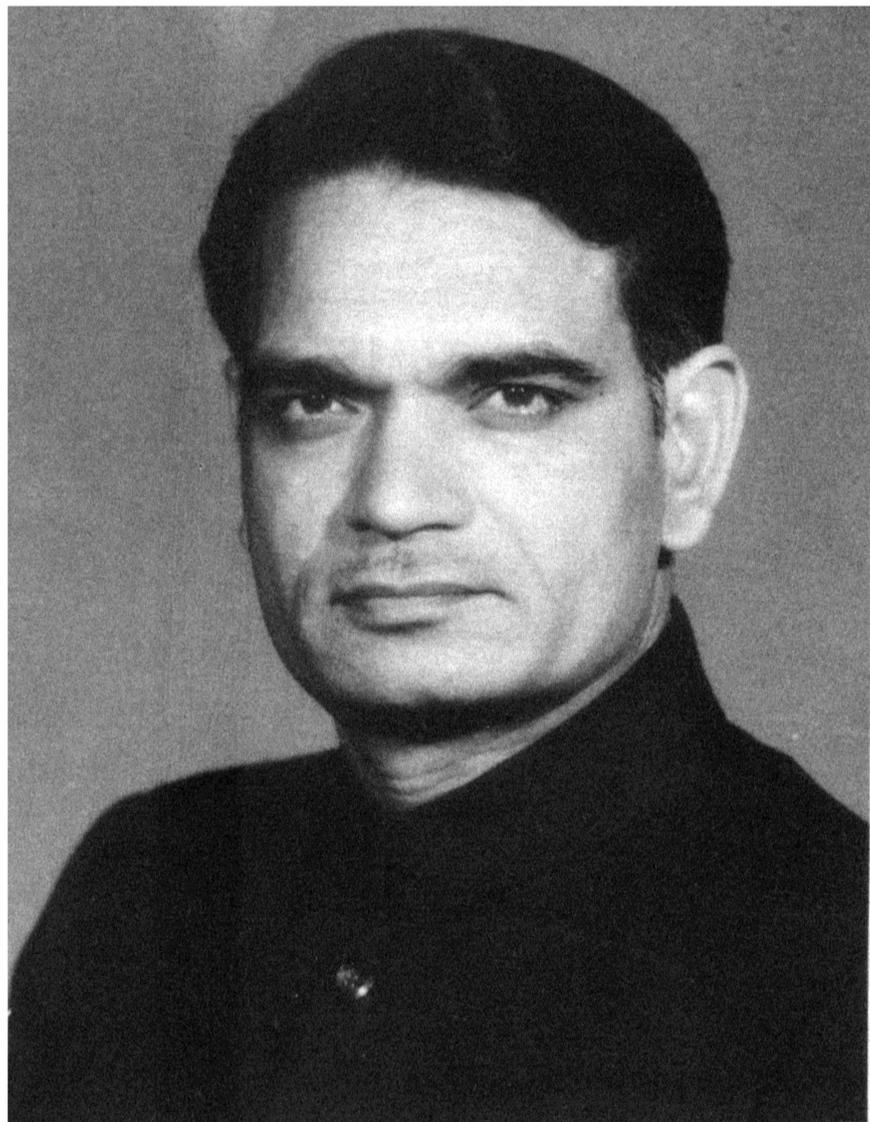
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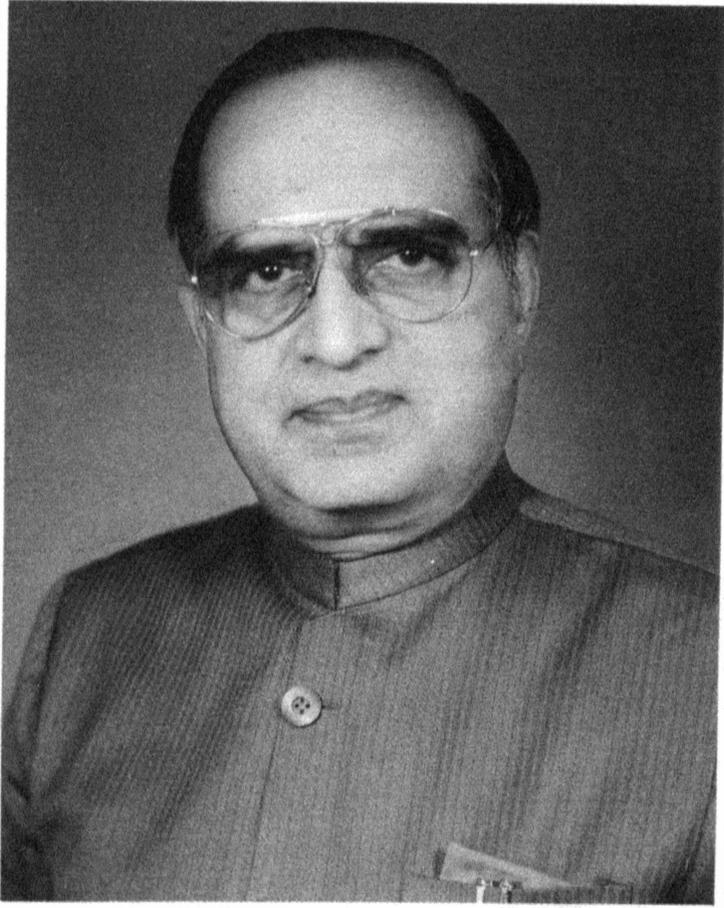
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# PARLIAMENT OF INDIA

R.C. BHARDWAJ

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## I. CONSTITUTIONAL AND PARLIAMENTARY SET-UP

### Democratic Heritage

In the historical setting, we find democracy to be deep-rooted in India. Varied references to democratic norms and institutions are available in the **Vedas**. The **Rig Veda** mentions two institutions, **Sabha** and **Samiti** and delineates their status and functions. Both these institutions wielded immense power and authority so much so that the King's decisions and administrative actions were not legitimized without their approval.

The tradition of democracy which blossomed in the Vedic age matured further in the post-Vedic period. Several ancient literary works like **Arthashastra** and **Mahabharata** confirm the existence of numerous representative bodies. In that age also, sovereignty was to be found in **Dharma**, Law and the Constitution, which used to be the guiding force for the King in his administration. Though the form of government was monarchical, it was a limited constitutional monarchy. At the same time, there was an abundant growth of republican states, designated by several terms. Panini's Grammar which dates back to 500 B.C., has mentioned the existence of as many as eighty republics in those days.

A village was also a dynamic self-governing republic and the State encouraged this natural grouping of the people. **Gram Sanghas**, **Gram Sabhas** or **Panchayats** which used to be the elective bodies at the village level were prevalent throughout. These local democratic institutions survived and flourished, in one or the other form, through the medieval ages and during the British rule because of their effective decision-making process and speedy implementation of decisions taken.

## **Development of Parliamentary Institutions in Modern Times**

The growth of modern parliamentary institutions in India can be traced to our struggle against the foreign rule and an urge for establishing free democratic institutions. Thus, while representative institutions and democratic traditions had deep roots in the country's past, the democratic ethos and temper of the Indian civilisation and the people greatly facilitated the adoption of the modern parliamentary system through a gradual process. The fact remains that parliamentary government and legislative institutions with all their modern ramifications, operational mechanics and processes owe their origin and growth to our British connections.

Until 1853, there was no legislative body distinct from the Executive. The Charter Act of 1853, for the first time, provided some sort of a separate 'Legislature' in the form of a 12-member Legislative Council which included the Governor-General, four members of his Executive Council, the Chief Justice and another Judge of the Supreme Court and others.

The Indian Councils Act, 1861 marked a significant step forward inasmuch as hereafter the Council of the Governor-General for purposes of legislation was to consist of six to twelve additional members nominated by the Governor-General for two years. At least half of them were to be non-officials. Sometimes described as the "prime Charter of the Indian Legislature" inaugurating the "system of legislative devolution in India", the Act of 1861 was followed by the Indian Councils Acts of 1892 and 1909. The 1892 Act, for the first time, provided for the filling up of some seats on the Legislative Council through elections. Of the five "additional" members, four were to be recommended by the non-official members, of each of the four Provincial Councils and the fifth by the Calcutta Chamber of Commerce. This, however, involved no real process of popular election. Also, the functions of the Legislative Council were not substantially enlarged except in the matter of asking questions and discussing certain financial matters.

The Act of 1909 which was in implementation of the Morley-Minto Reforms enlarged the Legislative Council and introduced the principle of election and representation. Official majority on the

Council continued and the control of the Executive over the Legislature was retained.

The Government of India Act of 1919 which gave effect to the Montague-Chelmsford Reforms, established a bicameral legislature at the Centre for the first time and introduced some elements of responsible form of government in the provinces. The Indian Legislature was to consist of the Governor-General and the two Houses—the Council of States and the Legislative Assembly. The Upper House, named Council of States, was to have a maximum of 60 members. Of these, not less than one-half were to be elected and not more than one-third could be officials.

The Lower House, named the Legislative Assembly, was to have a strength of 144, of whom at least five-sevenths were to be elected and at least one-third of the remaining (nominated) were to be non-officials. Thus, there was a majority of elected members in both the Houses. Each of the two Houses was to be presided over by a President. The first Legislative Assembly constituted under the 1919 Act came into being at the Centre in 1921. Sir Frederick Whyte, a member of the British House of Commons was appointed by the Governor-General as the first President of the Assembly for a period of four years. Subsequent Presidents were to be elected by the Assembly from amongst its members. It was in 1925 that the rules regarding the election of the Speaker were made for the first time.

It was as a result of the long and incessant efforts and struggle that the principle of independence of the Legislature Secretariat was established and following the adoption of a resolution moved by Pandit Motilal Nehru on 22 September, 1928, a separate Legislative Assembly Department was finally set up on 10 January, 1929. Earlier, all through 1921-1928, the administrative and secretarial work of both the Houses had been carried on by the Legislative Department of the Government.

Even after the enactment of the Government of India Act, 1935, the Constitution of the Central Government in India, by and large, remained what it was under the Act of 1919, since the federal part of the 1935 Constitution never came into operation; only some

modifications in practice and procedure, as necessitated by the introduction of 'autonomy' in the Provinces were made.

In accordance with the scheme announced by the Viceroy on 3 June 1947, the country was divided into two independent dominions — India and Pakistan. The Indian Independence Act, 1947, passed by the British Parliament, declared the Constituent Assembly of India to be a fully sovereign body, and on the midnight of 14-15 August 1947, the Assembly assumed full powers for the governance of the country. Apart from being a Constitution-making body, it was to function as the Dominion Legislature as well. In 1948, the functions of Legislature were entrusted to "Constituent Assembly (Legislative)" which met as a separate body presided over by a Speaker.

With the coming into force of the republican Constitution of Independent India on 26 January 1950, a full-fledged parliamentary system of government with a modern institutional framework and all its other concomitants was established. The Constituent Assembly became the Provisional Parliament of India and functioned as such until the first General Elections based on adult franchise were held in 1952 and Parliament was constituted under the provisions of the new Constitution.

Over the years, Parliament has, in fact, carved out for itself a unique place in the esteem and affection of the people as the forum through which they articulate and realise their aspirations and ventilate their grievances and seek solutions to their problems. As the supreme representative body of the people—mirroring as it does all constitutionally organised shades of public opinion at the national level—Parliament has become the "grand inquest of the nation" and the greatest national integrational force and has a pre-eminent position in Indian polity.

### **Parliament Today**

The Constitution of India, republican in character and federal in structure, embodies the salient features of the parliamentary system. It provides for a Parliament for the Union, consisting of

the President and the two Houses, namely Rajya Sabha (Council of States) and Lok Sabha (House of the People), in which Lok Sabha has supremacy in financial matters; a Union Executive drawn from both Houses of Parliament and collectively responsible to Lok Sabha, ensuring thereby an intimate relationship between the Union Executive and Parliament; a number of States with basic provisions parallel to those for the Union in respect of the executives and legislature of the States; a head of the State called the President of India acting with the aid and advise of the Union Council of Ministers; rule of law; independent judiciary and a civil service-anonymous and politically independent.

### **The Presiding Officers**

Each House of Parliament has a Presiding Officer. The Presiding Officer of Lok Sabha is called the Speaker and that of Rajya Sabha the Chairman. Lok Sabha has a Deputy Speaker and Rajya Sabha a Deputy Chairman to preside over the respective Houses in the absence of the Presiding Officers. When the offices of both the Speaker and the Deputy Speaker fall vacant, the duties of the office of the Speaker are performed by such member of Lok Sabha as the President may appoint for the purpose. The person so appointed is known as Speaker *Pro-tem* and this nomenclature distinguishes him from the Speaker elected by the House. After his appointment, the Speaker *Pro-tem* continues in office till the Speaker is chosen.

The Chairman and Deputy Chairman of the Council of States are governed by article 88 of the Constitution of India. The Vice-President of India is the ex-officio Chairman of the Council of States. The Deputy Chairman is elected by the House from amongst its members. The election of Deputy Speaker of Lok Sabha is governed by provisions of article 93 which provides that the Speaker and the Deputy Speaker will be elected by the House from amongst its members.

Our Constitution lays particular emphasis on the importance and the independent character of the office of the Speaker in the context of a parliamentary polity. He enjoys vast authority and powers both under the Constitution and the Rules of Procedure and Conduct of Business. Also, he wields many inherent powers. As the

conventional head of Lok Sabha and as its principal spokesman, the Speaker represents its collective voice. The Speaker symbolises the dignity, independence and impartiality of the Legislature on which a parliamentary system of Government is based. He is the guardian of the rights and privileges of the House, its Committees and members. It is through the Speaker that the decisions of the House are communicated to outside individuals and the authorities; he issues warrants to execute the orders of the House, wherever necessary and delivers reprimands on behalf of the House. Within the precincts of the House, his authority is supreme. His conduct cannot be discussed except on a substantive motion.

The Committees of the House function under his overall directions. The Chairmen of all Parliamentary Committees are nominated by him. Any procedural problems in the functioning of Committees are referred to him for directions. Committees like the Business Advisory Committee, the General Purposes Committee and the Rules Committee, however, work directly under his chairmanship.

He enjoys a special position insofar as the relations between the two Houses of Parliament in certain matters are concerned. He certifies Money Bills and decides finally what are "money" matters by reason of Lok Sabha's overriding powers in financial matters. It is the Speaker of the Lok Sabha who presides over the joint sittings called in the event of a disagreement between the two Houses on a legislative measure. Apart from this, the Speaker's authority over the Secretarial staff of the House, its precincts and its security arrangements is supreme.

### **Procedural Devices**

Parliament's role in effecting political and economic changes does not just end with passing legislation. It also ensures implementation of laws by controlling Executive actions through various parliamentary devices. These devices are as follows:

**The Question Hour:** One of the most important and effective parliamentary devices through which matters of urgent public importance can be raised on the floor of the House and the

accountability of the administration ensured, is the Question procedure. The first hour of every sitting is normally devoted to Question. Questions are of three types : (i) Starred Questions, (ii) Unstarred Questions, and (iii) Short Notice Questions. A Starred Question is one to which a member desires an oral answer in the House. Answer to such a question may be followed by supplementary questions germane to the main one and arising out of the reply given by the Minister. In the case of Unstarred Questions and such Starred Questions as are not reached for oral answer during Question Hour, written answers are deemed to have been laid on the Table by the concerned Ministers. A Short Notice Question is one which relates to a matter of urgent public importance and can be asked with a notice shorter than the normal period prescribed for a question. For questions other than Short Notice Questions, the period of notice prescribed is not less than ten and not more than twenty-one clear days. A Short Notice Question is answered after the Question Hour and may, as in the case of any question for oral answer, give rise to supplementaries.

**Half-an-Hour Discussion:** Closely connected with the Question Hour is the provision for Half-an-Hour Discussion. Under this procedure, a member may give notice for raising a discussion on a matter of sufficient public importance which has been the subject of a recent question, oral or written, and the answer to which needs elucidation on a matter of fact.

**Motion of No-Confidence:** The Council of Ministers being collectively responsible to Lok Sabha as per provisions of the Constitution, a motion of no-confidence in the Council of Ministers can be moved in Lok Sabha by any member by giving appropriate notice. No-confidence motions cannot be moved in Rajya Sabha. Under the Rules of Procedure and Conduct of Business in Lok Sabha, leave of the House must be sought by not less than fifty members standing in support before such a motion can be moved. If a motion of no-confidence is passed, it is a conclusive evidence that the Government of the day has lost its credentials to govern and it must, therefore, resign forthwith.

**Motion of Confidence:** While it is true that there is no specific provision in the rules regarding a motion expressing confidence in

the Council of Ministers, it does not follow that such motions would be inadmissible or that a motion of no-confidence which is the prerogative of the Opposition must necessarily get precedence over a motion of confidence sponsored by the ruling party. Indeed, there have been occasions when motions of confidence in the Council of Ministers were admitted and discussed in the House. Like all other motions on matters of public interest, the motions expressing confidence in the Council of Ministers are governed by the provisions of Rules 184 to 192 of the Rules of Procedure and Conduct of Business in Lok Sabha which deal with motions in general.

It is also pertinent to mention that both types of Motions which are in fact two sides of the same coin fall essentially within the ambit of the rules dealing with Motions in general. In other words, all Motions, including a Motion of No-confidence, have to satisfy the conditions laid down in the relevant rules governing Motions in addition to the conditions laid down in Rule 198.

**Adjournment Motions:** The Adjournment Motion is an extraordinary procedural device, since its primary object is to set aside the normal business of the House and take up for discussion an urgent matter of public importance. A motion for an adjournment of the business of the House can be moved with the consent of the Speaker and leave of the House. Not less than 50 members should rise in their places in support in order to get the leave of the House.

After leave of the House to the moving of an Adjournment Motion has been granted and time fixed for its discussion, the Speaker usually allows the motion to be moved at the appointed time which is normally at 1600 hours. At the end of the discussion, the motion "that the House do now adjourn" is put to vote. If the motion is negatived, the business which was interrupted by the Adjournment Motion is resumed for some time before the House is adjourned for the day.

**No-Day-Yet-Named Motion/Short Duration Discussion:** Members may raise discussion on a specific matter of public importance by giving notice either of a motion popularly termed

as “No-Day-Yet-Named Motion” or of a “Short Duration Discussion”. While notice for a No-Day-Yet-Named Motion is so worded as to record the decision of the House on the subject, the notice for a Short Duration Discussion provides an opportunity for discussion of a situation or a statement, but there is no question of putting it to the vote of the House. After admission of notices by the Speaker, anyone of these motions may be selected by the Business Advisory Committee for discussion in the House and, thereafter, it is included in the List of Business. The mover of the motion in the case of a No-Day-Yet-Named Motion has the right of reply in addition to the privilege of initiating the discussion.

**Calling Attention Notice:** A Calling Attention Notice is essentially in Indian procedural innovation. Under Rule 197 of the Rules of Procedure and Conduct of Business in Lok Sabha, a member may, with the prior permission of the Speaker, call the attention of the Government through the concerned Minister to a matter of urgent public importance and request the Minister to explain the Government’s views or stand thereon. The matter is normally raised after the Question Hour. Although there can be no debate when the statement is made, the members concerned may raise points for clarification and elucidation by the Minister.

**Private Members’ Resolutions:** Specific matters are also discussed through Private Members’ Resolutions which are in the form of substantive motions. The last-two-and-a-half hours of the sitting on every alternate Friday during the session are devoted to Private Members’ Resolutions. Members securing priority in the ballot get a chance to move such resolutions.

**Rule 377 and Special Mentions:** Another Indian procedural innovation is that of raising matters under Rule 377 in Lok Sabha or through Special Mentions in Rajya Sabha. According to this procedural device, a member who wishes to bring to the notice of the House any matter which is not a point of order, can do so if he has given a notice thereof in writing to the Secretary-General and the Speaker/Chairman has permitted him to raise such a matter in the House.

While earlier matters allowed to be raised under Rule 377 were limited to questions of constitutional or legal importance which were within the jurisdiction of the House or which related to the business of the House or its procedure—something akin to points of order but which fell short of being points of order as such, a more liberal attitude is being adopted since the Fourth Session of the Sixth Lok Sabha. As many as eight notices under Rule 377 are now being allowed on each day so that members could raise various matters of public importance particularly those concerning their constituencies. Such matters as could previously be raised in questions for answers or in a call attention notice are also permitted to be raised under this rule.

## **II. PARLIAMENT: RELATIONS WITH THE EXECUTIVE AND JUDICIARY**

### **Relationship between Parliament and the Executive**

The relationship between the Executive and the Legislature is most intimate. The two have not been envisaged as competing organs of the State but as inseparable partners in the business of the Government. Their relationship is that of a part with the whole. However, there exists a clear distinction between the functions of the Executive and those of Parliament.

Under article 53(1) of the Constitution, the executive power of the Union is vested in the President, but under article 74(1) there is to be a Council of Ministers with the Prime Minister at the head to aid and advise the President, who shall, in the exercise of his functions, act in accordance with such advice. It is open to the President in any given case to ask the Council of Ministers to reconsider any advice he may have been given in terms of article 74(1), but he "shall act in accordance with the advice tendered after such reconsideration". The President has thus been made a formal or constitutional head of the Executive and the real executive powers are vested in the Ministers or the Cabinet.

Several provisions in the Constitution relating to Parliament—those pointing to its vast legislative powers, its control over the nation's purse, the accountability of the Executive to the popular House and the requirement of its support for any Ministry to continue in office, its participation in the election and impeachment

of the Head of the State and in the removal of the incumbents of other high offices under the Constitution, the requirement of its approval in cases of proclamation of Emergency and its power during an Emergency, and above all, its constituent power, to mention only the more important provisions—all go to underscore the pre-eminent position of Parliament in the country's constitutional and political set-up.

Constitutionally and in practice, Parliament and the Executive in India are linked together as partners in the conduct of public affairs by a whole network of relationships. There is, however a clear distinction between the functions of the Executive and the functions of Parliament. Parliament in India, as in other parliamentary democracies, is a multi-functional institution, performing a variety of roles.

In India, as in most other countries of the world, the initiative of legislative proposals belongs to the Executive and rightly so, because it has at its command all the technical expertise and informational wherewithal necessary for the purpose. This has, however, given rise to an impression that Legislatures have declined as lawmakers and been reduced to mere “rubber stamp legitimizers” of Executive proposals. This is rather an extreme view. For, what emanates from the administrative corridor is but a draft, a legislative proposal, still to be refined in the legislative crucible to bring it in line with the nationally favoured policy and make it a socially relevant law. It is the Legislature which provides a forum for organised articulation of the various shades of public opinion in the country and exercises a shaping influence in the legislative process by getting the principal issues thrashed out, the details of legislation scrutinised and the interests of affected parties heard. It is the Legislature which provides the final touches and gives the final shape to legislation in the course of its passage through various stages before it becomes law.

Bills do undergo changes on the floor of the House and in the Committees. But, in assessing the Legislature's contribution in law-making, to simply compute the percentage of legislative proposals that have undergone modification on the legislative floor and in Committees, or even a qualitative assessment by analysing the

occurrence of significant modifications, would be a routine kind of exercise stopping short in the realm of the tangible. For, that would be completely leaving out of account the pressures and influences the Legislature keeps continually exerting on the Executive. The form in which a measure is brought forward by the Executive may in particular cases itself owe to the parliamentary opinion prior to the formulation of the legislative proposals, though not explicitly so acknowledged. And, even after a Bill is passed, the views expressed by members are taken into account by the administration while framing rules and regulations under the statute and later during the implementation of the measure in the field.

It may need be stressed here that while it is necessary that the right policies and laws are formulated to meet the developmental needs of the society, it is equally important that these should be implemented in letter and spirit. In the absence of proper implementation, laws cannot be expected to fulfil their intended purpose or to yield the desired results. And, the implementation depends upon the machinery—the Government and the administrative services in the country. It is the administration that has to carry out the laws.

The entire administrative apparatus has to be fully conscious of its accountability to Parliament. It has to be on its toes all the time to face parliamentary scrutiny and meet the demands and expectations of parliamentary institutions. Significant occasions for review of administration are provided by the discussions in Parliament on the Motion of Thanks on the President's Address and the Budget including Demands for Grants from various Ministries and Departments and the proposals to raise funds for meeting expenditure. These apart, specific matters may be discussed, as mentioned earlier, through motions on matters of urgent public importance, private members' resolutions and other substantive motions. Discussions can also take place on motions for modification of statutory rules and on annual reports of Departments and Undertakings. Government actions in specific fields can also be discussed or local problems aired through cut motions. In extreme cases a motion of no-confidence can be moved against the Government. Along with these, a close and continuous check on

governmental activities is exercised through a comprehensive system of parliamentary committees. Some of the other specific procedural devices evolved for parliamentary surveillance over the administration include laying of papers on the Table of the House, Questions, Half-an-Hour Discussions, Adjournment Motions, etc. All these devices enable information to be elicited and attention focussed on various aspects of governmental activities.

Under obligations cast by the Constitution, acts of Parliament, or resolutions, conventions or practices of the House, the Government makes available information to Parliament by placing papers on the Table. As the papers so placed become public documents and may even lead to a debate or discussion in the House, administration has to be very vigilant and meticulous in the preparation and presentation of these papers. If there is any undue delay or defect or lapse, deliberate or otherwise, in the submission of these papers, it is likely to be severely criticized in the House. If something goes wrong with the information being disseminated by the administration in regard to Governmental activities, not only the Department but also the Minister concerned have to face the consequences. In the ultimate analysis, it is the Minister who has to account for the lapses on the part of the administration. The administration, therefore, has a heavy responsibility to be always watchful and to work with the utmost honesty and efficiency in the matter.

The various parliamentary procedures thus afford ample opportunity for the daily and periodic assessment of Ministerial responsibility and administrative accountability and for criticism and influencing of Government policy as well, for ventilating people's grievances. The relationship between the Executive and the Parliament in the scheme of parliamentary oversight of Administration has, however, to be appreciated in the right perspective; that this relationship is most intimate and does not admit of any antagonism. Expressions like 'control' and 'overseeing' are likely to give an impression of an 'unequal' relationship between Parliament and the Executive. Actually, the close association and intimate involvement of Parliament and Executive are the characteristic features of the parliamentary system

of Government. Whatever the activity Parliament is engaged in at any time, be it legislation, ventilation of the grievances of the people, voting of supplies, discussion on matters of urgent public importance, the Executive is necessarily involved. The success of Parliament depends upon fulfilling adequately its role by responding to the aspirations of the people and the commitment of our public functionaries in the implementation of the approved policies and programmes. The relationship between the Executive and the Parliament is thus one of interdependence, based on mutual trust and confidence. While broadly speaking the Executive has vast freedom in shaping policies and taking steps to implement them, Parliament enjoys the right to call for information and to oversee whether the Government have acted in conformity with their obligations and utilised the powers conferred on them for the purpose for which they were intended. It does not follow, however, that Parliament actually participates in or even habitually interferes with the administrative work of the Ministers. The Executive and the Parliament also have their own distinctive roles.

Parliamentary oversight of Administration is not an end in itself. It is meant to galvanize, not supplant Executive initiative and efficiency; its aim is to promote, not to impair administrative will for action. The relationship between the Parliament and the Executive is not a static equation but one that keeps subtly changing all the time with changing times and situations, needing therefore constant reappraisal and redelineation. The tasks which Governments and Parliaments face today, particularly in the Third World countries, are complex and gigantic. Now, more than ever before, our institutions and procedures have to be viewed from the perspective of their relevance and adequacy in taking us nearer our end goals as a democratic society. Parliament and administration in the present day must function with full awareness of the fact that both are equal and active working partners in the democratic enterprise, with a common stake in its success. The duty and responsibility of oversight, which Parliament exercises on behalf of the people, is only meant as an aid and spur to ensure more efficient public management. The problem before Parliaments everywhere is as to how to harmonise the needed latitude for

effective Executive performance with the requirements of public accountability. The ideal situation would be a state of dynamic and creative equilibrium where, in an atmosphere of mutual respect and confidence, the Executive enjoys all the freedom it needs, remaining at the same time responsive to parliamentary influence and direction, where the Parliament respects the Executive and the Executive feels parliamentary influence all the time.

The growing volume of socio-economic legislation in our day has made the role of the Administration even more crucial. In developing societies particularly, the urgent needs of socio-economic reconstruction have radically altered the concept of the role of the civil services. A country like India, seeking rapid industrial, social and economic development through planned economy, has to draw upon the civil servants as much for the efficient implementation of the progressive policies, as for expert advice in determining the priorities and making socio-economic readjustments.

### **Relationship between Parliament and Judiciary**

As regards the relationship between Parliament and judiciary, it is well known that the Indian Constitution accords an important place to the judiciary with the Supreme Court at the apex of the judicial system.

Both Parliament and State Legislatures are sovereign within the limits assigned to them by the Constitution. The supremacy of the legislature under a written Constitution is only within what is in its power and it is for the Courts to say what is within its power and what is not, if a specific act is challenged.

All laws (whether Union law, State law or delegated legislation) are subject to the doctrine of *ultra vires* and liable to judicial review. The scope of review is limited to see whether the impinged legislation falls within the periphery of the power conferred and whether it contravenes any of the articles of the Constitution. The Courts are concerned only with interpreting the law and are not to enter upon a discussion as to what the law should be. The legislature can amend laws to meet the lacunae or defects pointed out therein by the Courts, or legislate afresh to give effect to their

original intentions and any such amendments as approved by the Legislature are accepted by the Courts as valid law.

In the last resort, Parliament which is vested also with the constituent power, can amend any of the provisions of the Constitution to override the effect of a judicial decision, but without altering the basic structure or framework of the Constitution. The final say as to what the Constitution means, however, rests with the Supreme Court.

Subject to the provisions of the Constitution, Parliament and the State Legislatures can regulate their own procedure. The validity of any proceedings in either House of Parliament or a State Legislature cannot be questioned before a court of law on the ground of any alleged irregularity of procedure. Apart from Parliament or the State Legislatures, the Presiding Officer of each House or any other officer or Member of Parliament or State Legislature who is for the time being vested with the powers to regulate procedure or the conduct of business or to maintain order in, or to enforce or carry out the decision of, either House of Parliament or the State Legislature, as the case may be, is not subject to the jurisdiction of the Courts in exercise of those powers.

The Courts have no jurisdiction to issue a writ, direction or order relating to a matter in respect of what is done in the House or which affects the internal affairs of the House. Similarly, the Presiding Officer is also not subject to the jurisdiction of any court for failure to exercise his power to regulate the proceedings of the House. The Constitution guarantees immunity from proceedings in any court in respect of "anything" said in the House or any Committee thereof, and "anything" has been held to be equivalent to "everything".

In order to secure the independence of the Judges, both from the executive as also from the legislature, specific provisions have been made in the Constitution to provide that the conduct of a Judge of the Supreme Court or a High Court 'in the discharge of his duties' cannot be discussed in Parliament except upon a substantive motion for presenting an address to the President for removal of a Judge.

Thus, judicial conduct of a Judge of the Supreme Court or of a High Court cannot be discussed on the floor of the House in any debate or commented upon collaterally, by way of a motion for adjournment or question, etc. The only mode of discussing the conduct of a Judge in the discharge of his duties is upon a motion for his removal and that too when the motion is tabled under the specified provisions and the procedure prescribed therein is followed. If in the discharge of his judicial functions, a Judge comes to an erroneous finding or makes adverse comments upon any person, the only course open is to appeal against that decision, if an appeal, review or revision lies. The protection of the Judge in this regard is limited to matters connected with his judicial duties and does not apply to his private conduct.

The State Legislatures are prohibited from discussing the conduct of a Judge of the Supreme Court or of a High Court in the discharge of his duties.

Matters relating to appointment of Chief Justice of India and supersession of Judges of Supreme Court etc. have, however, been discussed in the Lok Sabha.

Normally, matters relating to judicial functions of the Courts are not permitted to be raised in the House but questions asking for factual information about High Courts or the extent of arrears pending in the High Courts have been admitted and answered in Lok Sabha. Similarly, private members' resolutions regarding the arrears of work in the High Courts, vacations in High Courts or the general question of transfer of Judges among different High Courts have also been admitted. Judgements given by Courts can be referred to in the course of speeches by members to explain a point of view, to suggest whether the laws need be changed and, if so, in what manner, or to pin-point criticism against the Government or individuals referred to in the judgement. Members may also observe that a particular conclusion was erroneous on the facts, or the facts were not properly placed before the Judge.

It is the absolute privilege of the Legislatures and members thereof to discuss and deliberate upon all matters pertaining to the governance of the country and its people. Freedom of speech on

the floor of the House is the essence of parliamentary democracy. Certain restrictions on this freedom have, to a limited degree, been self-imposed. One such restriction is that discussions on matters pending adjudication before courts of law should be avoided on the floor of the House, so that the courts function uninfluenced by anything said outside the ambit of trial.

It is a well-established rule that discussion on a matter which is *sub judice* is out of order, and it has been held that a matter is not *sub judice* until legal proceedings have actually started. The question whether a particular matter is *sub judice* is decided by the Speaker on the merits of each case.

A matter does not become *sub judice* if a writ petition for admission is pending before a court.

Under the Rules of Lok Sabha, any matter which is under adjudication by a court of law having jurisdiction in any part of India cannot be raised in the House in any form, such as questions, adjournment motions, motions, resolutions, and cut motions. An adjournment motion, though admitted cannot be proceeded with at the appointed hour if by that time the subject matter thereof has become *sub judice*. If the subject matter of an adjournment motion consists of two parts and one part becomes *sub judice* after leave of the House to the moving of the motion has been granted, discussion on the motion is restricted to the other part which is not *sub judice*. The rule has been extended to matters pending before a parliamentary committee, any statutory tribunal or statutory authority performing any judicial or *quasi-judicial* functions or any commission or court of inquiry appointed to inquire into, or investigate any matter. Such matters are not ordinarily raised by way of a question, adjournment motion, resolution, motion or cut motion. The Speaker may, however, admit a question in case it refers to matters concerned with procedure or subject or stage of inquiry if it is not likely to prejudice the consideration of the matter by the tribunal or commission or court of inquiry. Likewise, the Speaker may, in his discretion, allow any such matter being raised in the House, on an adjournment motion, resolution, motion or cut motion as is concerned with procedure or subject or stage of inquiry if he is satisfied that it is not likely to prejudice the

consideration of such matter by the statutory tribunal, statutory authority performing any judicial or *quasi-judicial* functions, or commission or court of inquiry.

A member, during the course of his speech, is required not to refer to any matter of fact on which a judicial decision is pending. Discussion on a matter which is *sub judice* is out of order. If an objection is raised that a member should not be allowed to quote from a document as it would prejudice a case pending judicial decision, the Speaker may permit the member to quote only that portion which is relevant to contradict points raised by the Minister in his statement laid on the Table.

So far as privilege matters are concerned, a Legislature is the sole judge of its privileges, and the rule of *sub judice* does not apply.

The rule of *sub judice* cannot stand in the way of legislation. If the rule of *sub judice* were to be made applicable to legislation, it would not only make Legislatures subordinate to the courts in that matter but would make enactments impossible because numerous cases concerning a large number of statutes await adjudication in one court or another at all times. Parliament's main function to make laws will thus come to a standstill. This is neither sanctioned by the Constitution nor justified on merits. Legislatures are supreme and sovereign in the matter of making laws and there is no bar on their work in the field of legislation. The members, however, refrain from referring to the facts of a case pending before a court, when a Bill is under discussion in the House.

### III. COMMITTEE SYSTEM

#### **Committees: Constitution, Composition, Role, Functions and Powers**

In Parliament of India, as in many other Parliaments, the work done is not only varied in nature, but considerable in volume. Since the time at the disposal of the House is limited, it cannot give close consideration to all the legislative and other matters that come up before it. Secondly, review of administrative actions and scrutiny of numerous and complicated legislative proposals, subordinate

legislation, etc., are hardly possible on the floor of the House. As a result, much of the work of Parliament is done through its Committees. Moreover the Committee atmosphere is more suited for any in-depth and, as far as possible, non-partisan examination of matters away from the glare of publicity. Accommodation of differing points of view and compromises through give and take, etc., are easily achieved in Committees.

Origin of the Committee system in India can be traced back to the advent of the Montague-Chelmsford Reforms, but the Committees of those days, like the Central Legislative Assembly itself, were not free from Governmental control and interference. They had no powers and privileges or procedures; and they could not even frame rules for their own internal working.

A parliamentary committee is appointed or elected by the House or nominated by the Speaker. It means a parliamentary committee may be constituted either under the provisions of the Rules of Procedure and Conduct of Business or in pursuance of an Act of Parliament or on a motion or resolution adopted by the House. It works under the direction of the Speaker/Chairman and presents its report to the House or to the Speaker/Chairman; the secretarial work for it is done by the Secretariats of the Parliament.

Lok Sabha possesses an organised system of Committees. Our Constitution does not make any specific provisions in regard to parliamentary committees, but they are mentioned in several articles. Article 88 enshrines the right of Ministers and the Attorney General to speak in any Committee of Parliament of which he may be a member. Article 105 provides that no court proceedings can be initiated against a member for anything said or any vote cast in a Committee of Parliament. Appointments, terms of office, functions and main lines of procedure for conducting business of the Committees are regulated under the provisions of the Rules of Procedure and Conduct of Business and Directions by the Speaker. There are three sets of rules relating to parliamentary committees. 'General Rules' (Rules 253-86) are applicable to all the Committees. 'Specific Rules' make special provisions for particular Committees and 'Internal Rules' regulate the internal procedure of each parliamentary committee and are made by the Committees themselves with the approval of the Speaker.

The members of parliamentary committees are appointed or elected by the House on a motion, or nominated by the Speaker or Chairman. Select or Joint Committees on a Bill are appointed on a motion, adopted by the House. Members of all Financial Committees, the Committee on Welfare of Scheduled Castes and Scheduled Tribes and the Joint Committee on Offices of Profit are elected every year by members, according to the system of proportional representation by means of single transferable vote. Rest of the Committees are nominated by the Presiding Officer of the House concerned. Some of the Committees are constituted by each House separately, others are constituted jointly by both the Houses. As in the case of Joint Committees, members of Committee on Public Accounts, Committee on Public Undertakings, Committee on the Welfare of Scheduled Castes and Scheduled Tribes and the Committee on Government Assurances, are drawn from both Lok Sabha and Rajya Sabha.

Different Parties and Groups are represented in parliamentary committees more or less in proportion to their respective strengths in the House. Usually the Committees are reconstituted every year on the basis of names of members suggested by Leaders of Parties/Groups for consideration of, and selection by, the Presiding Officers.

The Chairman of a parliamentary committee is appointed from amongst the members of the Committee by the Presiding Officer of the House to which it belongs. If the Presiding Officer himself is a member of the Committee, he is invariably its Chairman. Where he is not a member, but his Deputy is, then the latter is appointed the Chairman.

A parliamentary committee holds office for a period not exceeding one year or for a period specified by the Speaker or until a new Committee is nominated. The Business Advisory Committee, Committee on Petitions, Committee of Privileges and the Rules Committee continue in office till reconstituted whereas other Standing Committees hold office for a period not exceeding one year. If no term is specified by the Speaker/Chairman in regard to an *Ad-Hoc* Committee, it continues in office till the completion of work and presentation of report, if any.

Powers of the Committees of Lok Sabha are as laid down in the Constitution, the Rules and the Directions issued thereunder by the Speaker from time to time. Rules relating to certain Committees, instead of conferring specific powers on them, provide that the general rules applicable to parliamentary committees shall apply to them with such adaptations, whether by way of modification, addition or omission, as the Speaker may consider necessary or convenient.

Under the provisions of the Salary, Allowances and Pension of Members of Parliament Act, 1954, the Joint Committee on the Salaries and Allowances of Members of Parliament has the power to regulate its procedure. The act empowers the Joint Committee to appoint one or more Sub-Committees from time to time.

A Committee may take oral and/or written evidence or call for documents in connection with a matter under its consideration, examination or investigation.

A Committee has the power to make a special report on any matter that arises or comes to light in the course of its work which it may consider necessary to bring to the notice of the Speaker or the House, as the case may be notwithstanding that such matter is not directly connected with, or does not fall within, or is not incidental to, its terms of reference.

Where a case warrants a special procedure for conducting the business of a Committee, that Committee may pass resolutions on matters of procedure relating to it for the consideration of the Speaker, who may make such variations in procedure as he may consider necessary.

To supplement the provisions contained in the rules and the Directions issued by the Speaker, a Committee may, with the approval of the Speaker, make detailed rules of procedure for its internal working.

## Types of Committees

Both Houses of Parliament have a similar Committee structure, with a few exceptions. Their appointments, terms of office, functions and procedure for conducting the business, are also, more or less, similar and are regulated under the provisions of the Rules made by the two Houses under article 119(1) of the Constitution.

There are two types of parliamentary committees, *viz.*, (i) Standing Committees and (ii) *Ad-hoc* Committees. Standing Committees are elected by the House or nominated by the Speaker (Lok Sabha)/Chairman (Rajya Sabha) every year or from time to time, as the case may be, and are permanent in nature, whereas *Ad-Hoc* Committees are constituted by the House or by the Speaker/Chairman, to consider and report on specific matters and become *functus officio* as soon as they have completed their work.

### Standing Committees

**Financial Committees:** Among the Standing Committees, the three Financial Committees – **Committees on Estimates, Public Accounts** and **Public Undertakings**—constitute a distinct group as they keep an unremitting vigil over Governmental spending and performance. While members of Rajya Sabha are associated with the Committees on Public Accounts and Public Undertakings, the Members of the Committee on Estimates are drawn entirely from Lok Sabha. The control exercised by these Committees is of a continuous nature. They gather information through questionnaires, memoranda from representative non-official organisations and knowledgeable individuals, on-the-spot studies of organisations and oral examination of official and non-official witnesses. Between them, the Financial Committees examine and report on a fairly large area of the activities of the Union Government.

These Committees have adequate procedures to ensure that their recommendations are given due consideration by the Government. The progress in the implementation of the recommendations as well as any unresolved differences between the Committees and the Government are set out in 'Action Taken Reports' which are presented to the House from time to time.

**Other Standing Committees:** Other Standing Committees, in each House, divided in terms of their functions, are:

**(i) Committees to inquire**

- (a) The Committee on Petitions examines petitions on bills and on matters of general public interest and also entertains representations on matters concerning subjects in the Union List; and
- (b) The Committee of Privileges examines any question of privilege referred to it by the House or the Speaker, Lok Sabha/Chairman, Rajya Sabha.

**(ii) Committees to scrutinise**

- (a) The Committee on Government Assurances keeps track of all the assurances, promises, undertakings, etc. given by Ministers in the House and pursue them till they are implemented;
- (b) The Committee on Subordinate legislation scrutinizes and reports to the House whether the powers to make regulations, rules, sub-rules, bye-laws, etc., conferred by the Constitution or statutes are being properly exercised by the authorities so authorized; and
- (c) The Committee on Papers laid on the Table examines all papers laid on the Table of the House by Ministers, other than statutory notifications and orders which come within the purview of the Committee on Subordinate Legislation, to see whether there has been full compliance with the provisions of the Constitution, act, rule or regulation under which the paper has been laid.

**(iii) Committees relating to the day-to-day business of the House**

- (a) The Business Advisory Committee recommends the allocation of time for items of Government and other business to be brought before the House;
- (b) The Committee on Private Members' Bills and Resolutions of Lok Sabha classifies and allocates time to Bills introduced by private members, recommends allocation of time for discussion on private members' resolutions and examines Constitution amendment bills before their introduction by private members in Lok Sabha. Rajya Sabha does not have such a Committee. It is the Business Advisory Committee of that House which recommends the allocation of time for the discussion of stage or stages of private members' bills and resolutions;
- (c) The Rules Committee considers matters of procedure and conduct of business in the House and recommends amendments or additions to the rules; and
- (d) The Committee on Absence of Members from the Sittings of the House of Lok Sabha considers all applications from members for leave of absence from the sittings of the House. There is no such Committee in Rajya Sabha. As such, applications from its members for leave of absence are considered by the House itself.

**(iv) Committees concerned with the provision of facilities to Members**

- (a) The General Purposes Committee considers and advises the Speaker, Lok Sabha/

Chairman, Rajya Sabha on matters concerning the affairs of the House, which do not appropriately fall within the purview of any other parliamentary committee; and

- (b) The House Committee deals with the residential accommodation and other amenities for members.

**(v) Joint Committees**

- (a) The Committee on the Welfare of Scheduled Castes and Scheduled Tribes on which members from both Houses serve, considers all matters relating to the welfare of the Scheduled Castes and Scheduled Tribes which come within the purview of the Union Government and keeps a watch whether the constitutional safeguards in respect of these classes are properly implemented.
- (b) The Joint Committee on Salaries and Allowances of Members of Parliament constituted under the Salary, Allowances and Pension of Members of Parliament Act, 1954, apart from framing rules for regulating payment of salary, allowances and pension of Members of Parliament, also frames rules in respect of amenities like medical, housing, telephone, postal, constituency and secretarial facilities.
- (c) The Joint Committee on Offices of Profit examines the composition and character of the Committees and other bodies appointed by the Union and State Governments and Union Territories, Administrations and recommends what offices ought to or ought not to disqualify a person from being a member of either House of Parliament; and

- (d) The Library Committee consisting of members from both Houses, considers matters concerning the Library of Parliament.

### **Ad-hoc Committees**

The *ad-hoc* Committees may broadly be put into two categories:—(i) the Select or Joint Committees on Bills which are appointed to consider and report on particular Bills and (ii) Committees which are constituted to inquire into and report on a specific subject.

### **Innovations in the Committee System**

The Parliament of India has, over the years, introduced several innovations in the Committee system. The Business Advisory Committee, Committee on Government Assurances, Committee on Papers Laid on the Table and Committee on the Welfare of Scheduled Castes and Scheduled Tribes, which are unique in the Indian parliamentary set-up have been discussed earlier. The Departmentally-Related Standing Committees which have been introduced recently, are discussed in the following paragraphs:

**Departmentally-Related Standing Committees:** The most significant development has been the appointment of Departmentally-related specialised Standing Committees of the Legislatures covering the entire spectrum of administration for an in-depth and continuous study.

In 1980, ten subject-based Committees were set up by the Kerala Legislature as a sequel to the unanimous recommendations of the All-Parties Committee set up by the Speaker, Kerala Legislative Assembly in 1979. Though each Committee was assigned a fairly well-defined subject area, the main functions of all these Committees were, *inter-alia*, to scrutinise the Demands for Grants, to examine legislation and to consider the draft of rules to be framed by Government or other authorities in pursuance of the rule-making powers delegated by an Act of the Legislature. These Committees could study and report on specified areas of Governmental activity or project, scheme or undertaking intended for general welfare.

West Bengal was the second State in the country to introduce subject Committees to cover vital areas of governmental activity. In 1987-88, three Committees, one each, on Health and Family Welfare, Panchayats and Environment were set up. In 1988-89, one more Committee, Committee on Education was set up.

Proposals to set up subject Committees are at various stages of consideration with many other State Legislatures also.

Insofar as Union Parliament is concerned, efforts finally reached fruition when on 18 August 1989, Parliament constituted three such Committees relating to Agriculture, Science and Technology and Environment and Forests.

The functioning of these three Committees for over three years proved their utility as viable instruments to ensure proper Legislative scrutiny over the activities of various Departments of the Government. There was general consensus among all concerned that the present Parliament should go in for a full-fledged Committee system. Speaker Shri Shivraj V. Patil took the initiative and discussions were held with the Prime Minister, Leaders of parties, members and others. Thereafter, the agreed proposals were placed before the Rules Committee of Lok Sabha. Finally, the Rules Committee in its third report, presented to Lok Sabha on 29 March 1993, recommended the setting up of seventeen Departmentally-related Standing Committees of Parliament. The Rules Committee of Rajya Sabha also adopted the same report which were presented to Rajya Sabha on 29 March 1993. Both Houses adopted the rules on the same day.

Seventeen Departmentally-Related Standing Committees were, thus, constituted. Out of these eleven are under the domain of Lok Sabha and six under the Rajya Sabha. The Committees on Agriculture, Communications, Defence, Energy, External Affairs, Finance, Food, Civil Supplies and Public Distribution, Labour and Welfare, Petroleum and Chemicals, Railways, Urban and Rural Development are serviced by Lok Sabha while the Committees on Commerce, Home Affairs, Human Resource Development, Industry, Science & Technology, Environment & Forests and Transport & Tourism are serviced by Rajya Sabha.

Each Committee consists of 45 members. 30 members from Lok Sabha are nominated by the Speaker and the remaining 15 members from Rajya Sabha are nominated by the Chairman.

The Chairman of a Committee is appointed by the Chairman, Rajya Sabha/Speaker, Lok Sabha from amongst the members of the Committee. The term of the Committee is one year.

Under the rules, the Standing Committees consider: (i) the Demands for Grants of the concerned Ministries and make a report to the Lok Sabha within one month; (ii) such Bills pertaining to the concerned Ministries as are referred to by the Speaker and make report thereon to the House; (iii) the papers on basic, major and important policies referred to them by the Speaker and report thereon to the House; (iv) the annual reports and the reports on the implementation of the policies and make reports thereon to the House; and (v) other matters of the concerned Ministries referred to them by the Speaker.

As regards consideration of the Demands for Grants, the procedure to be followed by the Standing Committees is as follows:

- (a) after the General Discussion on the Budget in the House is over, the House adjourns for a month;
- (b) the Committees consider the Demands for Grants of the concerned Ministries during the period of one month's recess of the House;
- (c) the Committees make their reports within a period of one month and do not ask for more time;
- (d) the Demands for Grants are considered by the House in the light of the reports of the Committees and then passed;
- (e) where the reports are required to be made on the basis of votes given by the members in the Committees, because of the constitutional provisions, the members of Lok Sabha in the Committee only have the right of vote; and

- (f) there is a separate report on the Demands for Grants of each Ministry.

The Procedure to be followed by the Committees in examining the Bills is as follows:

- (a) after the general principles underlying the Bills have been considered by the House, the Committees consider the general principles and the clauses of the Bills and make their report to the House;
- (b) consideration of the clauses of the Bill is done by Lok Sabha in the light of the reports submitted by the Committees;
- (c) the Committees consider only the important Bills introduced in the House and the importance of such Bills is decided by the Speaker;
- (d) the Committees do not consider the secret Bills, Finance Bills and the Appropriation Bills;
- (e) with the permission of the Speaker, urgent Bills may be considered and passed by the House without being considered by the Committee; and
- (f) the Committees are required to make reports on the Bills in the shortest possible time.

The new Committee system represents a path-breaking endeavour in the area of parliamentary surveillance over administration. With the emphasis on their functioning on long-term plans and policies, these Committees can provide necessary direction, guidance and inputs for broad policy formulation and in the achievement of the long-term national perspective by the Executive.

Before the setting up of the Departmentally-Related Standing Committees, there were many important Ministries/Departments whose Demands for Grants were not discussed for years together due to paucity of time.

During the last three years, although the number of Ministries/Departments discussed on the floor of the House remains low, there was a qualitative improvement in that the demands of almost all the Ministries/Departments were discussed at length in the Departmentally-Related Standing Committees.

Shri Shivraj V. Patil, the Speaker of Lok Sabha in his meeting with the leaders of political parties on 19 February 1994 made the following observations reiterating guidelines to the Standing Committees for examination and report:

“The purpose of having the Standing Committee is very specifically mentioned in the rules. One purpose is to see how the Five Year Plan decides allocations for various developmental projects. The second aspect is to see whether the Annual Plan has been implemented or not. Thirdly, to see whether the amount made available was properly spent or not. If it is not spent, whether the physical targets have been achieved or not. If they are achieved, whether the quality of work is up to the standard or not. Of course, quality aspect requires a lot of time. You can also see whether the estimates made ... were properly done or not. Sometimes, they ask for more money and do not spend the amount. Sometimes, they do not ask for enough funds and then funds are not available when the work begins. That is wrong estimation. So, these are the criteria which are to be applied. Within these parameters, one can make a meaningful report.”

Lauding the endeavours of these Committees, the Speaker, Shri Shivraj V. Patil made the following observations at a Press Conference on 13 May 1994:

“The Committee System of Parliament has worked successfully during its first year. The Committees would in future be able to function more effectively and ensure Government accountability on Budget performance.”

He added:

“The Committee’s reports and recommendations were not binding on the Government, but the Government shall have to explain to the Committee as to what follow-up action the

Ministers took and if not, explain the reasons for their inability. A Committee would also have the power to direct the Ministry concerned to implement its recommendations after taking into account the Government response.”

Releasing the compendium on Departmentally-Related Parliamentary Standing Committees, on 18 May 1995, Speaker Shri Patil appraised the performance of these Committees and observed that in order to facilitate follow-up of the recommendations on Demands for Grants of 1994-95, the 11 Committees of the Lok Sabha made as many as 356 recommendations. Of these, 206 recommendations, constituting 58 per cent were accepted by the Government. While 51 recommendations forming 14 per cent were not pursued by the Committee in view of Government’s replies, recommendations in respect of which replies of the Government have not been accepted by the Committees numbered only 65. Besides, there were 34 recommendations in respect of which interim replies have been received from Government and firm replies are still awaited.

In 1995-96, the 17 Committees considered in-depth the Demands for Grants of the respective Ministries/Departments and adopted 51 Reports containing a total of 1,043 recommendations/observations.

### **Impact of the Financial Committees**

A reference to the reports of some Financial Committees during the last few years would indicate that these Committees have had a positive and constructive approach. To illustrate, some of the reports presented by the Financial Committees during the last few years were as under:

The Estimates Committee (1991-92), in its Seventh Report on ‘Role of Controller of Capital Issues, Development of Capital Market and Status of Small Investors’ suggested that the Capital Issue Control Act, 1947 shall be repealed without further delay. However, such of its provisions which continue to be relevant, particularly in the context of protection of investors against exploitation by unscrupulous elements, should be incorporated in the proposed legislation in regard to the role, functions and powers

of Securities and Exchange Board of India (SEBI). The Committee further suggested that the Office of Controller of Capital Issues should be abolished and such of its functions as continue to be relevant should be transferred to SEBI. Besides, the Public Sector Undertakings should be treated in the same manner as Private Companies in regard to issue of Bonds, Debentures, Shares, etc.

The importance of this Report can be gauged from the fact that the recommendations/observations made by the Committee have been accepted by the Government. On 29 May, 1992, the Capital Issue Control Act, 1947 was repealed by an Ordinance. Consequent to the repeal of Capital Issue Control Act, 1947, the Office of Controller of Capital Issues has been abolished. Securities Exchange Board of India (SEBI) has been created with a number of functions including limited or narrow function (such as regulation of Primary Market) of CCI, which continues to be relevant. Apart from this, the guidelines and regulations issued by SEBI provide sufficient legal and administrative safeguards to protect investors particularly small or individual investors against exploitation. With the repeal of Capital Issue Control Act, the SEBI has taken over the limited functions of the CCI.

Again the Estimates Committee (1993-94) in its Thirty-eighth Report on Ministry of External Affairs—Consular, Passport and Visa Division deals with the action taken by Government on the recommendations contained in their 5th Report (10th Lok Sabha) on the Ministry of External Affairs—Consular, Passport and Visa Division, which was presented to the Lok Sabha on 27 February, 1992.

In pursuance of the recommendation of the Committee regarding the dropping of the appendage "Chief Controller of Emigration" from the designation of Chief Passport Officer, the Chief Passport Officer is no longer titled "Chief Controller Emigration". Regarding the computerisation in various sections, work in this area has started. The computerisation of the Delhi RPO is extensive and Bombay and CPV Division have been taken up in this financial year. Regarding the recommendation of relaxation of visa restrictions, the Government have said that visa policy is generally determined by political considerations and reciprocity.

Action to remove many restrictions has already been taken. A uniform visa fee scale has been introduced and missions have been authorised to issue long-term multiple entry visas in a wide variety of cases.

The Public Accounts Committee (1993-94) in its Sixty-fifth Report on "Central Pollution Control Board—Audit Review" have identified certain vital areas relating to pollution control in general and the functioning of Central Pollution Control Board (CPCB), in particular requiring immediate governmental attention. Besides, the Committee also extensively dealt with the threat caused by pollution to the world famous historical monuments in Agra-Mathura region particularly the Taj Mahal and the related issues. The Committee also desired that the Government should take measures on priority basis for pollution control in other areas which have been identified as environmentally sensitive from the historically important point of view or due to other considerations.

In pursuance of the recommendations of the Committee as of December 1993, 1,003 of 1,531 units in the large and medium sector had provided the requisite pollution control equipments to comply with the standards and others were in the process of installing the same. Pursuant to the discussion held in a meeting with State Environmental Secretaries and Chairmen of Central and State Pollution Control Boards/Union Territories in January 1994, wilful defaulters had been identified and the Central Board issued directions to the State Boards for taking action against each of these units as a case by case review basis. As on 30 June, 1994, 319 units (29 in Central Public Sector), 91 in State Public Sector, 63 in Cooperative Sector and 136 in Private Sector were yet to comply with the standards.

As regards measures taken on priority basis for pollution control in other areas which have been identified as environmentally sensitive from the historical point of view or due to other considerations, the Ministry of Environment & Forests has constituted a consultative group to prepare a draft policy paper on approach to conservation of man-made heritage from the environmental angle.

Regarding the integration of various major Central Acts on environment with the object of protecting environment, implementing international decisions and consolidating and amending major Central Acts on the subject, the Indian Law Institute has submitted a report delineating a detailed scheme on comprehensive legislation which was circulated to the States/UTs, concerned Ministries and NGOs for their views/comments. A project to draft a Bill has also been sanctioned to the Indian Law Institute which also envisages a workshop for obtaining wider participation. The Ministry intends to appoint a Committee of legal experts and an officer having field experience of pollution control to oversee the drafting of the comprehensive legislation. The Indian Law Institute will have a representative in the Committee, and will draft the legislation in time with the guidelines evolved by the Committee.

Another important report of the Public Accounts Committee (1994-95) was on 'Integrated Rural Development'. Its 95th Report on Integrated Rural Development Programme (IRDP) identifies certain major areas of concern under IRDP requiring immediate Governmental attention. These are low per capita investment, non-preparation of five year perspective and annual plans, failure to conduct household surveys for identification of beneficiaries, coverage of ineligible families, lack of proper monitoring and evaluation of IRDP and overlapping of programmes, etc.

The Ministry of Rural Development have said that according to the monitoring of the programme done by them, a total disbursement of Rs. 13,360.29 crore was made to 256.81 lakh beneficiaries under IRDP during the period 1985-86 to 1992-93. The Ministry also stated that they have made several efforts to raise the level of investment per family. According to them, the physical targets were reduced from a peak level of 39.64 lakh families in 1987-88 to 18.75 families in 1992-93. As a result, level of investment per family rose from Rs. 4,470 to Rs. 7,889.

Regarding the reasons for IRDP not having been able to make any significant improvement in bringing the poor above the poverty-line, the Ministry of Rural Development stated that the performance of the programme should be judged in the context of enabling the

assisted families to enhance their income levels and improve their living standards and not necessarily by their poverty-line.

An important point to be emphasised is that one should not forget the limits under which the committees are required to function. The Committees should function within the ambit of the jurisdiction and should not try to cross the limits laid down under the Constitution or the rules of procedure. In a democratic set-up the Legislature or the Executive should not transgress the boundaries demarcated for them under the Constitution. The Legislature has to see whether or not the Executive is functioning according to the policy framed or within the ambit of its authority delegated to it by the Legislature or the Constitution. It can certainly criticise the functioning of the Government and suggest remedial measures for any default, negligence or unauthorised act of the Government. The committees can express their views and make recommendations in the form of a report, but it is none of their business to direct any authority or the Government to do or not to do any particular act or to do certain act in a particular way. This should be taken care of, especially by the committees during the study tour. In this regard, the following observations of the Select Committee of the House of Commons is most pertinent:

The control means influence, not direct power; advice, not command; criticism, not observation; security, not initiation and publicity, not secrecy.

The role of the committees in a democratic set-up is distinguished and demarcated and if they function effectively in a proper manner and within the ambit of their authority, they may not find any difficulty to have proper control and influence over the functioning of the Executive.

### **Conclusion**

Parliamentary democracy in India has struck deep roots. Our Parliament has always represented a cross section of the society. It would not be out of place to say that Indian Parliament is a barometer of the nation. Whatever happens in any part of the country finds its immediate reflection in the Lok Sabha which is a living and throbbing institution of the people. We may justifiably

claim that on the whole the parliamentary system has worked well in our country.

The success or failure of any system is, in the final analysis, judged by the nature and extent of its contribution towards the moral and material advancement of the society. Since Independence, we have made remarkable progress in many fields. The sentiments of national unity and national integration are today stronger and much more widely shared than was the case a few years ago. The spirit of equality, freedom and justice that informs our Constitution has released its own impulses. In directing and harnessing these powerful impulses to constructive ends, the legislative institutions in our country have made their distinctive contribution.

It goes without saying that the effectiveness of the entire democratic system depends upon those who administer and those who are administered. What is equally important is to imbibe certain values. The following observations of India's first Prime Minister Jawaharlal Nehru are of great significance in this context:

“Parliamentary democracy demands many virtues. It demands, of course, ability. It demands a certain devotion to work. But, it demands also a large measure of cooperation, discipline and restraint.”

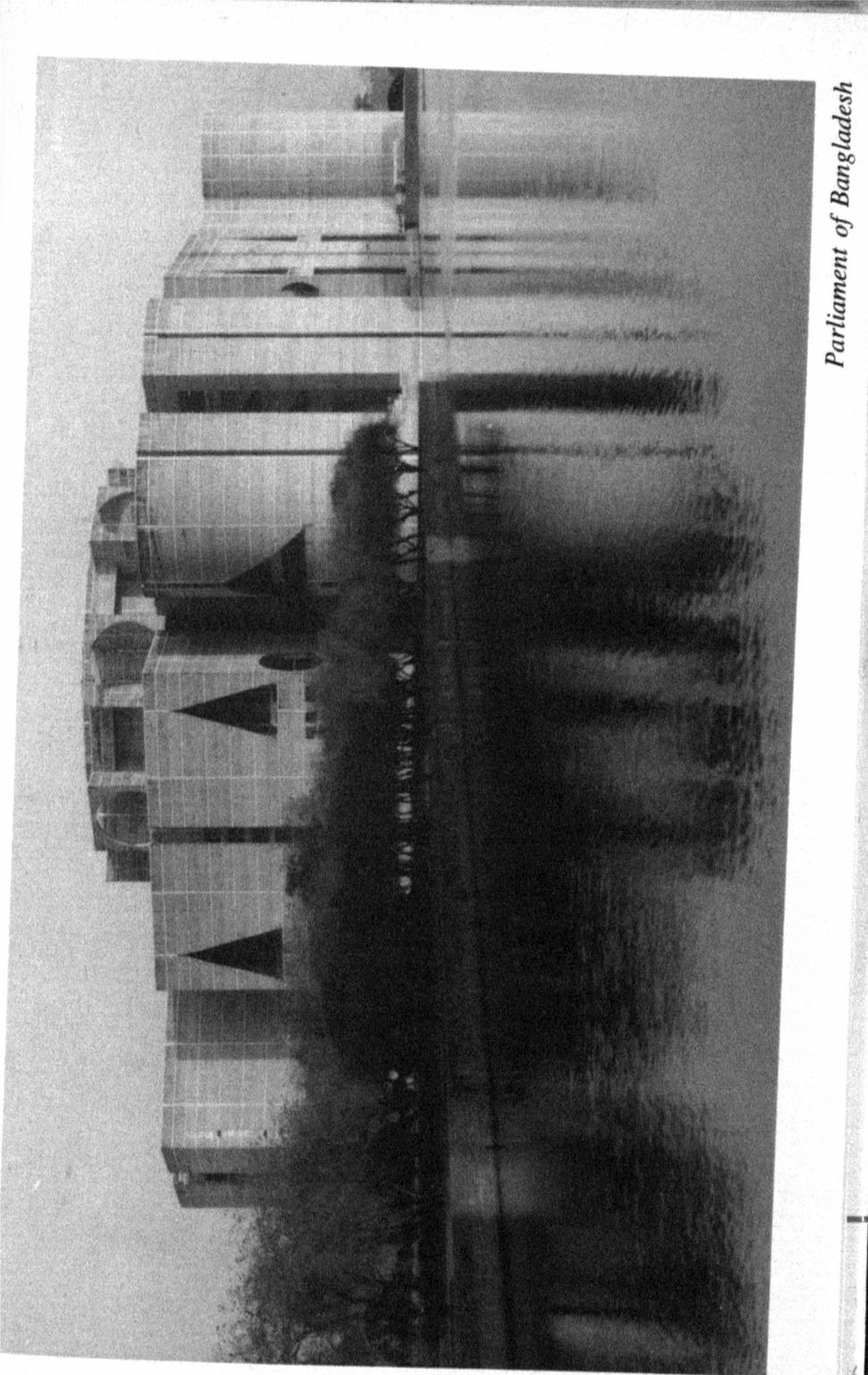
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# BANGLADESH

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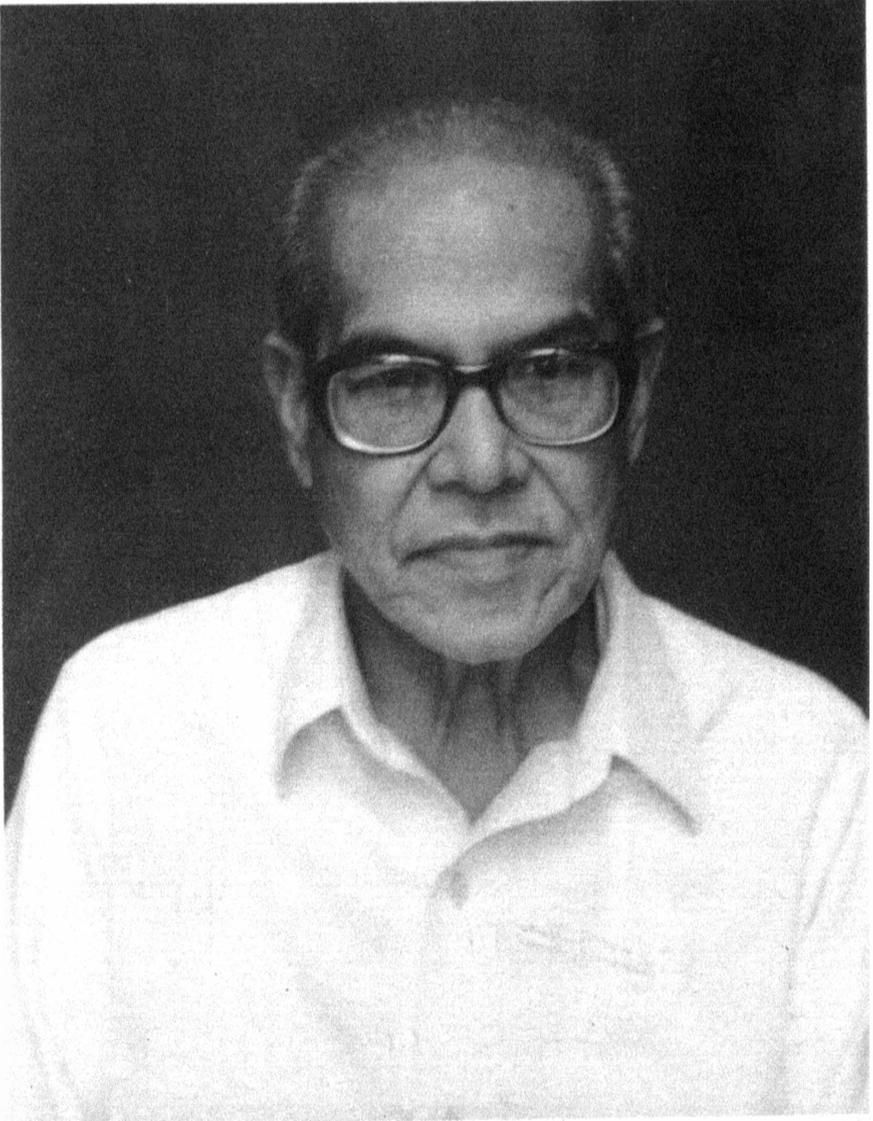
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*Parliament of Bangladesh*



**Hon. Shaikh Razzaque Ali**  
*Speaker, Bangladesh Parliament*



**Hon. Humayun Khan Panni**  
*Deputy Speaker, Bangladesh Parliament*



**Mr. Abul Hashem**  
*Secretary, Bangladesh Parliament*

# **BANGLADESH PARLIAMENT AND ITS STANDING COMMITTEES**

ABUL HASHEM

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## **Introduction**

Parliaments of the world transact a great deal of their business through their Standing Committees. Like other Parliaments, Bangladesh Parliament also does the same.

## **Standing Committees of Bangladesh Parliament**

Article 76 of the Constitution of Bangladesh provides for the following Standing Committees of Parliament :

- (i) Public Accounts Committee
- (ii) Committee on Privileges
- (iii) Such other Standing Committees as the Rules of Procedure of Parliament require.

Under the provisions of Article 75 (I) of the Constitution of Bangladesh, the Rules of Procedure were framed by Parliament on 22 July, 1974.

The Rules of Procedure provide for the following Standing Committees of the Parliament of Bangladesh :

- (i) Committee on Public Accounts ..... (Rule 233)
- (ii) Committee on Public Undertakings ..... (Rule 238)
- (iii) Committee on Estimates ..... (Rule 235)
- (iv) Committee on Privileges ..... (Rule 240)
- (v) Committee on Government Assurances ..... (Rule 244)
- (vi) Committee on Rules of Procedure ..... (Rule 265)
- (vii) Committee on Private Members' Bills and  
Private Members' Resolutions ..... (Rule 222)

- |  |            |
|--|------------|
| (viii) Business Advisory Committee .....         | (Rule 219) |
| (ix) Petitions Committee .....                   | (Rule 231) |
| (x) House Committee .....                        | (Rule 249) |
| (xi) Library Committee .....                     | (Rule 257) |
| (xii) Standing Committees on Ministries (34).... | (Rule 246) |

Some Standing Committees are appointed or elected by the House and others are nominated by the Speaker from amongst its members according to the principle of proportional representation. The Committee works in accordance with the provisions of the rules of Procedure and presents its report to the House or to the Speaker. The term of office of each Standing Committee is five years. But Parliament can reconstitute any Committee at any time.

Any matter arising in connection with the business of the Standing Committee for which no specific provision exists in the Rules of Procedure is decided by the Speaker and his decision is final.

### **Standing Committees which are elected or appointed by the House**

- (i) Committee on Public Accounts
- (ii) Committee on Public Undertakings
- (iii) Committee on Estimates
- (iv) Committee on Privileges
- (v) Committee on Government Assurances
- (vi) Committee on Rules of Procedure
- (vii) Committee on Private Members' Bills and Private Members' Resolutions
- (viii) Committee on Ministries

In addition to these Standing Committees stated above, the Parliament has the power to constitute special Committees/Select Committees as and when necessary.

### **Standing Committees which are nominated by the Speaker**

- (i) Business Advisory Committee
- (ii) Petitions Committee
- (iii) House Committee
- (iv) Library Committee

The functions of the Standing Committees have been stated in the Rules of Procedure.

### **Standing Committees on Ministries**

After the independence of the country, the first Parliament constituted a Committee to frame an effective Rules of Procedure. The framers of the Rules of Procedure gave special emphasis on Parliamentary Standing Committees on each Ministry of the Government. In a parliamentary form of Government the Ministers are responsible to Parliament. Practically the functions of the Ministries are conducted by the Secretary and other Officers of the Ministry concerned. The framers of the Rules of Procedure felt it necessary to have some provisions of accountability of the bureaucracy also to Parliament. The Secretary of the particular Ministry is the Principal Accounting Officer. He has to appear before the Standing Committee and explain the activities of the Ministry.

The Standing Committees on Ministries have the following functions :

- (i) to examine draft bills and other legislative proposals;
- (ii) to review the enforcement of expending law and propose measures for such enforcements ;
- (iii) to review the overall activities of the concerned Ministry; and
- (iv) to examine, if it deems fit, any such other matter as may fall within the jurisdiction of the Committee.

In addition, the Committee has power to investigate any irregularity of the Ministry and recommend for its remedy.

Each Standing Committee on the Ministry consists of ten members, including the Chairman. A Standing Committee meets once in a month.

The Minister/the Minister of State of a Ministry is the *ex-officio* Chairman of the Standing Committee of that Ministry.

If the Minister or the Minister of State is not a member of Parliament or if there be no Minister or Minister of State in charge of a subject relating to a Standing Committee, the Speaker, in consultation with the Leader of the House, appoints a Chairman of that Committee from amongst the members of Parliament.

The Standing Committees have power to form Sub-Committees. The Secretarial work for the Standing Committees (is) done by the Secretariat of Parliament which is constituted under Article 79 of the Constitution.

The Ministerial Committees have already proved to be effective. Since the Minister or Minister-in-charge of a Ministry is the Chairman, the Committee gets all co-operation from the Ministry. The Committee discusses various problems and advises the Ministry on various matters, including development matters. The advice of the Committee is taken into consideration by the Government. These Committees not only perform the functions of watch-dogs but also work as a bridge between the Ministry and Parliament. The members of the Committee have scope to point out the problems of their constituencies and solve (them) with the help of the Minister and the officers of the Ministry. The Committee presents its report to Parliament from time to time and the people get an opportunity to know the activities of the Ministries from these reports.

### **Effectiveness of the Standing Committees of the Parliament**

The Parliamentary Standing Committees are effective. Normally the reports of the Standing Committees are not discussed in Parliament. The system of Parliament Standing Committees in the Bangladesh Parliament is practically useful in dealing with the matters which, on account of their special or technical nature, are better considered in detail by a small number of members rather

than by the Parliament itself. Moreover, the system helps to save the time of the House for discussion on important matters and prevents Parliament from getting lost in details and thereby losing hold on matters of policy and broad principles. This system also helps members of Parliament to get themselves acquainted with the parliamentary business and law making procedures.

The recommendations of a Parliamentary Committee are normally accepted and implemented by the Government. If in regard to any recommendation the Government holds a view different from that of the Committee, the Government has to apprise the Committee of the reasons for not implementing the recommendations/suggestions. The matter is considered by the Committee and a further report, if deemed necessary, may be presented to Parliament. When a difference of opinion between the Committee and the Government remains unsolved, the case is referred to the Speaker for guidance.

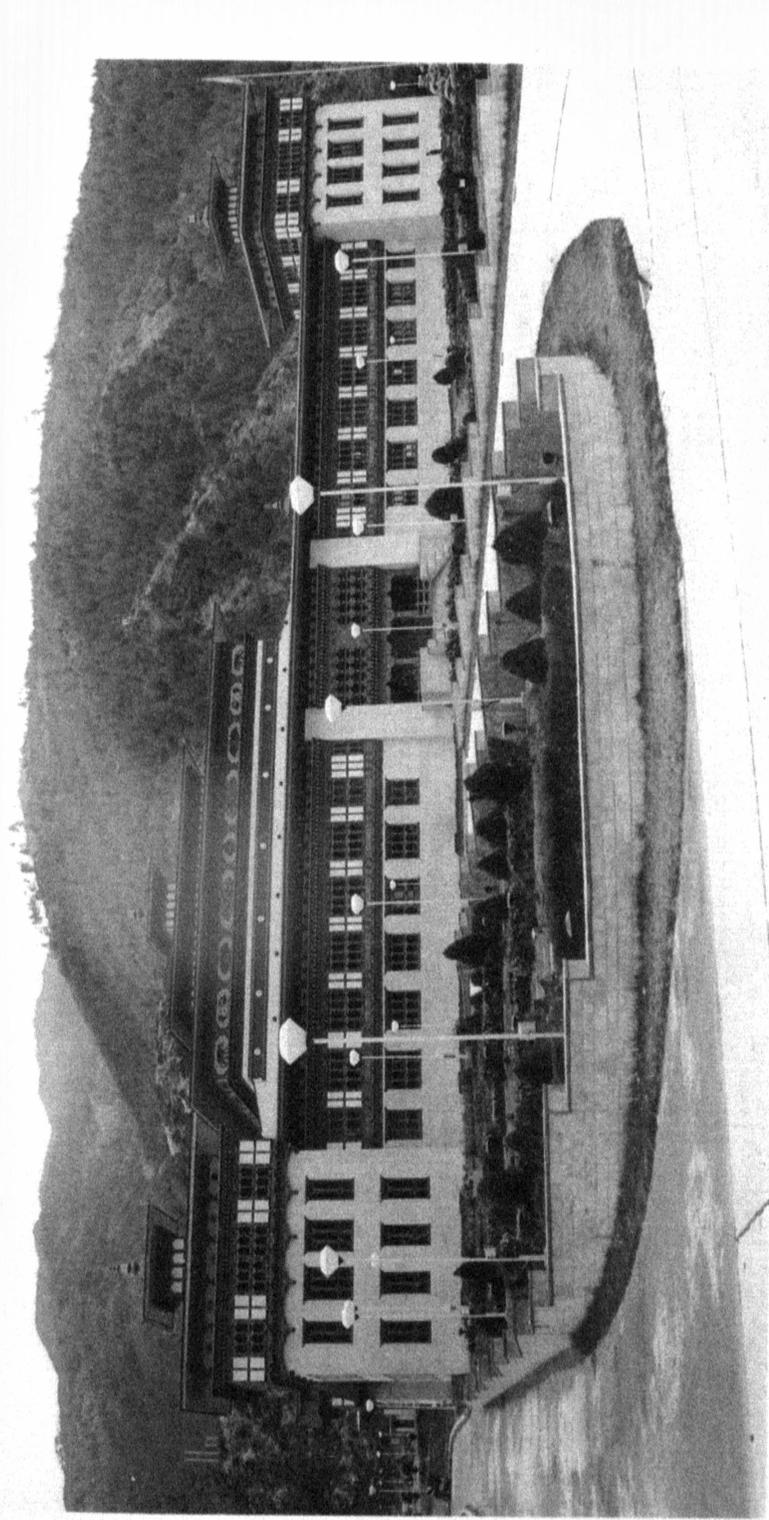
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# BHUTAN

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*National Assembly of Bhutan*



**Hon. Dasho Passang Dorji**  
*Speaker, National Assembly of Bhutan*



**Mr. Tashi Phuntsog**  
*Secretary, National Assembly of Bhutan*

# **NATIONAL ASSEMBLY OF BHUTAN**

**TASHI PHUNTSOG**

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## **Introduction**

The year 1907 marks the beginning of a new era in the history of Bhutan. On 17 December of that year, the whole body of the clergy, the State Councillors, the Chillahs of all the districts, and the representatives of the people met at Punakha and unanimously elected Tongsa Penlop Ugyen Wangchuck as the first hereditary King of Bhutan. He brought peace and stability to the country and laid the foundation for the emergence of modern Bhutan.

The reign of the third King Jigme Dorji Wangchuck was marked by the progressive opening of the country to the outside world.

The very first of many visionary initiatives taken by the third King, was the establishment of the Tshogdu (National Assembly) in 1953. Although the people said they were not ready for such a forum, the King insisted on the establishment of the National Assembly to discuss issues of national interest, promote public welfare and develop political consciousness among the people so that they could play a greater role in the decision making process and running of the country.

## **Procedures and Election**

The proceedings of the National Assembly are regulated by the Rules of Procedure of the National Assembly. All the members are required to report to the National Assembly two days prior to the commencement of the Assembly Session during which time the newly elected members take their oath and complete other formalities. The conduct and proceedings of a National Assembly Session in Bhutan is unique. The elaborate traditional ceremonies during the inaugural and closing Sessions, the observance of a dress and speech code, proper floor decorum, mandatory presence of all its members throughout the Session, and above all the observance

of courtesy and respect among its members for maintaining and upholding the sanctity of the highest decision making body in the country, all contribute to the unique nature of Bhutan's National Assembly.

While Dzongkha, the national language, is the main language used in the Assembly, simultaneous interpretation in Dzongkha and Nepali is also carried out.

The Speaker of the National Assembly sends a circular to the concerned Dzongdags whenever the election of a member falls due in a particular constituency. The concerned Dzongdag (District Administrator) or his representative convenes a meeting of the general public of that constituency. During this meeting which is attended by every household in the constituency, each household selects its representative. If a candidate is unanimously selected, he/she is deemed to be the elected representative of the constituency. However, if more than two candidates are selected, the representative for the constituency is elected through secret ballot. On receiving the completed forms of the elected people's representative of the particular constituency, through the Dzongkhag Administration, the Speaker formally issues an Acceptance Letter.

### **Procedural initiatives, innovations and developments**

Since its inception, significant changes have taken place in the National Assembly in keeping with the modern trends. At the time of its establishment the scope and nature of issues for deliberation in the National Assembly were limited to issues affecting the people at the village, block and district level. Many of these issues are today resolved by the Block Development Committees and District Development Committees. Today, the nature and scope of deliberations in the National Assembly encompass both national and international issues which are of national concern and importance.

Until 1968, the National Assembly did not possess legislative supremacy. The King could veto any decision or legislative bill passed by the National Assembly, and all resolutions required his approval. During the 29th Session, held from 12 to 23 November 1968, the third King with the visionary aim of inducting liberal principles into the system voluntarily surrendered his veto power,

thus vesting full legislative power in the Assembly. Since then, no decision of the National Assembly embodied in any resolution or statute requires royal assent before becoming operative.

Another significant liberalization move initiated by the third King in the National Assembly was the introduction of the no-confidence vote during the 30th Session of the Assembly in May 1969. With the introduction of the no-confidence vote, all senior officials of the Government, including the King himself, could be forced to resign from public service if they received a no-confidence vote in the Assembly. The National Assembly adopted this proposal with some modification after the King repeated his recommendation. Under this act, the reigning monarch would be obligated to abdicate if two-thirds of the House supported a vote of no-confidence in his conduct of affairs.

The Spring Session of the National Assembly in 1973, however, unanimously took the initiative to abolish the system of calling for a no-confidence motion against the King. This decision was adopted by the National Assembly since His Majesty, as the rightful hereditary King of Bhutan, enjoyed the complete loyalty and confidence of the people, and the members felt that as a small landlocked country, undesirable elements both from within and outside could use this system to destabilise the country.

His Majesty Jigme Singye Wangchuck, the fourth King, with his deep commitment to promoting people's participation in the decision making process, established the Dzongkhag Yargye Tshogchungs (District Development Committees) by a Royal Decree in 1981. The 20 District Development Committees in the country have since provided effective forums for discussing and deciding issues of concern to the people at the district level. To promote further decentralization and take the decision making process right down to the grassroots level in the village and promote political consciousness, 196 Gewog yargye Tshogchungs (Block Development Committees) were established in 1990 by His Majesty the King. The members of the District Development Committees and Block Development Committees are all elected by the people. All points for discussion in the National Assembly are first discussed in the Block Development Committees. Issues which

cannot be decided at the block level are then discussed at the district level by the District Development Committees, which then decide the points/issues to be forwarded for discussion in the National Assembly.

All the decisions in the National Assembly are taken by consensus. However, in the event a vote is required on a particular subject during the Assembly, a two-thirds majority is required to pass the resolution. While decision by consensus generally takes precedence, voting through secret ballot is also adopted in case of divided opinion on an issue. The day to day business of the House are compiled by the Assembly Secretariat. The Secretary of the National Assembly presents the compiled resolutions to the full sitting of the House before the conclusion of the Session. Any member who does not agree with any of the draft resolutions is free to express his objection. Only after the draft resolutions are endorsed by the House, are the proceedings and resolutions published in a booklet and distributed to all the members after the Session.

### **Functions**

The main functions of the National Assembly are to enact, amend or repeal laws, endorse appointments of senior Government officials, and approve the national budget. The National Assembly also approves the Five-Year Plans which are formulated by the Government in consultation with the people of every district, initially through the Block Development Committees and District Development Committees, and finally in large public meetings with the king and sectoral heads of the Government. It also deliberates on issues that affect the security and well-being of the country and promote the welfare and happiness of the people.

### **Sessions**

The National Assembly normally meets twice a year. However, if important and emergency matters so require, special sessions of the National Assembly may be convened by the Speaker. The duration of a National Assembly Session is governed by the nature and scope of the points for discussion received from the people. A Session normally lasts about three weeks.

## **Composition**

The Speaker is the Presiding Officer of the House. He is assisted by the Deputy Speaker in the conduct and smooth functioning of the House.

The National Assembly has 150 members ; 105 are the elected representatives of the people, 10 are representatives of the Dratshang (Clergy) and 35 are nominated representatives of the Government. The people's representatives are directly elected by the people of their respective constituencies through secret ballot. The representatives of the clergy are elected by the Zhung Dratshang (Central Monk Body) and the concerned Rabdeys (District Monk Bodies). The representatives of the Government are nominated by the King from among senior civil servants. All the members serve for a term of three years. The Speaker and the Deputy Speaker are elected by the National Assembly from among its members.

Any Bhutanese citizen who has attained the age of 25, possessing sound mind and who has not served a prison sentence on criminal charges is eligible to be elected as a member. The members of the National Assembly are elected for three years in individual constituencies at various dates depending on the expiry of the incumbent's term.

## **Secretariat**

The day to day administrative functions of the National Assembly rest with the Secretariat which is headed by a Secretary. The Secretariat has two sections, Administrative & Finance and Library & Documentation and functions independently.

## **Relations with the Executive and the Judiciary**

The National Assembly is the highest legislative and policy making body in the country. All laws and by-laws and matters of national importance are debated and adopted by the National Assembly. While the Executive implements the laws passed by the Assembly, the Judiciary upholds and safeguards the laws maintaining an independent status. Should the Judiciary, the executive, private organizations and the people face any inconveniences with the existing rules or laws, suitable amendments

or repealing of such rules and laws can be done by the National Assembly if the issue is brought before it for deliberation.

### **Committee System**

While there is no Standing Committee as such, in view of its responsibilities and functions, the Royal Advisory Council can be considered as having the role of a Standing Committee since its members are also members of the National Assembly. The Royal Advisory Council which is the highest advisory body in the Kingdom comprises of nine members, six elected representatives of the people, two elected representatives of the clergy and one nominee of the Government. The Royal Advisory Councillors are also members of the Lhengyel Shungtshog (Cabinet). The important functions of the Royal Advisory Council include rendering advice to the King and Lhengyel Shungtshog on all matters of national importance, promoting the welfare of the people, safeguarding the national interests of the Kingdom, developing friendly and harmonious relations between the Government and the people, and ensuring that the laws and resolutions passed by the National Assembly are faithfully implemented by the Government and the people.

In 1984, the present King further strengthened the position of the Royal Advisory Council. Although the Council had the authority to advise the King and to watch over the performance of the Government, His Majesty felt that it lacked the necessary clout to carry out important responsibilities. A revised set of rules and regulations for the functions and responsibilities of the Royal Advisory Council was, therefore, formulated on the instruction of His Majesty the King. The most notable addition is the inclusion of a clause stating that "If any person, including His Majesty the King, does anything harmful to the interest of the Kingdom and the people, the Royal Advisory Council without suppressing such matters and free of fear from any quarter shall bring it to the attention of His Majesty the King and, if necessary, even report it to the Cabinet and the National Assembly".

The National Assembly strongly objected to this clause empowering the Royal Advisory Council to report against the King. The Assembly felt that it was a violation of traditional values and

that it undermined the sacred principles of loyalty and devotion to the throne. His Majesty the King, however, insisted that this clause was of great importance and was very necessary as no one can predict or guarantee the actions and sense of responsibility to the nation of future rulers.

As and when required the National Assembly can appoint a Committee to study and report on matters of national importance. The members of such Committees can be anyone both from within and outside the Assembly with appropriate qualification and expertise in that particular subject. The composition of its membership solely depends on the nature and scope of the subject to be discussed. The findings/recommendations of such Committees are then submitted to the National Assembly for further discussion and adoption.

### **Conclusion**

The National Assembly is the highest decision making body in the country and it plays an increasingly crucial role in the enactment of national laws and public policies. The very inception of the National Assembly and its development to this stature and supremacy is due primarily to the far reaching reforms initiated from the throne.

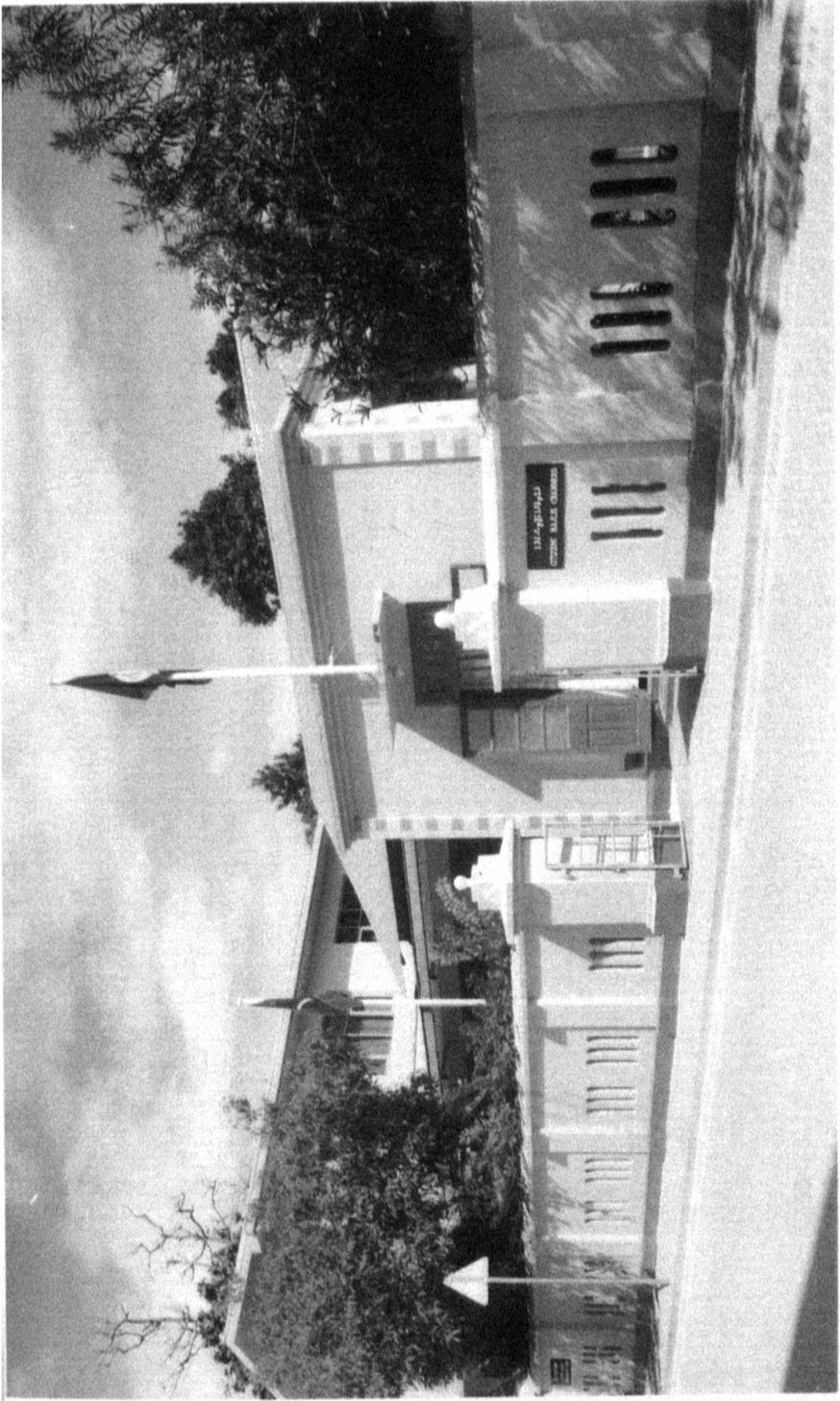
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# MALDIVES

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*Parliament of Maldives*



**Hon. Abdullah Hameed**  
*Speaker, Citizens' Majlis, Maldives*



**Hon. Ahmed Zahir**  
*Deputy Speaker of the Citizens' Majlis, Maldives*



**Mr. Adam Haleem**

*Director of the Citizens' Majlis, Maldives*

# PARLIAMENTARY PRACTICE : THE MALDIVIAN EXPERIENCE

ADAM HALEEM

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A written Constitution in the Maldives was for the first time proclaimed on 22 December, 1932. However, from the records available, constitutional and democratic practices could be traced to earlier periods.

Rulers of the country, called the *Sultans*, had always acted on the advice of three Constitutional Councils, which among other things advised the rulers and discussed affairs relating to Government. It ensured greater participation of the ruled, in the affairs of the State.

In 1953, the Maldives was declared a Republic which lasted for a very short period. The rule of the Sultans was again reinstated and monarchy prevailed till 1968, when Maldives was proclaimed a Republic for the second time. The present Constitution of the Maldives was brought to force by the Maldivians, on 11 November, 1968. Many amendments have been brought to the Constitution ever since. On 29 March 1980, a Citizens' Special Majlis was convened for a complete review of the Constitution.

The Maldivian Parliament is a unicameral legislature with 48 members. It is called the Citizens' Majlis. The Majlis consists of 8 members appointed by the President of the Republic, and 2 members elected from each of the 19 atolls, and 2 members elected from the capital island of Male.

In general, any citizen of the Maldives who is a Muslim, 25 years of age, and of sound mind and who has not been convicted of a political offence or an offence for which the Islamic Law has a prescribed penalty during the 5 years immediately preceding the election, is considered eligible to become a member of the Majlis. Each Majlis has a term of 5 years.

According to the Constitution, the Citizens' Majlis may legislate on all matters except those relating to the Constitution. The Constitution can only be amended, altered, reviewed or revised by the Citizens' Special Majlis which consists of 104 members of which the Cabinet of Ministers, the Members of the Citizens' Majlis are constituent bodies apart from those elected from the atolls and the capital island, and those appointed by the President of the Republic, especially for the Citizen's Special Majlis.

The Presiding Officer of the Majlis is called the Speaker and is appointed under the Constitution by the President. He is not a member of the Citizens' Majlis. He takes office of the Speaker after an oath before the President of the Republic. In the absence of the Speaker, the Majlis is presided over by the Deputy Speaker who is elected from among the members of the Majlis.

The Majlis meets every year in three Sessions. During the last week of February every year, the President in person officially opens the Majlis for the year. The first Session begins on 1 March and continues until 30 April. The second Session commences from 1 June and proceeds until 31 August while the third Session of the Majlis is held from 1 October till 31 December. A minimum of 8 sittings is required in each Session of the Majlis. The quorum for each sitting is 25 members and no business of the Majlis can be conducted if the number of the members present in the House falls below the said quorum.

According to the Constitution, the President of the Republic is both the Head of State and the Head of Government. The three organs of the State ultimately end in the Office of the President. The Executive function of the Government is carried out by the President and his Cabinet of Ministers. The Judiciary in the country is divided into two major echelons. The Lower Courts come under the direct control of the Justice Minister, and the High Court is headed by a Chief Justice. Appeals from the decisions of the High Court lie to the President.

Thus, the concept of complete separation of powers is absent in the Maldives, as it is the President who is ultimately responsible for the three Divisions of the State. However, the Constitution has provided the Citizens' Majlis, the prerogative to make the Cabinet

of Ministers accountable and responsible to the Majlis in relation to the conduct of work assigned to them.

When the Constitution that is currently being debated in the Citizens' Special Majlis is finally adopted, the separation of powers among the three organs of Government will become more definite and meaningful. Until such time the Ministerial responsibility or accountability to the Majlis is perhaps the major check against executive powers, under the current Constitution.

The Rules of Procedure of the Citizens' Majlis, provide for four Standing Committees, broadly dealing with the issues of economic development, delegated legislation, legal issues and issues pertaining to members and conduct of business of the Majlis. Each Committee consists of 15 members and is presided by the Speaker or a member appointed by the Speaker. The membership of these Committees is renewable every year.

The Committees are constituted with a view to saving parliamentary time during its sittings and to provide an opportunity for the members to deal with the issues before them, in greater detail. The Committees are empowered by convention to call for expert assistance and to summon parties related to the issues in discussion.

In the event any matter not covered within the mandate of these Committees comes before the Majlis, the Rules of Procedure do sanction the election of Select Committees, to deal with the matter appropriately.

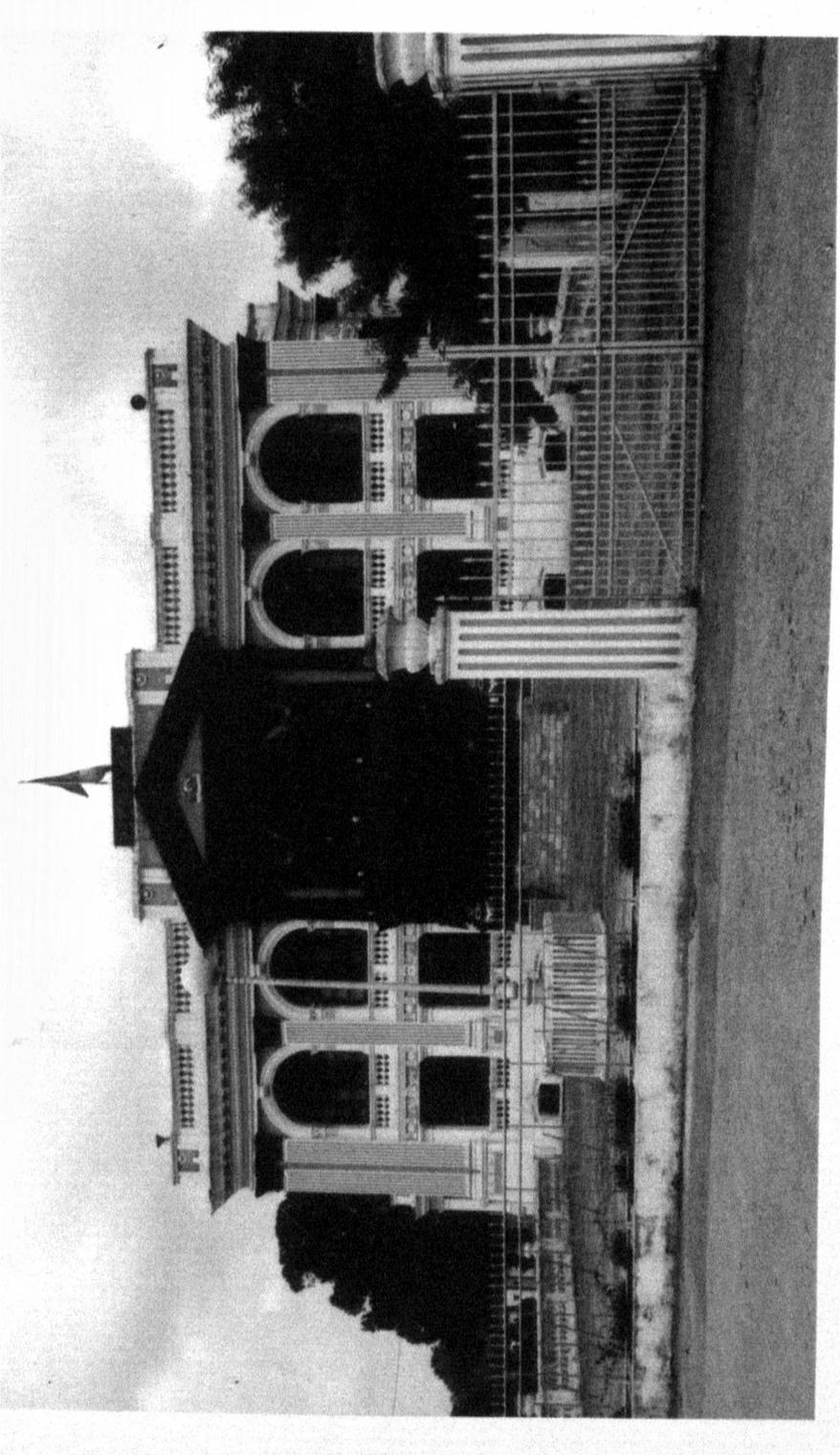
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# NEPAL

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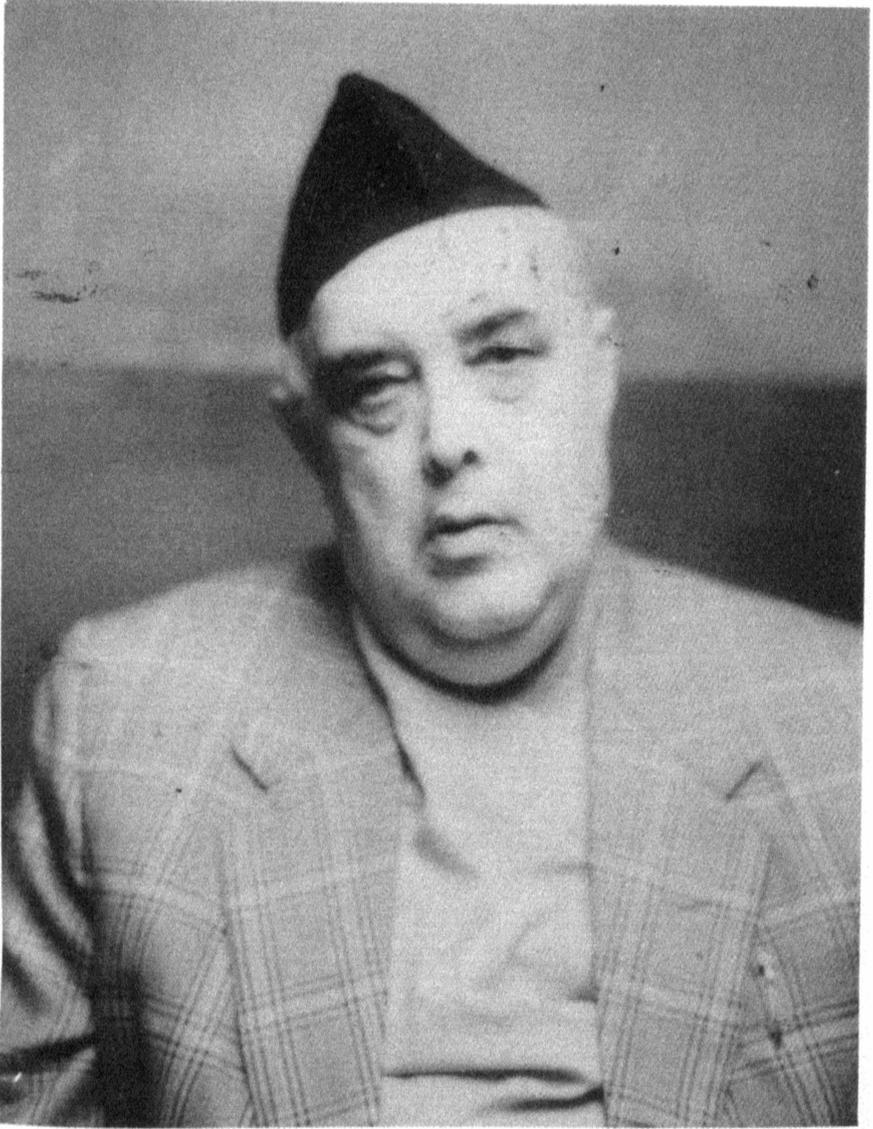
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*Parliament of Nepal*



**Hon. Ram Chandra Poudel**  
*Speaker, House of Representatives, Nepal*



**Hon. Beni Bahadur Karki**  
*Chairman, National Council, Nepal*



**Hon. Ram Bilas Singh Yadav**  
*Deputy Speaker, House of Representatives, Nepal*



**Hon. D.K. Shahi**  
*Vice-Chairman, National Council, Nepal*



**Mr. Jeeban Lal Satyal**  
*Secretary-General of the Parliament, Nepal*

# **AN INTRODUCTION TO NEPALESE PARLIAMENT**

**JEEBAN LAL SATYAL**

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In Nepal, institutions, mandatory or consultative having some approximation to or semblance of a modern Assembly can be traced back to Kirati, Lichhavi and Malla periods in the history and legends of Nepal, that are sometimes very much interwoven. Embracing the principle of a Welfare State and benevolent monarchy, the Kirati Rule marked the origin of Nepalese culture, both social and political. The following Lichhavi period witnessed a shift of emphasis on the role of monarchy as a central force in state affairs. This was associated with the steady evolution of democratic manners and traditions in spirit and form. The Lichhavis were followed by Mallas in the medieval period of Nepalese history. The Malla era is marked by introduction of various progressive measures for socio-economic development.

In conformity with the ancient tradition of “Rule by consultation”, the great King Prithvi Narayan Shaha, the architect of modern United Nepal, created an advisory body known as Bharadari Sabha (Assembly of elites). He was gifted with prudence and farsightedness and gave several valuable instructions to his administration and people, many of which bear relevance even to the present day context. During the regime of his successors this organization, which can be considered to be the rudimentary form of 20th century National Assembly gradually lost effectiveness but was not without some useful functions. During the century-long Rana oligarchy this body lost much of its traditional powers and remained nearly an ornamental organization.

Even though designed to calm down popular uprising and deflect public opinion demanding genuine democratic reforms, the Government of Nepal Act, 1948 can be taken as the first Constitution of the country. It provided for a bicameral Legislature with nominal powers and Judiciary under the strong central authority while keeping sovereign power of the Rana autocracy

intact. Due to fierce resistance from the conservative section of the Rana oligarchy and reactionary courtiers of the Ranarchical Durbar, the "Constitution" never came into force.

The interim Constitution of Nepal Act, 1951, which was the first important document after the termination of the Ranarchy and ushering in of democratic era, envisaged an Advisory Assembly known as Sallahkar Sabha. The Sabha having members widely representing political parties, ethnic groups and geographical areas provided a clear image of modern multiparty Parliament.

The Constitution of the Kingdom of Nepal 1959, was the first comprehensive document providing fundamental tenets of a parliamentary democratic system. The Constitution envisaged a Westminster model bicameral Parliament with most of the requisite powers vested in it. This was the first Parliament of Nepal in the real sense of the term. However, it could not exist for more than eighteen months as the multiparty parliamentary system was scrapped in December 1960. This was followed by a promulgation of the 2nd Constitution of Nepal making provision for a partyless unicameral Assembly, Rastriya Panchayat with limited legislative power. The present Constitution of the Kingdom of Nepal was promulgated in November 1990. Besides restoring the multiparty system, the new Constitution has tried to incorporate all the fundamental tenets of parliamentary democracy and constitutional monarchy.

Unlike the previous Constitutions, the present Nepalese Constitution incorporates the essential values and characteristics of a truly democratic State in a very progressive manner. Furthermore, it also fortifies its own basic structure against any major disruption, distortion or deformation. It will not be out of context here to make a brief reference to this special aspect of the supreme law of the land.

The Constitution of the Kingdom of Nepal does not allow introduction of a constitutional amendment bill contravening the spirit of the Preamble. The non-amendable basic features of the Constitution are as follows:—

(i) **Popular Sovereignty:** Through the ages the Crown symbolised sovereignty of "The independent and sovereign Nepal"

and juridically all powers and authorities flowed from it. With the promulgation of the current Constitution on 9 November, 1990 a new epoch of popular sovereignty has been unfolded in the history of the country. The Constitution has specified that the sovereignty of Nepal vested in the Nepalese people and is to be exercised in accordance with its provisions.

(ii) **Parliamentary System of Government:** The Constitution of the Kingdom of Nepal has adopted the parliamentary system of government after the Westminster model. Since the last 45 years the system has been tried and tested with various emphasis, alterations and modifications from time to time to suit various situations and contexts. With the passage of time the Nepalese people are slowly getting acclimatised to this system and beginning to accept it as a natural form of government for Nepal.

(iii) **Multi-party Democracy:** One of the special aspects of the Constitution is the guarantee provided to the existence and functioning of multiple political organizations; thus creating legally congenial ground for political pluralism. No room has been left for monoparty practice or polity based on singular political dogma. This is one of the basic features of our Constitution.

(iv) **The Rule of Law:** The Preamble of the Constitution seeks to establish an independent and competent system of justice with a view to transforming the concept of the Rule of Law into a living reality. The Judiciary has been made independent and the Supreme Court, placed at the apex of the judicial system, has been endowed with remarkable judicial power and made constitutionally competent to give tangible shape to the ideals of the Rule of Law. The principle of the pre-dominance of law has been accepted, according to which all citizens and all institutions and authorities, without a single exception, are subject to the Constitution, the laws and the overall legal order.

(v) **Constitutional Monarchy:** The political form of the State is constitutional monarchy. The Constitution has defined the Crown as the symbol of national unity and the unity of the Nepalese people. His Majesty is to preserve and protect the Constitution by

keeping in view the best interests and welfare of the people of Nepal. Considering the role of the Crown as the chemistry of national integration and the arbitrator and moderator of the correct functioning of the institutions under the Constitution, the constitutional monarchy has been recognized as one of the basic pillars supporting the polity.

### **Election of the Parliament**

The election process is simple and, broadly speaking, is similar to that prevalent in other SAARC countries. The House of Representatives, known as the Lower House in day-to-day parliamentary parlance, is a purely elected body, one member being elected from each electoral constituency on the basis of one-man-one-vote through secret ballot. The voting age has been reduced from 21 to 18 years with a view to widening popular participation in the democratic process.

In accordance with the present Constitution the first general election was held for 205 seats of the House of Representatives on 12 May, 1991. Likewise 60 seats of the National Council (Upper House) were also filled during the first Session of the Parliament in accordance with relevant provisions of the Constitution. The second election occurred on 15 November, as a consequence of the dissolution of the House of Representatives following rejection of the policy and programme of the government contained in the annual Royal Address to the joint sitting of the both Houses of Parliament.

The bicameral Parliament of Nepal comprises His Majesty the King and the two Houses of Parliament—the House of Representatives (Lower House) and the National Council (Upper House) (Article 44).

### **House of Representatives**

The Lower House of the Parliament is composed of 205 members elected on the basis of universal adult franchise from all the seventy-five districts of the Kingdom. While the criterion for allocating the number of seats for each district is the population, care has been taken to allocate at least one seat to one district for

the purpose of election, irrespective of its population. Unless dissolved earlier under the provisions of the Constitution, the term of the House is five years, and during the existence of the state of emergency, it may be extended by an Act upto a period not exceeding one year (Article 45). Any citizen not disqualified under law and not holding an office of profit, is eligible for candidature (Article 47). The House elects its Presiding Officers, the Speaker and the Deputy Speaker, from among its members as soon as possible. Even after the dissolution of the House, the Speaker and the Deputy Speaker continue in office until the date of the filing of nomination for election to the House of Representatives (Article 51).

### **National Council**

The Upper House of the Parliament (or the House of Elders in the Conventional Term) consists of sixty members who must be Nepalese citizens, have attained thirty-five years of age, are not disqualified under any law, and have not held an office of profit (Article 47). It is a permanent body not subject to dissolution, and one-third of its members retire every two years. The tenure of office of a member is six years. However, for the first time after the commencement of the Constitution, an arrangement has been made through lottery to retire one-third of the members on the expiry of first two years, another one-third on the expiry of four years and the rest one-third on the expiry of the sixth year. While thirty-five members, including at least three women, are elected by the Lower House under the system of proportional representation by means of the single transferable vote, ten members are nominated by His Majesty from people having rendered illustrious service to distinguish themselves in various fields of national life. The rest of the fifteen members, at the ratio of three members from each Development Region, are elected through single transferable vote by an electoral college consisting of the Chairmen and the Deputy-Chairmen of the Village and Town Level Local Committees and the Chairmen, Deputy-Chairmen and members of the District Level Committees. But until elections were held in local Committees, such electoral college, for the first time, consisted of the members of the House of Representatives representing the concerned

Development Region (Article 46). The National Council elects a Chairman and a Vice-Chairman as soon as possible from among its members (Article 52).

### **His Majesty the King**

In consonance with the traditional reverence with which the monarch is treated in the Nepalese society and in accordance with the accepted principle of constitutional monarchy, His Majesty has a highly exalted position in the socio-political structure of the nation. His Majesty appoints the leader of the parliamentary party commanding majority in the House of Representatives, or in case of absence of clear cut majority in the Lower House, such person who is able to command a majority on the basis of the strength of two or more parliamentary parties, as the Prime Minister and the Council of Ministers under his or her chairmanship. His Majesty nominates 10 distinguished persons as members of the Upper House, *i.e.* the National Council. His Majesty summons the Sessions of the Parliament and addresses the joint Session of the two Houses annually. A Bill passed by the Parliament becomes law after His Majesty grants assent to it. His Majesty appoints the Secretary of the House of Representatives on the recommendation of its Speaker, and the Secretary of the National Council on the recommendation of its Chairman and the Secretary-General of Parliament in consultation with both the Speaker and the Chairman.

### **Privileges**

The members of both the Houses of Parliament have full freedom of speech under the Constitution and no member can be arrested, detained or persecuted in any court for any thing said or for any vote cast in any House. It is the exclusive right of the concerned House to decide on regularity or irregularity of any matter. No member of Parliament can be arrested between the date of issuance of summons for the Session and the date on which the Session closes, except on a criminal charge.

Both Houses of Parliament have vital role in legislation. While Bills may be introduced in either House of Parliament, the Finance Bill is introduced only in the House of Representatives. The Council

of Ministers are more accountable to the Lower House as the Prime Minister should command a majority in the House of Representatives. A motion of no-confidence against the Government can be moved only in the Lower House. Only a person who is a member of the House of Representatives can be appointed as Prime Minister of the country.

### **Parliamentary Committees**

Although generally each House is permitted to constitute Committees as per requirement, the Constitution gives a clear cut indication that the Standing Committees on subjects like finance, public account, human rights, foreign policy, natural resources and assets and environment be set up in the Lower House. In compliance with this indication seven Standing Committees have been constituted covering the entire spectrum of governmental activities. The names and subject-wise jurisdictions of the Committees are as follows:—

- |  |   |
|--|---|
| (1) Finance Committee  | Finance and economic planning.  |
| (2) Foreign Affairs and Human Right Committee                        | Law, judicial administration, parliamentary affairs, delegated legislation, human rights, matters relating to foreign nations and organizations, annual reports presented by Commission for Investigation of Abuse of Authority and Attorney-General. |
| (3) Natural Resources and Assets, Environmental Protection Committee | Water resources, land reforms, land management, agriculture, forests and soil conservation, environmental protection.   |
| (4) Population and Social Committee                                  | Education, culture, health, labour, social welfare.   |

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|-------------------------------|---|
| (5) State Affairs Committee   | Council of Ministers, Home Affairs, General administration, Report presented by Public Service Commission.                                  |
| (6) Development Committee     | Housing, physical planning, public works, transport, industry, commerce, local developments, information, communication, tourism, supplies. |
| (7) Public Accounts Committee | Public Accounts, Annual Report presented by Auditor-General.  |

The National Council has constituted two Standing Committees which are of clearly different nature. Each Committee has its own defined function rather than exclusive departmental jurisdictions. The Committees and their functions are as follows:—

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|---|--|
| (1) Remote Areas Committee  | (a) Study basic needs and amenities such as education, health, drinking water, transport etc. in the remote areas of the country; (b) Survey local peoples, demand and collect popular opinion; and (c) Submit reports with practical suggestion to the House.   |
| (2) Committee on Delegated Legislation, and Government Assurances | (a) Examine the rules and by-laws framed and the orders and notices issues in exercise of the power delegated by the Parliament; (b) follow-up implementation of the assurances given in the House from time to time by the members of the Council of Ministers. |

The Committees in the Nepalese Parliament are basically shaped after the British style without ignoring the influence of practice and procedure commonly accepted in South-Asian Parliaments. Side by side, efforts have been made to infuse some qualities of the Committee system prevalent in the US Congress. The Standing Committees in Nepal are neither department-related Consultative Committees nor self-contained "Little Legislatures". However, these Committees are the extended limbs of the House — each provided with distinct identity, jurisdiction and working procedure. Every Committee has adequate authority to enquire, investigate or scrutinise any important public matter that comes within its given purview.

Each Committee has got its own meeting room, a small office handled by an administrative officer, designated as Secretary to the Committee. Plan is underway to provide each Committee with a collection of relevant books and journals and some essential secretarial gadgets. A Committee can invite eminent persons and specialist of repute and get their views and suggestions and organise seminars and conferences on subjects of national importance concerning it. While doing so prior consultations with the Government and approval of the Speaker or the Chairman is needed on practical grounds.

Either House can take initiative to constitute a Joint Parliamentary Committee. After a motion to form such a Committee is adopted by one House it is generally endorsed and complemented by the other. Membership ratio of the two Houses is two to one. However, the maximum size of a Joint Parliamentary Committee is fixed at fifteen members.

### **Special Provision for Women**

The Constitution has also made special provision that at least 5% of total number of candidates of any political party for the election to the House of Representatives must be women. Furthermore, out of 35 members of the National Council to be elected by the House of Representatives, there should be three women elected.

## **Ratification of Treaties and Agreements**

Treaties and agreements to which the Kingdom of Nepal or His Majesty's Government is a party have to be ratified by Parliament. Treaties and agreements relating to peace and friendship, defence and strategic alliance, boundaries of the country, distribution and utilisation of natural resources need ratification by a majority of the two-thirds of the members present in the joint sitting of both Houses of Parliament.

## **Emergency Provisions**

Any proclamation leading to the state of emergency in the country has to be presented to the House of Representatives for approval within three months from the date of issuance. Such a proclamation has to be approved by a two-thirds majority of the members present at the meeting. If approved, the order remains effective for a period of six months. In case such declaration is not approved by the House, it immediately ceases to be operative. In the event of the dissolution of the Lower House, the National Council exercises all such powers.

Despite recurring political trials and tribulations, constitutional problems and puzzles and some seeming setbacks, the parliamentary system has started to take root. During the past eight parliamentary Sessions nearly ten thousand questions were answered by the concerned Ministers, nearly five hundred motions of different kinds were put forth in the Houses and more than a dozen resolutions were adopted. During the same period, not fewer than 150 Bills passed by both Houses of Parliament were granted royal assent.

## **The Most Recent Development Affecting Parliament**

His Majesty the King, in accordance with article 53(4) of the Constitution, dissolved the House of Representatives on 3 June, 1995 and set 23 November, 1995 as the date for fresh elections. Earlier the Prime Minister had recommended dissolution of the House at a time when His Majesty had already summoned the regular Budget Session of the Parliament which was scheduled to begin on 25 June. His Majesty had also called for the special Session of the House of Representatives to be preceded to the Budget Session by only a

few days. This was done in constitutional response to a submission made for it by seventy members belonging to the Nepali Congress, the main opposition party in the now-dissolved House of Representatives, to move a no-confidence motion against the Prime Minister.

In the meantime, opposition party leaders have filed writ petitions in the Supreme Court challenging the dissolution of the House of Representatives and requesting the Court to declare it null and void on constitutional grounds. The quick succession of unpalatable events has jumbled up into a quite uneasy and confusing political situation. Nevertheless, there are reasons to believe that the dust will settle down very soon and all ambiguity and confusion will be cleared away making it possible for the vessel of parliamentary democracy to sail smoothly.

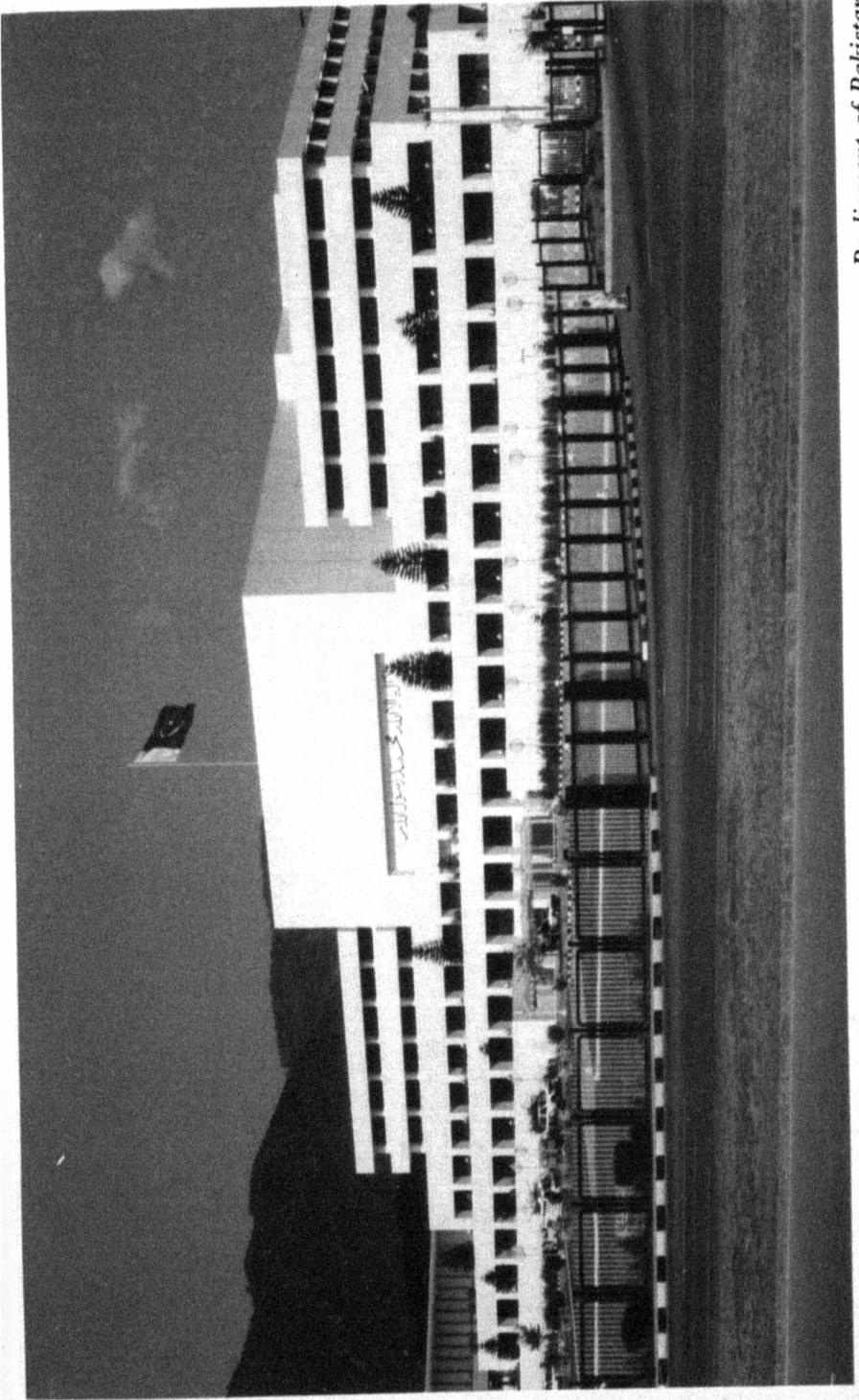
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# PAKISTAN

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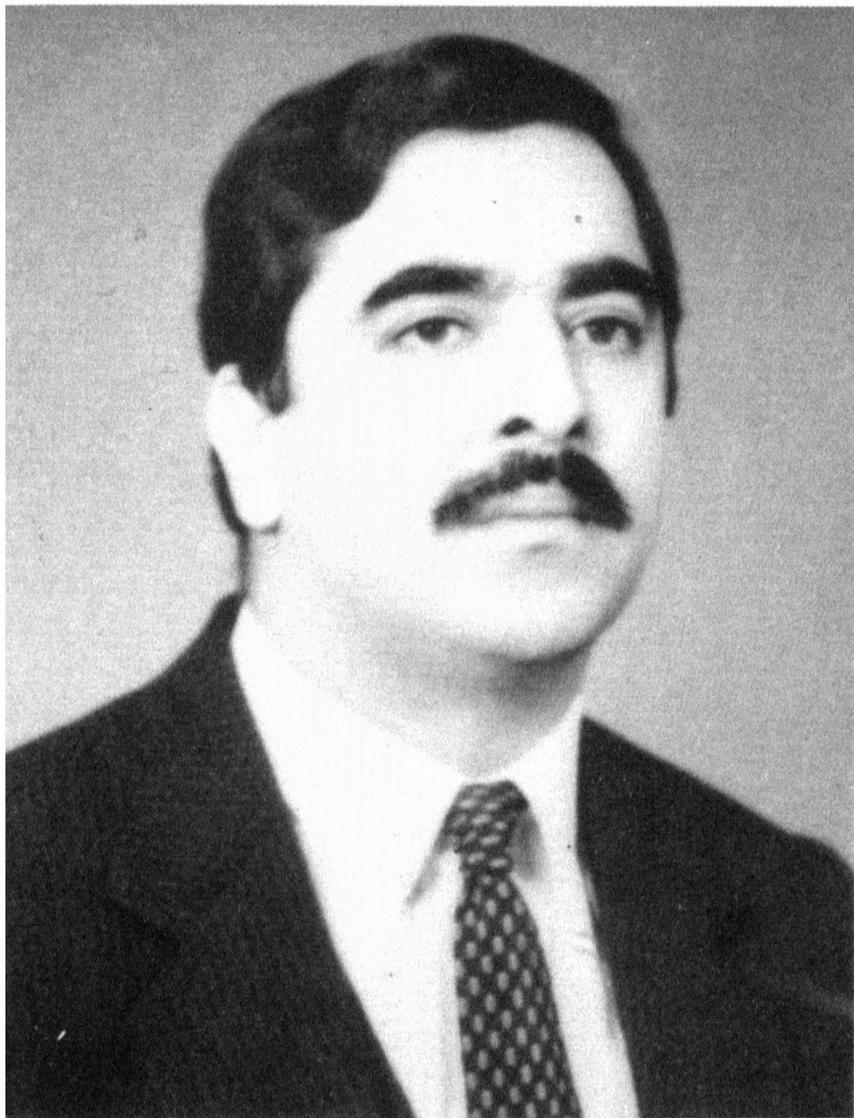
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*Parliament of Pakistan*



**Hon. Wasim Sajjad**  
*Chairman, Senate of Pakistan*



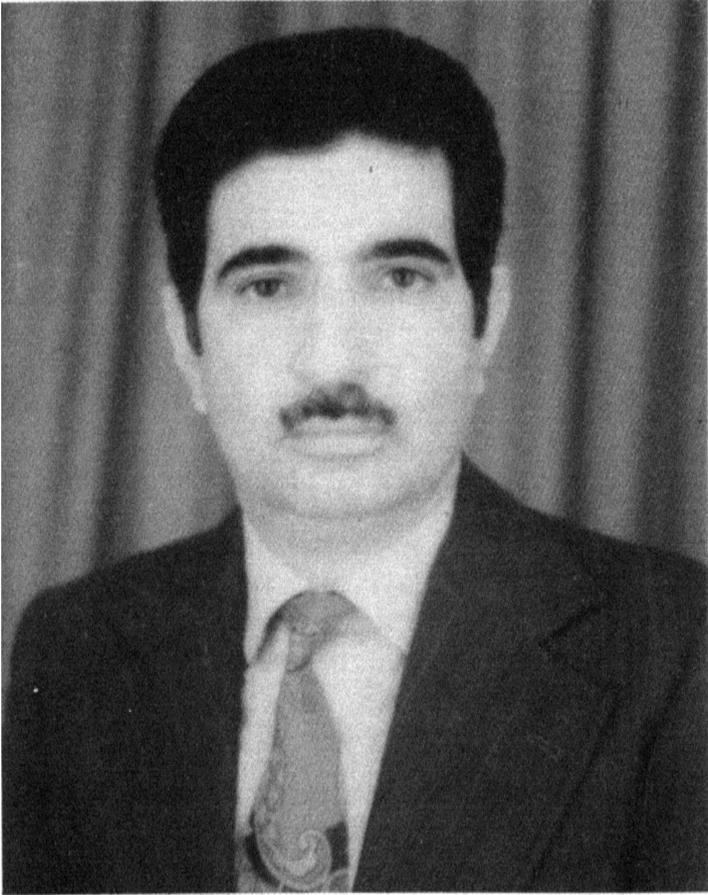
**Hon. Syed Yousaf Raza Gilani**  
*Speaker, National Assembly of Pakistan*



**Hon. Syed Zafar Ali Shah**  
*Deputy Speaker, National Assembly of Pakistan*



**Mr. Abdul Qayyum Khan**  
*Secretary, Senate, Pakistan*



**Mr. Abdul Rauf Khan Lughmani**  
*Secretary, National Assembly, Pakistan*

# THE PARLIAMENT OF PAKISTAN\*

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## Democratic Heritage

The Constitution of the Islamic Republic of Pakistan was passed by the National Assembly on 10 April, 1973. It came into force on 14 August, 1973. It was the first Constitution passed by the directly elected representatives of the people of Pakistan.

In fact the leading events of the constitutional history of Pakistan is spread over more than sixty years, if we also take into account the Pakistan Day Resolution of 23 March, 1940 and the Indian Independence Act, 1947, which made it possible for the State of Pakistan to come into being. These two are also important Constitutional documents in the history of our country.

It was stated in the Indian Independence Act, 1947 that pending the framing of a new Constitution, each of the two Dominions, Pakistan and India as well as its provinces were to be governed in accordance with the Government of India Act, 1935. After that we had the Constitution of the Islamic Republic of Pakistan of 1956 which was abrogated on 7 October, 1958 when Martial Law was imposed in the country.

The third Constitution was promulgated on 8 June, 1962, with an eighty-member National Assembly, forty from each wing of Pakistan. The Assembly came into existence in June, 1965 but lasted less than four years when the country became subject to another Martial Law.

The then President dissolved the Province of West Pakistan and held general elections for the National Assembly and Provincial Assemblies in December 1970.

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\* Contributed by the National Assembly of Pakistan.

In 1971, the Eastern Wing of the country separated from Pakistan. The National Assembly elected as a result of general election of 1970 was summoned to meet for the first time in Islamabad on 14 April, 1972 and Mr. Z. A. Bhutto was elected President of the Assembly. On 17 April, 1972, the House enacted the Interim Constitution to remain in force until a permanent Constitution was framed.

The National Assembly of Pakistan, whose members had been entrusted the function of framing the Constitution of Pakistan, by Article 95 of the Interim Constitution, enacted the Constitution on 10 April, 1973, without a dissenting note.

The Constitution defines Pakistan as a federal republic and its territories shall comprise the province of Baluchistan, the North West Frontier Province, the Punjab and Sind, the Islamabad Capital Territory and the Federally Administered Tribal Areas (FATA). These federating units offer a lot of diversity and variety in terms of language, level of social and economic development, population density, climatic conditions, terrain, etc. Sharply contrasting social conditions are encountered in places as diverse as the cosmopolitan city of Karachi, the meticulously planned capital city of Islamabad or the tribal belt in the North-West. Baluchistan, which has the largest area, has the lowest population.

### **Parliament Today**

At the federal level the focal point of the political arrangements is the Parliament which comprises the President, the National Assembly and the Senate. The President is elected by an electoral college consisting of members of both the Houses and members of the Provincial Assemblies for a term of five years. The executive authority of the Federation vests in the President. In the exercise of his functions the President acts in accordance with the advice of the Cabinet or the Prime Minister. However, the President may act in his discretion in certain matters specifically mentioned in the Constitution.

The National Assembly is composed of 217 members including 10 seats reserved for non-muslims, elected for a five year term on

the basis of adult franchise and one man one vote. The composition of the National Assembly allocation is as under:—

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(a) Punjab	115
(b) Sindh	46
(c) NWFP	26
(d) Baluchistan	11
(e) FATA	8
(f) Federal Capital	1
(g) Non-Muslim	10
<hr/>	
Total	217

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Eligibility conditions which a person should fulfil for being chosen as a member of the National Assembly are: He must be of 25 years, a citizen of Pakistan and of good moral reputation. Persons convicted of crime, moral turpitude or of giving false evidence, are not eligible for being elected as members of the National Assembly.

The National Assembly is required by the Constitution, to meet for a minimum of 130 days in a year. Its working is normally divided into various sessions. The most hectic session coincides with the passage of the federal budget in June. The National Assembly enjoys exclusive powers to consider financial bills including the annual budget. The Assembly also provides a minimum of three fourth of the Cabinet strength and the member who enjoys the support of the majority in this Chamber is invited by the President to be the Prime Minister.

#### **Accountability of the Cabinet to the National Assembly**

In Article 91(4) of the Constitution of the Islamic Republic of Pakistan it has been laid down that the "Cabinet, together with the Ministers of State, shall be collectively responsible to the National Assembly".

#### **The Speaker**

The House is presided over by a Speaker who is given wide powers to regulate the working of the legislature. In addition to his

formal duties, the Speaker is frequently called upon to play the role of a mediator between the treasury and the opposition benches and he takes steps to reinforce democratic tradition. The Speaker also speaks on behalf of the National Assembly with other Parliaments of the world.

### **Joint Sitting**

The Constitution provides for the President to address the two Houses of Parliament assembled together at the commencement of the first Session after each general election, and at the commencement of the first Session of each year.

### **Legislation**

The main purpose of the legislature is to make laws in respect of any matter enumerated in the Federal Legislative list or the Concurrent Legislative list.

### **Committee System**

There are a number of tools available to the legislators to make the Government adhere to procedural rules.

The Committee System is an effective means through which legislation and other related issues are dealt with. The Committees are, in fact, the driving force of parliamentary work, and a good Committee System exists at the heart of the legislative process and accountability of the Government resides therein.

There are three kinds of Committees in the National Assembly:— (a) Standing Committees ; (b) Select Committees ; and (c) Special Committees.

There is a Standing Committee for each Ministry, dealing with the subjects assigned under the rules for the Allocation of Business of the Government to the said Ministry or any other matter referred to it by the Assembly.

A special feature of the Standing Committees is that their members are elected by the House and in turn each Committee elects its own Chairman. These Committees have the same tenure as the National Assembly. In fact, these Committees also enjoy *suo moto* power to go into all matters. Armed with this power, Standing Committees can probe into any matter.

There are other Committees, viz. the Business Advisory Committee, which is chaired by the Speaker and it brings together a selected group of members from both the treasury and the opposition to decide in advance about the business to be transacted during a Session.

There is a Committee on Government Assurances which ensures that the promises and commitments made by the Ministers on the floor of the House are fulfilled; as well as a Standing Committee on House and Library, which oversees the Research and Library Department, and accommodation facilities of the members. This Committee is chaired by the Deputy Speaker.

### **The Senate**

Representation of the provinces in the National Assembly being determined by their population, disparities in the population get reflected in the popularly elected forum. For instance, against a total membership of 115 members from the Punjab, the province of Baluchistan is represented by only 11 members. The Senate has gradually come up as a practical response to problems arising out of such a situation. Out of the total membership of 87, each Provincial Assembly elects 19 members, five of them being technocrats, eight members are elected from FATA. The federal capital contributes the remaining three Senators. The election itself is on the basis of a system of proportional representation by means of a single transferable vote. The Senate, presided over by a Chairman, is not subject to dissolution, the maximum term of a Senator being six years.

Except for a Money Bill, any Bill on which the federal legislature is competent to legislate, can originate in either the Senate or the National Assembly and on its passage it is transmitted to the other House.

### **Supremacy of Law**

The 1973 Constitution ensures the supremacy of law and right of every individual to be dealt with in accordance with law. For the purpose, the Constitution provides for setting up of an independent judicial system in the country.

The Judiciary of Pakistan consists of the Supreme Council, a High Court for each Province and other subordinate courts. At the lower level, the magistracy performs some executive functions also. The Constitution provides that the Judiciary shall progressively be separated from the Executive during a period of fourteen years as amended. The separation has now been achieved.

The Chief Justice of the Supreme Court, who is also known as the Chief Justice of Pakistan, is appointed by the President and other Judges of the Supreme Court are appointed by the President in consultation with the Chief Justice. The Supreme Court has exclusive jurisdiction in any dispute between two or more Governments. It also possesses jurisdiction to decide a question of public importance which involves the enforcement of fundamental rights. The Supreme Court hears appeals against the judgments and orders; and gives its opinion on question of law referred to it by the President. The decisions of the Supreme Court on a question of law are binding on all courts in Pakistan.

The Judges of a High Court are appointed by the President in consultation with the Chief Justice of Pakistan, the concerned Governor of the Province and except where the appointment is that of a Chief Justice with the Chief Justice of the High Court. The High Court possesses jurisdiction to issue writs of various kinds for enforcement of fundamental rights. It also hears appeals against the orders of the subordinate courts.

The Chief Justices and the Judges of the Supreme Court and the High Courts cannot be removed except on the recommendations of the Supreme Judicial Council consisting of the Chief Justice of the Supreme Court, two most senior Judges of the Supreme Court and two most senior Chief Justices of the High Courts.

### **Provincial Arrangements**

The provincial arrangements generally parallel the central setup. The Governor of a province is appointed by the President in consultation with the Prime Minister while the Chief Minister is the member of the Provincial Assembly, enjoying the confidence

of the majority. In addition to distribution of powers, specific matters of administrative relations between the federation and the Provinces are dealt with by :

**Council of Common Interests** : The Council of Common Interests has been set up under the 1973 Constitution to formulate and regulate policies in relation to matters like, natural resources, institutions, establishments, bodies and Corporations administered or managed by the Federal Government, including WAPDA and Railways. The Council is a high-powered body which consists of the Chief Ministers of the Provinces and representatives of the Federal Government.

**National Finance Commission** : For the distribution between the Federation and the Provinces of the net proceeds of the taxes recovered by the Federal Government, a National Finance Commission has been set up under the Constitution. The Commission consists of Federal and Provincial Ministers of Finance.

**National Economic Council** : A National Economic Council has been set up under the Chairmanship of the Prime Minister. The Council is responsible to review the overall economic condition of the country and formulate plans in respect of the financial, commercial, social and economic policies in the light of the Principles of Policy.

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**SRI LANKA**

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*Parliament of Sri Lanka*



**Hon. K.B. Ratnayake**  
*Speaker, Parliament of Sri Lanka*



**Mr. Bertram Titawella**  
*Secretary-General of Parliament of Sri Lanka*

# PARLIAMENTARY SYSTEM IN SRI LANKA

K. B. RATNAYAKE

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## **Democratic Heritage and Development of Parliamentary Institutions**

In Sri Lanka, democratic political institutions have existed from ancient times. Early Chronicles refer to the demarcation of village boundaries, the idea which was closely associated with the concept of "Gram Sabha" or Village Councils where people assembled and took decisions on matters of common interest.

The early Kings in Sri Lanka were elevated to kingship by common consent. The rulers had to contend with the powerful nobility. Besides, there were self-governing bodies such as Monasteries and Trade Guilds. Such organisations had extensive immunities. Moreover, there was a set of norms governing the conduct of rulers, which clearly laid down that rule must be for the benefit of the people. The rulers of ancient Anuradhapura period (A.D. 67 to A.D. 993) did not possess despotic powers. There was a close association between Buddhism and the State. The rulers were influenced by Buddhism which, more than a 'religion', is a philosophy encompassing a way of life based on truly democratic principles. However, later the position of the kingship was strengthened and the King became an authoritarian ruler.

Consequent to Sri Lanka becoming a British Colony, the King of Sri Lanka was deposed and a Colonial system of administration was introduced. From the early stages of this system of Colonial administration reforms and changes were introduced. The first step was the establishment of a Legislative Council in 1833. W.M.G. Colebrooke, who recommended its establishment in 1831, hoped that the Colonial office could look upon it as a check on the Governor. But in practice the role of the Legislative Council was too restrictive. It had a majority of official members and six unofficial members who were nominated. The ten Colonial officials with the Governor formed the government. The unofficial members

were nominated by the Governor on a communal basis. There were three Europeans as well as one each from the Sinhalese, Tamils and Burghers. The Legislative Council functioned for eight decades without significant changes.

Meanwhile, a number of Reform Societies had come up countrywide demanding radical reforms. The Ceylon National Association, The Chilaw Association, the Jaffna Association, the Dutch Burgher Union and the Ceylon Social Reform Society were prominent among them. Their agitation for reform met with opposition from Sir Henry McCallum, the Governor. But, R.E. Stubbs, an official in the Colonial Office was assigned to recommend suitable changes in the governing system. Stubbs advocated the introduction of the principle of election for the European and Burgher communities. But he felt that it was too early to extend it to the Sinhalese, the Tamils and the Muslims. In 1910, the reform scheme was finalised. The voter had to meet certain academic and property qualifications. Stubbs believed that elective principle would be extended atleast to a thin segment of the indigenous population. Therefore a single seat was reserved for this purpose about which the Tamils expressed their fear that the seat would go to the majority Sinhalese. As a result an additional seat was granted to them.

Agitation for more reforms continued. The Reformists were influenced by international factors. The main inspiration came from India. They were aware of the agitational campaigns in Egypt and Ireland as well.

In 1912, minor changes were introduced to the Legislative Council. The membership was increased to 21, ten of whom were to be non-official. Six of them were to be nominated by the Governor while the other four were to be elected. As the voting rights were highly restricted, there were only 3000 voters in Sri Lanka at this time.

A package of constitutional reforms were introduced in 1921. For the first time, three non-officials were to be appointed to the Executive Council. The membership of the Legislative Council too was increased to 37. Thus, the officials became the minority for the first time. There were fourteen officials in the Council of the

twenty three non-officials, four were nominated by the Governor of whom two were to represent Kandyan Sinhalese and one member each to represent Muslims and Indians. There were sixteen elected members of whom eleven were elected from territorial constituencies. Two Europeans and a Burgher were elected through communal electorates and one each from the European Chamber of Commerce and the Low-Country Products Association.

In 1924, more reforms were introduced. The Legislative Council was expanded to include forty-nine members. Of them only twelve were officials, five ex-officios and seven nominated. Of the thirty seven non-officials, thirty-four were elected and three nominated by the Governor. Eleven of them were elected from communal constituencies—three Europeans, two Burghers and one Tamil. Twenty-three were elected from territorial constituencies—sixteen from Sinhalese and seven from Tamil areas. Still the voting rights were restricted. In 1924 only 204,997 people had the right to vote. The Governor remained the President of the Legislative Council.

The Donoughmore Constitution (1931-46) was the next important step which introduced a far-reaching structural change, viz. the Universal Suffrage. Sri Lanka was the first colony (other than the White Settlement Colonies) to enjoy this privilege. Under the Donoughmore Constitution, the Governor remained a powerful figure. There were three officers of State—the Chief Secretary, the Finance Secretary and the Legal Secretary. This Legislature was known as the State Council which consisted of sixty-one members of whom fifty were elected from territorial constituencies. The Governor nominated eight members.

A notable feature of this Constitution was that the State Council had several Executive Committees. Each Committee elected a Chairman who acted as the Minister. The Minister could not take executive decisions all by himself. The Executive Committee members collectively took decisions. The seven Ministers and three officers formed the Board of Ministers.

Though there were several political movements such as the Ceylon National Congress (CNC), the Sinhala Maha Sabha and the Ceylon Labour Union, active at that time in the country, the first organised political party was formed in 1935. Thus, the Lanka Sama

Samaja Party came into being on a Marxist line through the endeavours of some educated young men who returned from Europe. The United National Party which took a conservative line was formed by some CNC members in 1946. In 1944, the Tamil Congress was formed as the political party of the Tamil community. The other major political party, the Sri Lanka Freedom Party, was formed in 1951 by some prominent ex-UNPers and independent members of Parliament.

The next important development was the appointment of the Soulbury Commission in 1944 to consider the necessary constitutional reforms. The reform package was an adopted version of the Westminster model. Parliament consisted of two Houses—the Senate and the House of Representatives. The total membership of the Senate was thirty, of which fifteen were appointed by the Lower House and the rest by the Governor-General on the advice of the Prime Minister. All except six members of the Lower House were elected on the basis of universal suffrage. The balance six were nominated by the Governor-General to represent interests which were inadequately represented. Seats were granted for areas where the minorities concentrated. The Prime Minister and the Cabinet were responsible to the Lower House.

On 4 February 1948, Sri Lanka became an independent country. The Constitution which came into effect was none other than the Soulbury Constitution of 1946 with consequential changes. This Constitution was in existence until 1972, with two major changes: the Senate was abolished in 1971 and the right to appeal to the Privy Council scrapped in the same year.

A new Constitution was adopted on 22 May 1972 by which the Governor-General was replaced by the President, who was the nominal executive. The real powers were in the hands of the Prime Minister. The Legislature under the new Constitution—the National State Assembly—was unicameral and was the supreme instrument of state power. It consisted of elected representatives of the people. The first Republican Constitution continued until 1978, in which year a new Republican Constitution came into operation. On 7 September 1978 the Second Republican Constitution came into effect. The significant features of the new Constitution were the introduction of the Executive Presidential System and the

Proportional Representation System. However, the Executive Presidency came into existence as a result of an amendment to the First Republican Constitution.

### **Parliament Today**

Parliament is elected for a period of six years, but may be dissolved earlier by the President. The life of Parliament is divided into Sessions, each usually lasting one year. At the opening of each Session, the President's statement to Parliament outlines the Government's broad policies and proposed legislative programmes. Each Session is terminated by prorogation. On the dissolution of Parliament, the President must summon a new Parliament to meet within three months and also fix a date for elections.

Parliament is the supreme instrument of State power. The current Legislature is unicameral. There are 196 members elected on the basis of the Proportional Representation System. Under this system the political parties obtain a share of seats in the Legislature in proportion to the votes they poll. There are 29 'National List' seats too. These seats are allocated to the political parties and the independent groups contesting the general election in proportion to the votes polled by them at the national level. For this purpose, the political parties and the independent groups should submit lists of persons to the Commissioner of Elections within the nomination period. These names are published in the Government Gazette.

In the current Parliament the ruling Peoples' Alliance (PA) has 105 members. The main opposition United National Party (UNP) has 94 members. The other parties, including the regional parties, and the independent groups have 26 members.

Every citizen who is qualified to be an elector is qualified to be elected as a Member of Parliament. He or she should not be of unsound mind. If a person is convicted and imprisoned by any court he/she is not qualified to be elected as a Member of Parliament. Certain public officers and members of the armed forces and Police too are not qualified. The minimum age requirement is 18 years.

As the supreme legislative authority in the country, Parliament has power to make laws, including laws replacing or amending any

provisions of the Constitution or adding any provisions to the Constitution. Most of the Articles of the Constitution could be amended if it is approved by a majority of two-thirds of the whole number of members. The amendment of certain Articles of the Constitution must receive the approval of the people at a Referendum. Parliament cannot make any law suspending the operation of the Constitution or repealing it as a whole unless such law also enacts a new Constitution to replace it.

The Constitution also lays down the Directive Principles of State Policy to guide the Parliament, the President and the Cabinet of Ministers to govern and enact laws for the establishment of a free and just society in Sri Lanka. Parliament exercises the legislative and judicial powers of the people. The judicial power has to be exercised through courts, and other institutions established by law.

In the discharge of its functions Parliament and its members are fortified by certain privileges, immunities and powers relating to which Parliament may exercise the judicial power directly according to law and punish any person who commits a breach of privilege.

Parliament cannot abdicate its legislative power. Parliament could make any law relating to public security and provision empowering the President to make emergency regulations in accordance with such law. Emergency regulations are brought into operation by a Proclamation which can operate only for a period of one month and should be approved by a resolution of Parliament.

Another principal function of Parliament is to scrutinise Government policy and administration—particularly proposals for raising revenue and for expenditure. Parliament has full control over public finances and Parliament alone authorises taxes and duties to be levied and the various objects of expenditure and sums to be spent on each. No payments out of the Government's Consolidated Fund can be made, no taxation, charges or loans can be authorised except by an Act of Parliament. Certain payments which have to be reimbursed can be made within limits from the Contingencies Fund which itself has been created by Parliament.

Any treaty or agreement between Sri Lanka and any foreign State has to be approved by Parliament by a two-third majority.

Apart from the passing of law, an important function of Parliament is to provide a forum for members to raise matters of public importance, to discuss Government policy and to ventilate grievances of the people.

The members can make use of the floor of the House for this purpose during debates on legislative proposals and other Motions. They have the facility of asking questions for oral or written answers. In addition, they could ask questions relating to urgent public matters during the debate on the Adjournment Motion. The Ministers are required to answer those questions.

The Budget speech, normally after seven days of the presentation of the Appropriation Bill, is made by the Minister of Finance in the House. Thereafter it is taken up for Second Reading. The debate at this stage is confined to the general merits and principles of the Bill and the Budget proposals. After the passing of the Second Reading, the Appropriation Bill is referred to the Committee of the whole Parliament, when each item is taken up for detailed discussion. The programme for the Committee Stage of the Budget is prepared by the Leader of the Opposition in consultation with the Ministers.

After the Committee stage discussion is concluded, the Bill is read a Third Time and passed. When the Bill is certified by the Speaker it becomes the Appropriation Act for the ensuing year.

The Speaker is the representative and the spokesman of the Parliament in its collective capacity. He is also the sole custodian of rights and privileges of Parliament and its members. He presides over sittings of Parliament and interprets and enforces its Standing Orders. In his absence, the Deputy Speaker or in their absence the Deputy Chairman of Committees presides over sittings of Parliament. In addition, there is a Chairmen's Panel of the member which preside over sittings from time to time.

The Secretary-General of Parliament is the head of the staff of Parliament. He is appointed by the President. He advises and assists the Presiding Officers.

There are two major components in the House of Parliament. The Government Group is organised under the Leader of the House and Chief Government Whip. The leader of the main Opposition party is recognised as the Leader of the Opposition by the Speaker. The Opposition also has its Chief Whip. The Leader of the Opposition is given the status of a Cabinet Minister. The other parties in the Opposition may, at their discretion, come under the Whip of the Opposition. The detailed arrangement of Government business and allocation of time for debates is decided at meetings of the Committee on Parliamentary Business. It consists of the Speaker as Chairman, the Deputy Speaker, the Deputy Chairman of Committees, the Leader of the House, the Leader of the Opposition, the Chief Government Whip, the Chief Opposition Whip and the leaders of the other parties.

The quorum of the House has been fixed at 20 by the Constitution.

### **Parliament: Relations with the Executive**

The President is the Head of State and the head of the Executive. Parliament and the President are the supreme instruments of State power. However, the President cannot be a member of Parliament. The Prime Minister is appointed by the President. The President can dissolve the Parliament even before the expiry of its term.

The Executive Presidential System is described as a 'Gaullist-Style' system. The framers of the 1978 Constitution were inspired by the Fifth French Republic. They wanted a stable executive which would not be easily swayed by pressures from within the Legislature or outside. The final outcome was a President who, in many ways can, in certain given circumstances, be more powerful than his French counterpart. The office has potential for the excessive concentration of powers in a single individual. As head of the executive, he wields powers of considerable importance. Even though the Constitution makes him responsible to Parliament he is no longer answerable to the Legislature. Then, there is the fact that Standing Orders of the House do not permit any reference to be made to him or question his conduct except on a substantive motion. The President can retain any ministerial portfolio. He is the

head of the Cabinet of Ministers and will continue in that position notwithstanding a dissolution of the Cabinet. Article 44(3) states: "The President may, at any time, change the assignment of subjects and functions and the composition of the Cabinet of Ministers. Such changes shall not affect the continuity of the Cabinet of Ministers, and the continuity of its responsibility to Parliament." This Article, therefore, empowers the President to even dismiss his Prime Minister and reshuffle his Cabinet without consulting the former.

Article 43(2) states : "Provided that notwithstanding the dissolution of the Cabinet of Ministers under the provisions of the Constitution, the President shall continue in office." There are certain implications that flow from these constitutional provisions. The President is head of the Cabinet but he will not be affected by an adverse vote of confidence against the Government in the Legislature. The Legislature cannot remove the President from a Ministry which he controls by censuring his conduct.

In Sri Lanka, there is a prospect of a President and a majority in Parliament being hostile to each other. In fact, such a situation was seen in Sri Lanka for a short period after the victory of the Peoples' Alliance (PA) in August 1994. While the majority in Parliament belonged to the PA, the President was the leader of the defeated United National Party (UNP). Such a situation might lead to a direct confrontation between the Legislature and the Executive. In such an event deadlock can ensue. Alternately, if the majority in Parliament is of a different political complexion from that of the President, it could become necessary for that majority to come to a working arrangement with the President to share power. In short, the Constitution implicitly seeks to effect a check and balance.

Under article 85(1), the President can submit to a Referendum any Bill. It says : "The President shall submit to the People by Referendum every Bill or any provision in any Bill which the Cabinet of Ministers has certified as being intended to be submitted to the People by Referendum."

Article 85(2) states that "The President may in his discretion submit to the People by Referendum any Bill (not being a Bill for the repeal or amendment of any provision of the Constitution, or

for the repeal and replacement of the Constitution, or which is inconsistent with any provision of the Constitution), which has been rejected by Parliament.”

Article 85(3) states: “Any Bill or any provision in any Bill submitted on the People by Referendum shall be deemed to be approved by the People if approved by an absolute majority of the valid votes cast at such Referendum”.....

Furthermore, Article 86 states: “The President may, subject to the Article 85, submit to the People by Referendum any matter which in the opinion of the President is of national importance.” These provisions provide scope for a positively inclined President to have his way even if he is opposed by a hostile House.

Another significant feature is that the House is empowered to remove the President from his office. The process of impeachment is clearly laid down in the Constitution. Any member of Parliament can, by writing, give notice of a resolution to the Speaker alleging that the President is incapable of discharging the functions of his office “by reason of mental or physical infirmity” or that he has been guilty of (i) intentional violation of the Constitution; (ii) treason; (iii) bribery; (iv) misconduct or corruption; or (v) any offence under any law involving moral turpitude. The resolution will have to be inquired and reported on by the Supreme Court if it is signed by not less than two-thirds of the whole number of members of Parliament. Alternately if the Speaker is satisfied that the allegations merit inquiry by the Supreme Court, it must have the signatures of not less than one half of the total membership of the House. In either case, the resolution must be adopted by two-thirds of the total membership of the Legislature. The Speaker will then refer the matter to the Supreme Court for “inquiry and report”. If the Supreme Court holds with the allegations contained in the resolution, Parliament can proceed to remove the President from office by a two-thirds majority of the whole number of members including those not present.

The Constitution empowers the President to summon, prorogue and dissolve Parliament by proclamation. However, the Parliament cannot be dissolved after the Speaker has entertained an impeachment motion against the President.

## **Parliament: Relations with the Judiciary**

During the colonial rule, the independence and the powers of the Judiciary was upheld only so far as the supreme authority of the Colonial Administration was not impaired thereby. As independence drew near, the colonial authorities changed their attitude towards the relationship that ought to exist between the administration and the Judiciary. They realised the importance of checks and balances to the authority of the Legislature and the Executive Sri Lanka was about to be endowed with. As a result, the Judiciary of independent Sri Lanka was to be immuned from Legislative and the Executive control in order to guarantee its independent authority. With the grant of independence, as the colonial authorities believe, it was necessary to place restrictions on the law making and law enforcing authority of the Government in order to prevent misuse or abuse of power, specially in violation of the rights of the minorities.

In drafting the 1972 Republican Constitution the doctrine of separation of powers was categorically rejected. In its place was ordained the concept of the fusion of powers in the National State Assembly. Further, the power of Judicial Review of legislation, which was regarded as a stumbling block to progressive legislation, was taken away from Courts. The result was a Judiciary deprived of the power of Judicial Review, but ensured of the exclusive exercise of other judicial functions.

The Second Republican Constitution of 1978 made many fundamental changes in the constitutional structure of Sri Lanka. With regard to the Judiciary it says that the judicial power of the people shall be exercised by Parliament through Courts, tribunals and institutions created and established, or recognised by the Constitution, or created and established by law, except in regard to matters relating to the privileges, immunities and powers of Parliament and of its members, wherein the Judicial power of the people may be exercised directly by Parliament according to law.

The Parliament today is incompetent to exercise directly the Judicial power which is to be exercised only through Courts and similar institutions. Thus, under the present Constitution, a separation of the Legislative, Executive and Judicial functions could be seen.

The Supreme Court is to consist of the Chief Justice and of not less than six and not more than ten other judges, appointed by the President. Every Judge of the Supreme Court and of the Court of Appeal holds office during good behaviour and is removable only by the President upon address of Parliament on the ground of "proved misbehaviour or incapacity." Their salaries, determined by Parliament, shall be charged on the Consolidated Fund. The salaries and the pension entitlement of the Judges shall not be reduced after appointment.

The function of determining the constitutionality of Bills referred to it is vested in the Supreme Court. A Bill comes up before the Supreme Court for its determination as to whether the Bill or any provision thereof is inconsistent with the Constitution either when the President refers a Bill in writing addressed to the Chief Justice or when a citizen by a petition in writing addressed to the Supreme Court alleges that a Bill is inconsistent with the Constitution. Where the Constitutional jurisdiction of the Supreme Court has been so invoked, no proceeding shall be had in Parliament in relation to such Bill until the determination of the Supreme Court has been made. Such determination has to be made within three weeks from the date of such reference or petition.

When the Supreme Court determines that a Bill is inconsistent with the Constitution, it should also inform the Speaker whether such Bill ought to specify that it is for the amendment of the Constitution, or whether such Bill can or cannot be passed by the special majority prescribed for constitutional amendment (two-thirds) or whether it also requires being approved by the people at a Referendum. A Bill declared to be inconsistent with the Constitution can be passed only in the manner stated in the determination of the Supreme Court. Parliament may, however, pass such Bill after such amendment as would make the Bill cease to be inconsistent with the Constitution. To assist Parliament in effecting such amendment, Article 123(2) permits the Supreme Court to specify the nature of the amendments which would make the Bill or such provisions ceased to be inconsistent. Once a Bill has been passed by Parliament it is not competent for any Court or tribunal to pronounce upon or call in question in any manner, the validity of such Act on any grounds.

In respect of Urgent (in the national interest) Bills the determination of the Supreme Court has to be made within twenty-four hours. However, the Parliament may extend this time limit up to three days.

The present Constitution, like its predecessor, excludes Judicial Review of the constitutionality of legislation. Article 120 has the effect of preventing the Supreme Court from deciding whether or not a particular Bill is inconsistent with the Constitution in certain specific circumstances, such as when the Cabinet of Ministers certifies that Bill is intended to be passed with special majority prescribed for constitutional amendment. There, the sole determination of the Court is to be whether the Bill should be approved at a Referendum.

In addition to the exercise of the jurisdiction in election petitions pertaining to Presidential Elections and in respect of the breaches of parliamentary privileges, the Supreme Court functions as the protector of the Fundamental Rights of the citizens.

The appointment, transfer, dismissal and disciplinary control of judicial officers (excluding the Judges of the Supreme Court, the Court of Appeal and the High Court) is vested in the Judicial Service Commission. The JSC consists of the Chief Justice, who shall be the Chairman, and two Judges of the Supreme Court appointed by the President. A Judge of the Supreme Court appointed as a member of the Commission holds office for five years and is eligible for reappointment.

These provisions indicate that the present Constitution is designed to confer a greater degree of independence on the Judiciary.

### **Committee System**

The enormous volume of work before a Legislature and the limited time at its disposal make it impossible that every matter should be discussed at length on the floor of the House. If the work is to be done expeditiously and with reasonable care, some of its responsibilities have to be entrusted to some other agency in which the whole House has confidence. The most practical method so far

devised for this purpose is the Committee System, composed of a small number of members of the legislative body. In all the Parliaments and in US Congress, the formation Committees for detailed preliminary discussion of all important matters, specially of legislative projects, has been an established practice.

The Committee System in Sri Lanka is based on its mother Parliament, the House of Commons. From its inception, the Sri Lanka Parliament too has employed a number of committees to relieve the Parliament from the heavy burden of its work and to transact on its behalf a great deal of its business.

The power to appoint committees has been implied under Article 74 of the Constitution which empowers the Parliament to make Standing Orders for regulating, subject to the provisions of the Constitution, its business, the preservation of order at its sittings and any other matter for which provision is required or authorised to be so made by the Constitution. Under this provision, when framing the Standing Orders of the Sri Lanka Parliament, taking advantage of the experiences elsewhere, provision has been made in the Standing Orders for the appointment of various Parliamentary Committees.

### **Types of Committees**

The Committees of Sri Lanka Parliament can be classified into two broad categories. They are Standing Committees and Ad-hoc Committees. The Standing Committees are appointed by the Speaker in pursuance of the Standing Orders and continue to remain in office irrespective of the completion of their business. There is a little permanence in their tenure. They deal with specific business of the House. The Ad-hoc Committees are most temporary and cease to exist after completion of their work. These Committees perform such specific functions as are assigned to them from time to time. They may also be called Select Committees.

According to the Standing Orders, the Sri Lanka Parliament, apart from the Committee of whole Parliament, has four types of Committees:

- (i) Select Committees;
- (ii) Consultative Committees;

- (iii) Standing Committees; and
- (iv) Committees for special purposes.

### **Select Committees**

These are Ad-hoc Committees. They are appointed by the Speaker to inquire into and report to the House on various matters referred to these Committees. The scope of an inquiry by these Committees are defined by the terms of reference under which they are appointed, but it may be enlarged or restricted by the instruction of the Parliament. The Chairman and members are appointed by the Speaker. A Select Committee consists of not more than twelve members. But this can be increased with the leave of the Parliament. Parliament empowers these Committees to send for persons, papers and records.

### **Consultative Committees**

The Committee of Selection, at the commencement of every Session of Parliament, appoints a number of Consultative Committees corresponding to the number of Ministries of the Cabinet. The Minister in charge of the subject is the ex-officio Chairman of these Committees. But in the case of the Ministries which are under the President, the Deputy Ministers of those Ministries function as Chairmen. Each Consultative Committee consists of not more than twelve members appointed by the Committee of Selection.

The functions of a Consultative Committee are “to inquire into and report upon such matters as are referred to it by the Chairman or by Parliament including any proposals for legislation, supplementary or other estimates, statements of expenditure, motions, annual reports or papers.” For this purpose each Consultative Committee has powers to send for and examine persons, papers and records, to move from place to place and to do all such acts that are necessary for the fullest consideration of the matters referred to it. It has also the power to initiate through the Chairman any Bill or Motion. The Annual Reports and Accounts of various Departments under the respective Ministries which are presented to the Parliament by the Auditor-General of Sri Lanka regularly are immediately referred to the Consultative Committee

of the respective Ministry for consideration. The Consultative Committees have to present their reports to the Parliament within three months.

### **Standing Committees**

The Committee of Selection, at the commencement of every Session, appoints the Standing Committees. At present the number of members of a Standing Committee is twenty as decided by the Committee of Selection. The duty of a Standing Committee is limited to the consideration of the Bills referred to it by the Parliament and for that purpose it has power to send for persons, papers and records. The procedure in Standing Committees is as same as that in Committee of the Whole Parliament.

### **Committees for Special Purposes**

In Sri Lanka Parliament there are eight Committees of this nature functioning at present. They are as follows:

**Committee of Selection:** At the commencement of every Session, this Committee is appointed to consider the number, function and constitution of Consultative Committees and Legislative Standing Committees and to nominate members to serve upon the Committees for Special Purposes. The Committee of Selection consists of the Speaker, as Chairman, and ten members which include the leaders of political parties or their nominees to be nominated by the Parliament at the commencement of each session.

**House Committee:** This consists of the Speaker as Chairman and nine members to be nominated by the Committee of Selection to consider and advice upon all matters connected with the comfort and convenience of members.

**Committee on Standing Orders:** This Committee consists of the Speaker as Chairman, Deputy Speaker, the Deputy Chairman of Committees, and six other members to be nominated by the Committee of Selection. The duty of this Committee is to consider matters of procedure and conduct of business of Parliament and to recommend any amendments to the Standing Orders.

**Committee on Parliamentary Business:** This consists of the Speaker as Chairman, Deputy Speaker, Deputy Chairmen of Committees, the Leader of the House of Parliament, the Leader of the Opposition, the Chief Government Whip, the Chief Opposition Whip and five other members to be nominated by the Committee of Selection. The duty of this Committee is to consider and decide on the time allocation for the discussion of business of Parliament and any other matters, as the Speaker in consultation with the Leader of the House of Parliament, refers to the Committee.

**Committee on Public Accounts:** This is one of the two Financial Committees in Parliament. It consists of ten members nominated by the Committee of Selection. The duty of this Committee is to examine the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure.

**Committee on Public Enterprises:** This is the other Financial Committee in Parliament which consists of ten members nominated by the Committee of Selection. The duty of this Committee is to examine the accounts of the Public Corporations and of any Business Undertaking vested in the Government.

These two Committees have the power to summon before them and question any person and call for and examine any paper, book, record or other documents and to have access to stores and property.

**Committee on Privileges:** This consists of ten members nominated by the Committee of Selection. This Committee examines every question of privilege that may be referred to it by Parliament on a motion moved and approved. The Committee, on every question of privilege, has to determine whether a breach of privilege has been committed and if so, the nature of the breach, the circumstances leading to it, and make recommendations and state the procedure to be followed in giving effect to such recommendations.

The Committee has the power to send for persons, documents and other records and to do all such acts as are necessary for the fullest investigation of the matters referred to it.

**Committee on Public Petitions:** This consists of ten members nominated by the Committee of Selection. The duty of this Committee is to consider the petitions sent by public and referred to it by Parliament and to report back to Parliament its opinion on the action to be taken in respect of such petitions. This Committee has the power to summon before it and question any person and call for and examine any paper, book, record or other document and to have access to stores and property.

No member shall be appointed to a Committee if he is not willing to serve on it. The Whips and the Leaders of the parties are also consulted before nominating members to the Committees. The Committee of Selection normally nominates the members to various Committees in proportion to the strength of the parties in Parliament.

The number of members in each Committee also varies. Majority of Standing Committees have 20 members each. The minimum number is nine in the case of Committee on Standing Orders.

The Chairmanship of a Committee normally goes to a member belonging to the party in power. The Speaker is the Chairman of the Committees such as House Committee, Committee on Standing Orders and Committee on Parliamentary Business. The Chairmen of the rest of the Committees for special purposes are elected from among the members of the Committee. The Chairmen of the Select Committees are appointed by the Speaker.

The quorum to constitute a sitting of a Committee is fixed as nearly as may be, at one-third of the total membership of the Committee.

Sri Lanka Parliament has devised a well-knit Committee system, working under a uniform set of rules. These Committees, apart from the obvious advantage of saving floor time, have made a distinct contribution to the effective functioning of parliamentary democracy in Sri Lanka.

The effectiveness of a Committee is very much dependent on the personality of the Chairman of the Committee. If the Chairman wants to harness the energies of all the Committee members, he

can find ways and means to do so. He even can cast a sort of obligation on the members by appointing sub-Committees and making some of the members Chairmen of those sub-Committees.

In all the Committees, there is always a group of members taking a special interest in their work. They are the members who really take an interest in the Committee work and attend meetings regularly. This fact should be taken into consideration because it will be an advantage for the effective functioning of the Committees if developed properly.

The Committee System of Sri Lanka, though British in origin, has changed its character in keeping with the changing developments in the Sri Lanka Parliament and the society. The Committees have acquired more power and do enjoy wide jurisdiction too. At the same time, it has provided greater and valuable contribution to the day to day business of the Parliament.

### **Conclusion**

It is apparent that changes have occurred in the legislative system of Sri Lanka from time to time. The Westminster System served its purpose from 1948 to 1972. The Socialist Republican Parliamentary System was practised during the next six years. In 1978, it was converted to a Parliamentary System with an Executive President directly elected by the people. The practice of this System for nearly seventeen years has proved the importance of supremacy of Parliament. Criticisms have been levelled against the System from its inception. The Government which came into power in 1994 has pledged in its election manifesto that it will take action to change the System when it comes into power. A Select Committee has already been appointed for this purpose with the participation of all political parties represented in Parliament.

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PART II

**ANNEXURES**

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## **ANNEXURE I**

# **CHARTER OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION**

We, the Heads of State or Government of BANGLADESH, BHUTAN, INDIA, MALDIVES, NEPAL, PAKISTAN and SRI LANKA :

1. *Desirous* of promoting peace, stability, amity and progress in the region through strict adherence to the principles of the UNITED NATIONS CHARTER and NON-ALIGNMENT, particularly respect for the principles of sovereign equality, territorial integrity, national independence, non-use of force and non-interference in the internal affairs of other States and peaceful settlement of all disputes;

2. *Conscious* that in an increasingly interdependent world, the objectives of peace, freedom, social justice and economic prosperity are best achieved in the SOUTH ASIAN region by fostering mutual understanding, good neighbourly relations and meaningful cooperation among the Member States which are bound by ties of history and culture;

3. *Aware* of the common problems, interests and aspirations of the peoples of SOUTH ASIA and the need for joint action and enhanced cooperation within their respective political and economic systems and cultural traditions;

4. *Convinced* that regional cooperation among the countries of SOUTH ASIA is mutually beneficial, desirable and necessary for promoting the welfare and improving the quality of life of the peoples of the region;

5. *Convinced* further that economic, social and technical cooperation among the countries of SOUTH ASIA would contribute significantly to national and collective self-reliance;

6. *Recognising* that increased cooperation, contacts and exchanges among the countries of the region will contribute to the promotion of friendship and understanding among their peoples;

7. *Recalling* the DECLARATION SIGNED by their Foreign Ministers in NEW DELHI on August 2, 1983 and noting the progress achieved in regional cooperation;

8. *Reaffirming* their determination to promote such cooperation within an institutional framework;

### **Do Hereby**

AGREE to establish an organisation to be known as SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION hereinafter referred to as the ASSOCIATION, with the following objectives, principles, institutional and financial arrangements:

## **ARTICLE I**

### **Objectives**

1. The objectives of the ASSOCIATION shall be:
  - (a) to promote the welfare of the peoples of SOUTH ASIA and to improve their quality of life;
  - (b) to accelerate economic growth, social progress and cultural development in the region and to provide all individuals the opportunity to live in dignity and to realise their full potentials;
  - (c) to promote and strengthen collective self-reliance among the countries of SOUTH ASIA;
  - (d) to contribute to mutual trust, understanding and appreciation of one another's problems;
  - (e) to promote active collaboration and mutual assistance in the economic, social, cultural, technical and scientific fields;
  - (f) to strengthen cooperation among themselves in international forums on matters of common interests;  
and

- (g) to cooperate with international and regional organisations with similar aims and purposes.

## **ARTICLE II**

### **Principles**

1. Cooperation within the framework of the ASSOCIATION shall be based on respect for the principles of sovereign equality, territorial integrity, political independence, non-interference in the internal affairs of other States and mutual benefit.

2. Such cooperation shall not be a substitute for bilateral and multilateral obligations.

## **ARTICLE III**

### **Meeting of the Heads of State or Government**

1. The Heads of State or Government shall meet once a year or more often as and when considered necessary by the Member States.

## **ARTICLE IV**

### **Council of Ministers**

A Council of Ministers consisting of the Foreign Ministers of the Member States shall be established with the following functions:

- (a) formulation of the policies of the ASSOCIATION;
- (b) review of the progress of cooperation under the ASSOCIATION;
- (c) decision on new areas of cooperation;
- (d) establishment of additional mechanism under the ASSOCIATION as deemed necessary;
- (e) decision on other matters of general interest to the ASSOCIATION.

2. The Council of Ministers shall meet twice a year. Extraordinary session of the Council may be held by agreement among the Member States.

#### **ARTICLE V** **Standing Committee**

The Standing Committee comprising the Foreign Secretaries shall have the following functions:

- (a) overall monitoring and coordination of programme of cooperation;
- (b) approval of projects and programmes, and the modalities of their financing;
- (c) determination of inter-sectoral priorities;
- (d) mobilisation of regional and external resources;
- (e) identification of new areas of cooperation based on appropriate studies.

2. The Standing Committee shall meet as often as deemed necessary.

3. The Standing Committee shall submit periodic reports to the Council of Ministers and make reference to it as and when necessary for decisions on policy matters.

#### **ARTICLE VI** **Technical Committees**

Technical Committees comprising representatives of Member States shall be responsible for the implementation, coordination and monitoring of the programmes in their respective areas of cooperation.

2. They shall have the following terms and reference:

- (a) determination of the potential and the scope of regional cooperation in agreed areas;

- (b) formulation of programmes and preparation of projects;
- (c) determination of financial implications of sectoral programmes;
- (d) formulation of recommendations regarding apportionment of costs;
- (e) implementation and coordination of sectoral programmes;
- (f) monitoring of progress in implementation.

3. The Technical Committees shall submit periodic reports to the Standing Committee.

4. The Chairmanship of the Technical Committees shall normally rotate among Member States in alphabetical order every two years.

5. The Technical Committees may, *inter-alia*, use the following mechanisms and modalities, if and when considered necessary:

- (a) meetings of heads of national technical agencies;
- (b) meetings of experts in specific fields;
- (c) contact amongst recognised centres of excellence in the region.

## **ARTICLE VII**

### **Action Committees**

1. The Standing Committee may set up Action Committees comprising Member States concerned with implementation of projects involving more than two but not all Member States.

## **ARTICLE VIII**

### **Secretariat**

There shall be a Secretariat of the ASSOCIATION.

**ARTICLE IX**  
**Financial Arrangements**

1. The contribution of each Member State towards financing of the activities of the ASSOCIATION shall be voluntary.
2. Each Technical Committee shall make recommendations for the apportionment of costs of implementing the programmes proposed by it.
3. In case sufficient financial resources cannot be mobilised within the region for funding activities of the ASSOCIATION, external financing from appropriate sources may be mobilised with the approval of or by the Standing Committee.

**ARTICLE X**  
**General Provisions**

1. Decisions at all levels shall be taken on the basis of unanimity.
2. Bilateral and contentious issues shall be excluded from the deliberations.

IN FAITH WHEREOF We Have Set Our Hands And Seals  
Hereunto.

DONE IN DHAKA, BANGLADESH, On This The Eighth  
Day of December Of The Year One Thousand Nine  
Hundred Eighty Five.

Hussain Muhammad Ershad  
PRESIDENT OF THE PEOPLES REPUBLIC OF  
BANGLADESH

Jigme Singye Wangchuck  
KING OF BHUTAN

Rajiv Gandhi  
PRIME MINISTER OF THE REPUBLIC OF INDIA

**Maumoon Abdul Gayoom  
PRESIDENT OF THE REPUBLIC OF MALDIVES**

**Birendra Bir Bikram Shah Dev  
KING OF NEPAL**

**Mohammad Zia-ul-Haq  
PRESIDENT OF THE ISLAMIC REPUBLIC  
OF PAKISTAN**

**Junius Richard Jayewardene  
PRESIDENT OF DEMOCRATIC SOCIALIST  
REPUBLIC OF SRI LANKA**

## ***ANNEXURE II***

# **CHARTER OF THE ASSOCIATION OF SAARC SPEAKERS AND PARLIAMENTARIANS**

**WHEREAS** the Speakers and the Members of Parliament of the Parliaments of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka ;

**CONSCIOUS** of their common social, economic and political interest and aspirations and the ties of history and friendship that bind their Peoples ;

**DESIROUS** of forming an organization to strengthen and foster friendly ties, understanding, co-operation and joint action to promote their common interests and realize their common aspirations ;

**RECOGNIZING** that the South Asian Association for Regional Co-operation has created a framework for the States and the Governments in the Region to co-operate among themselves to achieve the ideals of the SAARC Charter ;

**AFFIRMING** their acceptance of the spirit, purposes and principles of the SAARC Charter and of supporting the work of the SAARC and promoting knowledge of its principles and activities ;

**RECALLING** the decisions of successive SAARC Summits on people to people co-operation leading to finalization of guidelines for extending recognition to South Asian Institutions ;

**CONVINCED** that such recognition would result in increased involvement of the people of South Asia in the process of regional co-operation ;

ENDORISING unanimously the Resolution adopted by the Speakers of the Parliaments of SAARC countries assembled in Parliamentary Complex of Sri Jayewardenepura Kotte, Sri Lanka on June 15, 1992 to set up an Association called the Association of SAARC Speakers and Parliamentarians ;

DO HEREBY unanimously agree to establish an Organization to be known as the "Association of SAARC Speakers and Parliamentarians" (hereinafter referred to as the "Association") with the following Objectives and Institutional Arrangements:—

### **ARTICLE-1**

#### **OBJECTIVES**

The objectives of the Association shall be to :—

- (a) strengthen people to people contact with a view to achieving mutual understanding, trust and friendship among the peoples of the SAARC countries ;
- (b) promote, contact, co-ordinate and exchange experience among Parliaments and Parliamentarians of the SAARC countries ;
- (c) provide a forum for exchange of ideas and information on parliamentary practices and procedures and for making suggestions ;
- (d) support the work of SAARC and promote knowledge of its principles and activities among Parliamentarians of South Asia ; and
- (e) co-operate in international forums in matters of common interest.

**ARTICLE-2  
COMPOSITION**

- (a) The Association shall be composed of the Speakers and Parliamentarians representing the National Parliaments of the SAARC countries.
- (b) One Branch of the Association shall be formed in each Parliament. The Speaker of the Parliament shall be the President of the Branch and the Secretary-General shall be the Secretary-General of the Branch.
- (c) Every Branch shall adhere to the objectives of the Association.
- (d) Each Branch shall have its own rules which shall conform to the rules of the Association.

**ARTICLE-3  
ASSOCIATION**

The Association shall comprise :

- (a) Speakers Council;
- (b) General Assembly; and
- (c) Secretariat.

**ARTICLE-4  
SPEAKERS COUNCIL**

- (a) The Speakers Council shall be the supreme authority of the Association and shall consist of the Speakers of the SAARC countries.
- (b) The Speaker of the host country shall be the Chairman of the Council and shall hold office from commencement of one Conference to the commencement of the next Conference.

- (c) The Speakers Council shall :—
- (i) approve the programme and budget of the Association;
  - (ii) decide subjects for discussion in the Speakers Council, General Assembly and any other Conference/meeting;
  - (iii) consider and decide all matters concerning the organization and conduct of the Speakers Council, General Assembly and other Conferences/meetings;
  - (iv) Frame rules of the Association, fix the date and venue of Conferences/meetings.

#### **ARTICLE-5**

#### **GENERAL ASSEMBLY**

- (a) The General Assembly shall discuss all matters which fall within the objectives of the Association and are referred to it by the Speakers Council.
- (b) The delegation to the General Assembly shall be composed of the Speaker, up to 5 Members of Parliament and Secretary-General of each Branch.
- (c) The Conference shall meet once a year in one of the member-countries by rotation at a place and date to be determined by the Speakers Council.
- (d) The Speaker of the host country shall be the President of the General Assembly and the Secretary-General of the Parliament of the host country shall be the Secretary-General of the General Assembly.
- (e) The Speaker of the country hosting the next Conference shall be the Vice-President of the General Assembly.
- (f) The term of office of the President, the Vice-President and the Secretary-General of the General Assembly shall be from the commencement of one Conference to the commencement of the next Conference.

## **ARTICLE-6**

### **SECRETARIAT**

- (a) There shall be a Secretariat of the Association headed by the Secretary-General of the Conference who shall be responsible for the work of the Secretariat.
- (b) The Secretariat shall be provided by the country hosting the Speakers Council, General Assembly and any other Conference/meeting till the commencement of the next Conference.
- (c) The Secretary-General shall *inter alia* :
  - (i) Prepare plan, programme and budget for the Association.
  - (ii) Prepare and circulate to all Branches records of the proceedings of the Speakers Council, General Assembly and other Conferences/meetings.
  - (iii) Publish periodically an Association News Bulletin and also issue publications dealing with the subjects of interest to the Association.

## **ARTICLE-7**

### **GENERAL FUND**

- (a) There shall be established a General Fund for the Association with Voluntary contributions from the member-countries and other institutions, organizations and individuals in the manner to be decided by the Speakers Council.
- (b) Expenses on local hospitality, logistic support and internal travel shall be borne by the host country. Expenditure on international travel shall be borne by the respective visiting delegations.

## **ARTICLE-8**

### **OFFICIAL LANGUAGE**

The official language of the Association shall be English.

## **ARTICLE-9 AMENDMENTS**

Amendments to the Charter and Rules may be made by the Speakers Council unanimously.

## **ARTICLE-10 GENERAL PROVISIONS**

- (a) Decisions at all levels shall be taken on the basis of unanimity.
- (b) Bilateral and contentious issues shall be excluded from the deliberations.

**Done at Kathmandu on the Sixteenth Day of November One  
Thousand Nine Hundred and Ninety Two.**

**Shaikh Razzaque Ali**  
Speaker  
Parliament  
Bangladesh

**Daman Nath Dhungana**  
Speaker  
House of Representatives  
Nepal

**Dasho Pasang Dorji**  
Speaker  
National Assembly  
Bhutan

**Gohar Ayub Khan**  
Speaker  
National Assembly  
Pakistan

**Shivraj V. Patil**  
Speaker  
Lok Sabha  
India

**M.H. Mohamed**  
Speaker  
Parliament  
Sri Lanka

**Adam Haleem**  
Deputy Director  
Citizen's Majlish  
Maldives

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PART III

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