

TRANSPARENCY IN PARLIAMENT

**A REVIEW OF THE PROCEDURES AND PRACTICES IN
SOUTH ASIA**

ALONG WITH

**RECOMMENDED GUIDELINES FOR
INCREASING OPENNESS**



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FOREWORD

South Asians for Human Rights (SAHR) is pleased to present this publication on the state of transparency in parliaments in Bangladesh, India, Pakistan and Sri Lanka. It examines the extent to which parliaments are accessible and open from the point of view of both Members of Parliament (MPs) and citizens.

An earlier version of this publication was presented as a paper at a regional workshop organised by SAHR in Dhaka, Bangladesh on 21 April 2009 on the ‘Right to Transparent Governance’ (RTG). The present publication counts with comments and suggestions by workshop participants.

This workshop follows from a series of national and regional consultations on RTG that were organised by SAHR across the region during 2007, which provided a basis to identify issues regarding transparency in government that affect all countries of the region. Subsequently SAHR constituted a committee to oversee and continue work in this sphere; it met in early 2008 to draw up a draft regional convention titled “Citizens’ Charter for Transparent Governance”, which was deliberated at the workshop in Dhaka.

Agreed at the workshop and included in this publication are ‘Summary Principles for Engendering Transparency in Parliament’, as well as a set of detailed guidelines recommended for improving transparency and accountability in the functioning of parliaments across South Asia.

We hope that this publication will be widely used by all citizens’ groups and other bodies to press upon governments in the region and national parliaments of the importance of having a transparent parliament which is pivotal to democracies that are vibrant precisely because they enjoy the full participation of citizens at all levels.

Introduction

Parliament as an institution, constituted on the principle of universal adult suffrage, is more than six decades old in South Asia. These supreme law-making bodies have been established by written constitutions that clearly define their powers and functions. Based on their constitutional mandate, Parliaments have drawn up rules for regulating their business (Rule Book) which are placed in the public domain. While Parliaments perform some of the most sacred of functions in a democracy such as representing the citizenry in the law making process, sanctioning legitimacy to the government of the day to conduct its work and raise and spend public monies for this purpose and exercising supervision over its functioning, citizens' access to its proceedings is limited. Several systemic and procedural factors have created enormous distances between the lawmakers and their makers, namely the voters-cum-taxpayers.

This paper examines the functioning of Parliaments in Bangladesh, India, Pakistan and Sri Lanka¹ in order to gauge the extent of openness and access from the point of view of both Members of Parliament (MPs) and citizens. The rule books, secondary literature and the websites of Parliament are the chief sources of information. In this paper we have tried to identify the extent of openness in the functioning of Parliaments that is required by their rule books and compared it with what is found in actual practice.²

¹ Despite our best efforts we have not been able to include Nepal in this study due to the non-availability of copies of the rule book of the Interim Parliament in English. Information from the Parliamentary website could not be downloaded due to font incompatibility.

² This Paper would have been considerably enriched if information from MPs had been collected through personal interviews. Due to the paucity of resources and time it has not been possible to tap this data source to inform this exercise of drawing up guidelines.

Aspects of the working of Parliaments are dealt with under five broad categories. The analysis of openness and access to information in relation to every category of activity is followed up with a set of recommendations containing guidelines which would increase transparency if adopted and fully implemented.³

³ This Paper incorporates the final version of the transparency guidelines adopted at the end of the workshop.

1. Calendar of Sessions and Business of Parliament

Under this section we will examine the procedures relating to the disclosure of information about the Parliamentary calendar and the calendar of business which indicate when Parliamentary sessions will be convened and what business will be taken up at each session and sitting.

1.1 Calendar of Parliament

Number of sessions required to be held and disclosure of information:

The number of Parliamentary sessions required to be held in a year is not uniform in all South Asian countries nor is there uniformity in the manner of informing MPs.

Bangladesh: The Constitution stipulates that not more than sixty days should lapse between two sessions of the Jatiya Sangsad (Parliament).⁴ The Parliamentary website merely states that the President shall summon the first session of Parliament on a date recommended by the Prime Minister. However there is no indication as to the number of sessions required to be held each year. Nor does the website provide a clear picture as to the

⁴ Article 72(1), *The Constitution of the People's Republic of Bangladesh*: <http://www.pmo.gov.bd/constitution/index.htm> as on 4 April, 2009.

number of sessions held in the years past. The Secretary of the House has the duty to publish in the Gazette the date, time and place of meeting of the House after it has been summoned by the President. He/she is also required to issue a summons to every MP indicating the same details. There is no reference to time limits.⁵ When an emergency session is occasioned, the Secretary is required to publish the dates of the sittings in the media and send telegrams to MPs.

India: There is no specific mention in the rule book of either House of Parliament about the number of sessions required to be held. However the Constitution requires that the gap between two consecutive sessions be less than six months.⁶ Generally Parliament holds the budget session towards the end of February and goes on until May with a few weeks' recess in April. Two more sessions are held in the monsoon and winter seasons. It is the duty of the Secretaries General of the Houses to issue summons to every MP.⁷ Where emergency sessions are convened, MPs are required to be informed via telegram and publication in the mass media. The websites of both Houses provide the number of sittings planned for each session. However no prior intimation as to the dates of all sessions is required to be provided at the beginning of each calendar year.

Pakistan: The rule book of the National Assembly states that there shall be at least three sessions of the House each year.⁸ The Government is required to provide the Speaker a calendar of sessions at the beginning of each Parliamentary year. The Secretary of the House has the duty to

⁵ Rule 3.

⁶ Article 85(1), The Constitution of India: <http://lawmin.nic.in/coi/coiason29july08.pdf> as on 4 April, 2009.

⁷ Lok Sabha: Chapter 2, Rule 3 and Rajya Sabha: Chapter 2 Rule 3.

⁸ Rule 47.

circulate the information to all MPs. The Senate of Pakistan follows a similar principle. The rule book of the Senate requires the Government to publicise a provisional calendar of business each year after consulting the Chairman of the House. It is the duty of the Chairman to circulate the calendar of sessions to all members of the House.⁹ The website of the Senate has already indicated the exact dates and the number of sittings to be held during the year 2009-2010.¹⁰ Similar information about the National Assembly could not be located on its website.

Sri Lanka: The Sri Lankan Parliament meets more frequently when compared to other Legislatures covered in this publication. The rule book requires Parliament to meet in two alternate weeks every month, i.e. the first and third weeks after the first Sunday of every month.¹¹ The Secretariat publishes the Parliamentary calendar every month in advance, indicating the number of sittings and the nature of business that is scheduled to be conducted.¹²

Discussion

We do not wish to make an argument for bringing in standardisation in the number of sessions held by Parliaments in South Asia as that is beyond the scope of this Paper. However there is a strong case for emulating the examples of Pakistan and Sri Lanka with regard to disclosure of dates for all sessions and the number of sittings in each session at the beginning of

⁹ Rule 19(1) and 19(2).

¹⁰ A total of 91 sittings are likely to be held in 8 sessions between March 2009 and February 2010. <http://www.senate.gov.pk/Provisional%20Allotment%20Days/Calendar.pdf> as on 4 April, 2009.

¹¹ Order 7(1).

¹² For example the calendar for the month of April can be accessed at the following URL: http://www.parliament.lk/parliament_calendar/DisplayCalendar.do

a Parliamentary year. Governments in the region tinker with the dates of Parliamentary sessions for reasons of political expediency. For example, in India the United Progressive Alliance Government did not prorogue the winter session of Parliament held in December 2008 in order to escape the threat of a second no-confidence motion that was being planned by the opposition parties. A no-confidence motion may be tabled only once in one session. The short budget session held in February 2009 was treated as a continuation of the winter session. Governments should not have such excessive powers of control as that amounts to encroachment on Parliament's supremacy. Parliamentary sessions should be held in a predictable manner no matter what the politics of the day may be. If this practical measure of declaring the dates of sessions and number of sittings in advance for a calendar year is adopted, not only MPs but also citizens and the media will have a reference point against which to hold the Government accountable for tinkering with session dates.

The tendency to disrupt the proceedings of the House in order to force the Government's hand on any issue has become common place in the region. As a result of such disruptions the business of Parliament cannot be completed in a timely manner resulting in delays and enormous wastage of public resources. Every working day lost due to disruptions must be duly compensated. Disincentives for disrupting House proceedings could be built into the system of allowances for MPs based on the principle of 'no work no pay'.

Recommended Transparency Guidelines:

- *That the Government ensure that a calendar of sessions indicating the dates of sitting is prepared and approved by the competent authorities for Parliament at the beginning of every Parliamentary year;*
- *That the Secretariats of the respective Houses ensure that the calendar of sessions and sittings is published in the Official Gazette and circulated to all members;*
- *That the Secretariats of the respective Houses ensure that the calendar of sessions and sittings is displayed on their websites for the reference of citizens and the media;*
- *That rules of business procedure of the respective Houses be amended to authorise the presiding officers to extend a session by the number of hours/days equal to the number of hours/days lost due to disruption of proceedings; and*
- *That the rules relating to the payment of salary and allowances for MPs be amended to include disincentives based on the principle of ‘no work, no pay’ in order to curb instances of disruption of House proceedings.*

1.2 Calendar of Business

Nomenclature and custodianship: The agenda of business of Parliament goes by various names in South Asia. In Bangladesh and both Houses in Pakistan it is known as ‘Orders of the Day’. It is called the ‘List of Business’ in both Houses in India, and the ‘Order Book’ in Sri Lanka. A small group of members representing all parties constitute a committee for the purpose of preparing the agenda for each House. No business is

allowed to be taken up outside of the prepared agenda without the leave of the presiding officer of the House. In Bangladesh, the Speaker is the custodian of the business calendar while in India and in Sri Lanka the Secretary General of Parliament is its keeper. In Pakistan the Secretaries of the respective Houses are the custodians of the business calendar.

Accessibility for MPs: There are no uniform guidelines governing the disclosure of the calendar of business to MPs. The rule books in Bangladesh, India and Pakistan state that the Secretary and the Secretaries General respectively shall make available to all MPs the agenda for the day.¹³ There is no time limit fixed in the rules for this purpose. However the website of the Jatiya Sangsad indicates that the Orders of the Day are made available to MPs at their addresses in Dhaka the night before each sitting.¹⁴ A similar procedure is followed in India. In Sri Lanka the Secretary General is required to table the business calendar in Parliament every day. He/she is also required to place a copy of the same in the library attached to Parliament. There are no clear instructions about making copies available to individual MPs.¹⁵

Accessibility for people: The rule books in all countries are silent about disclosing the business calendar of Parliament to people. In India and Sri Lanka the Parliamentary websites display the calendar of business for all sessions concurrently and may be accessed from any corner of the world. This has been done without incorporating any amendment to the rule book. In India where the business calendar is revised on any particular day, it is not always displayed prior to the conduct of the revised item of

¹³ Bangladesh:- Rule 32; India:- Lok Sabha: Chapter VI, Rule 31 and Rajya Sabha: Chapter VI, Rule 29; Pakistan:- National Assembly: Rule 57 and Senate: Rule 27(1)

¹⁴ <http://www.parliament.gov.bd/general-9.html> as on 4 April, 2009.

¹⁵ Order 9(4).

business. The websites of both Houses of the Indian Parliament provide information about the provisional list of business a few days in advance of each session. The grouping of ministries for the purpose of providing answers to questions raised by MPs is indicated. The business calendar is currently available on the websites only in English.

The website of Sri Lanka's Parliament displays the business calendar in Tamil and Sinhala in addition to English.

The website of the Jatiya Sangsad in Bangladesh does not display the day-to-day business of the House.

The website of the National Assembly in Pakistan contains up-to-date information about its business calendar for all completed sittings. However advance notice of the calendar of business for a day's session is not posted on the website. This suggests that the website provides *post facto* information only.¹⁶ In both India and Pakistan the calendar of business is publicised only in English. In Sri Lanka the business calendar for each upcoming week is uploaded on the website the previous week. The calendar is available in both the Sinhala and Tamil languages.

Discussion: If MPs are to participate in the business of the House in an informed and well-prepared manner, it is important for them to have access to the business calendar for all sittings constituting a session, well before the commencement of that session. It is advisable for the business advisory committees to meet well in advance of each session to fix the agenda of the House and for the respective secretariats to take the responsibility of

¹⁶ The business calendar section of the website of the Senate of Pakistan did not open up despite several attempts. Therefore it is not possible to comment on the practice of proactive disclosure of business adopted by the Senate.

circulating it to all members at least 48 hours before the date of the first sitting.

Almost all MPs own mobile phones these days. The respective Secretariats could start a short message service or instant mail (SMS/IM) to provide MPs with real time access to the calendar of business of their House. This can be easily accomplished using computer software that allows for internet-mobile phone interface.

The Secretariats could advertise a dedicated mobile phone number which any member of the public may access in order to receive information about the calendar of business. If resources are a constraint this can be a pay and use service, but it is advisable that efforts be made to provide this service to people free of cost. This can prove to be very useful to journalists covering Parliamentary proceedings.

Further, the respective Secretariats must develop websites in the official languages for providing real time access to people about the business of Parliament. These websites must be updated on a daily basis during the sessions of the House.

Recommended Transparency Guidelines:

- *That the presiding officers of every House ensure that the Business Advisory Committees finalise the calendar of business for each session and the Secretariat make copies available to MPs at least 48 hours in advance of the commencement of each session;*
- *That the respective Secretariats start a SMS/Instant Mail service to provide MPs with real time access to their calendar of business;*
- *That Secretariats advertise a mobile phone number where any person may access information about the calendar of business. This may be a free service if resources are available. If resources are a constraint requesters may be charged at nominal rates; and*
- *That the Secretariat of every House be made responsible for uploading on its website the calendar of business in advance of every sitting so that people may have access through the Internet. All revisions in the calendar may also be updated on the website and MPs informed in advance through the SMS/IM service.*

2. Record of Business Conducted

Under this section we will examine the extent of openness and access to the record of MPs' attendance at each sitting, leave of absence, reports of their debates and discussions, and the record of voting.

2.1 Record of Attendance

Bangladesh: The rule book in Bangladesh requires the Secretary to maintain a register indicating the attendance of every MP at every sitting.¹⁷ Every MP is required to sign the register before entering the House for the first time during the day. Every MP has the right to inspect the register. However the attendance record is not displayed on the website of the Jatiya Sangsad.

India: There is no mention in the rule book of either House about the requirement for maintaining a record of attendance of MPs. However the practice of maintaining an attendance register was begun in December 1947 in the then Central Legislative Assembly. This practice was continued by the Houses of Parliament constituted in 1952 after the first general elections.¹⁸

¹⁷ Rule 180.

¹⁸ M N Kaul and S L Shakhder, *Practice and Procedure of Parliament*, fifth edn. [G C Malhotra (ed.)], Lok Sabha Secretariat and Metropolitan, 2004, pp. 379, fn. 12.

Every member is required to sign the attendance register on the morning of every sitting. Claims of daily allowance by MPs are honoured only if they have signed the register. In addition to the register, the lobby officer is required to maintain an hourly chart showing the number of members present in either House during different hours of the day. This chart also indicates the total attendance of the Houses during any sitting. At the end of each session an analytical abstract is prepared showing statistical data with regard to the maximum and minimum attendance for every sitting, highest and lowest head count per hour and the average attendance per sitting during the session.¹⁹

The websites of both Houses have begun to proactively disclose the record of attendance of every MP at each sitting.²⁰ Any person with Internet access may view this information. However the website does not display the hourly chart of attendance or the analytical abstract prepared by the respective Secretariats for each session. There is no mention in the rule book of a system developed to record the extent of time spent by every MP in the House during the day after signing the register.

Pakistan: The rule books of the National Assembly and the Senate require the respective secretaries to maintain a register of attendance for all MPs, which the latter have the right to inspect.²¹ However, attendance-related information is not displayed on the websites of both Houses.

Sri Lanka: The rule book does not specifically indicate that a register of attendance should be maintained. However the Secretary General has the

¹⁹ Ibid., p. 381. This practice is also mentioned in the rule books of either House.

²⁰ Lok Sabha: http://164.100.47.132/members_attendance/mainscreen.aspx and Rajya Sabha: http://rajyasabha.nic.in/164.100.47.4/Members_attendance/sessionwise_attendance.aspx as on 4 April, 2009.

²¹ National Assembly: Rule 42 and Senate: Rule 18.

duty to maintain the minutes of all sittings and this must include the names of members attending.²² The website of Sri Lanka's Parliament does not display the attendance record of its MPs.

2.2 Leave of Absence

In Bangladesh and Pakistan MPs are required to submit applications for leave of absence to the presiding officer of the respective House indicating reasons for the same.²³ The presiding officer is required to read out the application and seek the approval of the House. No discussion is allowed.

In India, the rule book of the Lok Sabha requires members to submit written applications seeking leave of absence. Reasons for their inability to attend sittings must be mentioned in the application.²⁴ The application is then sent to the committee on absence of members for approval. The decision of the committee is communicated to the member. There is no requirement of transparency in this procedure. However, the Rajya Sabha rule book requires the Chairman to read out before the entire House the application of a member wanting leave of absence and seek their approval. No discussion is allowed on this matter.²⁵ There is no requirement on the members of the Rajya Sabha to mention the reasons for seeking leave of absence, but they have to mention the period of absence. This procedure ensures that the absence of a member is noted in the proceedings of the Rajya Sabha.

In Sri Lanka the Standing Orders do not clearly indicate the procedure for seeking leave of absence. However Order 19 states that motions for leave

²² Order 9(1).

²³ Bangladesh: Rule 179; Pakistan:- National Assembly: Rule 40 and Senate: Rule 15.

²⁴ Lok Sabha:- Chapter XXIII, Rule 242.

²⁵ Rajya Sabha:- Chapter XVIII, Rule 214.

of absence will be the ninth item in the order of business for the day. It is presumed that the procedure for approval is the same as in Bangladesh and Pakistan.

Discussion: All MPs are public servants. They are elected by voters to represent their aspirations in Parliament. The allowances paid to them, the expenses incurred on providing them with facilities such as free travel from their constituency to the seat of Parliament, free or subsidised residence, free telephone calls, vehicles, constituency allowances etc. are all funded by tax payers. An MP's primary business is to attend Parliament when it is in session. Every voter-cum-taxpayer has the right to know whether a MP has attended every sitting of Parliament or not. It is important that all Secretariats publicly disclose the attendance record of MPs. Further, despite signing the attendance register, MPs are known to absent themselves from the House even when important Bills or motions are discussed. Perhaps the only times when the seats in the Houses are nearly full are during the presidential address or presentation of the budget or discussions on motions of confidence and no-confidence. On other occasions MPs are busy politicking in the lobby or meeting ministers and senior officials; participation in the deliberations is not always high priority.²⁶ Draconian laws get passed by parliaments without much discussion as MPs are simply not around to debate their provisions. For example, in 1987 less than 20 MPs were present during the debate on the infamous *Terrorist and Disruptive Activities (Prevention) Act* in India's Parliament.

There is no reason why the taxpayer should not know how much time each MP spent in the House in each sitting. The practice of maintaining hourly charts and analytical abstracts related to attendance of MPs may be introduced in other parliaments in South Asia. This data collection for preparing the hourly chart should be further refined to indicate the actual

²⁶ We do not wish to argue that every MP indulges in this kind of absenteeism. There are noble exceptions of MPs who conscientiously attend the House proceedings even when they are not slotted to speak. What is being pointed at is the emergence of a general tendency amongst MPs in South Asian countries to give their political interests preference over and above their role as lawmakers and representatives of the people.

amount of time spent by every MP in the House for every sitting. The information must also be collated and publicised through the websites of the respective Houses.

Except in Sri Lanka where Parliament meets every month, in other countries fewer sessions are held. MPs attend Parliament for less than a third of the total number of days in a year. Unless there are grounds of personal or familial ill-health or some such grave cause there is no reason why an MP should exempt himself/herself from attending Parliamentary business. Every voter-cum-taxpayer has the right to know the reasons behind an MP's request for leave of absence. The text of the leave application should be publicly disclosed on websites. These measures can act as a check on the tendency of absenteeism amongst MPs.

Recommended Transparency Guidelines:

- *That the Secretariats of the respective Houses publish on their websites the attendance record of all MPs on the day after every sitting;*
- *That the Secretariats make arrangements to record the presence of every MP during every hour of every sitting;*
- *That the Secretariats proactively publish on their respective websites at the end of every session the analytical abstracts of hourly charts showing statistics of the presence and absence of MPs on an individual basis and for the entire House. This information may be publicised on a weekly basis as part of the Parliamentary bulletins that describe the details of work done in the House; and*
- *That the Secretariats of the respective Houses publicise on their websites the names of MPs who have sought leave of absence, the period for which leave has been sought and the reasons for seeking such leave.*

2.3 Record of Debates and Discussions

Under this section we will examine the extent of transparency required to be observed with regard to all matters discussed and debated in Parliaments except bills, budgets and questions and answers which will be dealt with later on in this paper.

Real time access

The rules of business procedure of South Asian Parliaments under study were formulated at a time when information technology was at its infancy. The technological means to bring to the citizen's home live relay of parliamentary debates and discussions did not exist. There is no mention of live broadcast or telecast of parliamentary debates and discussions in the rule book. However important sessions and speeches were broadcast live through the radio network on occasion. With the growth and expansion of information and communications technology (ICT) during the 1990s, in some countries citizens have a never-before opportunity of watching parliamentary debates live. In a metaphorical sense Parliament has arrived in the living room of every family that owns a television set. This technological innovation has reduced the distance between the voter-cum-taxpayer and Parliament to some extent.

Bangladesh: In Bangladesh all open sessions of the Jatiya Sangsad are said to be broadcast live. Arrangements have been made to telecast live the question-answer sessions,²⁷ but all other sessions are not yet being broadcast live.

²⁷ Information gathered from a speech of the Rt. Hon. Sheikh Haseena, Prime Minister of Bangladesh delivered at the Conference on Committee Systems organised by the Institute of Parliamentary Studies in 1999 at Dhaka: http://www.parliament.gov.bd/IPS_Committee_Conference/ips-7_pmaddress.htm as on 4 April, 2009.

India: During the mid-1990s both Houses of Parliament resolved to telecast their question-answer sessions live. These sessions were already being broadcast live through the state-owned All India Radio network. For a few years the state-controlled Doordarshan telecast live all open proceedings of the Lok Sabha through a dedicated satellite channel. In 2006 this channel was replaced by Lok Sabha TV - a satellite TV channel wholly owned by the Lok Sabha itself. All open sittings are telecast live from the House throughout the period of business. Live telecast is stopped whenever the House adjourns or when the presiding officer orders the cameras to be switched off in order to save the country from the embarrassment of watching unruly MPs agitating over an emergent issue. All open proceedings of the Rajya Sabha are telecast live by its sister channel -- DD Rajya Sabha -- which continues to be owned by Doordarshan. All joint sittings of the Parliament are telecast by both TV channels.

Pakistan: Pakistan TV telecasts important sessions of the National Assembly and the Senate on occasion although it is difficult to find in the public domain criteria for the selection of some sessions over others. It was not possible to confirm whether radio channels broadcast live the proceedings of either House of Parliament.

Sri Lanka: There is no information in the public domain regards live broadcasts or telecasts of Parliamentary proceedings. According to a study commissioned by UNESCO none of the radio or TV channels in the country are said to provide people with real time relay of Parliamentary proceedings.²⁸

²⁸ Mary Raine, "Broadcasting Parliament Spreads throughout the Commonwealth": http://portal.unesco.org/ci/en/files/18798/11144257475informed_democracies.doc/informed_democracies.doc as on 4 April, 2009.

Discussion: The last two decades have witnessed phenomenal advancement in the ICT sector. For the first time it is possible to bring Parliamentary proceedings to the living rooms of the voter-cum-taxpayer. Governments and the respective Secretariats of the Houses should find the resources to telecast live all open sittings of the Houses. If resources are a constraint radio channels should be encouraged to broadcast live the proceedings of the Houses. The penetration of radio is deeper than television channels in remote areas. Live broadcasts will ensure that people living in far flung areas will also have access to the proceedings in their Parliament.

In order to ensure that more people have easy access to the deliberations of MPs, efforts must be made to set up a public information centre equipped with TV sets relaying all open proceedings of Parliament. This centre may be set up near Parliament outside the high security zone and people may be allowed access on a first-come-first-served basis. The procedures for distributing passes for watching House proceedings from the Galleries must be simplified. These passes may also be distributed on a first-come-first-served basis.

Recommended Transparency Guidelines:

- *That the Government and the Secretariats find resources to ensure the live telecast of all open proceedings of parliament. If adequate resource cannot be found, the open proceedings should be broadcast live over the radio network.*
- *That a Public Information Centre equipped with TV sets that relay live all open proceedings of Parliament be setup at a place in the capital city which is easily accessible to any member of the public. Any person interested in watching the live proceedings may be allowed entry on a first-come-first-served basis; and*
- *That the proceedings for distributing passes to the galleries be simplified and access be provided on a first-come-first-served basis.*

Access to records of debates and proceedings of Parliament

Bangladesh: The Secretary of the Jatiya Sangsad has the duty to ensure that a full report of the proceedings of the open sittings of the House is published as soon as possible. No time limit is stipulated for this purpose.²⁹ In addition to this the rule book empowers the Speaker to authorise any person to print, publish, distribute or sell any paper, document or report laid on the table of the Jatiya Sangsad.³⁰ The Secretary is the custodian of all such documents. Access to the proceedings and papers is available in the Parliamentary library. The website of the Jatiya Sangsad does not contain reports of any proceedings or papers laid on the table of the House.

India: The Secretaries General of both Houses have the responsibility for ensuring that a full report of the proceedings at open sittings is published as soon as possible.³¹ They are also the custodians of all reports and papers laid on the table of the respective Houses. The uncorrected verbatim version of the proceedings is uploaded on the website the day after sittings. The corrected and official version of the proceedings is uploaded on the website within 10-15 days of each sitting. The reports are uploaded in searchable databases providing a lot of convenience to the viewer. However, only the printed version of the proceedings is considered to be authentic. The websites provide contact details of relevant officers in either Secretariat who may be contacted for obtaining a copy of the authentic version of the proceedings of any sitting. MPs and other citizens can access these printed reports from the library of Parliament. However, Parliament being in a high security zone, non-members including serious researchers are not allowed

²⁹ Rule 306.

³⁰ Rule 309.

³¹ Lok Sabha:- Chapter XXVII, Rule 379; in the case of the Rajya Sabha, the author was unable to locate a specific rule that requires the publication of proceedings of the House.

access to the Parliamentary library when the Houses are in session. MPs are said to have primacy over the voters-cum-taxpayers for accessing the library; the latter have to wait for their turn between sessions.

In addition to the reports of proceedings, both Secretariats release a bulletin every day containing a summary of all proceedings including details of all papers and reports laid on the table of the House at the most recent sitting of each House. These bulletins are also accessible on the websites of both Houses.

Pakistan: The rule books of the National Assembly and the Senate authorise the respective Secretaries to ensure the publication of a report of the proceedings at all open sittings.³² They are also the custodians of all documents and papers laid on the table of the respective Houses. The Secretary of the National Assembly is authorised to publish a bulletin containing a summary of the proceedings of each open sitting. The Secretary of the Senate is authorised to publish a journal containing a summary report of its open proceedings. Except for the speeches of the Speaker, the Leader of the House and the Leader of the Opposition, no other speeches or debates or bulletins are uploaded on the website of the National Assembly. The website of the Senate does not contain any record of the proceedings or even a summary. The ‘House Proceeding’ link merely states that a verbatim record of the proceedings is printed and supplied to MPs on request. There is no indication of how other citizens might access it.

Sri Lanka: the rule book does not contain any specific Order requiring the Secretary General to publish the proceedings of the House. However the Order relating to the language in which business of Parliament will

³² National Assembly: Rule 282 and Senate: Rule 230.

be conducted indicates that an Official Report of Parliamentary Debates alternatively called Hansard is required to be maintained.³³ While the speeches are to be reported in the language in which they are made, the front cover must be published in English, Sinhala and Tamil. The names of MPs must also be mentioned in all three languages while reporting their speeches. The Secretary General is the custodian of all papers and documents that form part of the proceedings. MPs are allowed to inspect these documents freely. The Speaker's permission is required to provide access to other persons.³⁴ The website of the Sri Lankan Parliament displays Hansards for every month soon after the completion of all scheduled sittings. The scheme for the use of all three official languages mentioned above is observed and none of the speeches are translated into other languages.

Discussion: The foregoing review indicates that people other than MPs in most South Asian countries do not have easy access to the reports of proceedings and papers laid on the table -- the only exception being the websites of India's Parliament. The only source of information for most people is media reportage. Even this does not do justice to the entire session as the media publicises only such matters gleaned from the proceedings that the editors think is important for their readers to know. In today's ICT age, this situation can be easily remedied. Mechanisms should be developed for releasing to the media and on the respective websites bulletins containing summaries of work done in each sitting. Similarly, detailed and comprehensive reports of Parliamentary proceedings must be displayed on the respective websites. We are aware of the low levels of Internet literacy in South Asian countries. However the ICT route is a good way of placing information in the public domain without much danger of

³³ Order 12(1).

³⁴ Order 9(6).

it being lost at a later stage. The Hansards for the Parliament of the UK are available from the 1800s in the form of a searchable database.³⁵ Steps may be taken to digitalise/computerise the printed proceedings of South Asian Parliaments in a phased manner.

The problem of ensuring access for voters-cum-taxpayers at the constituency level to the speeches of their MPs also needs to be tackled. One way of ensuring access is to advertise that such databases may be accessed through the official information centres that have been established in almost all districts in the South Asian countries covered by this study. In India, Community Information Centres with internet access have been set up by the government at the sub-district level. In Bangladesh Community Information Centres with internet access have been set up in almost all upazila (sub-district level) centres by grameenphone. People could access records of debates through such terminals. However where MPs make speeches in English, providing translations in the local language may prove to be a difficulty.

Additionally, one set of printouts of all proceedings of Parliament may be sent within a month of the closure of every session to popular libraries at the district level including those which are maintained out of public funds. This must be advertised widely so that people may approach the library to learn about the manner in which their MPs did or did not represent their interests in Parliament. This will require some resource investment. However, it is a necessary cost to reduce the distance between people and what goes on in Parliament. Ideally every MP could place a full set of his/her copy of all papers related to the proceedings of the House in the largest or most popular library in his/her constituency. But it may be too much to expect every MP to do all this amidst the politicking that he/she is busy

³⁵ <http://hansard.millbanksystems.com/>

with. The idea of sending copies to all district libraries must be seriously explored. Additional budgetary provisions will have to be made for every Secretariat to make multiple copies of the reports and to transmit them to these libraries.

Recommended Transparency Guidelines:

- *That Secretariats of the respective Houses release to the media and upload on their websites daily and weekly bulletins with regard to the business conducted, completed and pending in every session;*
- *That Secretariats of the respective Houses upload all verbatim and corrected reports including summaries of the proceedings on their websites; and*
- *That access to Parliamentary proceedings in digital or hard copy format be provided to people at the constituency level through Community Information Centres and popular libraries including those maintained out of public funds. Additional budgetary provisions may be made to the respective Secretariats to support such dissemination.*

2.4 Questions Raised and Answers Provided in Parliament

Except Sri Lanka, other South Asian countries reviewed in this study follow closely the Westminster style of government where the government of the day is accountable to Parliament. MPs have the right to raise questions about any matter relating to the functions of the government and obtain written and oral replies from the concerned Minister. A full hour is set aside for this purpose in the business calendar for every sitting. Though

Sri Lanka follows a presidential system of government the Prime Minister and other Ministers are obligated to provide answers to questions raised by MPs about governance issues. This is a time honoured system for ensuring that government is held accountable by people's representatives for its actions and omissions.

In all Parliaments under review, advance notice of questions is required to be given by an MP. The questions are submitted in writing to the Secretariat of the respective Houses. The period of advance notice required to be given for each question differs from House to House. In Bangladesh MPs are required to submit questions at least 15 days in advance.³⁶ In India notice of between 10-21 days is required to be given for raising questions in the Lok Sabha while a minimum of 15 days' advance notice is considered adequate in the Rajya Sabha.³⁷ In Pakistan, advance notice of 15 days is required to be given for raising questions in the National Assembly while 13 days are adequate advance notice in the Senate.³⁸ In Sri Lanka there is no specific mention of the period of notice that is required to be given for raising questions in Parliament.

In all House procedures under review, the presiding officer's decision on the admissibility of questions is final and cannot be challenged. Answers are provided in written and/or oral form. Copies of questions and answers provided are categorised ministry-wise and printed copies are distributed to all MPs for each sitting. However the rule books in various Houses specify that questions must not be disclosed to an MP or any person until the government is ready with its answers.

³⁶ Rule 42.

³⁷ Lok Sabha:- Chapter VII, Rule 33 and Rajya Sabha:- Chapter VII, Rule 39.

³⁸ National Assembly: Rule 70 and Senate: Rule 39.

People's Access to Questions and Answers: Before the ICT revolution citizens could access reports of questions raised and answers provided either from the library of Parliament or from media reports. However in recent times this information may be accessed on the websites of some of the Houses.

In India the websites of both Houses contain a searchable database of questions (starred and unstarred) and answers for the current and previous sessions. The search function is based on free words, names of MPs and Ministries and the date of provision of the answers. Every MP's homepage also contains links to the questions raised during the current and previous session. In addition to this all Ministries of the Government of India provide on their websites a link to this database of questions and answers.

In Pakistan, the website of the National Assembly provides access to the *pdf* (portable document format) files of the printed document containing questions raised and answers provided in each sitting. However there is no search facility available on the website. The website of the Senate of Pakistan does not contain any information about questions and answers that form part of the House proceedings.

In Sri Lanka the daily Hansards contain information about questions raised and answers provided. No separate record of the question answer session is available on this website.

The website of the Jatiya Sangsad in Bangladesh does not contain any information about the questions and answers that form part of its proceedings. The sitemap only contains an inactive link called: 'Prime Minister's Question Time'. No information on questions and answers is available in the Bangla version of the website either.

Discussion: The initiatives taken by the Secretariats in India and Pakistan may be emulated in all other Houses in the region. Placing the information on the websites of the respective Houses ensures that it is accessible in the public domain without security restrictions. However more transparency needs to be brought into the process of admitting questions. MPs have pointed out in private conversations that they are puzzled when some of their questions are not admitted. The rule book does not require the presiding officer to give reasons to an MP for not admitting his/her questions. There is no redress in such cases to which the MP can take recourse. Similarly, there are no criteria available in the public domain for the order in which questions are listed. Often no formal explanation is given to an MP when his/her proposal to introduce a motion or a resolution is rejected by the presiding officer. These practices amount to lack of accountability in the procedural aspects of the Secretariat. The laws on People's Access to Information (Right to Information) passed in India and Bangladesh contain a specific provision which requires every public authority making an administrative or quasi-judicial decision to give reasons for such decisions to affected persons. A similar provision must be included in the rule book of all Parliaments. This will ensure that decisions not to admit questions are taken with greater care. Instances of throwing to the dustbin questions that are likely to embarrass government or a Minister can be reduced considerably if greater accountability is required for making such decisions.

Recommended Transparency Guidelines:

- *That the Secretariats of all Houses ensure that all questions raised by MPs and answers provided by the Ministers are uploaded on the respective websites in the form of a searchable database so that people may have easy access to them;*

- *That the Secretariats upload questions and answers within 24 hours of their being tabled in the House;*
- *That the Secretariats publicise the criteria adopted in listing questions in a particular order;*
- *That access to questions and answers forming part of the proceedings, in digital or hard copy format, be provided to people at the constituency level through Community Information Centres and popular libraries including those maintained out of public funds. Additional budgetary provisions may be made to the respective secretariats to support such dissemination;*
- *That the Secretariats provide in writing reasons to the concerned MP when his/her questions, motions and resolutions are not admitted in the House; and*
- *That Secretariats publish on their website the text of all questions, motions and resolutions rejected before admission in the House along with the name of the concerned MP and the reasons for such rejection.*

2.5 Record of Voting

Procedure for voting: There are both similarities and differences in the procedure adopted for voting on any question in the Parliaments under review. For example, the practice of arriving at a decision on any question by a voice vote is common to all Houses. This must indeed be so as in a Parliamentary form of government the majority position is almost always known well in advance except in matters relating to a vote of confidence in the government. However due to the practice of many MPs preferring

to spend some of their time outside the House even during sittings, any MP may call for a division of the voice vote. This must be done before the results are declared by the presiding officer. This procedure is shared across all Houses under review.

Differences are found in the methods of the recording division in the respective Houses. For example, in Bangladesh, India and Pakistan all Houses permit division by use of automatic vote recorder among other methods.³⁹ This procedure is not available in Sri Lanka. The procedure of division by voting in the lobbies has become obsolete in the Lok Sabha in India even though the rule book continues to mention it.⁴⁰ This procedure is not mentioned in the rule book of both Houses of Pakistan's Parliament. The rule book of the Jatiya Sangsad mentions this procedure of division along with the procedure for using automatic vote recorder.⁴¹

In the Indian Lok Sabha, if the automatic vote recorder fails, voting slips (differently coloured slips for 'Aye', 'No' and 'Abstention') are issued by the division clerks to every MP. The votes recorded by MPs are then collected by them, brought to the officer at the table, counted and results handed over to the presiding officer for announcement.⁴² This procedure is not followed in the Rajya Sabha but the rule book contains the alternative of voting in the lobbies.⁴³

Sri Lanka's method for division is unique in the region. Here the rule book requires the Secretary General to ask each MP attending the House how

³⁹ Bangladesh:- Rule 296A; India:- Lok Sabha: Chapter XXVII, Rule 367A and Rajya Sabha: Chapter XXIII, Rule 253; Pakistan:- National Assembly: Rule 277 and Senate: Rule 212 and Third Schedule.

⁴⁰ Lok Sabha:- Chapter XXVII, Rule 367B. Also see Kaul and Shakhder, op.cit. p. 926.

⁴¹ Rule 296B.

⁴² Lok Sabha: Chapter XXVII, Rule 377AA

⁴³ Rajya Sabha: Chapter XXIII, Rule 254.

he/she wants to vote on the question.⁴⁴ The Prime Minister has the right of precedence followed by cabinet ministers, other ministers, deputy ministers and other MPs in alphabetical order of their names.⁴⁵ The Secretary General collects the votes and announces the results. In effect the data regarding the nature of vote of every MP can be maintained by the Secretary General even though the individual voting pattern is not disclosed on the website.

Disclosure of results: The various methods of voting listed above have the potential for recording information about how a MP votes when division takes place. Where the automatic vote recorder or voting slips are used, the system allows for the recording of the division number (corresponding to the specific seat allotted to a MP in the House Chamber) against the vote. In India division lists (when voting slips are used) or computerised lists (when automatic vote recorder is used) are prepared and displayed on the notice boards of the outer lobby. MPs and any other person having access to this portion of the House premises can see the results of the vote along with division numbers of MPs.⁴⁶

There is no mention about disclosing division numbers or the vote of an individual MP in the rule books of Parliaments in Bangladesh and Pakistan where automatic recorders or other methods are used. The rule book in Sri Lanka also does not require the Secretariat to mention the individual record of voting in the Hansard. Only the number of votes cast on both sides and the net result are required to be publicised.

Discussion: It is important for every voter-cum-taxpayer to know how his/her MP votes on a question put before the House. While there is no

⁴⁴ Order 42. An MP may decline to vote on the question. This information is also recorded.

⁴⁵ Order 42(1).

⁴⁶ Kaul and Shakhder, op.cit., p. 934. However there is no specific requirement of such disclosure mentioned in the rule book of either House.

transparency in South Asian Parliaments in this regard, inspiration may be drawn from the Houses of the US Congress. The tally clerks of the House of Representatives and the Senate compile a record of how each congressman or senator voted on every question put before the respective Houses. This information is not only publicised in the daily journal of the Houses but also uploaded on the websites of the respective Houses and updated every 20 minutes when the Houses are in session.⁴⁷ South Asian Parliaments could emulate this practice and ensure that, whenever division is allowed, the individual votes of MPs are recorded and displayed within the House for their reference and on websites for the information of the voter-cum-taxpayer.

Recommended Transparency Guidelines:

- *That all Parliaments facilitate the disclosure of the nature of vote cast by every MP whenever division of votes on any question is allowed;*
- *That the Secretariats of the respective Houses display the roll call of votes on their websites; and*
- *That a compilation of the roll call of votes for each session be prepared along with the proceedings of Parliament in digital and hard copy format and disseminated amongst people at the constituency level through Community Information Centres and popular libraries including those maintained with public funds. Additional budgetary provisions may be made to the respective Secretariats to support such dissemination.*

⁴⁷ For example see the roll call on different questions for the House of Representatives: <http://clerk.house.gov/evs/2008/roll690.xml> and for the Senate: http://www.senate.gov/pagelayout/legislative/a_three_sections_with_teasers/votes.htm as in 4 April, 2009.

3. **Papers Laid on the Table of Parliament**

Under this section we will examine the procedures laid down and the practice followed with regards to disclosing information about Bills and legislative instruments, budget-related papers and other financial information relating to Parliaments and their members.

3.1 Bills and legislative instruments

Bangladesh

Bills: There is no requirement in the rule book to publish the contents of a government Bill before it is introduced in the Jatiya Sangsad. The Secretary of the House is required to publish in the Gazette the contents of the Bill along with a statement of objects and reasons and a financial memorandum, if any, only after the Bill has been introduced. The rule book does not mention how MPs will be given access to copies of the Bill and how soon.⁴⁸ The website of the Jatiya Sangsad does not contain the text of any Bills which were introduced earlier. However some of the Ministries piloting Bills may display its contents inviting people to give their views. One such instance occurred in 2008 when the Ministry of Information

⁴⁸ Presumably copies are distributed to MPs on the day of introduction, but this needs to be verified from them.

displayed the contents of the draft Right to Information Ordinance and invited people to submit recommendations for strengthening it.

Legislative Instruments: There is no mention of the procedure to be followed with respect to the introduction of rules and regulations requiring Parliament's approval for implementing any legislation enacted by it earlier.

India

Bills: The rule books of both Houses in India's Parliament do not contain any provision requiring the government to publish the text of the draft Bill in the gazette. However, in practice, the Ministry of Law sends two copies of the proposed Bill to the Secretariat of the House in which it is intended to be introduced for checking whether all requisite formalities have been completed.⁴⁹ After a Bill is found fit for introduction, the Secretariat sends the Bill to the government press to print copies for distribution to members. All government Bills are required to be distributed to MPs at least two days prior to their introduction in the intended House.⁵⁰ There is no requirement in law for the draft Bill to be published in the official Gazette prior to its introduction in a House, unless the presiding officer so directs on a request made by any MP.⁵¹ As in Bangladesh, the administrative Ministry piloting the Bill in India may place the draft Bill in the public domain to seek people's views, but this is not a statutory requirement. People are informed of such consultative processes through press releases and notices posted on the website of the concerned Ministry.

⁴⁹ Kaul and Shakhder, *op.cit.*, pp. 546-547. Whether the Bill contains a Statement of Objects and Reasons, whether a recommendation from the President is required for its introduction, whether a financial memorandum is required to be attached or not etc. are some of the formalities that need to be completed.

⁵⁰ *Ibid.*, pp. 547-548.

⁵¹ Lok Sabha: Chapter X, Rule 64 and Rajya Sabha: Chapter IX, Rule 61.

In practice the websites of both Houses display the complete text of every Bill introduced by government and all private members which any person may access through the internet. The websites are equipped with a searchable database of Bills which can be accessed using title, name of MP and Ministry related to the Bill. Efforts are being made to provide Hindi language translations to members under the official policy of promoting Hindi in the processes of law-making and governance. There is no specific provision to translate either the Bill or an enactment into the other languages recognised in the 8th Schedule of the Constitution. Where a law passed by Parliament is required to be implemented by the state governments, these last undertake the translation of such laws.

Subordinate Legislation: Neither the Constitution nor the rule book of either House of Parliament places an obligation on the Government to seek Parliament's approval prior to the enforcement of an order, rule or regulation made under the Constitution or under any enactment. The regular practice is for the Government to publish the rules and orders in the official Gazette and table them in Parliament for approval. The rule may come into force from the date of publication in the Gazette or on such future date as the Government may specify in the rules. Parliament has the power to modify the rules as it may deem fit. In practice such legislative instruments are referred to the committee on subordinate legislation for detailed scrutiny before they are approved or modified.⁵² The website of both Houses do not display the text of the Rules laid on the table of the House for approval. However the reports of the House Committees on Subordinate Legislation have been displayed on the respective websites.

⁵² Kaul and Shakdher, *op.cit.*, pp. 852ff.

Pakistan

Bills: As in India, the rule books of both Houses of Pakistan’s Parliament do not require prior publication of the text of a government Bill before its introduction. The Secretary has the duty to publish the text of a Bill along with a statement of objects and reasons in the Gazette after its introduction.⁵³ There is no time limit prescribed for this purpose. The presiding officer of either House may cause the text of the Bill to be published in the Gazette prior to its introduction. The rule books do not indicate whether such publication can be ordered on the request of an MP or on the Chair’s own initiative. The website of the National Assembly contains the full text of Bills introduced by the Government and by private members, since 2008, in chronological order. The website of the Senate does not contain information about any Bill that has been introduced in the House to date.

Subordinate Legislation: There is no reference in the rule book of either House to any committee that is specially mandated to vet the legislative instruments like in India. Instead, in the context of the National Assembly, the various Standing Committees constituted to exercise supervision over the Ministries have the mandate to examine delegated legislation and recommend modification, if necessary.⁵⁴ There is no explicit mention in the rule book of the Senate of powers to examine delegated legislation being vested in the House Standing Committees related to the Ministries. However the Senate Standing Committees are empowered to examine all matters falling within the jurisdiction of the Ministries as provided for in the rules of business allocation and transaction.⁵⁵ It may be presumed that this includes delegated legislation for all allocated areas and that the

⁵³ National Assembly: Rule 121(1) and Senate: Rule 85.

⁵⁴ National Assembly: Rule 201(4).

⁵⁵ Senate: 140(2).

relevant Standing Committee can scrutinise them. There is no mention on the websites of any subordinate legislation that has been placed before either House or its committees.

Sri Lanka

Bills: The Sri Lankan Parliament has a constitutional duty to publish in the official Gazette, the text of any Government Bill prior to its introduction in Parliament.⁵⁶ As regards private member's Bills, the rule book requires him/her to give notice to Parliament through a motion and make available to the Secretary General a copy of the Bill in any official language with translations in the other two official languages.⁵⁷ The Secretary General has a duty to publish all three versions of both kinds of Bills in the Official Gazette at least seven days prior to its introduction in Parliament. Where a private member's Bill is likely to affect or benefit any person, association or corporate body, notice of the Bill along with a statement of objects and reasons must be advertised by the private member in a Sinhala, Tamil and English newspaper each, at least one month prior to its introduction in Parliament.⁵⁸ There is no information in the rule book or on the website of Parliament about how MPs are provided access to copies of the Bills.

The English language version of the website of Parliament does not contain the text of any Bill introduced in Parliament. The Government Gazette has been made accessible to people through the Government's website.⁵⁹ However this facility requires a dial up connection to reach the server and cannot be accessed like other open access websites. It is not possible to ascertain whether all Bills are easily accessible on this website.

⁵⁶ Article 78(1), The Constitution of the Democratic Republic of Sri Lanka:
http://www.priu.gov.lk/Cons/1978Constitution/Chapter_11_Amd.html as on 4 April, 2009.

⁵⁷ Order 47(2).

⁵⁸ Order 48(1).

⁵⁹ http://www.priu.gov.lk/Gazatte/Government_Gazatte.html

Subordinate Legislation: There is no reference in the rule book to the procedure for introducing or vetting subordinate legislation even though such powers are vested with the Government.

Discussion: Initiating public consultation on the contents of a draft Bill prior to its introduction in Parliament is a healthy democratic practice. Sri Lanka is the only country in South Asia where there is a constitutional obligation on the Government and private members to publish the contents of a Bill before introducing it in Parliament. Ordinances that are sought to be ratified by Parliament must also be placed in the public domain. Prior publication gives people, especially civil society advocates, the opportunity to study the contents of the Bill and make submissions to MPs seeking changes, if any. This input is crucial for the legislative process as MPs in South Asian countries do not have the resources to hire qualified secretarial staff to advise them on the merits and weaknesses of a Bill. Experience from the countries under review shows that most legislations are pushed through Parliament in a hurried manner giving very little time for MPs to study the Bill and form an opinion. As all countries under review have a party-based system of parliamentary government, the writ of the ruling party or alliance runs through the debates and voting.

The only opportunity available for people to send their views on the contents of a Bill is when it is referred to a Standing Committee and if the Committee decides to disclose the contents of the Bill in the public domain inviting people's views. There is practically no mechanism for an MP to take the Bill back to his/her constituency, discuss it with the citizens and get their feedback before speaking or voting on it. Decisions as to who will speak on a Bill during the debate and how the party will vote on a Bill are made by the party leaders and the MPs merely toe the line. This is a major reason why ill-thought out and poorly drafted laws are passed without much challenge in Parliaments.

Sometimes subordinate legislation is drafted in a manner that is retrogressive to the letter and spirit of the principal enactment. Unless there is a specific committee that is mandated to vet subordinate legislation, poor rules and regulations will pass muster in the Houses without much debate. The ever-expanding workload of Parliaments and the never-ending political gimmickry that leads to wastage of Parliament's time are responsible for the gradual reduction in the extent of Parliamentary scrutiny over delegated legislation. A statutory obligation must be placed on governments to publicise all government Bills and subordinate legislation through gazette notifications well before they are tabled in Parliament. Secretariats of the respective Houses should also be required to display texts of all Bills and subordinate legislation on their websites at least a month before their introduction. This will ensure that civil society organisations and people in general can communicate their views and recommendations for change to their MPs.

Recommended Transparency Guidelines:

- *That all Government Bills, Ordinances and subordinate legislation be published in the Official Gazette and on government websites preferably a month in advance of each session of Parliament when they are likely to be introduced for approval;*
- *That the Secretariats of the respective Houses ensure that all government and private members' Bills be uploaded on their websites preferably a month in advance of each session; and*
- *That the Constitution or the relevant legislation or rules of procedure be amended where necessary, in order to give effect to the foregoing recommendations.*

3.2 Budget-related Information

Under this section we will examine the extent of openness with regard to kinds of budgets:

- a) the government's budget which is required to be approved by Parliament, and Parliament's own budget;
- b) information about expenditure of constituency development funds; and
- c) amenities provided to MPs.

Process of approving budgets of government and parliament: All rule books contain detailed procedure regards the presentation, discussion and voting on budgets presented by the Executive. We will not go into the details of this process. Instead we will look at access issues for MPs and the people in general.

Bangladesh: the rule book does not state when copies of the budget shall be made available to MPs. As the principle of secrecy guides the budget drafting process, it may be presumed that MPs receive copies only upon presentation in the Jatiya Sangsad. The website of the Jatiya Sangsad does not have a link to the budgets of the current or previous years. However the budget may be accessed from the website of the Ministry of Finance.⁶⁰ The website also states that the demands for grants are assessed and debated by the departmentally-related Standing Committees. A report is prepared by each committee on the performance of the concerned Ministry along with recommendations for improvement. However, despite being tabled in Parliament, these reports are not discussed. It is assumed that once the reports are tabled in Parliament the recommendations will be implemented

⁶⁰ <http://www.mof.gov.bd/en/index.php> as on 4 April 2009.

by the respective ministry.⁶¹ A random check on the websites of major Ministries revealed that none of them had uploaded their annual reports.

There is no mention on the website of the Jatiya Sangsad about the budget approved for its own functioning.

India: The rule books of both Houses of Parliament in India do not indicate when copies of the budget are to be made available to MPs. The regular practice is for the Ministry of Finance to hand over copies of the full budget document for distribution amongst MPs as soon as the minister in-charge of the finance portfolio begins reading out Part B of his speech.⁶² As Part B contains all tax proposals that the Government expects Parliament to approve for the next financial year, absolute secrecy is required to be maintained until it is actually read out in the Lok Sabha. The websites of both Houses contain links to the budget-specific website set up by the Government of India.⁶³

After the presentation of the budget and the completion of other business for the next 3-4 weeks, such as the debate on the motion of thanks to the President after his annual address and other government and private members' business, Parliament adjourns for about four weeks to enable MPs to discuss the demands for grants in the department-related standing committees. These 45-member committees (30 MPs from the Lok Sabha and 15 from the Rajya Sabha) are provided with copies of the Annual Report of the concerned ministry for the previous year to help them make an assessment of work done and raise questions about its performance

⁶¹ <http://www.parliament.gov.bd/general-11.html> as on 4 April, 2009.

⁶² Kaul and Shakhder, *op.cit.*, p. 703.

⁶³ <http://indiabudget.nic.in> as on 4 April 2009.

or lack of it. Later when Parliament reconvenes, all MPs are provided with copies of annual reports and performance budgets of all ministries for their use during the House debates on the demands for Grants.⁶⁴ They are also provided with copies of the reports of the parliamentary standing committees which contain the committees' observations regarding the performance of the ministries and recommendations for improving performance. The reports of the committees are available on the websites of both Houses. The annual reports and performance budgets are available on the website of the relevant ministry or department.

The Lok Sabha website contains a detailed description of the demand for Grants made for its functioning during the current financial year.⁶⁵ The Rajya Sabha website does not contain a similar mention of the budget approved for its use.

Pakistan: In Pakistan, the rule book does not state when copies of the budget shall be made available to MPs. As the principle of secrecy guides the process of budget-making till the very end it may be presumed that MPs receive copies only upon its presentation in the National Assembly. There is no mention in the rule book of either House with regard to making copies of annual reports -- locally known as Year Books -- available to MPs for use during the discussions on the demand for grants at the committee stage or in the House debates. The 'committees' link on the website of the National Assembly opens up a list of all ministries whose websites may be accessed. Rarely do ministries publish year books on their websites.⁶⁶ The

⁶⁴ Kaul and Shakdher, *op.cit.*, pp. 717-718. Performance budgets are a new method of self-assessment initiated by the Ministry of Finance wherein every Ministry presents a report of the tangible outcomes of the previous year's activities and spending.

⁶⁵ <http://164.100.24.209/news/our%20parliament/demandno76.pdf> as on 4 April 2009.

⁶⁶ A random search on the websites of various ministries revealed that the year book for 2006-07 is available on the website of the Ministry for Foreign Affairs. The Ministry for Local Government has provided a link to its year book but no document opens up when clicked. Websites of ministries such as Commerce, Education, Law and Justice, Population Welfare, Women Development and Water and Power do not contain any reference to the year book on their main page.

‘committees’ link on the Senate’s website opens up a list of all ministry-related committees. However this link does not open up the respective ministry’s website.⁶⁷

There is no mention on the website of either House about the budget sanctioned for its own activities.

Sri Lanka: The rule book of Sri Lanka’s Parliament contains very little information on the manner of presentation of budgets by the Government. Presumably copies of the budget are distributed to MPs only at the time of presentation in the House. However the budget speech made by the President is included in the Hansard of the day. The budget document may be accessed from the website of the Ministry of Finance and Planning. The annual report of this Ministry is also accessible on its website.⁶⁸ However the Parliament website does not provide a link to this document.

There is no mention in the website of Parliament about the budget sanctioned for its own activities.

Discussion: Parliaments alone have the power to authorise the Executive to collect taxes and spend public funds to keep the state machinery operational. None of the public services can be provided or development schemes implemented by the state agencies without Parliament’s approval. Parliaments exercise supervision over the manner in which public funds are spent by the Government. In order for MPs to participate in the debate

⁶⁷ The contents of this link will be discussed in the next section where transparency in the committee system is dealt with.

⁶⁸ <http://www.treasury.gov.lk> as on 4 April 2009. However a random check of the websites of a few other ministries revealed that none of them mentioned the existence of an annual report on their main page: e.g. Defence; Healthcare; Education; Public Administration and Home Affairs; Trade, Marketing, Development, Cooperative and Consumer Services.

on the demand for Grants in an informed manner, they must be provided with copies of the budget-related documents well in advance. They must also have access to copies of annual reports of all ministries in order to make an assessment of their previous performance during the debate on the budget at both House and committee-level. Similarly Parliament also has an obligation to be transparent about its own sanctioned budget and statement of expenditure for every financial year. People should have easy access to budget documents that are written in a simple and comprehensible language that is devoid of technical jargon. This can enable people to debate the budget even as Parliament discusses it.

Recommended Transparency Guidelines:

- *That all Ministries ensure that their annual reports/year books are prepared in a timely manner and distributed to MPs for their reference prior to the House debates and committee discussions on the demand for grants;*
- *That all annual reports be uploaded on the websites of the respective ministries and that all Secretariats provide links to the websites containing the Government budget and the annual reports/year books of the Ministries and Departments;*
- *That all Secretariats upload on their websites the budget allocated for the respective Houses; and*
- *That simple language versions of documents related to budgets and annual reports be disseminated in digital and hard copy format and disseminated amongst people at the constituency level through Community Information Centres and popular libraries including those maintained with public funds. Additional budgetary provisions may be made to the respective Secretariats to support such dissemination.*

4. Declaration of Financial and Criminal Antecedents and Entitlements of MPs

4.1 Declaration of financial and criminal antecedents of MPs

Bangladesh: Neither the Constitution, nor any statute nor the rule book of the Jatiya Sangsad, requires MPs to disclose their assets upon being elected to the House. However in May 2005 the High Court Division of the Supreme Court declared that all candidates contesting elections to Parliament must disclose on affidavit their assets and liabilities as well as those of their spouse and dependants, and criminal record, if any. The operation of this Order was stayed by a vacation judge of the Appellate Division a mere two days before filing nomination papers in December 2006.⁶⁹ However the matter seems to have been resolved later with the dismissal of the petition challenging the High Court's decision and candidates are said to have filed their submissions in the recently concluded elections.⁷⁰ These declarations are not available in the public domain. This defeats the very purpose for which they are required to be disclosed, namely, familiarising every voter with the antecedents of the candidate so that one may make an informed choice at the polling booth.

⁶⁹ Badiul Alam Majumdar, "Free and Fair", Forum, Vol. 3, Issue 2, Feb. 2008: www.thedailystar.net/forum/2008/February/free.htm as on 4 April 2009.

⁷⁰ Personal communication with Dr. Hameeda Hossain, Co-Chairperson SAHR.

India: In India it is mandatory for MPs in both Houses to declare their assets within 90 days of taking oath of office; this is a recently introduced practice.⁷¹ This includes declaration of interests in movable and immovable property for self, spouse and dependent children. Liabilities to public financial institutions and the Central and any State Government are also required to be disclosed. However the similarity ends there. In the Lok Sabha all such declarations are made to the Speaker and are entered in the ‘Register of Declaration of Assets and Liabilities of Elected Members’.⁷² This register is maintained by the Secretary General. The register is a confidential document as are the declarations filed by every MP. The Speaker’s permission is necessary for disclosure to other MPs or non-members.⁷³ However any MP or person may file a complaint vis-à-vis false declaration before the Speaker and the Speaker has the power to refer the matter to the Committee on Privileges for investigation and recommendation of action if necessary.⁷⁴ Where the Committee makes a specific recommendation for taking action against an MP such action must be validated by the House to take effect. However, the rules do not indicate what kind of action may be taken against a MP for making a false declaration. It is also not clear how a citizen or MP can make a complaint regarding false declaration without having access to the original documents. There is no requirement to provide information about one’s criminal antecedents, if any.

The procedure followed in the Rajya Sabha is different. While the filing of declarations and the maintenance of a ‘Register of Members’ Interests’

⁷¹ Declarations of assets and liabilities are made under the *Members of Lok Sabha (Declaration of Assets and Liabilities) Rules* adopted by the House in 2004.

⁷² *Ibid.*, Rule 4(1).

⁷³ Rule 4(4).

⁷⁴ Rule 5.

is somewhat similar, access is available to MPs as a matter of right.⁷⁵ Any other person may also request access to the declarations and the register. Unlike in the Lok Sabha it is the Committee on Ethics of the Rajya Sabha that makes decisions on providing access to a requestor who is not a MP. The same committee has the mandate to look into allegations of false declaration and recommend sanctions. Specific sanctions are mentioned in the rule book including censure, reprimand and suspension for a session or any other action that the committee may recommend. However there is no requirement to declare one's criminal antecedents, if any.

It must be noted that prior to the adoption of these rules the Supreme Court of India had in a landmark judgement declared that every voter has the fundamental right to know the financial, educational and criminal antecedents if any, of every candidate contesting elections to Parliament and the State legislatures.⁷⁶ These are required to be collected by the Election Commission on affidavit at the time of filing nominations and uploaded on its website for people's reference. The ostensible purpose of making such a declaration was to allow the voter to make an informed judgement before casting his/her vote, about whether a politician had made illegal gains using one's powerful position. All political parties backed the Government's move of passing an Ordinance to nullify the effect of this Order. This Ordinance and a later amendment to *The Representation of the People Act, 1951* were challenged through a second public interest litigation suit. A larger bench of the Supreme Court upheld the validity of the earlier decision.⁷⁷ Since then it has become compulsory for aspiring

⁷⁵ Chapter XXIV, Rule 292. The rules for declaration of assets and liabilities have been incorporated in the main rule book of the Rajya Sabha.

⁷⁶ *Union of India v Association for Democratic Reforms and Others*, AIR 2002, SC2112.

⁷⁷ *People's Union for Civil Liberties and Others v Union of India and Others*, JT2004(1), SC152.

candidates to submit their declaration of assets and liabilities at the time of filing their nominations. This information is easily accessible to any person on the Election Commission's website. Given this practice before the elections, there is no reason why the declaration of assets of a Lok Sabha MP should not be available to any person as it is filed soon after the elections are over.

Pakistan: Pakistan was the second country in South Asia that not only made it mandatory for MPs to declare their assets and liabilities but also laid down mechanisms for people to access the contents of such declarations.⁷⁸ All MPs are required to file a declaration of assets owned by self, spouse and dependents annually before the Election Commission of Pakistan. These may be accessed by any person. A false declaration invites a possible jail term of up to three years along with a fine of up to Rs. 5000.⁷⁹ If a MP fails to submit his/her declaration, the Election Commission has the power to declare that the MP has ceased in that function. The seat will be deemed vacant and elections will have to be held again to fill it up. However according to civil society watch groups these provisions have never been invoked to secure compliance from errant MPs.⁸⁰ These declarations are not accessible on the website of the respective Houses or that of the Election Commission. There is no obligation to declare one's criminal antecedents.

⁷⁸ Section 42A, *Representation of Peoples Act*, 1976.

⁷⁹ *Ibid.*, Section 82.

⁸⁰ Centre for Research and Security Studies, "The Mirage of the Rule of Law in Pakistan", March 2009: <http://crss.pk/wpager09/we29Mar09.pdf> as on 4 April 2009.

Sri Lanka: Sri Lanka was the first country in South Asia to make it mandatory for MPs to file declaration of assets and liabilities.⁸¹ The Prime Minister, Ministers and Deputy Ministers submit their declarations to the President. All other MPs submit their declaration to the Speaker. Originally the custodian was required to protect the confidentiality of the declarations under all circumstances. However the law was amended in 1988 requiring the custodian to hand over the documents to a court of law if required in any proceedings. Citizens cannot access this information under ordinary circumstances. This law does not require MPs to declare their criminal antecedents, if any.

4.2 Information about expenditure of constituency development funds

In India every MP is given a specific sum of money under the local area development scheme (MPLADS) for spending on developmental projects of one's choice in one's constituency. Information about the money sanctioned, released and spent is available on a special website maintained by the Ministry of Statistics and Programme Implementation.⁸² MP-wise and constituency-wise statistics about release and expenditure of funds are available along with summary reports on this website. The websites of both Houses of Parliament provide links to this website. However obtaining access to the micro-level details of money spent on each project and copies of related documents, bills and vouchers is very difficult. These records are maintained at the district level and it is not easy to access them despite their

⁸¹ The *Declaration of Assets and Liabilities Law* passed in 1975 mandated every MP to disclose assets and liabilities including financial interests in the public and private sector. This law was amended in 1988 to place a similar obligation on all office bearers of political parties and candidates contesting elections to Parliament and the provincial assemblies. Declarations are required to be made before the Commissioner of elections: http://www.commonlii.org/lk/legis/num_act/toc-D.html as on 4 April 2009.

⁸² <http://mplads.nic.in> as on 4 April 2009.

being fit for disclosure under the country's *Right to Information Act* that is more than three years old.

In Bangladesh, Pakistan and Sri Lanka it is not possible to ascertain from the websites of their Parliaments whether funds are allocated for spending in every MP's constituency in this manner.⁸³

4.3 Amenities provided to MPs

Parliament provides several amenities and allowances to MPs for their upkeep and for ensuring that they can go about doing their work without any hindrance. Very little information is available in the public domain about such allowances and amenities. Information about all allowances and amenities provided to MPs can be found only on the websites of the Lok Sabha in India and the Senate in Pakistan. The Lok Sabha website contains broad details of the nature of allowances and amenities provided to MPs namely, salaries, daily allowances, constituency and office expense allowance, travelling allowance and facilities, accommodation in the capital, telephone, internet, laptop and medical facilities etc.⁸⁴ Pension schemes containing entitlements of ex-MPs are also explained in some detail. Forms for availing these facilities can be downloaded from the website of the House.⁸⁵ However the website does not contain any mention of the actual payments made to every MP during a financial year.

⁸³ SAHR members indicated during the workshop that constituency development funds were being sanctioned in Pakistan and Sri Lanka and there is a proposal to introduce it in Bangladesh.

⁸⁴ <http://164.100.24.209/newls/our%20parliament/par6.htm> as on 4 April, 2009.

⁸⁵ The Rajya Sabha website does not contain an explanation of allowances and amenities provided to its members. However it contains downloadable forms which MPs can use to avail these allowances and facilities.

The website of the Senate of Pakistan also provides information about the entitlements of MPs such as salary, sumptuary allowance, office maintenance allowance, telephone facilities and free travel in a given year.⁸⁶ However the website does not contain any mention of the actual payments made to each MP during a financial year.

None of the websites of other Houses under review provide similar information about amenities and entitlements of their MPs.

Discussion: All Parliaments in South Asia must adopt laws requiring MPs to declare every year, their assets and liabilities as well as that of their spouses and dependents. Similarly all MPs must declare any criminal cases that are pending or where they have been convicted and sentenced or acquitted. Declarations made and maintained in secret are no declaration at all in the real sense of the term. The restrictive provisions in existing laws relating to assets disclosure must be amended to allow greater transparency following the practice in Pakistan and the Rajya Sabha in India. Similarly all information about the allocation, sanction and spending of constituency development funds must be accessible to people. Details of allocation, sanction, expenditure and payment release details must be placed in the public domain. This must include names and contact details of contractors executing the project.

People also have the right to know the scheme of remuneration and other allowances and facilities their MPs are entitled to. Information about the actual remuneration drawn and expenses incurred on the upkeep of an MP must also be placed in the public domain. All Secretariats must upload this information on their respective websites. Similarly the actual payments

⁸⁶ <http://www.senate.gov.pk/ShowTopics.asp?Language=E&TopicCode=69&CatCode=1> as on 4 April 2009.

made and expenditure incurred on providing amenities to every MP during a financial year must be disclosed.

Recommended Transparency Guidelines:

- *That all Parliaments adopt laws/rules requiring MPs to disclose, every year, their assets and liabilities to financial institutions and government bodies as well as that of their spouses and dependents along with details of criminal antecedents, if any;*
- *That all laws/rules restricting access to declaration of assets and liabilities and criminal antecedents be amended in order to ensure that they are accessible to all other MPs and citizens;*
- *That the custodian of the declarations of assets, liabilities and criminal antecedents ensure that all such declarations are uploaded on their websites;*
- *That the Secretariats upload on the websites of the respective Houses, detailed information about the allocation, sanction and spending of constituency development funds;*
- *That information about the allocation, sanction and spending of constituency funds be prepared in digital and hard copy format and disseminated amongst people at the constituency level through Community Information Centres and popular libraries including those maintained out of public funds. Additional budgetary provisions may be made to the respective Secretariats to support such dissemination;*
- *That all Secretariats upload on the websites of the respective Houses the scheme of remuneration and allowances and facilities to which every MP is entitled; and*
- *That information about actual payments made and expenses incurred on providing facilities to MPs be prepared in digital and hard copy format and disseminated amongst people at the constituency level through Community Information Centres and popular libraries including those maintained out of public funds. Additional budgetary provisions may be made to the respective Secretariats to support such dissemination.*

5. Functioning of Parliamentary Committees

As the business of Parliament has expanded phenomenally over the decades, committees with specific mandates have been constituted for the purpose of dealing with official business in an intensive manner, which is not otherwise possible at the plenary level. All Parliaments whose procedures are under review have constituted both House Committees and joint committees (wherever a bicameral legislature exists) to deal with legislative business and scrutinise the performance of the government. All websites provide at least some information about the names of these committees, membership, mandate, rules to be followed and reports submitted. In addition to the standard list of committees looking at public accounts, public enterprises, house, business privileges, government assurances and ethics etc., and *ad hoc* committees set up from time to time to look into and report on specific issues, standing committees have been constituted to supervise the working of the ministries and departments. Ministers are not permitted by the rule book to head such committees in most countries, Sri Lanka being an exception to this rule. Sri Lanka has consultative committees to scrutinise the functioning of ministries and a minister is required by law to head such committees.⁸⁷ In other countries a healthy precedent has developed whereby MPs from the opposition head

⁸⁷ http://parliament.lk/comms/consultative_comms.jsp as on 4 April 2009.

important committees such as those looking at public accounts, or public enterprises. Under this section we will examine the extent of openness in relation to:

- a) real time people's access to proceedings of the committees and
- b) access to submissions made to the committee and its reports.

a) Real-time access to proceedings of the committees: Barring a few rare instances in Pakistan, all other Parliamentary committees in South Asian countries under review hold their meetings in private. Non-members are not allowed access unless they are deposing before the committee on any matter. For example, the rule book of the Jatiya Sangsad states that all sittings of committees shall be held in private.⁸⁸

In India, the rule book of both Houses require that sittings be held within the precincts of Parliament. Even the agendas of committee meetings are not available in the public domain. If study-tours and visits are organised to any place outside Parliament, the committee holds only an informal sitting where no decisions are taken or evidence recorded.⁸⁹ No stranger is allowed to attend any of the sittings where government representatives depose. The deliberative sessions of the committee are similarly out of bounds to non-members.

In Sri Lanka, committee meetings are ordinarily out of bounds for non-members. However citizens may be admitted to sittings only with the approval of the Speaker. No non-member may attend the deliberative sessions of any committee or any of its sub-committees.⁹⁰ Similarly there is no information in the public domain about the agenda of business and

⁸⁸ Rule 199.

⁸⁹ Kaul and Shakhder, *op.cit.*, p. 747, fn. 115.

⁹⁰ Order 130A.

the travel schedules of the committees. People learn about the fact that a committee is seized of a specific matter only when advertisements are published in popular newspapers seeking their views. Often very little time is given (between 2-3 weeks) for people to make their submissions to a committee.

In Pakistan in recent years some of the Standing Committees have started holding their sittings in public which are covered by the media. For example the Standing Committee of the National Assembly on Defence and Defence Production occasionally holds public sittings.⁹¹ However these sessions are held in Parliament House which means any non-member may attend only after clearing the many security restrictions that ordinarily bar access to people. This however does not appear to be an established practice as the rule books of the National Assembly and the Senate continue to state that all meetings of committees will be held in camera unless the committee agrees otherwise.⁹² It is also doubtful whether the deliberative sessions of the committees are also open for non-members to attend.

b) Access to submissions made to and reports generated by committees

The rule books of all Parliaments under review except that of Sri Lanka require confidentiality of all submissions and depositions made before a committee, until the report is submitted.⁹³ Any submission not included in the report will continue to remain confidential unless the Committee or the presiding officer of the House decide to grant access. The rule book of both Houses of Pakistan's Parliament state that committees may allow access

⁹¹ <http://senatedefencecommittee.pk/meetings.php?ContentID=383> as on 4 April 2009.

⁹² National Assembly: Rule 226 and Senate: Rule 164.

⁹³ Bangladesh:- Rule 202; India:- Lok Sabha: Chapter XXVI; Rule: 275(2); Pakistan:- National Assembly: Rule 230 and Senate: Rule 166 and Sri Lanka:- there is no specific Order requiring confidentiality mentioned in the rule book.

to evidence presented before it at any point of time in the public interest.⁹⁴ In other countries all verbatim reports of sittings of committees are not accessible to people despite being recorded. The claim of Parliamentary privilege is applicable to such verbatim reports and may not be disclosed without the permission of the committee or the presiding officer of the House.

In all Parliaments under review even though a committee report may have been prepared its contents may not be disclosed until it is laid on the table of the House. However there is no certainty that these reports will be easily accessible to people even after they have been tabled. For example, the website of the Jatiya Sangsad in Bangladesh does not contain any committee report. The websites of other Houses display committee reports laid on the table. This has ensured that MPs and people have access to the committees' findings.

With regard to the procedure after the tabling of a report, the website of the Jatiya Sangsad indicates that no discussion will be required on the findings of the report. It is to be assumed that the recommendations will be implemented by the concerned ministries and there is no need for a debate at the House level.⁹⁵ In other Parliaments there is no such restriction on a discussion on the findings of a committee. However lack of time is a major reason why reports of highly important committees such as the public accounts committee or the public sector enterprises committee are not discussed at the House level in India. Often unresolved audit paragraphs are highlighted in the reports of the public accounts committee where money has been spent without the authorisation of Parliament. These matters do

⁹⁴ National Assembly: Rule 230 and Senate: Rule 166.

⁹⁵ <http://www.parliament.gov.bd/general-11.html> as on 4 April 2009.

not attract sufficient attention from MPs unless there is a political gain to be made by focusing on that issue.

Discussion: The working of Parliamentary committees is an area where secrecy continues to endure despite increasing levels of openness characterising the transaction of business at the House level. Intensive scrutiny of the performance of government is possible only at the committee level and people should have real time access to the calendar of business of the committees and their proceedings. This could be ensured by publicly disclosing the calendar and announcing the sittings of a committee, allowing the print and electronic media to cover the sittings, easing security restrictions for people who wish to attend, allowing civil society representatives to attend sittings where government representatives depose unless the public interest is better protected by holding a specific sitting in secret. Even this fact must be announced in public to let people know that they will not be allowed access to a sitting for a particular reason. This could be in relation to deposition on matters that may seriously harm the security or defence of the country or when committee members wish to deliberate on the contents of their report or recommendations for action to be taken by the Government. The criteria for election/selection of MPs to a specific committee must be made public.

Recommended Transparency Guidelines:

- *That the rules of Parliamentary committees be amended to allow citizens to attend the sittings except in extraordinary circumstances where public interest is better served by holding the sitting in camera. In all such instances reasons must be publicly announced for not allowing access to non-members;*

- *That the secretary/officer servicing a committee should be made responsible for uploading the calendar of every committee on the website in advance;*
- *That the Secretariats of all Houses ensure that all reports and findings of the committees are uploaded on the respective websites soon after they are tabled in the House;*
- *Any non-member must be provided access to the depositions and submissions made before the committee, on request, unless such disclosure has the real potential of causing greater harm to the public interest as compared with the harm caused by maintaining secrecy.*

6. Concluding Note

The foregoing discussion on Parliamentary practices and procedures reveals that openness regarding the working of the Houses differs from country to country with some being more transparent than others. As has been shown above, best practices regarding openness in Parliamentary processes exist in the region and they do not have to be borrowed from other jurisdictions. What is needed is the political will on the part of the MPs to recognise and adopt these guidelines as they are in the unique position of making the very laws and rules that they are required to abide by. This is all the more reason why Parliaments must exercise these legislative powers with greater responsibility and become more transparent if they are to retain the confidence of the voter-cum-taxpayer. The governments also have a major responsibility in ensuring that Parliaments become more open in relation to their work. They have a big role to play in finding the resources and the technical expertise that is required to implement the guidelines of openness recommended above.

It must also be emphasised that merely adopting and implementing these guidelines is not enough. There is a need for complementary back end and front end operations to make the process of increasing transparency real and meaningful. For example, custodians of MPs' assets declarations will not be able to supply that information in the public domain unless

they wield their powers of sanction to obtain the information from errant MPs. Merely publishing the assets declaration is not enough as the requirement was initially intended to serve a specific purpose, namely bringing accountability and probity in the monetary affairs of people's representatives. This requires the custodians to engage appropriate authorities to check the veracity of the declarations and initiate proceedings wherever false information is provided. Unless these kinds of back end operations are linked to the process of disclosure, openness will not serve its intended purpose, namely, securing ever higher levels of accountability.

Similarly, front end operations are required for transparency to serve its other real purpose, namely, enabling greater participation of the people in the democratic process. For example, it is not enough if all Parliamentary proceedings are made available at the district level in electronic or hard copy formats. Analytical capacity underpinned by democratic values such as equality and equity must be developed for disseminating the information amongst people at the community level so that they may understand the issues and problems and contribute their ideas to improve the quality of governance or the direction and efficiency of public spending. Systems will have to be developed to channel this feedback to policy and law makers. At the time of independence from colonial domination it was thought that MPs would play this role. However most of the MPs in the South Asian countries lack the capacity and also have little time to spare for educating their voters. Between power-brokering, fund-raising and politicking for personal gain which are deemed indispensable for ensuring re-election, MPs have very little time to interact with their constituents on governance issues. Civil society organisations and the media are the only alternatives left for undertaking this role. Civil society organisations will have to equip themselves with the resources and skills necessary for disseminating at the community level in rural and urban areas information about the working of Parliaments.

7. Summary principles and detailed guidelines recommended for improving transparency and accountability in the functioning of parliaments in South Asia

Summary Principles for Engendering Transparency in Parliament

- *Parliaments may take steps to ensure that all information about their plenary sessions and committee meetings, agenda of business, reports of proceedings, papers laid on the table of the Houses, questions, answers, motions, resolutions and records of voting are made easily accessible in the public domain to people right down to the constituency level;*
- *Adequate resources may be allocated for developing mechanisms to ensure real time access by citizens to the proceedings of Parliament and its committees by means of hassle-free personal attendance, live telecasts and broadcasts;*
- *The Government may take steps to ensure timely preparation of papers relating to budgets and annual reports of Parliament and the Secretariats of the respective Houses may ensure their timely*

circulation amongst MPs. A simplified version of these documents may be made accessible to people in digital and hard copy formats at the constituency level;

- *Parliaments may adopt laws requiring MPs to declare their financial and criminal antecedents, if any, and this information must be placed in the public domain; and*
- *The Secretariats of Parliament may take steps to ensure that all information relating to the constituency development funds and amenities provided to MPs are accessible in digital and hard copy formats to people at the constituency level.*

Guidelines Recommended

1. Calendar of Sessions and Business of Parliament

1.1 Calendar of Sessions of Parliament:

The number of sessions required to be held by Parliament is determined by the respective Constitutions. The frequency of sessions differs from country to country. Certainty as regards the convening of Parliamentary sessions and fixity in the number of sessions and sittings is desirable. Information about the sessions and sittings planned for a calendar year must be placed in the public domain well in advance. Time wasted due to disruption of proceedings must be compensated for. A system of disincentives must be developed for MPs to ensure that House proceedings are not disrupted.

SAHR recommends:

- *That Governments ensure that a calendar of sessions indicating the dates of sitting is prepared and approved by the competent authorities for Parliament at the beginning of every Parliamentary year;*
- *That the Secretariats of the respective Houses ensure that the calendar of sessions and sittings is published in the Official Gazette and circulated to all members;*
- *That the Secretariats of the respective Houses ensure that the calendar of sessions and sittings is displayed on their websites for the reference of citizens and the media;*
- *That rules of business procedure of the respective Houses be amended to authorise the presiding officers to extend a session by the number of hours/days equal to the number of hours/days lost due to disruption of proceedings; and*
- *That the rules relating to the payment of salary and allowances for MPs be amended to include disincentives based on the principle of ‘no work, no pay’ in order to curb instances of disruption of House proceedings.*

1.2 Calendar of Business:

If MPs are to participate in the business of the House in an informed and well-prepared manner, it is important for them to have access to the business calendar, for all sittings constituting a session,

well before the commencement of that session. The respective Secretariats could start a SMS/Instant Mail service to provide MPs with real time access with regard to the calendar of business of their House through mobile phones. The Secretariats could advertise a dedicated mobile phone number which any member of the public may access in order to receive information about the calendar of business of Parliament.

SAHR recommends:

- *That the presiding officers of every House ensure that the business advisory committees finalise the calendar of business for each session and the Secretariat make copies available to MPs at least 48 hours in advance of the commencement of each session;*
- *That the respective Secretariats start a SMS/Instant Mail service to provide MPs with real time access to their calendar of business;*
- *Secretariats advertise a mobile phone number where any person may access information about the calendar of business. This may be a free service if resources are available. If resources are a constraint requestors may be charged at nominal rates; and*
- *That the Secretariat of every House be made responsible for uploading on its website the calendar of business in advance of every sitting so that people may have access through the Internet. All revisions in the calendar may also be updated on the website and MPs informed through SMS/Instant Mail service in advance.*

2. Record of Business Conducted

2.1 Record of Attendance and Leave of Absence:

Transparency is required with regard to the attendance record of every MP. All MPs are public servants. They are elected by voters to represent their aspirations in Parliament. The taxpayer ultimately bears the burden of the expenditure on allowances paid and various facilities provided to MPs. A MP's primary business is to attend parliament when it is in session. Every voter-cum-taxpayer has the right to know whether a MP has attended every sitting of Parliament or not in order to hold him/her accountable for unexplained and unjustifiable absence from any sitting.

SAHR recommends:

- *That the Secretariats of the respective Houses publish in their websites the attendance record of all MPs on the day after every sitting;*
- *That the Secretariats make arrangements to record the presence of all MPs during every hour of all sittings of the House;*
- *That the Secretariats proactively publish in their respective websites at the end of every session the analytical abstracts of hourly charts showing statistics of the presence and absence of MPs on an individual basis and for the entire House. This information may be publicised on a weekly basis as part of the Parliamentary bulletins that describe the details of work done in the House; and*

- *That the Secretariats of the respective Houses publish in their websites the names of MPs who have sought leave of absence, the period for which leave has been sought and the reasons for seeking such leave.*

2.2 Record of Debates and Discussions:

The last two decades have witnessed phenomenal advancement in the ICT (information and communications technology) sector. For the first time it is possible to bring Parliamentary proceedings to the living rooms of the voter-cum-taxpayer. Governments and the respective Secretariats of the Houses must endeavour to find the resources to telecast/broadcast live all open sittings of the Houses. Mechanisms must be developed to ensure that people have access to daily and weekly summaries of work done in Parliament. Easy access to reports of proceedings must be provided in electronic and hard copy formats at the constituency level.

SAHR recommends:

- *That Secretariats of the respective Houses release to the media and upload on their websites daily and weekly bulletins regarding the business conducted, completed and pending in every session;*
- *That Secretariats of the respective Houses upload all verbatim and corrected reports including summaries of the proceedings on their websites; and*
- *That access to Parliamentary proceedings in digital and hard copy format be provided to people at the constituency level*

through Community Information Centres and popular libraries including those maintained out of public funds. Additional budgetary provisions may be made to the respective Secretariats to support such dissemination.

2.3 Questions Raised and Answers Provided in Parliament:

MPs perform their time-honoured role of holding the Executive accountable for its policies and actions by raising questions. All such questions raised and answers provided must be easily accessible to the people. When a motion, resolution or question is rejected before admission, the principles of transparency and accountability require that the concerned MP be given reasons in writing.

SAHR recommends:

- *That the Secretariats of all Houses ensure that all questions raised by MPs and answers provided by the Ministers are uploaded on the respective websites in the form of a searchable database so that people may have easy access to them;*
- *That the Secretariats upload questions and answers within 24 hours of their being tabled in the House;*
- *That the Secretariats publicise the criteria adopted in listing questions in a particular order;*
- *That access to questions and answers forming part of the proceedings, in digital or hard copy format, is provided to people at the constituency level through Community Information*

Centres and popular libraries including those maintained out of public funds. Additional budgetary provisions may be made to the respective Secretariats to support such dissemination;

- *That the Secretariats provide in writing reasons to the concerned MP when his/her questions, motions and resolutions are not admitted in the House; and*
- *That the Secretariats publish in their website the text of all questions, motions and resolutions rejected before admission in the House along with the name of the concerned MP and the reasons for such rejection.*

2.4 Record of Voting:

It is important for every voter-cum-taxpayer to know how his/her MP voted on a question put before the House when division is announced. While there is no transparency in South Asian Parliaments in this regard, inspiration may be drawn from the Houses of the US Congress. The tally clerks of the House of Representatives and the Senate compile a record of how each Congressman or Senator voted on every question put before the respective Houses. This information is updated every 20 minutes on the website when the Houses are in session. South Asian Parliaments could emulate this practice of transparency.

SAHR recommends:

- *That all Parliaments facilitate the disclosure of the nature of vote cast by every MP whenever division of votes on any question is allowed;*

- *That the Secretariats of the respective Houses display the roll call of votes in their websites; and*
- *That a compilation of the roll call of votes for each session be prepared along with the proceedings of Parliament in digital and hard copy format and disseminated amongst people at the constituency level through Community Information Centres and popular libraries including those maintained out of public funds. Additional budgetary provisions may be made to the respective Secretariats to support such dissemination.*

3. Papers laid on the Table of Parliament

3.1 Bills and legislative instruments:

Initiating public consultation on the contents of a draft Bill or Ordinance seeking Parliamentary approval, prior to its introduction in Parliament, is a healthy democratic practice. Prior publication gives people, especially civil society advocates, the opportunity to study the contents of the Bill and make submissions to MPs, seeking changes if any.

SAHR recommends:

- *That all Government Bills, Ordinances and subordinate legislation be published in the Official Gazette and on Government websites preferably a month in advance of each session of Parliament when they are likely to be introduced for approval;*

- *That the Secretariats of the respective Houses ensure that all Government and private members' Bills be uploaded on their websites preferably a month in advance of each session; and*
- *That the Constitution or the relevant legislation or rules of procedure be amended where necessary, in order to give effect to the foregoing recommendations.*

3.2 Budgetary and Financial Information:

Parliaments alone have the power to authorise the Executive to collect taxes and spend public funds to keep the State machinery operational. Parliaments exercise supervision over the manner in which public funds are spent by the Government. In order for MPs to participate in the debate on the demand for grants in an informed manner, they must be provided with copies of the budget-related documents well in advance. They must also have access to copies of annual reports of all ministries in order to make an assessment of their previous performance during the debate on the budget at both House and committee-level. Similarly Parliament also has an obligation to be transparent about its own sanctioned budget and statement of expenditure for every financial year. People should have easy access to budget documents that are written in a simple and comprehensible language that is devoid of technical jargon.

SAHR recommends:

- *That all ministries ensure that their annual reports/year books are prepared in a timely manner and distributed to MPs for their reference prior to the House debates and Committee discussions on the demand for Grants;*

- *That all annual reports be uploaded on the websites of the respective ministries and that all Secretariats provide links to the websites containing the Government budget and the annual reports/year books of the ministries and departments;*
- *That all Secretariats upload on their websites the budget allocated for the respective Houses; and*
- *That simple language version of documents related to budgets and annual reports be disseminated in digital and hard copy format and disseminated amongst people at the constituency level through Community Information Centres and popular libraries including those maintained out of public funds. Additional budgetary provisions may be made to the respective Secretariats to support such dissemination.*

4. Declaration of Financial and Criminal Antecedents and Entitlements of MPs

It is important for people to know whether the people who represent them have a clean and untainted record or not. Having law breakers as lawmakers is an insult to the democratic practice. Laws must be adopted to ensure that all MPs declare their financial and criminal antecedents soon after election. These declarations must be accessible in the public domain. Where MPs are allocated constituency development funds, there must be complete transparency in the allocation and spending. MPs are paid remuneration and allowances along with a host of facilities for performing their appointed role as people's representatives. The voter-cum-taxpayer has the right to know about the scheme of allowances and facilities that a MP is entitled to. People also have the right to know the actual payments made and expenses incurred by the Public Exchequer on every MP.

SAHR recommends:

- *That all Parliaments adopt laws/rules requiring MPs to disclose every year their assets and liabilities to financial institutions and government bodies as well as that of their spouses and dependents along with details of criminal antecedents, if any;*
- *That all laws/rules restricting access to declaration of assets and liabilities and criminal antecedents be amended in order to ensure that they are accessible to all other MPs and citizens;*
- *That the custodian of the declarations of assets, liabilities and criminal antecedents ensure that all such declarations are uploaded on their websites;*
- *That the Secretariats upload on the websites of the respective Houses, detailed information about the allocation, sanction and spending of constituency development funds;*
- *That information about the allocation, sanction and spending of constituency funds be prepared in digital and hard copy format and disseminated amongst people at the constituency level through community information centres and popular libraries including those maintained out of public funds. Additional budgetary provisions may be made to the respective Secretariats to support such dissemination;*
- *That all Secretariats upload on the websites of the respective Houses the scheme of remuneration and allowances and facilities to which every MP is entitled; and*
- *That information about actual payments made and expenses incurred on providing facilities to MPs be prepared in digital and hard copy*

format and disseminated amongst people at the constituency level through Community Information Centres and popular libraries including those maintained out of public funds. Additional budgetary provisions may be made to the respective Secretariats to support such dissemination.

5. Functioning of Parliamentary Committees

The working of Parliamentary committees is an area where secrecy continues to endure despite increasing levels of openness characterising the transaction of business at the House level. Intensive scrutiny of the performance of government is possible only at the committee level and people should have real time access to the calendar of business of the committees and their proceedings. This could be ensured by publicly disclosing the calendar and announcing the sittings of a committee, allowing the print and electronic media to cover the sittings, easing security restrictions for people who wish to attend, allowing civil society representatives to attend sittings where government representatives depose. Criteria for election/selection of MPs to a committee must be disclosed in the public domain.

SAHR recommends:

- *That the rules of Parliamentary committees be amended to allow citizens to attend the sittings except in extraordinary circumstances where public interest is better served by holding the sitting in camera. In all such instances reasons must be publicly announced for not allowing access to non-members;*
- *That the Secretary/Officer servicing a committee should be made responsible for uploading the calendar of every committee on the website in advance;*

- *That the Secretariats of all Houses ensure that all reports and findings of the committees are uploaded on the respective websites soon after they are tabled in the House;*
- *Any non-member must be provided access to the depositions and submissions made before the committee, on request, unless such disclosure has the real potential of causing greater harm to the public interest as compared with the harm caused by maintaining secrecy.*