

Strengthening National and Provincial Legislative Governance Project

PROCEEDINGS

**BRIEFING SESSION
FOR PARLIAMENTARIANS
AND PARLIAMENTARY STAFF**

COMPARISON OF PARLIAMENTARY RULES OF PROCEDURE AND CONDUCT OF BUSINESS OF PAKISTAN AND INDIA

September 13, 2004,
Hotel Marriott, Islamabad

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Prepared By

Pakistan Institute of Legislative Development And
Transparency - PILDAT



As a Part of
Pakistan Legislative Strengthening
Consortium - PLSC



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Abbreviations & Acronyms

EVM	Electronic Voting Machine
Lok Sabha	Lower House of Indian Parliament
MLA	Member Legislative Assembly
MMA	Muttahidda Majlis-e-Amal
MOU	Memorandum of Understanding
MP	Member of Parliament
PCO	Provisional Constitutional Order
PLSC	Pakistan Legislative Strengthening Consortium
PML	Pakistan Muslim League
PPP	Pakistan Peoples Party
PPPP	Pakistan Peoples Party Parliamentarian
Rajya Sabha	Upper House of Indian Parliament
USAID	United States Agency for International Development

Acknowledgments

PILDAT, as a part of the PLSC, wishes to acknowledge the support provided by USAID under the project of Strengthening National and Provincial Legislative Governance for undertaking Legislative Study Tour to India and the organisation of this Briefing Session to share lessons with Parliamentarians and Parliamentary staff.

PILDAT would especially like to thank all the resource persons who were also participants at the study tour to India and on their return compiled their learning in an organised manner to share it with fellow parliamentarians. Special thanks are due to Mr. Khan Ahmed Goraya, Former Secretary General National Assembly; Ms. Sherry Rehman, MNA (NA-309, Women, Sindh II, PPPP); Syed Naveed Qamar, MNA (NA-222, Hyderabad-V Sindh PPPP); Mr. Gohar Ayub Khan, Former Speaker National Assembly; Kunwar Khalid Yunus, MNA (NA-245, Karachi-VIII Sindh, MQM); Mr. M. P. Bhandara, MNA (NA-336, Non-Muslim-IV, PML) and Maulana Abdul Ghafoor Haidry, MNA (NA-268, Kalat-cum-Mustang Balochistan, MMA). We also wish to thank Dr. Sher Afgan Khan Niazi, Federal Minister for Parliamentary Affairs, for chairing the briefing.

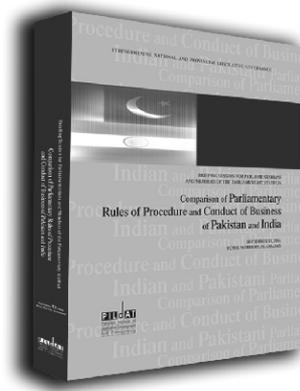
Introduction

PILDAT, as a part of PLSC organised and conducted a Legislative Study Tour of Pakistani Parliamentary delegation to India. The delegation included some members of the Special Committee constituted by the Speaker of the National assembly to re-examine the Rules of Procedure and the Conduct of Business. Objectives of the Study Tour were to learn from and share best practices of the legislative tools that streamline Indian Parliamentary democracy and to interact with Indian legislators and legislative staff to learn firsthand the Rules of Procedure and Conduct of Business of the Indian Legislatures and how those have evolved overtime to suit the dynamic needs of these legislatures. This exercise was especially undertaken so as to strengthen the efforts of Pakistani Legislators to review and suitably amend the existing Rules of Procedures of Pakistani Legislatures through the learning avenues incorporated in this tour.

As a follow up of the study tour, a briefing session was organised to share the learning with other Parliamentarians and Parliamentary Staff on Comparison of Rules of Procedure and Conduct of Business of Indian and Pakistani Parliaments on September 13, 2004 at Islamabad.

Dossier of the briefing session included a Report of the briefing session in addition to papers and presentation by resource persons on various aspects of learning of the study tour.

Appendix A carries the Programme of the Briefing Session. **Appendix B** carries the list and profile of participating Parliamentarians and members of the Parliamentary Staff.



Profiles of Speakers

Dr. Sher Afgan Khan Niazi

MNA (NA-72, Mianwali-II, PPP)

Federal Minister for Parliamentary Affairs

Dr. Sher Afgan Khan Niazi was born on January 1, 1946 in Mianwali District. He has been elected MNA for his fourth term as a PPPP candidate. He later joined PPPP-Patriots, now known as PPP. A physician by profession, he completed an M.B.B.S degree in 1968 from Nishtar Medical College, Multan. He currently holds the portfolio of Federal Minister for Parliamentary Affairs. He has been MNA for the terms of 1985 - 1987, 1988 - 1990 and 1993 - 1996. Dr. Niazi was also Federal Minister for Law, Justice and Parliamentary Affairs; Human Rights; Social Welfare and Special Education from 1993 to 1996.

Mr. Khan Ahmed Goraya

Former Secretary General, National Assembly of Pakistan &

Former Secretary Election Commission of Pakistan

Mr. Khan Ahmed Goraya completed his M.Sc. degree in Defence and Strategic Studies from Quaid-e-Azam University, Islamabad in 1987, after graduating with a law degree from University Law College, Lahore in 1962. During his career, Mr. Khan Ahmed Goraya has served as Chief Executive of the National Trust for Population Welfare - NATPOW until March 2003, Member of the National Reconstruction Bureau in 2001, Secretary General, National Assembly from 1990-2000, and Secretary, Election Commission of Pakistan from 1996-97. He served as Regional Secretary, Asia Region of Commonwealth Parliamentary Association (CPA) and has attended several Inter-Parliamentary Union (IPU) Conferences. Mr. Khan Ahmed Goraya also practiced as an advocate of the High Court from 1962-65.

Mr. Gohar Ayub Khan

Former Speaker National Assembly &

Former Federal Minister of Foreign Affairs

Mr. Gohar Ayub Khan graduated from the Royal Military Academy Sandhurst, UK in 1956. In 2003, he obtained his Bachelors in Business Administration. He joined the Pakistan Muslim League PML in 1964 and was elected to the National Assembly of Pakistan in 1965, 1977, 1985, 1990, 1993 and 1997. He served as Senior Vice President PML from 1980 to 1985, Speaker National Assembly from 1990 to 1993, Deputy Leader of the Opposition from 1993 to 1996, Foreign Minister from February 1997 to August 1998, Minister for Water and Power from August 1998 to October 1999, and Secretary General PML from March 2001 to June 2002.

Syed Naveed Qamar

MNA (NA-222, Hyderabad-V Sindh, PPPP)
Former Federal Minister

Syed Naveed Qamar was born in Karachi on September 22, 1955. He completed his B.Sc (Hons) degree in 1976 from Manchester University, U.K followed by an MS degree in Management from Northrop University, U.S.A in 1978 and MBA from California State University, USA in 1979. Syed Naveed Qamar is politically affiliated with PPPP and currently holds the position of Member Central Executive Committee in the party. He was previously elected MPA, Sindh (1988-1990), MNA (1990-1993), (1993-1996) and (1997-1999). He has served as Federal Minister for Finance and Privatisation in 1996, Chairman, Privatisation Commission in 1993, and Provincial Minister Sindh for Information in 1990. He is also a member of the National Assembly Special Committee on Rules of Procedure.

Ms. Sherry Rehman

MNA (NA-309, Women Sindh, PPPP)

Born in Karachi on December 21 1960, Ms. Sherry Rehman was elected to the National Assembly on a PPPP seat. She is currently President of the Central Policy Planning Group and Foreign Relations Committee of PPPP. Ms Rehman is also the chief Parliamentary Coordinator of PPPP. A journalist by profession, Ms. Sherry Rehman graduated with B.A. Hons. Degree from Smith College, USA in 1985. She has been Editor of Herald magazine and is a founder member of the Human Rights Commission of Pakistan. In March 2002 she was awarded the Overseas Award for Excellence in Journalism by the British House of Lords. Ms. Sherry Rehman includes South Asian Art and Textiles among her interests.

Mr. M.P. Bhandara

MNA (NA-336, Non-Muslim-IV, PML)

Mr. M.P. Bhandara was born on March 14, 1938 in Karachi. He is politically affiliated with the Pakistan Muslim League - PML. A Graduate in Commerce from University of the Punjab in 1956, Mr. M.P Bhandara served as Advisor to the President of Pakistan from 1982 to 1985, and as a member of the Majlis-e-Shura from 1981 to 1985. He has also served as Member National Assembly from 1985 to 1988. He is also a member of the National Assembly Special Committee on Rules of Procedure.

Kunwar Khalid Yunus

MNA (NA-245, Karachi-VIII Sindh, MQM)

Kunwar Khalid Yunus was born in Sambhal, UP, India on September 30, 1944. He has been

elected as MNA for his fourth term and is politically affiliated with MQM. He has previously served as MNA for the terms of 1988-1990, 1990-1992 and 1997-1999. Kunwar Khalid Yunus graduated from University of Sindh, followed by a B.Sc. degree from Minnesota State University, U.S.A in 1976.

Mr. Abdul Ghafoor Haidery

MNA (NA-268, Kalat-cum-Mustang Balochistan, MMA)
Secretary General JUI-F

Mr. Abdul Ghafoor Haidery, born on February 15, 1957 in Kalat, has been re-elected as MNA on an MMA seat. He has previously served as Provincial Minister of Balochistan from 1992-1993 and Member of National Assembly in 1993. Maulana Abdul Ghafoor Haidery is the Central Secretary General of JUI (F). An educationist by profession, he completed his M.A in Islamiyat. Maulana Abdul Ghafoor Haidery is a member of the Standing Committee on Education and Standing Committee of Petroleum and Natural Resources.

Welcome Remarks

Mr. Ahmed Bilal Mehboob
Executive Director PILDAT



Mr. Ahmed Bilal Mehboob, Executive Director PILDAT, welcomed the session chair, participating parliamentarians, speakers at the session and the observers. Presenting an overview of the programme of the legislative study tour to India, he said that the objective behind arranging the tour was to provide an opportunity to delegates to learn about how the Indian Parliamentary Rules of Procedures have evolved over time; share best practices of legislative tools that streamline Indian Parliamentary democracy today and to strengthen the efforts of Pakistani Legislators to review and suitably amend the existing Rules of Procedures of Pakistani Legislatures. This, he believed, was especially necessary in the backdrop of the formation of a Special Committee of the National Assembly on July 31, 2004 to re-examine the Rules of Procedures of the National Assembly. The committee is to review the existing rules within three months and present its report.

This briefing, in the aftermath of the legislative study tour, has been arranged to share the learning of the tour with Parliamentarians and Parliamentary staff, said Mr. Mehboob. Another important objective of the briefing is to present the learning in a systematic manner for the benefit of the Committee on review of Rules.

Appendix C carries the complete presentation of Mr. Mehboob.

Special Remarks

Ms. Julie Koenen Grant
Senior Governance Advisor, USAID



She believed that the Parliamentary Study tour to India, which was carried out with the support of USAID-funded project of Strengthening National and Provincial Legislative Governance, was a great opportunity. She complemented PILDAT for recognising the opportunity and for organising the trip in such a short amount of time. The study tour provided Parliamentarians, secretariat staff and some of Pakistan's political luminaries with the opportunity to observe systems and approaches in India and to interact with their counterparts in that country, she held.

However, the most important part of any study tour is realised through the discussions that take place back home after it has been finished, which was why this briefing session was of crucial importance. She added that sessions such as this are invaluable because they provide a forum to discuss questions like what was seen or discussed during the tour that has application in the Pakistani context; what are the necessary steps toward implementing desired changes; and what is the time-frame for bringing about desired enhancements. She recognised that implementing any enhancements that are agreed upon will take time and a great amount of energy and this briefing session was one of the steps towards it.

In the end Ms. Grant reiterated USAID's support to the efforts towards necessary reform in democratic process and thanked all participants.

After greeting the Parliamentarians and distinguished guests Ms. Julie Koenen Grant thanked for the opportunity to speak on behalf of the USAID at the briefing. Belonging to the sector of governance, it is always a pleasure to be able to participate in any events that has an objective of supporting democracy and development of democratic processes in Pakistan, she said.

Opening Remarks
 by Session Chair

Dr. Sher Afgan Khan Niazi
 Federal Minister for Parliamentary Affairs



Dr. Niazi thanked PILDAT for inviting him to be the session chair at a very important briefing. He expressed the hope that the learning acquired through the study tour will contribute towards the required amendments in the Rules of Procedure of the National Assembly.

Commenting on Rule 90 which empowers the Speaker or Chairperson of a committee to summon a member in custody on the charge of non-bailable offence to attend a sitting or sittings of the assembly or committee meetings, he believed that such a rule does not exist in any other Parliament of the world. He said that after the independence, Pakistan and India inherited similar Parliamentary Rules of Procedure from the British. In Pakistan, various changes were introduced in these rules over a period of time but after 1973, no considerable changes were introduced.

Dr. Niazi informed the participants that under the Rules Review Committee, Parliamentary Rules of Procedures of five countries were obtained and analysed comparatively. The analysis of these rules will be distributed amongst all parliamentarians. Similar analysis of SAARC Parliaments will also be carried out.

Quoting Jefferson that "Constitution can be amended but it should not be too early and too late," he said that amendments can be made in the constitution and the rules to suit the interests of the people and the need of the time.

Comparative Analysis of
Rules of Procedure and
Conduct of Business of
Indian and Pakistani Parliaments

Mr. Khan Ahmed Goraya
Former Secretary General,
National Assembly of Pakistan &
Former Secretary Election
Commission of Pakistan



Mr. Goraya said that a controversy on the powers always exists between the three organs of the state, i.e., Legislature, Executive and the Judiciary. But according to the provisions of the Constitution, it is the Legislature that has an edge over the other organs of the state. The preamble of Pakistan's Constitution clearly states that the authority of the state shall be exercised through its chosen representatives. Another provision of the Constitution makes the executive answerable to the National Assembly while the Legislature alone has the power to amend the Constitution.

Mr. Goraya said that the effort to review the Rules of Procedures was a much-awaited exercise. Mentioning the recent MOU signed between the Parliament and the PLSC under the USAID-funded SNPLG project, he said that the most important among the listed activities in the MOU is the review of the Rules of Procedures and Conduct of Business and other mechanisms to facilitate the work of the Legislature in improving transparency, accountability and good governance. This MOU was prepared 3-4 months back but its signing coincided with the formation of the Committee on Review of Rules of Procedure in the National Assembly. It was finally signed and the government decided to constitute a special committee headed by Dr. Sher Afgan Niazi.

He pointed out that there are similarities in the terms and reference of that Committee and the MOU. The inception of this Committee

necessitates amendments in the Rules of Procedure of the National Assembly. In this context, learning from the best practises of successful Parliamentary systems will be beneficial. Legislative Study Tour to India was important since the two countries have inherited the same legacy of British Parliamentary System and 70 to 80 per cent of the provisions of both the Constitutions and the Rules of Procedure are the same. Since India has introduced timely amendments in its Constitution, the Parliamentary system in India has undergone a systemic continuity. The 86th amendment to the Indian Constitution was made in the year 2002, he added.

He referred to an institution that has advocated for deciding and proposing the Rules of Procedure and in bringing various amendments, known as the Conference of Presiding Officers. The position of Speaker in the Central Legislative Assembly, which was constituted in 1921, was held by Mr. Whyte nominated by the Governor General. In the subcontinent the institution of the Speaker is even older than the institution of the Prime Minister and it was in 1925 that the first Speaker of the Legislative Assembly was formally elected. Mr. Vithal Bhajjee Patel was the first elected Speaker who was also instrumental for the creation of a separate Department of Legislatures under his control through a resolution directly moved and adopted in the House by Mr. Nehru in 1928. The Secretary General of the Lok Sabha said that they regularly celebrate the birthday of their secretariat on January 10 every year, added Mr. Goraya.

Mr. Goraya believed that a significant effort was undertaken to activate the Speakers' Forum in Pakistan during the tenure of Mr. Gohar Ayub Khan as the Speaker of the National Assembly but that forum has not met for the last 7 or 8 years. He said that there is a need to activate that forum as it will bring common wisdom and that would also ensure uniformity in the Rules of Procedures of the Provincial Assemblies, the Senate and the National Assembly. In India, in the yearly meetings of the forum which includes presiding officers of all States and Union Legislatures, recommendations are made for change/review of rules which are thus changed on the recommendation of the forum.

The Indian Rules of Procedure were formally framed by the Parliament under Article 119 of the Indian Constitution which is a similar provision to Article 67 of Pakistan's Constitution. Largely the rules of both countries are similar however there are certain provisions, which, coupled with the dynamism of Indian Legislature, set Indian Parliamentary system apart.

Highlighting major aspects of Indian Parliamentary system, he said that normally, three Sessions of Parliament are held in a year: the Budget Session (February to May), the Monsoon Session (July to August) and the Winter Session (November to December). Although, this has been the normal schedule of sessions in a year, there have been departures depending upon the dates of general election with the requirement of meeting for 90 days. The Presiding Officers' Conference has now recommended Legislative year in India to be of 110 days. The quorum of Lok Sabha is one tenth of the total Members of the House which meets five days a week from 11.00 a.m. to 6.00 p.m. with one hour break from 1.00 to 2.00 p.m. The private members business is taken up for two and half hours on Friday. Not more than one starred question by a member and a total of 20 questions are taken up in one sitting of the House. A tradition of Zero Hour taking place immediately after the question hour has developed though there is no specific provision for that in the Indian Rules of Procedure.

Mr. Goraya said that the Indian Rules of Procedure have separate chapters on Petitions and Subordinate Legislation which are not available in our Rules of Procedure. The budget is presented on February 28 every year at 11:00 am while 75 days are provided between the presentation of Budget and its passage by the Lok Sabha. The Budget becomes provisionally effective the day it is presented in the Lok Sabha.

Mr. Goraya said that through provision of strong research institution, the private members are helped in drafting their bills. In Pakistan a bill passed by the National Assembly has to be passed by the Senate in 90 days, but in India there is no such limit. In India under Article 111 the President can withhold his assent to a Bill. Rajya

Sabha has special powers in the matters of state legislation and creation of All India Services. Member of either house can become Prime Minister of India which is not the case in Pakistan as Prime Minister can only be elected from the National Assembly. The provisions for Constitutional amendments also vary in two countries. In India, majority of the total membership and two third of the members present and voting are needed for a Constitutional amendment, he added.

The Parliamentary Committees System in India has assumed great importance. There is a greater emphasis on Joint Committees of the Lok Sabha and Rajya Sabha. Each committee comprises 21 members from the Lok Sabha and 10 members of Rajya Sabha. Ministers can not be members of parliamentary committees. The departmentally-related standing committees, among other things, are responsible for the scrutiny of demands for grants for which the Lok Sabha, after general discussion, is adjourned for 4 weeks and each committee takes up the demands of the concerned ministry for detailed scrutiny. The recommendations of the committee are invariably adopted by the house. All committees, whether elected or nominated, consist of members in proportion to the respective strength of parties and groups in the House. Chairpersons of committee are appointed by the Presiding Officers and the Public Accounts Committee is always chaired by an Opposition member. Mr. Goraya believed that the committee system needs to be strengthened in Pakistan in line with India and the Committees on Estimates, Public Undertakings, Subordinate Legislation, Petitions and Ethics are making useful contributions and need to be created in the National Assembly of Pakistan. He said that the Committee on Empowerment of Women, the Joint Committee on Salaries and Allowances of MPs, the General Purposes Committee and the Committee on Members of Parliament Local Area Development Schemes are also a special feature of the Indian Parliament.

Complete Paper of Mr. Goraya is attached as **Appendix D.**

Learning, Analysis and
Views on the Study Tour

Mr. Gohar Ayub Khan

Former Speaker National Assembly &
Former Federal Minister of Foreign Affairs



Mr. Gohar Ayub Khan began by admiring the overall management and the programme of the study tour by its organisers. Commenting on the caste system, he said that he was surprised to find that 25 per cent of the seats of Lok Sabha are reserved for the scheduled castes. Political parties give tickets to the caste members to contest elections against those seats. However, on the passports, identification papers, documents and employment papers, the term scheduled caste cannot be used. The Deputy Speaker of Punjab Assembly of India told him that there is now unease in India that 25 per cent is a large chunk and these seats are not open to people to contest elections.

Another significant thing about Indian Parliament is the calendar and time-table of sessions according to which three sessions are held in a year. Unlike Pakistan, there is no such thing as summoning of a session by the Speaker, however if

the need arises, these sessions can be extended, he commented. Proceedings of the Parliament start at 11:00 am and continue up to 6:00 pm with one hour lunch break in between. If there are interruptions and the proceedings of the house can not carry on, then the Speaker notes down the minutes consumed in interruptions and make up for that time after 6:00 pm. The session can carry on until 11:00 pm or after, depending upon the importance or volume of the agenda. In the zero hour, parliamentarians give their questions to the Speaker at around 10:00 am. In a debate, time is allocated according to the strength of each party.

Mr. Gohar Ayub Khan said that the system of perks and privileges for MPs in India is quite impressive. In addition to their pay and housing privileges, MPs are entitled to a pension. The resources available to the disposal of MPs in India are also huge. Parliament of India houses a huge library with a serious progress towards digitisation of the available material. Each MP is given a computer and internet access. Around 43 per cent of the MPs in India regularly use the library and other research resources compared to the Pakistani average which stood at 3.5 per cent during the mid 1990s and that too comprised newspapers and periodicals only, he commented.

Commenting on the independence of the Indian Election Commission, he said the Indian Election Commission is very active in the technological enhancement. The recent elections were completely held through electronic voting machines. He mentioned that during the meeting with the Election Commission, the Pakistani delegation was given a demonstration of the electronic voting machine. Each voting machine costs about Indian Rs. 10,000 and is produced locally. Parliament in India also uses electronic voting system in the house.

One of the major areas of concern in the Indian Parliamentary System is the presence of criminals. The Election Commission of India is seriously pursuing the issue to disqualify candidates with criminal records or those against whom a case was registered six months prior to the elections, but is still facing political opposition to that, he concluded.



Syed Naveed Qamar
MNA (NA-222, Hyderabad-V, Sindh, PPPP)
Former Federal Minister

Syed Naveed Qamar's presentation mainly revolved around the need for amending National Assembly's Rules of Procedure in the light of the lessons learnt from Indian Parliamentary Rules.

He emphasised that the first and the foremost thing to fix in the National Assembly's rules is to set a time-table and hours of sitting each day. Until a time table is fixed and adhered to, all other efforts to streamline the rules and strengthen Parliament and Parliamentary proceedings will result in vain. He believed that a minimum of 6 hours of proceedings on any given day for all kinds of discussions are required. It is only then that a substantive debate on legislation and other proceedings in the house can take place, he held.

Under the current Rules in the National Assembly, normally 3 questions per member are allowed, but in order to give opportunity to a vast number of members in the Assembly now, there is a need to restrict the number of questions per member per day. In India, only 1 question per member is allowed and there is also a limit on the number of questions to be asked each day on the whole. He proposed that number of questions should also be restricted in the National Assembly. One of the faults of the existing system is that those members who are not allowed a chance to ask a question resort to the use of Points of Order for raising all kinds of questions on the floor.

Under the Indian Parliamentary Rules, there is a provision for a "short duration discussion" through which any member, who desires to raise an issue of urgent public importance, gives a notice to this effect to the secretary specifying clearly and precisely the matter to be raised. The Speaker decides the admissibility of that in time and then a short discussion takes place. In Pakistan, there is the provision of adjournment motion, but there is no such provision of short duration discussion which needs to be introduced to the rules now, he believed. Another Indian Parliamentary Rule is known as "half an hour discussion" which is similar to Pakistani Parliamentary Rule 69. But the Rule 69 can only be used on Private Members' Day once a week, whereas the Indian Lok Sabha allows that discussion 3 times a week. This gives a better opportunity for raising questions in half an hour discussion session, he commented.

Under the current rules in the National Assembly, there are no specific rules or methodology to entertain public petitions while India has such a method in place. Petition is the method by which public seeks a recourse to Parliament and gets involved in parliamentary proceedings, therefore this practise needs to be institutionalised through amendment to the rules. In India, both the Houses of Parliament and their committees can receive public petitions and therefore have the opportunity to address public issues.

Syed Naveed Qamar believed the Committee on Subordinate Legislation in Indian Parliament is yet another example that needs to be emulated in Pakistan. When a law is passed, it no longer remains the concern of the Parliament in Pakistan. However, in the Indian Parliament, rules that are made under the laws passed by the Parliament are sent back to the Committee on Subordinate Legislation for review which ascertains if the rules are in consonance with the spirit of the law.

The Parliamentary Committee System in India is another thing we need to learn about, he believed. In theory, Parliamentary Committees in Pakistan are stronger in terms of the powers that they have than those in India, however these powers are never fully exercised which results in the weakness of committees here. The Indian

Parliamentary Committee on Estimates looks at the budgetary process in detail while departmental committees look at the allocation for each department. In Pakistan, Parliament's involvement with budget, only at the time of its passing, spans over a maximum of 15 days while this process in Indian Parliament spans over a period from February to August. As soon as one budget is presented, the Committee on Estimates starts looking at estimates of all the departments throughout the year.

The budgetary process in India is split up in two parts. The first part is general discussion. After the budget is presented on February 27 every year, a general discussion follows that. After the discussion, the taxation proposals become effective from the time the budget is presented. The second part is the review of the budget by joint departmental committees that look at the budget and propose changes according to their respective departments. While in Pakistan, we have had the constant desire of involving the Senate in the budgetary process, India includes the members of Rajya Sabha in the standing committees, he said.

Referring to Zero Hour, Syed Naveed Qamar said that it is widely desired by Parliamentarians in Pakistan. The Lok Sabha and Rajya Sabha have different methods of dealing with the Zero Hour. The Lok Sabha has a wild Zero Hour whereas the Rajya Sabha has made it much more restrictive by a special mention motion which is similar to the Zero Hour but in this the member has to confine to a 250 words motion submitted beforehand. Rules of the National Assembly need to be amended to include Zero Hour, he felt.

The Indian Parliamentary Committee on Ethics looks at the MPs' conduct in both Parliamentary and extra-Parliamentary life in terms of how they conduct themselves financially and otherwise. If a member transgresses a code of conduct, the committee looks at it. Syed Naveed Qamar believed that a similar check has to be maintained on Parliamentarians in Pakistan as well.

His Complete Paper is attached as **Appendix E**.



Ms. Sherry Rehman
MNA (NA-309, Women Sindh, PPPP)
President, PPP Policy Planning Wing

Ms. Rehman thanked PILDAT and the PLSC for arranging the study tour to India which she felt was a timely and a very fruitful exercise in terms of learning.

Starting her presentation that focused on the Election Commission of India, Ms. Rehman believed that the weakest link in Indian politics is the politicians themselves because many of them are criminals and there are a lot of accusations against them. The Indian Election Commission and the Parliamentary system are grappling with this issue and how to resolve it.

The election rules in India are very similar to Pakistani election rules on the paper. However, India goes through a much bigger polling exercise than Pakistan due to the sheer size of population. In the last Indian election 389 million people voted at 687,402 polling stations. During these elections, Electronic Voting Machines (EVMs), which are reliable and tamper proof, were used in all constituencies for the first time. The total number of EVMs used in these elections was 1.075 million. The direct cost of these elections was approximately Indian Rs. 13000 million (US\$280 million). Around 4 million civil employees were engaged in conducting these elections and another approx. 2 ½ million Central Parliamentary and Police Personnel performed the law and order duty. In these elections, 6 national parties, 45 state parties and 702 registered unrecognised parties participated, she informed.

While the Election Commission of Pakistan employs members of the senior judiciary as the Election Commissioners; in India running of the Election Commission is taken as an administrative task and therefore their Election Commissioners are taken from the civil service. In 1993, the Commission was made a three-member Commission consisting of Chief Election Commissioner and two Election Commissioners. The Commission decides most of the matters by consensus but in case of difference of opinion the view of majority prevails. The Indian Election Commission is very keen on the continuity of the process, i.e., if the Chief Election Commissioner retires, the No.2 takes over which is how they have been strengthening the system in India, said Ms. Rehman.

The delimitation of the constituencies is carried out by a separate Delimitation Commission in India and is not the responsibility of the Election Commission. It involves analysis of the size of population in a certain constituency, class and ethnic structures. This becomes possible when it is based on the correct demography of the constituency. In India, a census is conducted every 10 years for this purpose. There is a problem in the South and North of the country where the Southern States have controlled their population growth as opposed to the Northern States, and do not want to be penalised for their progressive fertility rates.

While the election processes in the two countries are similar, Indian Election Commission lays a strong emphasis on the free and fair conduct of elections. In the Indian Constitution, there is a whole chapter on the Election Commission by Ambedkar, which ascribes a high value to the process and institutions involved in the Indian democratic apparatus. In Pakistan too an entire section of the Constitution, from articles 213 to 226, is dedicated entirely to the holding of free and fair elections but the failure of the Election Commission in Pakistan lies in the absence of enforcement of these laws, she said.

By Article 329 of the Indian Constitution, the courts are barred from interfering in the work of the Election Commission. In Pakistan too, Election

Tribunals are appointed by the Election Commission, but they hold little credibility as they are not known to overturn questionable results. The Election Commission in India strictly and effectively enforces restrictions on the use of government machinery and campaign funds so as to check the government's mis-use of state machinery or resources for personal or party gains. Election Commission in India is so effective today only because some of its commissioners began to apply existing rules stringently by calling sitting governments to account. The support from the courts to the Election Commission has increasingly strengthened the institution. Ms. Rehman held that in Pakistan much of the superior judiciary has become victim of the PCO oaths and has delivered Doctrine of Necessity judgments that have allowed the democratic process to be subverted by the military coups.

In India, increasing electronic media vigilance has also contributed immensely to the transparency of the electoral process. It is no small coincidence that the Indian Election Commission became more powerful during the 1990s when private television channels began to proliferate and were allowed to report the news as they saw it, with the result that one independent institution strengthened another, she said. Because of its growing prestige, the United Nations has recently signed an MOU with the Indian Election Commission to assist in holding elections in Afghanistan and Iraq, she informed.

In India, the electoral rolls, lists of eligible electors, are revised every year with reference to January 1 of the commencing year. Today, electoral rolls of various states have been computerised and are being put on the website. The names in the roll can be added, deleted or modified at any time before the last day of nomination. The most important feature of this part of the exercise is that hard copies of these rolls are given to various political parties and candidates free of cost along with a CD.

Another step towards ensuring free and fair elections taken by the Election Commission of India is that in order to prevent bogus voting, it started issuing Elector's Photo Identity Cards (EPICs)

to the eligible electors from August 1993. These cards are required to be produced at the time of voting to prove one's identity.

The limit of spending on elections, as prescribed by law for any candidate during elections, is strictly enforced by the Election Commission of India. For Lok Sabha constituencies in bigger states, the limit is Indian Rs. 2,500,000 (approx. US\$ 55,000). In the other States and Union Territories, it varies between Indian Rs. 10,00,000 (app US\$ 22,000) to Indian Rs 2,500,000 (app US\$ 55,000). For Legislative Assembly constituencies in bigger states, the limit is Indian Rs 1,000,000 (app US\$ 22,000), while in other states and union territories, it varies between Indian Rs 500,000 (app US\$ 11,000) to Indian Rs 1,000,000 (app US\$ 22,000). The political parties can, however, meet expenditure of 40 national or state leaders for campaigning during the election period, informed Ms. Rehman.

Unlike Pakistan, the Election Commission in India appoints 3 election observers in each Lok Sabha constituency, so at one time there are 1500 observers all over the country. These observers are taken from the civil service, and appointed in areas non-contiguous to their place of employment or domicile to avoid a convergence of interests. They serve as the eyes and ears of the Commission, and have now become empowered to check all kinds of election abuses in their localities, no matter how highly placed the candidate may be. The only observers allowed in a Pakistani election are external monitors or Human Rights observers, who naturally have no authority or remit to affect the results in any situation, she said.

Commenting on the location of polling stations, Ms. Rehman said that in Pakistan thousands of voters are routinely disenfranchised in scores of constituencies where their polling station is arbitrarily moved, or even made to disappear as was reported from many areas of Sindh in 2002 Elections. To counter this trend by government parties that seek to interfere in the location and placement of polling stations, the Indian Election Commission decided to become extremely vigilant about any such attempts since the early 1990s. Now no polling station can be moved once

the Election Commission has fixed its location, and if it is at all moved, the Commission immediately calls for a re-poll in that area. The current Chief Election Commissioner, T. S. Krishna Murthy disclosed in a meeting with the Pakistani delegation that in order to build in predictability for the candidates as well as voters, most polling stations have not been moved since 1994. Where the Election Commission considers it necessary to add or move stations, or if a candidate complains about the location of a station, all parties are consulted at district level in order to either relocate the polling station or to order a re-poll.

Commenting on the situation in Pakistan in the light of the lessons that Indian Election Commission offers, Ms. Rehman said that the mainstream political parties in Pakistan also need to start working on a code of conduct that will apply to all stakeholders in an election process. They will need the support of the judiciary in upholding this resolve, and the co-operation of the international community in understanding that little can be gained if the military in Pakistan is not re-assigned to its job of guarding the boundaries of the country. If security agencies continue to run a parallel electoral process in any country, there can neither be a movement forward for political parties to reinvent themselves, nor for civil society to become more vigilant, she concluded.

Appendix F carries complete presentation of Ms. Sherry Rehman.



Mr. M.P. Bhandara
 MNA (NA-336, Non-Muslim-IV, PML)

Mr. Bhandara, in his brief overview and comments, appreciated the timely and professional conduct of the legislative study tour to India.

Comparing the two Parliaments, Mr. Bhandara said that in our Parliament there are 440 members compared to 770 in India. Costs for the Parliaments in Pakistan are around Rs. 870 million which are exorbitant given the amount of work Pakistani Parliamentarians do with more focus on debates rather than legislation. Mature and developed Parliaments' work is carried out in their committees compared to our Parliament where a sizeable number of committees are not even functional nearly two years of age of this Assembly. In Pakistan, he said, the National Assembly has to convene for 130 days according to the Constitution, but in reality, with counting weekends and days in between sessions, it manages to get in session only for about 85 to 90 days. Even during

those days, we do not work complete assigned hours of the day, he said. Indian Parliament, however, not only works through its 131 joint committees and 24 single house committees, but in case of joint committees, saves a lot of time and extra expenses as well, he said.

In Pakistan's Parliament, there are two libraries which are of no use whereas in India there is one library catering to the needs of all MPs. One of the committees in India that caught his interest was Committee on Ethics. He recommended that in our Parliament a committee like this should also be introduced. Another good example to be emulated here is the Estimates Committee of India that ensures Parliamentary involvement in the budgetary process and allocations. Committee for Petitions and Committee on Human Rights are also good examples that need to be emulated in Pakistani Parliament, he believed.

Commenting on the very effective Indian Election Commission, Mr. Bhandara said that the delegation's meetings with the former and current Election Commissioners of India were extremely useful in learning in detail about their rules and role. A good thing about Indian Election Commission is that its members are permanent and cannot be removed. Even with the present set of rules, our election process can also be undertaken with a great amount of legitimacy if those rules are strictly applied, he believed.



Kunwar Khalid Yunus
MNA (NA-245, Karachi-VIII Sindh, MQM)

Kunwar Khalid Yunus began his speech by thanking the organisers for a well-structured study tour to India through which maximum time was used in an effective manner for the learning of the delegation.

Presenting an account of his experiences he said that one of the major institutions responsible for strengthened democracy in India is the Election Commission which is very independent in its working. The Indian Constitution is republic in character, federal in structure and secular in its outlook. Compared to the Indian system of democracy, he felt that Pakistan is unfortunate to have not experienced the same stability as India.

Kunwar Khalid Yunus said that the Indian Parliament transacts its major business through its committees. The origin of committee system in India can be traced back to the Constitutional Amendment in 1919, although the committees then were not free from government control and interference and had no power and privileges. Committees were advisory and the ministers in-charge of the concerned departments were the committee chairpersons. According to the Indian Constitution, adopted and enacted in 1949, the position of Central Legislature changed dramatically. With positive amendments in the committee system, not only their numbers were increased but the functions and power were also enlarged.

Today a Parliamentary Committee is appointed or

elected by the House or nominated by the Speaker or by the Chairman of the Rajya Sabha. There are 55 Parliamentary Committees, 31 are Joint Committees of the two houses and the rest are separate. Parliamentary Committees are of two types: standing and ad-hoc. Standing Committees are periodically elected either by the House or nominated by the Speaker, he informed the participants.

He said in Pakistan, Members of Parliament enjoy less perks and privileges as compared to Indian MPs. In India one MP has a monthly salary of Indian Rs. 36,000 per month, which includes Rs. 12,000 as salary, Rs. 10,000 as Constituency allowance and Rs. 14,000 as office expense allowance. Every MP is given 32 free air journeys per year; Each MP is entitled to a license fee free apartment or hostel accommodation throughout his or her term; Electricity upto 50,000 units per year is free; Up to 150,000 local calls per year are free, in addition 20,000 additional calls are allowed to members who live outside the radius of 1,000 KM from Delhi. MPs are also entitled to a mobile phone. Former MPs are allowed a pension of Indian Rs. 3,000 per month and entitled to have medical/travel facilities.

Describing his impressions of the visit to State Legislature of Punjab in Chandigarh, he said that the delegation had useful meetings and interactions with the Governor, Retd. Justice Oam Perakash Verma; Deputy Speaker Punjab Assembly Professor Darbari Lal; various MLAs of the Treasury and the Opposition including Opposition's outspoken MLA Sardar Balwinder Singh Bhunder and the graceful and charming Permeet Kaur, the Maharani of Patiala, an MP and the wife of present Chief Minister of Punjab, Captain Amarinder Singh. The culture in Punjab is very similar to ours and we share a lot of common values, he said.

Kunwar Khalid Yunus also believed that the delegation also had useful policy-related interactions with former Prime Ministers of India, some current Ministers and MPs from various parties.

Appendix G carries Kunwar Khalid Yunus' complete paper.



Mr. Abdul Ghafoor Haidery
 MNA (NA-268, Kalat-cum-Mustang, MMA)
 Secretary General, JUI-F

Mr. Haidery believed the legislative study tour contributed to a great amount of knowledge for him and the fellow delegates who were part of the tour.

The basic purpose of this study tour was to analyse and compare the rules of procedure of Indian and Pakistani Parliament so as to amend Pakistani rules in the light of better parliamentary rules and practises, he said.

Highlighting the major aspects of learning, he said that the Indian electoral system, owing to its independent and strong Election Commission, is very sound and there is no room for pre-poll and

poll rigging. Even the party that loses the election upholds the decision of the Election Commission. He believed that Parliament in Pakistan needed to ensure that election process in Pakistan is also as free and fair through an independent Election Commission.

Mr. Haidery said that the Secretary Generals of the Lok Sabha and Rajya Sabha gave the delegation a very good overview of the rules of procedure of Indian Parliament. The Indian Parliament finishes its agenda of each session unlike Pakistani Parliament. Committee chairpersons in India are chosen according to the strength of parties in the Parliament and the Public Accounts Committee is always chaired by an opposition member, the practise we need to follow in our country, he said.

Mr. Haidery strongly emphasised that the National Assembly rules need to be amended to reflect these best practises. The rules also need to be followed in letter and spirit, he said.



Q&A / Comments Session

Question

Hakim Qari Gul Rahman
 MNA (NA-239, Karachi-I, Sindh, MMA)

In India which language do they use while the House is in session?

Answer

Ms. Sherry Rehman
 MNA (NA-309, Women Sindh, PPPP)

Proceedings are mostly in English. They have different regional languages therefore common mode of expression is English.

Question

Senator Mrs. Tanvir Khalid
 (Technocrat, Sindh, PML)

Which of these two countries enjoys better freedom and democracy?

Answer

Mr. Gohar Ayub Khan
 Former Speaker National Assembly &
 Former Federal Minister of Foreign Affairs

It is difficult to say which country is more democratic but this question can be answered through looking at which country has seen a continuity of democracy. Once a former Prime Minister of India was asked the question that what is the strongest point of India and his response was that we never left the ballot box. I believe that the strong traditions of democracy can, in the end, empower the people.

Question

Ms. Mehnaz Rafi
 MNA (NA-273, Women Punjab-I, PML)

When an individual MP from ruling party has to present a Private Member's Bill, does he/she have to face the same difficulties in doing so in India as we face here, and the private member's bill has his/her name on it in India too?

Answer**Syed Naveed Qamar**

MNA (NA-222, Hyderabad-V, Sindh, PPPP)

Former Federal Minister

It remains a Private Member's Bill whether it is by an individual MP from the ruling or the opposition parties as long as it is not an official government bill. In both countries rules are the same for passing a private member's bill.

Question**Senator Dr. Nighat Agha**

(Women, Punjab, PML)

I would like to inquire about this issue of criminalisation of Indian Parliament. This is a very grave issue given the fact that if MPs as representatives of the public are criminals then the whole system can go in disarray.

Answer**Dr. Sher Afgan Khan Niazi**

Federal Minister for Parliamentary Affairs

This never happens that convicted criminals can make their way in to the Parliament. The conditions for qualification and disqualification are similar in India and Pakistan. A proven criminal is never allowed on the floor of the Parliament. But those who have cases against them and are not yet convicted of any crime can come into Parliament. We have a rule of disqualification that was made in 1963 and it is still in place.

Question**Senator Engr. Rukhsana Zubairi**

(Women, Sindh, PPPP)

I would request PILDAT to hold a separate briefing session for explaining the process of elections. We have seen a lot of instances where the current election system has been misused in Pakistan. In India the Election Commission can be removed by Parliament but is it also answerable to Parliament?

Answer**Dr. Sher Afgan Khan Niazi**

Federal Minister for Parliamentary Affairs

We have the same pattern for the Election Commission as of Indian Commission. Its duties have been prescribed in the Constitution and it is answerable to the Parliament. It is autonomous financially.

Answer**Mr. Khan Ahmed Goraya**

Former Secretary General,

National Assembly of Pakistan &

Former Secretary Election Commission of Pakistan

Our election provisions are better than those in India. They have a tenure post of the Election Commissioner who cannot be removed before the tenure. Our financial system of the Election Commission is better than India also as the expenditure for this is charged from the federal consolidated fund, while in India they are still trying to do that. Second thing is the civil service or the judiciary in running that institution. Theoretically, civil servants' involvement is same as that of the judiciary's but it is our misfortune that the judiciary has not been able to rise to the occasion. So, in terms of constitutional provisions, our system is better but everyone knows that the situation on the ground is that our elections are not free from doubt. But we have no such provision here which can keep a check on the Election Commission. There can be one provision that Parliament can extend the one year term of the Chief Election Commissioner.

Question**Syed Nayyer Hussain Bokhari**

MNA (NA-49, Islamabad-II, PPPP)

In Pakistan the Election Commission is a Constitutional body but it gets all its work executed through the executive such as returning officers, polling officers who are all working under the subordination of the executive. How can the Election Commission effectively and independently carry out its work like this?

Answer**Syed Naveed Qamar**

MNA (NA-222, Hyderabad-V, Sindh, PPPP)

Former Federal Minister

In India, the Election Commission works only through the executive. In India, all the members of the commission are from civil service and there is no member from judiciary. In fact during elections, Indian Election Commission appoints 3 civil servants in each constituency to act as its eyes and ears. The Commission in India is so completely independent that during the election process, no courts can interfere. After the elections are over, the Indian Election Commission does not review election petitions but that is the role of the judiciary. This model has been working perfectly for India.

Question**Ms. Shamim Akhtar**

MNA (NA-317, Women Sindh-X, MQM)

How does the Opposition behave in India?

Answer**Mr. Abdul Ghafoor Haidery**

MNA (NA-268, Kalat-cum-Mustang, MMA)

Secretary General, JUI-F

We were told that the attitude of the Opposition in India is a lot worse than that of Pakistan. In India they literally fight in the Parliament. As a delegation, however, before going to India we collectively decided not to bring up our differences outside the country. We went there as Pakistanis and we all believed that it will not look good if we brought out our differences.

Question**Ms. Jamila Ahmed**

MNA (NA- 326, Women NWFP-V, MMA)

The Parliamentarians went on an official visit but I would recommend that if the visit was a private one, instead of meeting with the governmental circles only, they should have met with unions or places where they might have come in contact

with general populace. Also the delegation is praising Indian system that it is strong and transparent but I would like to add that in a country where religious and sectarian violence is prevalent, and it still calls itself secular is a contradiction in terms and cannot be as strong.

Answer**Dr. Sher Afgan Khan Niazi**

Federal Minister for Parliamentary Affairs

I would like to remind everyone here that our Constitution's Article 41 prohibits us from criticising our neighbour countries.

Question**Ms. Samia Raheel Qazi**

MNA (NA-301, Women, Punjab-XXIX, MMA)

I am thankful to PILDAT for arranging this forum to share the learning from the study tour with us. I would like to ask Dr. Niazi when is the Special Committee to re-examine the Rules of Procedures of the National Assembly going to be activated and would implement all the suggestions that have been presented in this briefing session.

Answer**Dr. Sher Afgan Khan Niazi**

Federal Minister for Parliamentary Affairs

We planned a meeting of this committee this month but it was delayed and now we will hopefully hold the meeting at the end of this month. We have collected rules and procedures of 5 countries and all the related research papers have been prepared by this committee. Hopefully these will be distributed amongst all for discussion and we will try to implement them as soon as possible.

Question**Prof. Khalid Wahab**

MNA (NA-219, Hyderabad-II, Sindh, MQM)

Before I ask my question I would like to say that I have learned a great deal today. Compared to India, our democratic institutions are not strong.

Would it be right to say that since they do not have feudalism in India, this is the reason behind their strong democratic set up or does it owe it to the fact that they focus on open mindedness and are more tolerant than us?

Answer

Ms. Sherry Rehman

MNA (NA-309, Women Sindh, PPPP)
 President, PPP Policy Planning Wing

I do think in India there is more tolerance. But having said that, in India Muslims are second class citizens and this is my personal view. The more India claims itself to be a secular state, the more it is not applying its secular rules very much. Successful Muslims in India have to go through a lot. If one is to compare the income scale of families that stayed in Indian Territory to that of the ones who migrated then, there is a considerable difference as the families that moved to Pakistan saw a considerable increase in their income. The question of tolerance after Gujarat holds a totally different perspective and minorities in Assam and Manipur are still going through a lot.

Question

Senator Mrs. Roshan Khursheed Bharucha
 (Women, Balochistan, PML)

We have heard that the Election Commission in India is very transparent. Speaker has more powers than the President or the Prime Minister. My question is that did the delegates have a chance to meet with the Opposition members in India. Was the Opposition's view on situation in India different from the Treasury?

Answer

Syed Naveed Qamar

MNA (NA-222, Hyderabad-V, Sindh, PPPP)
 Former Federal Minister

There was no difference of opinion as far as the government and the opposition were concerned.

Question

Senator Dr. Kausar Firdous

(Women NWFP, MMA)

During the visit to India did anyone try to find out the reason behind the continuity of democratic process and that may be it is stable because there have been no military interventions.

Answer

Mr. M.P. Bhandara

MNA (NA-336, Non-Muslim-IV, PML)

First of all, all the institutions in India are very stable and strong. Secondly India is a much bigger country than Pakistan and it will not be easy for the military to hold on to power. In India there are 17 languages, and around 6 to 7 races live together which is why they claim themselves to be secular. This is the only solution in front of them and if they will not take refuge under this notion, their system will not work.

Question

Qari Fayyaz-ur-Rehman Alvi

MNA (NA-3, Peshawar-III, NWFP, MMA)

Everyone in the panel of speakers has highlighted the strong role of the committees in India. I would like to know that how long it takes for standing committees to take a decision after the process in assembly has been completed. How do the members select committees of their choice or is it the Speaker who assigns members to committees?

Answer

Mr. M.P. Bhandara

MNA (NA-336, Non-Muslim-IV, PML)

Most of the time, the Speaker nominates the members for various committees and this is the same in Pakistan as well. But in India, the committee chairpersons are for one year compared to Pakistan where they serve the full term. As far as your question about standing committees is concerned, the follow up after the assembly session on decision making process is better in India than in Pakistan.

Question

Hakim Qari Gul Rahman

MNA (NA-239, Karachi-I, Sindh, MMA)

Some of the members who have in-depth knowledge of rules of procedure have held the entire democratic process hostage. Now after learning from better practises, can these members stop violating the rules and let the process continue?

Answer

Mr. Abdul Ghafoor Haidery

MNA (NA-268, Kalat-cum-Mustang, MMA)

Secretary General, JUI-F

It is our stance that the Constitution is supreme and should be held in utmost reverence. It is the duty of the ruling party and the opposition to follow it. Our rules do not differ much from Indian rules, but it is all about practicing them.

Question

Mr. Mohammad Akhtar Khan Kanju

MNA (NA-155, Lodhran-II, Punjab, PML)

Can the Indian Parliament discuss the judgement from the Indian Supreme Court?

Answer

Mr. M.P. Bhandara

MNA (NA-336, Non-Muslim-IV, PML)

No it is not allowed. No one can challenge the ruling of the Supreme Court. In the governance structure, Parliament is one organ and the Judiciary is another, therefore they can not supersede one another.

Question

Qari Fayyaz-ur-Rehman Alvi

MNA (NA-3, Peshawar-III, NWFP, MMA)

It is very good to see that our relations with India are normalising. I want to ask what is the political culture in the Indian political parties? Do people come to the level of leadership as a result of family links?

Answer

Kunwar Khalid Yunus

MNA (NA-245, Karachi-VIII, Sindh, MQM)

All the political parties in India have to hold elections after a year or two and those who do not want to follow this practice are reprimanded. Therefore it is obligatory in India and it should be made the same here to avoid the mis-use of power.

Question

Mr. Muhammad Hussain Mehanti

MNA (NA-252, Karachi-XIX, Sindh, MMA)

How does the performance of Parliament and Committees affect the decisions of the government? How does that compare to the situation in Pakistan?

Answer

Dr. Sher Afgan Khan Niazi

Federal Minister for Parliamentary Affairs

A simple answer is that in our country we have had more durations of military rule than the civilian. Our system could not take off properly as compared to Indian system which is far stronger than ours. As far as the rules of procedures are concerned, we have the same set of rules but the differences are in our practices.

Question

Sahibzada Mian Jalil Ahmed Sharaquri

MNA (NA-132, Sheikhpura-II, Punjab, PML-N)

It is beyond doubt that their election system is far better than ours. Do we in Pakistan implement the same rules for the transparency of our system?

Answer

Dr. Sher Afgan Khan Niazi

Federal Minister for Parliamentary Affairs

I would like to point out that our laws are better than theirs. We have to practice these laws in the interest of our country.

**Concluding Remarks
by Session Chair**

Dr. Sher Afgan Khan Niazi
Federal Minister for Parliamentary Affairs

Concluding the session, Dr. Niazi said that it has been highlighted that the Parliamentary rules in both the countries are almost similar and the real issue is of the implementation of these rules. Most important rules to follow are working hours of the Parliament, Election Commission and the reforms it has taken for the electoral exercise, zero hour and efficiency of the standing committees.

Talking about the election system in Pakistan, he said that all the political parties are supposed to have their internal elections and choose their party leaders. After the party election they have to go to the election commission to get their parties registered or they will not be allowed to participate in any election. In this way family and personality cult in certain parties will be broken, giving way for better party leadership.

He was confident that standing committees in Pakistan are working a lot better when compared to the past. He believed that as a Minister for Parliamentary Affairs, he will carry out his duties in the best possible manner without any discrimination. Government and Opposition have to work together and Pakistan has to be put first in our agendas. People of Pakistan are supreme and all the initiatives have to be undertaken for their benefit, he concluded.

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PROCEEDINGS

Briefing Session for Parliamentarians and Parliamentary Staff
Comparison of Parliamentary Rules of Procedure and
Conduct of Business of Pakistan and India

APPENDIX A
PROGRAMME

Programme

MONDAY SEPTEMBER 13, 2004

ITEM	Subject/ Topic/Activity	TIME	SPEAKER
1	Registration Session Chair Mr. Sher Afgan Khan Niazi Federal Minister for Parliamentary Affairs	09:30 - 10:00 am	
2	Introduction to the Briefing	10:00 - 10:20 am	Mr. Ahmed Bilal Mehboob Executive Director, PILDAT
3	Special Remarks	10:20 - 10:25 am	Ms. Julie Koenen Grant Senior Governance Advisor, USAID
4	Comparative Analysis of Rules of Procedure and Conduct of Business of Indian and Pakistani Parliaments	10:25 - 10:55 am	Mr. Khan Ahmed Goraya Former Secretary General, National Assembly of Pakistan & Former Secretary Election Commission of Pakistan
5	Lessons Learnt during Legislative Study Tour to India: A Panel Discussion on <ul style="list-style-type: none"> ● Major features of Indian Parliamentary System including Rules of Procedure and Conduct of Business and the Committee System ● Major features of Indian Election Commission ● Major features of Rules of Procedure of State Legislature of Punjab, India 	10:55 - 12:05 pm	Panel of Speakers: Mr. Gohar Ayub Khan Former Speaker National Assembly & Former Federal Minister of Foreign Affairs Syed Naveed Qamar MNA; Former Minister Ms. Sherry Rehman MNA; President PPP Policy Planning Wing Mr. M. P. Bhandara MNA Kunwar Khalid Yunus MNA Mr. Abdul Ghafoor Haidery MNA; Secretary General JUI-F
6	Q&A/Comments	12:05 - 01:00 pm	
7	Comments by Session Chair	01:00 - 01:20 pm	
8	Lunch & End of Briefing	01:20 pm	

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PROCEEDINGS

Briefing Session for Parliamentarians and Parliamentary Staff
Comparison of Parliamentary Rules of Procedure and
Conduct of Business of Pakistan and India

APPENDIX B

Lists and Profiles of Participants

List of Participating MNAs

1	Abdul Rauf Mengal, NA-269	BNP(M)
2	Afsar Begum, NA-318	MQM
3	Bilquees Saif, NA-331	MMA
4	Hakim Qari Gul Rahman, NA-239	MMA
5	Inayat Begum, NA-328	MMA
6	Jamila Ahmad, NA-326	MMA
7	Khalid Wahab, Prof., NA-219	MQM
8	Kunwar Khalid Yunus, NA-NA-245	MQM
9	Makhdoom Shah Mahmood Hussain Qureshi, NA-148	PPPP
10	Maulana Abdul Ghafoor Haidery, NA-268	MMA
11	Mehnaz Raffi, NA-273	PML
12	Mian Shamim Haider, NA-135	PML
13	Mohammad Akhtar Khan Kanju, NA-155	PML
14	Muhammad Hussain Mehanti, NA-252	MMA
15	M. P. Bhandara, NA-336	PML
16	Nafisa Munawar Raja, NA-313	PPPP
17	Noor Jahan Panezai, Dr., NA-330	PML
18	Qari Fayaz-ur- Rehman Alvi, NA-3	MMA
19	Razia Aziz, NA-324	MMA
20	Samia Raheel Qazi, NA-301	MMA
21	Sahibzada Mian Jalil Ahmed Sharaquri, NA-132	PML(N)
22	Shabina Talat, NA-319	MQM
23	Shakila Khanam Rashid, NA-294	PPPP
24	Shamim Akhtar, NA-317	MQM
25	Sherry Rehman, NA-309	PPPP
26	Sher Afgan Khan Niazi, Dr., NA-72	PPP
27	Syed Javaid Ali Shah, NA-216	PML
28	Syed Naveed Qamar, NA-222	PPPP
29	Syed Nayyer Hussain Bokhari, NA-49	PPPP
30	Yasmeen Rehman, NA-297	PPPP
31	Zeb Gohar Ayyub, NA-322	PML

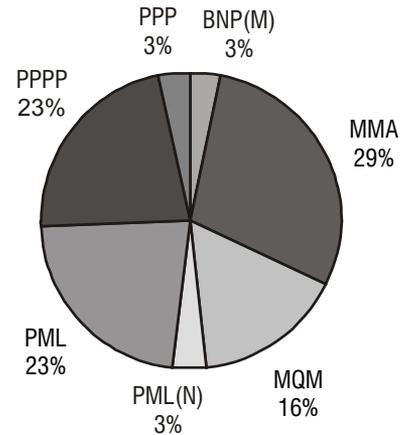
List of Participating Senators

1	Abdullah Riar, Dr.	PPPP
2	Kalsoom Parveen	PML
3	Kausar Firdaus, Dr.	MMA
4	Nighat Agha, Dr.	PML
5	Razina Alam Khan	PML
6	Roshan Khursheed Bharucha	PML
7	Rukhsana Zubairi, Engr.	PPPP
8	Tanvir Khalid	PML

Profile of Participating MNAs

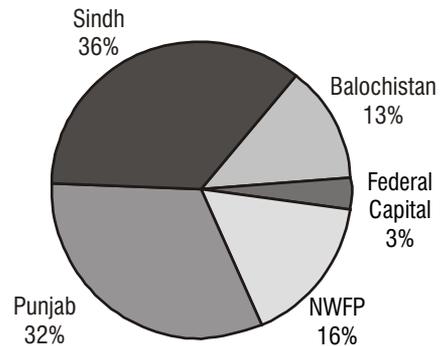
Party Wise Representation

Party	Representation in Briefing Session		Percentage in Assembly
	Number	Percentage	
BNP(M)	1	3	0.3
MMA	9	29	18
MQM	5	16	5
PML(N)	1	3	5
PML	7	23	43
PPPP	7	23	17
PPP	1	3	6
Total	31	100	



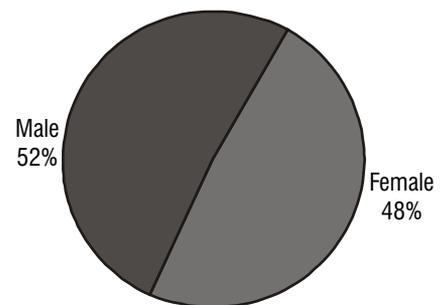
Province Wise Representation

Province	Representation in Briefing Session		Percentage in Assembly
	Number	Percentage	
Balochistan	4	13	5
Fed. Capital	1	3	0.6
NWFP	5	16	13
Punjab	10	32	55
Sindh	11	36	23
Total	31	100	



Gender Wise Representation

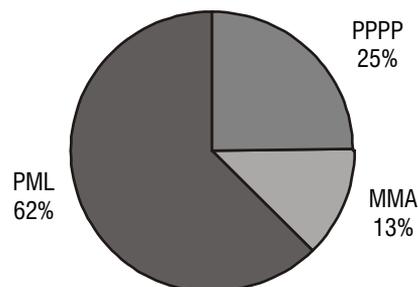
Gender	Representation in Briefing Session		Percentage in Assembly
	Number	Percentage	
Female	15	48	22
Male	16	52	78
Total	31	100	100



Profile of Participating Senators

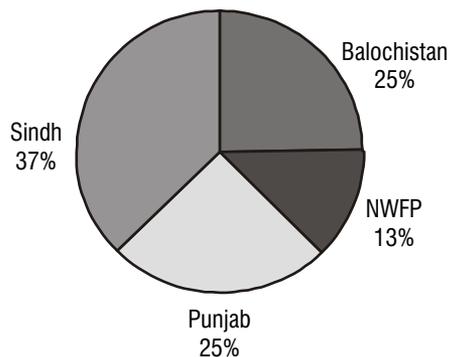
Party Wise Representation

Party	Representation in Briefing session		Percentage in Senate
	Number	Percentage	
MMA	1	13	18
PML	5	62	38
PPPP	2	25	11
Total	8	100	



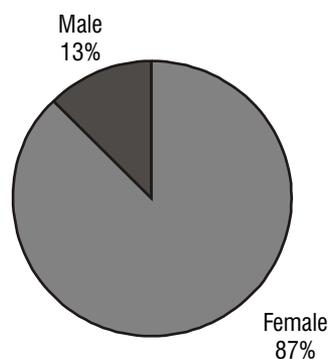
Province Wise Representation

Province	Representation in Briefing session		Percentage in Senate
	Number	Percentage	
Balochistan	2	25	22
NWFP	1	13	22
Punjab	2	25	22
Sindh	3	37	22
Total	8	100	



Gender Wise Representation

Gender	Representation in Briefing session		Percentage in Senate
	Number	Percentage	
Female	7	87	18
Male	1	13	82
Total	8	100	100



PILDAT

PROCEEDINGS

Briefing Session for Parliamentarians and Parliamentary Staff
Comparison of Parliamentary Rules of Procedure and
Conduct of Business of Pakistan and India

APPENDIX C

Presentation by
Mr. Ahmed Bilal Mehboob
Executive Director, PILDAT

Briefing Session for Parliamentarians and Parliamentary Staff
Comparison of Parliamentary Rules of Procedure and
Conduct of Business of Pakistan and India



Briefing for Parliamentarians &
Parliamentary Staff on
Comparison of Parliamentary Rules
of Procedure and Conduct of
Business of Pakistan and India
September 13, 2004

>Welcome Remarks & Introduction

1



>Welcome!

- ❖ **Very warm Welcome to All**
- ❖ **Please Check out Contents of the Dossier**
 - Report of the Study Tour
 - Introductory Booklet
 - Briefing Paper to be distributed later
 - Feedback Form
 - Data Form if not filled / Update required in Directory

2



Programme Overview

- ❖ **Sharing of Lessons Learnt during Legislative Study Tour to India**
- ❖ **Panel Discussion Topics:**
 - ❖ **Major features of Indian Parliamentary System including Rules of Procedure and Conduct of Business**
 - ❖ **Major features of Indian Election Commission**
 - ❖ **Major features of Rules of Procedure of State Legislature of Punjab, India**

3



Objectives

- ❖ **Enhance awareness of Parliamentarians & Parliamentary Staff on how Indian rules of procedure have evolved overtime**
- ❖ **Share best practises of the legislative tools that streamline Indian Parliamentary democracy**
- ❖ **Strengthen the efforts of Pakistani legislators to review and suitably amend the existing rules of procedures of Pakistani Legislatures**

4



Why We hold Training for Legislators?

- ❖ **To empower legislators (Knowledge is power)**
- ❖ **To see Assembly Members participating in policy-making (Supremacy of Legislature)**
- ❖ **To see Democracy and Democratic Institutions strengthened in Pakistan**

5



What is PILDAT?

- ❖ **Independent, Non-profit, Research & Study institute**
- ❖ **Indigenous entity well-versed in local conditions**
- ❖ **Strictly Non-partisan: Values trust of all parties**
- ❖ **Dedicated to Parliamentary Strengthening**
- ❖ **Mission: Strengthening Democracy & Democratic Institutions for a better Pakistan**
- ❖ **PILDAT recently joined PLSC for SNPLG**

6

PILDAT
Pakistan Institute of
Legislative Development
And Transparency

Who Funds PILDAT?

- ❖ Seed money by Overseas Pakistanis
- ❖ Pilot project funded by UNDP
- ❖ Seek and accept support from all sources without any covert or overt strings (Pure PILDAT Agenda)
- ❖ So far events are supported by UNDP, FNS, FES, DFID, The World Bank, IRI etc.
- ❖ Now many PILDAT events supported by USAID

7

PILDAT
Pakistan Institute of
Legislative Development
And Transparency

What is SNPLG Project?

- ❖ Strengthening National & Prov Legislative Gov
- ❖ Started Sept 29, 03, Duration: 3 Yrs
- ❖ Components:
 - Legislative Training
 - Civil Society Action
 - Legislative Transparency
 - Research & Media
- ❖ Supported by USAID

8

PILDAT
Pakistan Institute of
Legislative Development
And Transparency

What is PLSC?

- ❖ Consists of 2 Int. & 6 Pak Org.
- ❖ International Org: WV & IFES
- ❖ Pakistani Org: PILDAT: Legislative Training
- ❖ The Researchers: Heads CSAG & Sindh Chapter
- ❖ CCHD: Heads Punjab Chapter
- ❖ IRDO: Heads Baluchistan Chapter
- ❖ AWARD: Heads NWFP Chapter
- ❖ CRCP: Legislative Transparency

9

PILDAT
Pakistan Institute of
Legislative Development
And Transparency

Some Recent Activities of PILDAT

- ❖ Briefing Sessions for Parliamentarians on
 - Centre-Province Relations
 - Overview of the Constitution
 - Freedom of Information
 - Budgeting for Poverty Reduction
 - Effective Committee System
 - Implementation of International Treaties on Women
 - SAFTA

10

PILDAT
Pakistan Institute of
Legislative Development
And Transparency

Near-future Activities

- ❖ Workshop on Leadership Skills
- ❖ Parliamentary Internship Programme for Senate
- ❖ Parliamentary Study Tours
- ❖ Briefing on How the Government Works?

11

APPENDIX D

Paper by

Mr. Khan Ahmed Goraya

Former Secretary General,
National Assembly of Pakistan &
Former Secretary Election
Commission of Pakistan

Comparison Analysis of Rules of Procedure and Conduct of Business of Indian and Pakistani Parliament

by

Mr. Khan Ahmed Goraya

**Former Secretary General National Assembly of Pakistan &
 Former Secretary Election Commission of Pakistan**

The Salient Features and relevance of the Indian visit, high-level Interactions and presentations by experts.

The Parliamentary Rules and Procedures of India and Pakistan are based on the same British heritage. The position of Speaker in the Central Legislative Assembly, which was constituted in 1921 was held by Mr. Whyte nominated by the Governor General. The first elected Speaker of the Assembly was Mr. Vithal Bhaijee Patel who was also instrumental for the creation of a separate Department of Legislatures under his control through a resolution directly moved and adopted in the House by Mr. Nehru in 1928. He was succeeded by Sir Muhammad Yaqub in 1931, Sir Ibrahim Rahimtoola, Honourable Shanmukham Chetty and later by Sir Abdur Rahim elected in 1935 who continued in office for 10 years. Mr. G. V. Mavalanker became Speaker in 1946 who also chaired the Committee for drafting Rules of Procedure for the Indian Constituent/Legislative Assembly.

The institution of the Conference of Presiding Officers also emerged simultaneously and the first Conference of the Presiding Officers of the Union and State Legislatures was held on 14th September 1921 in Delhi under the Chairmanship of Speaker Whyte. This forum after the creation of Pakistan has met regularly every year in India and has primarily contributed in shaping the Rules of Procedures of the Indian Parliament in their present shape. During nineties the conference of Speakers in Pakistan has also remained active for some time but has not met thereafter.

The Parliamentary System of India has continued without interruption and 86 Amendments in the Indian Constitution have been made till the Year 2002. Their Rules of Procedure have also been amended time and again to cater for new Constitutional Provisions. Since the Parliamentary Systems of India and Pakistan have many similarities. It might be appropriate to keep in view the changes brought by India.

Comparison of Rules of Procedure of the Indian and Pakistani Parliaments

- The Rules of Procedure are framed by the House both in India and Pakistan under Article 118 (1952) and Article 67 (1973) of their respective Constitutions. They contain many similar provisions but some significant changes introduced by India are discussed below.
- Normally, three Sessions of Parliament are held in a year, viz, the Budget Session (February to May), the Monsoon Session (July to August) and the Winter Session (November to December). Although, this has been the normal schedule of Sessions in a year, there have been departures depending upon the dates of general election with the requirement of meeting for 90 days. The Presiding Officers conference have now recommended 110 days. The Budget is presented on 28th of February every year at 11.00 a.m.

- The quorum of Lok Sabha is one tenth of the total Members of the House which meets five days a week from 11.00 a.m. to 6.00 p.m. with one hour break from 1.00 to 2.00 p.m. The private members business is taken up for two and half hours on Friday.
- Not more than one star question by a member and a total of 20 questions are taken up in one sitting of the House.
- A tradition of Zero Hour taking place immediately after the question hour has developed though there is no specific provision in the Rules of Procedure.
- A matter which is not a point of Order can be raised under Rule 377.
- The Indian Rules of Procedure have separate chapters on Petitions and Subordinate Legislation discussing their scope and mode etc. which provisions are not available in our Rules of Procedure.
- Seventy-five days are provided between the presentation of Budget and its passage by the Lok Sabha.
- The Budget becomes provisionally effective the day it is presented in the Lok Sabha.
- The private members are helped in drafting their Bills.
- In Pakistan a bill passed by the National Assembly has to be passed by the Senate in ninety days. In India there is no such limit.
- In India under Article 111 the President can withhold his assent to a Bill.
- Rajya Sabha had some role though limited in money matters. Such provision is also available in Pakistan after the 17th amendment.
- Rajya Sabha has special powers in the matters of State legislation and creation of All India Services.
- The member of either House can become Prime Minister of India.
- The Provisions for Constitutional amendments vary, in India majority of total membership and two third of the members present and voting are needed for Constitutional amendment.
- The Parliamentary Committees System in India has assumed greater importance as is evident from the following:
 - In all there are 55 Parliamentary Committees of which 31 are joint Committees of the two Houses. Of the 24 Single House Standing Committees, 12 belong to the Rajya Sabha and 12 to the Lok Sabha. The quorum of Committee meetings is one third of its members and their term of offices is one year.
- Twenty-four out of the thirty-one Joint Committees are Departmentally Related Standing

Committees (DRSCs) 16 Committees are managed and serviced by Lok Sabha Secretariat and 8 Committees are managed and the Rajya Sabha Secretariat. Each Committee comprises 21 members from the Lok Sabha and 10 members of Rajya Sabha. The ministers can't be members of these committees. The remaining seven Joint Committees are: Committee on the Welfare and Empowerment of Women; Committee on Public Accounts; Committee on Public Undertaking; Joint Committee on Office of Profit; Joint Committee on Salaries and Allowance of MPs; and Library Committee. All these seven Joint Committee are serviced by the Lok Sabha Secretariat.

- The Departmentally Related Standing Committees among other thing are responsible for the scrutiny of demands for grants for which the Lok Sabha after general discussion is adjourned for four weeks and each DRSCs takes up the demands of the concerned Ministry for detailed scrutiny. The recommendations of the Committee are invariably adopted by the House.
- All the fifty-five Committees, whether elected or nominated are consisted of members in proportion to the respective strength of the party and groups in the House. The Chairmen of the Committee are appointed by the Presiding Officers and the Public Accounts Committee is always chaired by an Opposition member.
- The Committee on estimates, the Committee on Public Undertakings, the Committee on Subordinate Legislation, the Committee on Petitions and the Committee on Ethics are making useful contributions and need to be created in the National Assembly of Pakistan.
- The Committee on Empowerment of Women, the Joint Committee on Salaries and Allowances of MPs, the General Purposes Committee and the Committee on Members of Parliament Local Area Development Schemes are also a special feature of the Indian Parliament.

Amendments to Rules of Procedure: Automatic Suspension of a Member

As a follow-up action to the Second Conference on Discipline and Decorum a new Rules 374A providing automatic suspension of a member has been added to the Rules of Procedure and Conduct of Business in the Lok Sabha. The rule reads as follows:

"Notwithstanding anything contained in Rules 373 and 374, in the event of grave disorder occasioned by a member coming into the well of the House or abusing the Rules of the House persistently and willfully obstructing its business by shouting slogans or otherwise, such member shall, on being named by the Speaker, stand automatically suspended from the service of the House for five consecutive sittings or the remainder of the session, whichever is less: Provided that, (1) the House may, at any time, on a motion being made, resolve that such suspension be terminated. (2) On the Speaker announcing the suspension under this rule, the member shall forthwith withdraw from the precincts of the House"

Code of Conduct and Maintenance of Discipline and Decorum

In recent years, the issue of Code of Conduct, maintenance of discipline and decorum have assumed a greater significance in the functioning of Parliamentary democracy. In this respect, the adoption of a Resolution at the Special Session of Parliament in 1997, the constitution of Committee

on Ethics and holding of All-India Conferences of Presiding Officers, Leaders of Parties, Ministers of Parliamentary Affairs, Whips, Parliamentarians and Legislators are significant. The Special Session of Parliament held in 1997 to commemorate the Golden Jubilee of Independence. In this session both the Houses of Parliament unanimously adopted a resolution, which inter alia states. That the prestige of the Parliament be preserved and enhanced, also by conscious and dignified conformity to the entire regime of Rules of Procedure and Conduct of Business of the Houses and Direction of the Presiding Officers relating to orderly conduct of business, more especially by:

- Maintaining the inviolability of the Question Hour;
- Refraining from transgressing into the official areas of the Houses, or from any shouting of slogans, and;
- Invariably desisting from any effort at interruptions or interference with the Address of the President of the Republic
- An important feature of the Indian Parliament is the creation of a Bureau of Parliamentary Studies and Training. This was the initiative of former Speaker Mr. Shevraj Patel who also introduced television coverage of the Parliamentary proceedings.
- The Strengthening of National and Provincial Legislative Governance Project also envisages establishment of a Parliamentary Television Channel, which has been agreed to by the Chairman Senate and Speaker National Assembly in terms of MOUs signed on 12th August
- In view of the Financial Independence of the Parliament the Audit of the accounts of the Parliament though carried out by the Auditor General does not figure in the Audit Report and is sent to the respective Presiding Officers.
- In this regard, the role of the Finance Committee of the National Assembly/Senate vis a vis the Public Account Committee has also remained a subject of discussion during the recent years.

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PROCEEDINGS

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APPENDIX E

Paper by

Syed Naveed Qamar

MNA; Former Federal Minister

Rules of Procedure and Conduct of Business in Lok Sabha

Selected by Syed Naveed Qamar, MNA

Chapter IV SITTINGS OF THE HOUSE

Duly constituted sitting

11. A sitting of the House is duly constituted when it is presided over by the Speaker or any other member competent to preside over a sitting of the House under the Constitution or these rules.

Commencement and conclusion of sitting

*1[12. Unless the Speaker otherwise directs, sitting of the House on any day shall ordinarily commence at 11.00 hours and conclude at 18.00 hours with a lunch break for one hour which may ordinarily be from 13.00 hours to 14.00 hours.]

Chapter VII QUESTIONS

Limit of number of starred questions

37. (1) Not more than one question distinguished by *4[an] asterisk by the same member and not more than twenty questions in all shall be placed on the list of questions for oral answer on any one day:

Provided that when a question is postponed or transferred from one list of questions for oral answer to another, more than one question may stand in the name of one member and the total number of questions may exceed by such postponed or transferred question.

*5[(2) Unless the Speaker otherwise directs, where a member has given more than one notice of questions distinguished by an asterisk for same day, his question for the list of questions for oral answer shall be selected in the order indicated by the member and if no such order is indicated, any of these questions shall be placed on the list of questions for oral answer in the order in which notices are received in point of time.]

Chapter XV SHORT DURATION DISCUSSIONS

Notice for raising discussions

193. Any member desirous of raising discussion on a matter of urgent public importance may give notice in writing to the Secretary-General specifying clearly and precisely the matter to be raised:

Provided that the notice shall be accompanied by an explanatory note stating reasons for raising discussion on the matter in question:

Provided further that the notice shall be supported by the signatures of at least two other members.

Speaker to decide admissibility and allotment of time

194. (1) If the Speaker is satisfied, after calling for such information from the member who has

given notice and from the Minister as he may consider necessary, that the matter is urgent and is of sufficient importance to be raised in the House at an early date, he may admit the notice:

Provided that if an early opportunity is otherwise available for the discussion of the matter the Speaker may refuse to admit the notice.

(2) The Speaker may allot two sittings in a week on which such matters may be taken up for discussion and allow such time for discussion not exceeding *1 [two] hour at or before the end of the sitting, as he may consider appropriate in the circumstances.

No formal motion

195. There shall be no formal motion before the House nor voting. The member who has given notice may make a short statement and the Minister shall reply shortly. Any member who has previously intimated to the Speaker may be permitted to take part in the discussion.

Time limit for speeches

196. The Speaker may, if he thinks fit, prescribe a time limit for the speeches.

Chapter VIII

HALF-AN-HOUR DISCUSSIONS

Discussion on matter arising out of answer to question

55. (1) The Speaker may allot half an hour on three sittings in a week, for raising discussion on a matter of sufficient public importance which has been the subject of a recent question, oral or written, and the answer to which needs elucidation on a matter of fact.

(5) There shall be no formal motion before the House for voting. The member who has given notice may make a short statement and the *1 [members who have previously intimated to the Speaker may ask a question for the purpose of further elucidating any matter of fact. Thereafter, the Minister shall reply shortly:]

Provided that not more than four members who have previously intimated to the Secretary-General may be permitted to ask a question each for the purpose of further elucidating any matter of fact.

Explanation.- A member wishing to ask a question shall make such request in writing before the commencement of the sitting at which the discussion is to take place. If such requests are received from more than four members, a ballot shall be held to determine the names of first four members who may be permitted to ask a question each.

Chapter XII

PETITIONS

Scope of petitions

160. Petitions may be presented or submitted to the House with the consent of the Speaker on-

- (i) a Bill which has been published under rule 64 or which has been introduced in the House;
- (ii) any matter connected with the business pending before the House; and
- (iii) any matter of general public interest provided that it is not one:-

- (a) which falls within the cognizance of a court of law having jurisdiction in any part of India or a court of enquiry or a statutory tribunal or authority or a quasi-judicial body, or a commission;
- (b) which should ordinarily be raised in a State Legislature;
- (c) which can be raised on a substantive motion or resolution; or
- (d) for which remedy is available under the law, including rules, regulations, bye-laws made by the Government of India or an authority to whom power to make such rules, regulations, etc. is delegated.

Petitions dealing with financial matters

160A. A petition, dealing with any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110 or involving expenditure from the Consolidated Fund of India, shall not be presented to the House unless recommended by the President.

General form of petition

161. (1) The general form of petition set out in the First Schedule, with such variations as the circumstances of each case require, may be used, and, if used, shall be sufficient.

(2) Every petition shall be couched in respectful, decorous and temperate language.

(3) Every petition shall be either in Hindi or in English. If any petition in any other Indian language is made, it shall be accompanied by a translation either in Hindi or in English, and signed by the petitioner.

Authentication of petition

162. (1) The full name and address of every signatory to a petition shall be set out therein and shall be authenticated by his signature, and if illiterate by his thumb impression.

(2) Where there is more than one signatory to a petition, at least one person shall sign, or, if illiterate, affix his thumb impression, on the sheet on which the petition is inscribed. If signatures or thumb impressions are affixed to more than one sheet, the prayer of the petition shall be repeated at the head of each sheet.

Documents not to be attached

163. Letters, affidavits or other documents shall not be attached to any petition.

Counter-signature

164. (1) Every petition shall, if presented by a member be countersigned by him. If a petition is made in any Indian language other than Hindi or English, its translation in Hindi or English shall also be countersigned by the member presenting it.

(2) A member shall not present a petition from himself.

Petition to be addressed to House

165. Every petition shall be addressed to the House and shall conclude with a prayer reciting the definite object of the petitioner in regard to the matter to which it relates.

Notice of presentation

166. A member shall give advance intimation to the Secretary-General of his intention to present a petition.

Presentation of petition

167. A petition may be presented by a member or be forwarded to the Secretary-General, who shall report it to the House. The report shall be made in the form set out in the Second Schedule. No debate shall be permitted on the presentation, or the making of such report.

Form of presentation

168. A member presenting a petition shall confine himself to a statement in the following form:-

Sir, I beg to present a petition signed by... Petitioner(s)

regarding....

and no debate shall be permitted on this statement.

Reference to committee on petitions

169. Every petition shall, after presentation by a member or report by the Secretary-General as the case may be, stand referred to the Committee on Petitions.

[For rules relating to Committee on Petitions, See Chapter XXVI of these rules.]

Chapter XXI

SUBORDINATE LEGISLATION

Laying of regulation rule etc. on Table

234. (1) Where a regulation, rule, sub-rule, bye-law etc. framed in pursuance of the Constitution or of the legislative functions delegated by Parliament to a subordinate authority is laid before the House, the period specified in the Constitution or the relevant Act for which it is required to be laid shall be completed before the House is adjourned sine die and later prorogued, unless otherwise provided in the Constitution or the relevant Act.

(2) Where the specified period is not so completed the regulation, rule, sub-rule, bye-law etc. shall be relaid in the succeeding session or sessions until the said period is completed in one session.

Allotment of time for consideration of amendment to regulation, rule etc.

235. The Speaker shall, in consultation with the Leader of the House, fix a day or days or part of a day as he may think fit for the consideration and passing of an amendment to such regulation, rule, sub-rule, bye-law etc. of which notice may be given by a member:

Provided that notice of the amendment shall be in such form as the Speaker may consider appropriate and shall comply with these rules.

Transmission of amendment to Council

236. After an amendment is passed by the House, it shall be transmitted to the Council for its concurrence and on receipt of a message from the Council agreeing to the amendment, it

shall be forwarded by the Secretary-General to the Minister concerned.

Amendment returned by Council

237. If the Council disagrees with the amendment passed by the House or agrees subject to a further amendment thereof or proposes an amendment in substitution thereof, the House may either drop the amendment or agree with the Council in the proposed amendment or insist on the original amendment passed by the House. A message in either case shall be sent to the Council. In case the House agrees to the amendment as further amended by the Council, the amended amendment shall be forwarded by the Secretary-General to the Minister concerned.

Disagreement between Houses

238. If the Council agrees to the original amendment passed by the House, it shall be sent by the Secretary-General to the Minister concerned, but if the Council disagrees or insists on an amendment to which the House has not agreed, the Houses shall be deemed to have finally disagreed, and all further proceedings thereon shall be dropped.

Subordinate legislation Laying of regulation rule etc as amended on Table

239. If a regulation, rule, sub-rule, bye-law etc. is modified in accordance with the amendment passed by the Houses, the amended regulation, rule, sub-rule, bye-law etc. shall be laid on the Table.

[For rules relating to Committee on Subordinate Legislation, see Chapter XXVI of these rules.]

Chapter XXVI

PARLIAMENTARY COMMITTEES

COMMITTEE ON PAPERS LAID ON THE TABLE

Constitution

305A. (1) There shall be a Committee on Papers laid on the Table consisting of not more than 15 members.

(2) The Committee shall be nominated by the Speaker and shall hold office for a term not exceeding one year.

Functions

305B. (1) The functions of the Committee shall be to examine all papers laid on the Table of the House by Ministers and to report to the House on-

(a) whether there has been compliance of the provisions of the Constitution, Act, rule or regulation under which the paper has been laid;

(b) whether there has been any unreasonable delay in laying the paper.

(c) if there has been such delay, whether a statement explaining the reasons for delay has been laid on the Table of the House and whether those reasons are satisfactory;

(d) whether both the Hindi and English versions of the paper have been laid on the Table; and

(e) whether a statement explaining the reasons for not laying the Hindi version has been given

and whether such reasons are satisfactory

COMMITTEE ON PETITIONS

Constitution

306. At the commencement of the House, or from time to time, as the case may be, the Speaker shall nominate a Committee on Petitions consisting of not less than fifteen members:

Provided that a Minister shall not be nominated a member of the Committee, and that if a member, after his nomination to the Committee is appointed a Minister he shall cease to be a member of the Committee from the date of such appointment.

Functions

307. (1) The Committee shall examine every petition referred to it, and if the petition complies with these rules, the Committee may direct that it be circulated. Where circulation of the petition has not been directed, the Speaker may at any time direct that the petition be circulated.

(2) Circulation of the petition shall be in extenso or in summary form as the Committee or the Speaker, as the case may be, may direct.

(3) It shall also be the duty of the Committee to report to the House on specific complaints made in the petition referred to it after taking such evidence as it deems fit and to suggest remedial measures either in a concrete form applicable to the case under review or to prevent such cases in future

COMMITTEE ON ESTIMATES

Functions

310. There shall be a Committee on Estimates for the examination of such of the estimates as may seem fit to the Committee or are specifically referred to it by the House or the Speaker. The functions of the Committee shall be-

(a) to report what economies, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates, may be effected;

(b) to suggest alternative policies in order to bring about efficiency and economy in administration;

(c) to examine whether the money is well laid out within the limits of the policy implied in the estimates; and

(d) to suggest the form in which the estimates shall be presented to Parliament;

Provided that the Committee shall not exercise its functions in relation to such public undertakings as are allotted to the Committee on Public Undertakings by these rules or by the Speaker.

Constitution

311. (1) The Committee shall consist of not more than thirty members who shall be elected by the House every year from amongst its members according to the principle of proportional representation by means of the single transferable vote:

Provided that a Minister shall not be elected a member of the Committee, and that if a member, after his election to the Committee, is appointed a Minister he shall cease to be a member of the Committee from the date of such appointment.

(2) The term of office of members of the Committee shall not exceed one year.

Examination of estimates

312. The Committee may continue the examination of the estimates from time to time throughout the financial year and report to the House as its examination proceeds. It shall not be incumbent on the Committee to examine the entire estimates of any one year. The Demands for Grants may be finally voted notwithstanding the fact that the Committee has made no report.

COMMITTEE ON PUBLIC UNDERTAKINGS

Functions

312A. There shall be a Committee on Public Undertakings for the examination of the working of the public undertakings specified in the Fourth Schedule. The functions of the Committee shall be-

- (a) to examine the reports and accounts of the public undertakings specified in the Fourth Schedule;
- (b) to examine the reports, if any, of the Comptroller and Auditor-General on the public undertakings;
- (c) to examine, in the context of the autonomy and efficiency of the public undertakings, whether the affairs of the public undertakings are being managed in accordance with sound business principles and prudent commercial practices; and
- (d) to exercise such other functions vested in the Committee on Public Accounts and the Committee on Estimates in relation to the public undertakings specified in the Fourth Schedule as are not covered by clauses (a), (b) and (c) above and as may be allotted to the Committee by the Speaker from time to time;

Provided that the Committee shall not examine and investigate any of the following, namely:-

- (i) matters of major Government policy as distinct from business or commercial functions of the public undertakings;
- (ii) matters of day-to-day administration; and
- (iii) matters for the consideration of which machinery is established by any special statute under which a particular public undertaking is established.

Constitution

312B. (1) The Committee shall consist of not more than *3[22 members comprising 15 members] who shall be elected by the House every year from amongst its members according to the principle of proportional representation by means of the single transferable vote *4[and not more than 7 members of Rajya Sabha to be nominated by that House for being associated with the Committee;]

Provided that a Minister shall not be elected a member of the Committee, and that if a member,

after his election to the Committee, is appointed a Minister he shall cease to be a member of the Committee from the date of such appointment.

COMMITTEE ON SUBORDINATE LEGISLATION

Functions

317. There shall be a Committee on Subordinate Legislation to scrutinize and report to the House whether the powers to make regulations, rules, sub-rules, bye-laws etc., conferred by the Constitution or delegated by Parliament are being properly exercised within such delegation.

Constitution

318. (1) The Committee shall consist of not more than fifteen members who shall be nominated by the Speaker:

Provided that a Minister shall not be nominated a member of the Committee, and that if a member, after his nomination to the Committee is appointed a Minister he shall cease to be a member of the Committee from the date of such appointment.

(2) The term of office of members of the Committee shall not exceed one year.

Numbering and publication of Orders

319. Each regulation, rule, sub-rule, bye-law etc. framed in pursuance of the provisions of the Constitution or the legislative functions delegated by Parliament to a subordinate authority, and which is required to be laid before the House, hereinafter referred to as "Order", shall, subject to such rules as the Speaker may in consultation with the Leader of the House prescribe, be numbered centrally and published in the Gazette immediately after it is promulgated.

Examination of Orders

320. After each such Order referred to in rule 319 is laid before the House, the Committee shall, in particular, consider- (i) whether it is in accord with the general objects of the Constitution or the Act pursuant to which it is made;

(ii) whether it contains matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament.

(iii) whether it contains imposition of any tax;

(iv) whether it directly or indirectly bars the jurisdiction of the courts;

(v) whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the act does not expressly give any such power;

(vi) whether it involves expenditure from the Consolidated Fund of India or the public revenues;

(vii) whether it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;

(viii) whether there appears to have been unjustifiable delay in its publication or in laying it

before Parliament; and

(ix) whether for any reason its form or purport calls for any elucidation.

Report

321. (1) If the Committee is of opinion that any Order should be annulled wholly or in part, or should be amended in any respect, it shall report that opinion and the grounds thereof to the House.

(2) If the Committee is of opinion that any other matter relating to any Orders should be brought to the notice of the House, it may report that opinion and matter to the House.

Power of Speaker to give directions

322. The Speaker may issue such directions as he may consider necessary for regulating the procedure in connection with all matters connected with the consideration of any question of Subordinate Legislation either in the Committee or in the House.

THE BUDGETARY PROCESS

General Discussion on the Budget

8. During the General Discussion, the House is at liberty to discuss the Budget as a whole or any question of principles involved therein but no motion can be moved. A general survey of administration is in order. The scope of discussion is confined to an examination of the general scheme and structure of the Budget, whether the items of expenditure ought to be increased or decreased, the policy of taxation as expressed in the Budget and in the speech of the Finance Minister. The Finance Minister or the Railway Minister, as the case may be, has the general right of reply at the end of the discussion.

Consideration of the Demands for Grants by Departmentally Related Standing Committees of Parliament

9. With the creation of Departmentally Related Standing Committees of Parliament in 1993, the Demands for Grants of all the Ministries/Departments are required to be considered by these Committees.

After the General Discussion on the Budget is over, the House is adjourned for a fixed period. During this period, the Demands for Grants of the Ministries/ Departments are considered by the Committees. These Committees are required to make their reports to the House within specified period without asking for more time and make separate report on the Demands for Grants of each Ministry.

Discussion on Demands for Grants

10. The demands for grants are presented to Lok Sabha along with the Annual Financial Statement.

These are not generally moved in the House by the Minister concerned. The demands are assumed to have been moved and are proposed from the Chair to save the time of the House. After the reports of the Standing Committees are presented to the House, the House proceeds to the discussion and voting on Demands for Grants, Ministry-wise. The scope of discussion at this stage is confined to a matter which is under the administrative control of the Ministry and to each head of the demand as is put to the vote of the House. It is open to members to disapprove a policy pursued by a particular Ministry or to suggest measure for economy in the administration of that Ministry or to focus attention

of the Ministry to specific local grievances. At this stage, cut motions can be moved to reduce any demand for grant but no amendments to a motion seeking to reduce any demand is permissible.

Rules of Procedure and Conduct of Business in the Council of States

II. Special Mention

180A. Notice

A member who wishes to mention a matter of Public Importance in the Council shall give notice in writing addressed to the Secretary-General in the prescribed form; provided that no member shall give more than two such notices for any one sitting.

180B. Conditions of admissibility

In order that a notice may be admissible, it shall satisfy the following conditions, namely:-

- i. it shall be accompanied by a text of the special mention not exceeding 250 words.
- i. it shall not refer to a matter which is not primarily the concern of the Government of India.
- iii. it shall not refer to a matter which has been discussed in the same session or which is substantially identical to the matter already raised by a member under this rule during the session;
- iv. it shall not raise more than one issue and the issue shall not pertain to trivial matters;
- v. it shall not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements;
- vi. it shall not relate to any matter which is under adjudication by a court of law having jurisdiction in any part of India;
- vii. it shall be restricted to a matter of recent occurrence;
- viii. it shall not refer to proceedings of a parliamentary/consultative committee;
- ix. it shall not refer to the conduct or character of persons except in their public capacity;
- x. it shall not refer discourteously to a friendly foreign country.

180C. Time for tabling Notices and their Validity

(1) Notices received upto 5.00 p.m. on a day shall be placed before the Chairman, for his consideration, for the day on which there is next sitting of the House.

(2) Notices on subjects that have not been selected for a particular day shall be carried forward for consideration of the Chairman for the next sitting of the House.

(3) Notices not selected during the week for which they have been given, shall lapse at the end of the week and no intimation thereof shall be given to the member giving the notice.

(4) Members concerned may revive their notice(s) for the following week if they so desire by giving a fresh notice.

180D. Restriction on number of Special Mention

(1) Unless the Chairman otherwise directs, no member shall make more than one Special Mention during a week.

(2) Total number of Special Mentions to be admitted for a day shall not ordinarily exceed

seven

180E. Members to Associate

Any member who proposes to associate himself with a particular Special Mention may do so with the permission of the Chairman stating "I associate myself with the Special Mention made by -----
 ---" and such a member shall not make a speech thereon.

CHAPTER XXIV COMMITTEE ON ETHICS

286. Committee on Ethics

There shall be a Committee on Ethics.

287. Constitution

(1) The Chairman shall, from time to time, nominate a Committee on Ethics consisting of ten members.

(2) The Committee nominated under sub-rule (1) shall hold office until a new Committee is nominated.

(3) Casual vacancies in the Committee shall be filled by the Chairman.

288. Chairman of Committee

(1) The Chairman of the Committee shall be appointed by the Chairman from amongst the members of the Committee.

(2) If the Chairman of the Committee is for any reason unable to act, the Chairman may similarly appoint another Chairman of the Committee in his place.

(3) If the Chairman of the Committee is absent from any meeting, the Committee shall choose another member to act as Chairman of the Committee for that meeting.

289. Quorum

The quorum of the Committee shall be five.

290. Functions

The Committee shall have the following functions, namely:-

(a) to oversee the moral and ethical conduct of members;

(b) to prepare a Code of Conduct for members and to suggest amendments or additions to the Code from time to time in the form of reports to the Council;

(c) to examine cases concerning the alleged breach of the Code of Conduct by members as also cases concerning allegations of any other ethical misconduct of members; and

(d) to tender advice to members from time to time on questions involving ethical standards either suo motu or on receiving specific requests.

291 Power to take evidence or call for papers, records or documents

(1) The Committee shall have power to require the attendance of persons or the production of papers or records, if such a course is considered relevant and necessary for the discharge of its duties;

Provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question shall be referred to the

Chairman whose decision shall be final.

(2) Subject to the provisions of this rule, a witness may be summoned by the Committee and he shall produce such documents as are required for the use of the Committee;

(3) It shall be in the absolute discretion of the Committee to treat any evidence, oral or documentary, tendered before it as secret or confidential.

292. Information to be furnished by members

Every member shall be required to furnish information within ninety days of his making and subscribing an oath or affirmation under article 99 of the Constitution, relating to his own assets and liabilities as well as the assets and liabilities of his immediate family members namely, spouse, dependent daughters and dependent sons, as provided in the rules framed under Section 75A of the Representation of the People (Third Amendment) Act, 2002.

293. Register of members' interest

(1) There shall be maintained a 'Register of members' interests' in such form as may be determined by the Committee which shall be available to members for inspection on request.

(2) The register shall be maintained under the authority of the Council.

(3) Information contained in the Register may be given to the general public in accordance with such rules and procedures as may be determined by the Committee from time to time.

294. Declaration of interests

(1) Whenever a member has a personal or specific pecuniary interest (direct or indirect) in a matter being considered by the Council or a Committee thereof, he shall declare the nature of such interest notwithstanding any registration of his interests in the Register, and shall not participate in any debate taking place in the Council or its Committees before making such declaration.

(2) On a division in the Council if the vote of a member is challenged on the ground of personal, pecuniary or direct interest in the matter to be decided, the Chairman may, if he considers necessary, call upon the member making the challenge to state precisely the grounds of his objection, and the member whose vote has been challenged shall state his case, and the Chairman shall then decide whether the vote of the member should be disallowed or not and his decision shall be final:

Provided that the vote of a member is challenged immediately after the division is over and before the result is announced by the Chairman.

Explanation: For the purposes of this rule the interest of the member should be direct, personal or pecuniary and separately belong to the person whose vote is questioned and not in common with the public in general or with any section thereof or on any matter of State policy.

295. Procedure for making complaint

(1) Any person may make a complaint to the Committee regarding alleged unethical behaviour or breach of the Code of Conduct by a member or alleged incorrect information of a member's interests.

- (2) The Committee may also take up matters suo motu.
- (3) Members may also refer cases to the Committee.
- (4) A complaint should be addressed in writing to the Committee or to an officer authorized by it in such form and manner as the Committee may specify.
- (5) The complaint shall be couched in temperate language and be confined to facts.
- (6) A person making a complaint must declare his identity and submit supporting evidence, documentary or otherwise to substantiate his allegations.
- (7) The Committee shall not disclose the name of the complainant, if so requested and if the request is accepted by the Committee for sufficient reasons.
- (8) A complaint based merely on an unsubstantiated media report shall not be entertained.
- (9) The Committee shall not take up any matter which is sub judice and the decision of the Committee as to whether such matter is or is not sub judice shall for the purposes of this rule be treated as final.

296. Procedure for inquiry

- (1) If the Committee is satisfied that the complaint is in proper form and the matter is within its jurisdiction, it may take up the matter for preliminary inquiry.
- (2) After the preliminary inquiry, if the Committee is of the opinion that there is no prima facie case, the matter may be dropped.
- (3) If a complaint is found to be false or vexatious, or made in bad faith, the matter may also be taken up as an issue of breach of parliamentary privilege.
- (4) If the Committee is of the opinion that there is a prima facie case, the matter shall be taken up by the Committee for examination and report.
- (5) The Committee may frame rules from time to time to give effect to its mandate and for conducting inquiries either by itself or by any official acting under its authority.
- (6) The Committee shall ordinarily hold its meetings in camera.

297. Sanctions

Where it has been found that a member has indulged in unethical behaviour or that there is other misconduct or that the member has contravened the Code/Rules, the Committee may recommend the imposition of one or more of the following sanctions viz. :

- (a) censure;
- (b) reprimand;
- (c) suspension from the House for a specific period; and
- (d) any other sanction determined by the Committee to be appropriate.

298. Presentation of report

The Report of the Committee shall be presented to the Council by the Chairman of the Committee or in his absence by any member of the Committee.

299. Motion for consideration of report

As soon as may be, after a report has been presented, a motion in the name of the Chairman of the Committee or any member of the Committee may be put down that the report be taken into consideration.

300. Amendment to motion for consideration

Any member may give notice of amendment to the motion for consideration of the report in such form as may be considered appropriate by the Chairman.

301. Motion after consideration of report

After the motion for consideration of the report has been carried, the Chairman or any member of the Committee or any other member, as the case may be, may move that the Council agrees, or disagrees or agrees with amendments, with the recommendations contained in the report.

302. Regulation of procedure

The Chairman may issue such directions as he may consider necessary for regulating the procedure in connection with all matters connected with the examination of cases with reference to ethical and other misconduct of members either in the Committee or in the Council.

303. Power of Chairman to refer a question of ethical and other misconduct to Committee

Notwithstanding anything contained in these rules, the Chairman may refer any question involving ethical and other misconduct of a member to the Committee for examination, investigation and report.

APPENDIX F

Presentation by

Ms. Sherry Rehman

MNA; President PPP Policy Planning Wing

The Electoral System in INDIA

Indian Elections – The Numbers Game

In the last Indian election 389 million people voted at 6,87,402 polling stations during these elections. Electronic Voting Machines (EVMs), which are reliable and tamper proof, were used in all constituencies for the first time. The total number of EVMs used in these elections was 1.075 million. The direct cost of these elections was approx. Rupees 13000 million (US\$280 million). Around four million civil employees were engaged in conduct of these elections, another approx. two and a half million Central Parliamentary and Police Personnel performed the law and order duty. These General Elections were conducted in four phases spread over one and a half months due to requirement of movement of Central Parliamentary forces across various States. In These elections, there were six national parties, forty-five state parties and 702 registered unrecognized parties.

The Election Commission

The Election Commission of India was set up in accordance with Article 324 of the Constitution on 25th January, 1950. Initially, it was a single-member Commission consisting of only the Chief Election Commissioner. Later, in 1989 and once again in 1993, the Commission was made a three-member Commission. At present the Commission consists of a Chief Election Commissioner and two Election Commissioners. The Commission decides most of the matters by consensus but in case of difference of opinion the view of majority prevails.

The Delimitation Commission

The Delimitation exercise in India not only demarcates or rewords the territorial boundaries of constituencies, but also readjusts allocation of seats to various states in the Lok Sabha and Legislative Assemblies, unless Parliament itself chooses to fix the number of such seats. The Delimitation Commission defines the boundaries of various parliamentary and assembly constituencies keeping the population size same as far as practicable considering the geographical features and administrative units. The exercise of delimitation of various parliamentary and legislative assembly constituencies based on Census 2001 is currently on.

The Electoral Process

System of Election

Each Lok Sabha or Legislative Assembly Constituency returns one candidate to the respective House. The elections are conducted using a first-past-the-post electoral system. Each elector can cast only one vote. The candidate securing maximum votes is declared as the winner.

The elections for the President and members of the Rajya Sabha are carried out using single transferable vote system. The single transferable vote system is designed to ensure more diverse representation by reducing the opportunity for blocks of voters to dominate minorities. The ballot paper lists all candidates standing for election and the voters mark their choice in order of preference.

Electoral Rolls

The electoral rolls, lists of eligible electors, are revised every year with reference to first January of the commencing year. The type of revision of electoral rolls, whether summary or intensive is decided by the Commission. While in intensive revision of electoral rolls house-to-house enumeration is done, in summary revision claim and objection for inclusion, deletion and modification are invited. The commission prescribes the schedule for such revisions. The electoral rolls of various states have been computerized and are being put on the website. The names in the roll can be added, deleted or modified at any time before the last day of nomination.

The most important feature of this part of the exercise is that hard copies of these rolls are given to various political parties and candidates free of cost along with a CD.

Elector's Photo Identity Cards

The Election Commission of India, in order to prevent bogus voting, started issuing Elector's Photo Identity Cards (EPICs) to the eligible electors from August 1993. These cards are required to be produced at the time of voting to prove one's identity. Since due to sheer size of the electorate all electors could not be issued EPICs, the Commission prescribes various alternative documents for identifying the voters at the time of elections. The Commission plans to prepare Photo Electoral Rolls in those constituencies where EPIC coverage is more than eighty percent.

The state pays for the NIC as well as for the Electoral ID Card.

When Elections Are Due

The Election Commission can hold elections at any time six months prior to the date on which the normal term of these Houses end. In case, any House is dissolved before the normal term, the Election Commission has to conduct elections within six months of the date of dissolution. The regular elections can only be withheld in constitutional amendment in extraordinary circumstances.

Eligibility For Contesting Elections

Any Indian citizen who is registered as a voter and is over 25 years of Age can contest Lok Sabha or State Legislative Assembly elections. For Rajya Sabha the age limit is 30 years. Every candidate is required to make a security deposit of Rs. 10,000 (approx. US\$ 216) for Lok Sabha elections and Rs. 5,000 (approx. US\$108) for Rajya Sabha or Vidhan Sabha elections. The candidates belonging to Scheduled Castes and Scheduled Tribes are required to deposit security half of these amounts. The security deposit is returned if the candidate receives more than one-sixth of the total number of valid votes polled in the constituency. The nomination of each candidate sponsored by a registered party must be supported by at least one registered elector of the constituency and other candidates must be supported by at least ten registered electors of the constituency. The Returning officers, appointed by the Election Commission, receive nominations for each constituency, and are responsible for returning a candidate to the parliament or State Legislative Assembly as the cause may be.

Number of Candidates

The number of contesting candidates increased steadily with elections. In General Elections of 1952, the average number of candidates for each constituency was 3.8, in 1991 it was 16.3, and in 1996 the average stood at 25.6. After an increase in the amount security deposit the average number of candidates came down to 8.7 in 1998 Lok Sabha Elections. During the 2004 General elections the average was 10 candidates per constituency.

Electronic Voting Machines (EVMs)

Instead of traditional ballot boxes India now uses the Electronic Voting Machines for elections. In General Elections 2004, EVMs were used for the first time throughout the country-making the elections fully electronic. Each EVM has a control unit and a balloting unit which are connected to each other through a cable. The control unit is kept under the possession of the presiding officer while balloting unit is kept in the voting compartment at the time of poll. Each balloting unit can accommodate names of sixteen candidates. Four balloting units can be joined to accommodate maximum of sixty four candidates. These user-friendly EVMs can be used easily even by illiterate voters. The EVMs work on battery and hence there is no requirement of electricity. Each EVM can record upto 3600 votes at any one time. The polling personnel carry EVMs in convenient boxes. The use of EVMs is preceded with elaborate training programmes for the election staff and massive

Continued

awareness campaigns to educate the voters, candidates and political parties. The failure rate of the machine is negligible. Initially there was some resistance to the use of the EVM when the pilot was launched in 1982. In the 2001 election in Tamil Nadu, for instance, the incumbent CM insisted that the machine is unreliable, but when she won the same election she withdrew her protest against it.

Since then all stakeholders have hailed the use of EVMs. EVMs have made possible reduction in the number of polling stations from 0.77 million to about 0.70 million, as the maximum number of voters per polling station could be increased to 1500 from earlier prescribed limit of 1200.

India manufactures these machines domestically, at an approx cost of Indian Rs 10,000 each. Only the chip used is imported.

Unlike in the USA, the Indian EVM is not connected to the web, is completely standardised, and cannot be tampered with.

How The Voting Takes Place

The voting takes place by secret ballot. Election Commission tries to provide a polling station to the electors within two kilometers. The maximum number electors that are registered to vote at any polling station is about 1500. The agents of various candidates acting as polling agents can watch polling process in any both. At polling station voting is done with the help of EVMs, postal ballots are provided to the service and other specified category of voters. At the time of poll, identity of each elector is checked with the help of EPIC or any other alternative document as prescribed by the Election Commission. Indelible ink is applied in order to curb bogus voting. An elector can refuse to vote by informing the the Presiding Officer. If an elector finds that somebody else has already cast vote against his or her name, the Presiding Officer after due verification allows due verification allows him or her to cast another vote which is termed 'Tender Vote'. Such votes are cast on ballot paper and kept separately in a sealed cover. The Presiding Officer of the polling station is required to maintain detailed account of electoral process in form of Presiding Officer's diary.

Polling Stations

Polling stations cannot be moved arbitrarily once the commission has fixed their location. If a candidate complains that their station has been moved to an inconvenient location, the Commission will consult all parties registered at the district level and either relocate the station or suspend polling in that constituency. Since 1994, most polling stations have not been moved.

Counting of Votes

The votes are counted under supervision of Returning Officers and in presence of Election Observers appointed by the Election Commission at the time and date prescribed in advance. After counting of votes is over, the Returning Officer declares the name of the candidate securing largest number of votes as elected and returned by the constituency to the concerned House. The Returning Officer does not count Tendered Votes. A view on these votes is taken only by the competent court.

REGULATING THE ELECTORAL PROCESS

Limit On Poll Expenses

The limit has been prescribed as per law on the expenditure That can be incurred by any candidate during elections. For Lok Sabha constituencies in bigger states, the limit is Rs 25,00,000 (approx. US\$ 55,000). In the other States and Union Territories, it varies between Rs 10,00,000 (app US\$ 22,000) to Rs 25,00,000 (app US\$ 55,000). For Legislative Assembly constituencies in bigger states, the limit is Rs 10,00,000 (app US\$ 22,000), while in other states and union territories, it varies between Rs 5,00,000 (app US\$ 11,000) to Rs 10,00,000 (app US\$ 22,000) the political parties can ,however, meet expenditure of forty national or state leaders for campaigning during the election period.

Election Observers

The Election Commission appoints senior civil servants as observers to ensure that elections are conducted in a free and fair manner. The Election Observers watch enforcement of Model Code of Conduct and monitor the expenditure incurred by each candidate and party. The Observers are also present at the time of scrutiny of nominations and at the time of counting. Three observers are appointed per Lok Sabha constituency. These officials are taken from one location in the country and transferred for election monitoring to totally non-contiguous areas to avoid local interests coverage or kin, kith relationships influencing their performance. They are, however, still vulnerable to political intimidation in some areas which are more criminalized than others.

Media And Non-Governmental Organizations (NGOs)

Media persons are giving special passes to enter the polling stations and counting halls to cover the election process. The NGOs are encouraged to associate with the election process for creating awareness among the electors and disseminating information about candidates. Some of the NGOs had collected and compiled the copies of the affidavits filed by various candidates regarding their assets and liabilities, educational qualification and antecedents and circulated for the benefit of the electors. The media and NGOs played a critical role in ensuring the transparency of the General Elections, 2004. The proliferation of private channels since the 1990s has led to a much higher public audit of the election process, which has in turn, strengthened the hands of the EC in enforcing laws.

Interference of Courts During The Election Process And Election Petition

Once an election process has been set into motion by the Election Commission through notification, no court can interfere with it. The courts are barred from interfering in the election process through a constitutional provision both in theory and practice. Any elector or candidate can file an election petition if he or she desires to challenge any election only after the election process is over (i.e. result announced). An election petition is not considered an ordinary civil suit but is treated as a contest in which the whole constituency is involved. The election petitions can be filed only in the High courts and if upheld can even lead to restaging of the election in that constituency.

The Courts' Role in Strengthening the EC

The EC has evolved into a widely respected and independent institution over a period of years. In 1972, when Indira Gandhi was rebuked for campaigning with her staff officer in tow, and her violation of the election laws was challenged through the lower courts, the Supreme Court supported the EC laws, which had been declared null and void, until a Stay Order was obtained after which she declared an Emergency in the country. Since CEC Seshan's term, the Commission has become strong enough to enforce almost all the laws codified in the Model Code of Conduct.

Model Code of Conduct

The election Commission first effectively put to use the Model Code of Conduct, which was agreed to by all the political parties in 1968, as a major instrument for ensuring fair elections and providing level playing field in the year 1991. The Commission monitors and enforces the Model Code of Conduct strictly through Election Observers. The Model Code of Conduct brings the party in power to the level of opposition. It ensures that the party in power does not get undue advantage over the political rivals. The Government of the day cannot make any promises to lure the electors. The Commission watches the conduct of civil servants engaged in performing election duties closely, and sometimes orders transfers of those whose impartiality comes under question.

Code of Ethics for the Government Party

- The government is not allowed to use govt transport, vehicles, machinery or personnel unless express permission is granted by the EC.
- Ministers not allowed to combine official visits with electioneering.
- Public places such as maidans etc are not to be monopolized, and other parties given the same rights over public resources.
- No Rest Houses, Dak Bungalows to be used as campaign offices.
- Advertisements cannot be charged to the public exchequer.
- Mis-use of official mass media to be scrupulously avoided.
- From the time Election Dates are announced, the party in power must not:
 1. Announce any financial grants or promise to the effect;
 2. Lay foundation stones of public or civil projects;
 3. Make any promise of providing facilities like drinking water, road construction.
 4. Make any ad-hoc appointment or changes in civil services
 5. Members of Govt. may not enter any polling station or booth except if candidates.

PILDAT

PROCEEDINGS

Briefing Session for Parliamentarians and Parliamentary Staff
Comparison of Parliamentary Rules of Procedure and
Conduct of Business of Pakistan and India

APPENDIX G

Paper by

Kunwar Khalid Yunus

MNA (NA-245, Karachi-VIII Sindh, MQM)

A visit to Indian Legislatures

by

Kunwar Khalid Yunus,
MNA (NA-245, Karachi-VIII Sindh, MQM)

This historical Indian Study tour was comprised of seven nights and eight days. PILDAT's officials during the visit remained preoccupied in scheduling the program. Mornings, afternoons and the evenings were used in maximum; and in a manner, so that the utmost benefit of the meetings and visits could be derived by the delegation.

The touring parliamentary group was comprised of one **former Speaker** of National Assembly, one Senator and six law makers from the Lower House; including a lady Member.

In the political parties representation, there were two from ruling PML, two from Opposition's PPP-P, two from MMA (both from JUI) and one from MQM.

Apart from the former and the incumbent Parliamentarians; there were two from **ruling PML**, two from Opposition's PPP-P, two from MMA (both from JUI) and one from MQM.

Apart from the former and the incumbent Parliamentarians; there were ex and in office officials from the Parliaments, representatives from the media, NGO's and the intellectuals.

PILDAT's officials were extremely helpful in arranging programs. They did their best in maintaining the time scheduling management. This reminds me, our school day's PT teacher; who taught us a full orchestrated drill with a perfect soberness. Six times a week

For today's briefing, the visiting Parliamentarians are assigned to speak on three important points; but let me argue on some of them; because I feel, if I started arguing all, my paper would become super lengthy and also boring.

I missed two complete and important days; the 28th; but the 29th August's meeting with the Secretary Generals of Lok Sabha and the Rajya Sabha and a former lady Deputy Chairperson of Rajya Sabha.

The reason was a vote of Confidence in the National Assembly to the new Prime Minister of Pakistan. As a Member of treasury Bench, I had to cast my vote, definitely in his favor.

In our one week stay, I along with my fellow Parliamentarians met two former Indian Premiers namely; Mr. V. P. Singh and Mr. I. K. Gujral; Foreign Minister, Natwar Singh; Home Minister Mr. Shivraj Patel; and the Speaker Lok Sabha, Mr. Somnath Chatterjee. We also met Chief Election Commissioner, Mr. Krishna Murti; legendary former Chief Election Commissioner Dr. Gill; writers like Mr. Kuldip Nayer, media people; office bearers of Sindhi & Urdu Academies and Pakistan's envoy Mr. Aziz A. Khan.

Indian Constitution

The constitution of India is republican in character and federal in structure. This system comprised of the President and two Legislatures; namely Rajya Sabha (Council of State) and Lok Sabha (House of People)

Ostensibly, or otherwise; the Indian constitution is quite secular in its outlook. Its under mentioned Preamble supports the argument. It says:

“WE THE PEOPLE OF INDIA, HAVING SOLEMNLY RESOLVED TO CONSTITUTE INDIA INTO A SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizen:

JUSTICE, social, economics and political;

LIBERTY of thought, expression, belief

faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

Parliament's Committee System

Indian Parliament transacts the major deal of its business through Committees. The origin of Committee System in India can be traced back to the Constitutional Reforms of the Montagu-Chelmsford in 1919; although the same were not free from then government's control and interference.

Secondly; the 1919 Committees were virtually toothless. They had no power and privileges and no master of their own procedures. Neither; they could summon any one; nor could frame their own internal working rules.

Even the Public Accounts Committee of the then Central Legislative Council; could be hardly termed as a parliamentary Committee. It did not function under the control of the House, or Mr. Speaker.

Committees were advisory specific with the Minister-in-Charge of concerned department as the Chairman of the Committees. After the Indian Constitution adopted and enacted on 26th November 1949 Constitution; the position of the Central Legislative changed dramatically with the positive amendments in the Committees System.

Not only their numbers were increased from the original three; but their functions and powers were also enlarged. Let us first discuss the Committees.

Parliamentary Committees

Today a parliamentary committee is appointed or elected by the House or nominated by Mr. Speaker or by the Chairman Rajya Sabha. It works under the direction of the Presiding Officer and presents its report to him or to the House.

In all, there are 55 Parliamentary Committees of which 31 are Joint Committees of the tow houses. Of

the remaining 24 single House Committees: 12 each belong to Rajya and Lok Sabha.

Parliamentary Committees are of two types; Standing and the Ad hoc.

1. Standing Committees

Periodically elected; either by the House or nominated by the Speaker, Lok Sabha or the Chairman Rajya Sabha singly or jointly. They are on permanent basis. Functions of such committees, are either to enquire or scrutinize and control or advise or provide facilities to members; or look after day to day business.

Amongst the most important three, are; financial committees, which are; Public Accounts, Estimate and the Committee on Public Undertaking.

2. Ad Hoc Committees

They are constituted by the House or the Presiding officer singly or jointly to consider and report on specific matters. Ad hoc Committees ceased to function once they submit their reports.

Other Committees

Besides the Parliamentary Committees, there are Consultative Committees and the Government Committees.

Consultative Committees are formed by the Minister of Parliamentary Affairs, through; nomination of members from both the Houses. The maximum number of such committees is 40 and they are formed for the Minister and departments of the Government.

The Government Committees, Board, Councils etc; are constituted by the government either in pursuance of statute or by government resolution on which members of Parliament are represented. Presently there are 56 such government committees.

Parliamentarians' Perks/privileges

The last commencement of both Houses MP's salary, allowances and pension were made through Parliament (Amendment) Act, 2001 for five years. His or her total take home is Rs. 36,000 per month, which includes Rs. 12,000 as salary, Rs. 10,000 as Constituency allowance and Rs. 14,000 as office expense allowance.

Every member is given 32 free air journeys per year. Each member is entitled to a license fee free apartment or hostel accommodation throughout his or her term.

Electricity upto 50,000 units per year are free. Telephone calls upto 150,000 local calls per year are free, in addition 20,000 additional calls are allowed to members who live outside the radius of 1,000 KM from Delhi.

A member is also entitled for a mobile phone. Former MP's are allowed a pension of Rs. 3,000 per month. He or she is also entitled to have medical/travel facilities.

Visits To Chandigarh/punjab Vidhan Sabha

During our visit to Punjab Vidhan Sabha, and stay in Chandigarh; we met Punjab's soft spoken Governor, Rt. Justice Oam Perakash Verma; Professor Darbar Lal, Deputy Speaker; MLA's of the Government Party.

We also met Opposition's Akali Dal members; especially it's outspoken Sardar Balwinder Singh Bhunder; and the Graceful and charming Permeet Kaur, the Maharani of Patiala an MP and the wife of present Chief Minister of Punjab, Captain Amarinder Singh.

Women staffers of Punjab Vidhan Sabha, also made a musical and Punjabi folk dance program which remind me our Central Punjab, where such traditions are surprisingly still intact and thriving, in spite of an abnormal influence of the Clergy on the culture.

State of Indian Punjab has a unique distinction of sharing the capital of Chandigarh with another State of Haryana. Chandigarh has every thing in pairs; like, two Governors, two CM's two High Courts etc! its present Chief Minister is one of the descendent of Maharaja of Patiala. Punjab Vidhan Sabha is the state legislature of 117 members.

Punjab Mlas' Perks/privilegs

An MLA during his term earns the perks of Rs. 25,000 per month plus Rs. 125,000 for telephone calls and Rs. 125,000 for travel. This is besides other free travel facilitation. For the house making loan, an MLA is paid Rs on million and for car purchasing; Rs six lacs are loaned.

For the government allotted apartment; her or she is charged Rs 140 per month only. In case an MLA dies during his term; the competent authority may waive off all the remaining loan; with the interest.

Every former member who once served Punjab Vidhan Sabha; becomes entitled for the pension of Rs. 5,000 per month, plus free travel facilities and accommodation of government's apartment on as low as Rs. 100 per day. He is also eligible to medical treatment similar to the incumbent MLA..

Final Observation:

Although it was our study tour to Indian Parliaments and its allied offices; but the Parliamentary delegation also got a rare chance to extensively meet former and incumbent leaders, elected politicians, media people and bureaucrats.

It allowed us also first time to understand their perspective in resolving the major conflict or the conflicts or like us; they have a strong logic over their established secular fabric, and they say that they are jealously guarding it, with no compromise over it in the future..

Before I conclude; I must say that during our one meeting with Mr. V. P. Singh, when I asked him about the scenario, if there would be no major dispute between India and Pakistan, after the inception of independence.

He sighed and replies after some time. "We could be far better than that what we are today; and definitely far ahead than may develop nations of Asia, even some of Europe,"



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