

EVALUATING PARLIAMENT

**APPLICATION OF IPU SELF-ASSESSMENT TOOLKIT
TO THE SRI LANKA PARLIAMENT**

**An exercise carried out in collaboration with Senior Staff
of the Sri Lanka Parliament**

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June 2009**

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Introduction: The Task and Terms of Reference

I was asked to undertake the task of applying the IPU Self-Assessment Toolkit to the Sri Lanka Parliament under the following Terms of Reference:

‘As part of the follow up to the global seminar on parliamentary indicators, held in September 2008 in Brisbane, WBI and the IPU agreed to apply the IPU Parliamentary Assessment Toolkit to a number of countries. Sri Lanka is one of those countries. We would like you to write a 15-20 page assessment of the Sri Lankan parliament, in collaboration with Sri Lankan parliamentary staff, using the IPU Toolkit.’

The potential benefits of the exercise for the Parliament of Sri Lanka were further clarified in a letter from the World Bank Institute to the Secretary-General of Parliament dated 30 January 2009 as follows:

- (a) to identify priorities and means for strengthening Parliament, and
- (b) to evaluate the current situation of the institution against generally accepted criteria for a legislature in a democracy.

The hope was also expressed that the self-assessment would further assist the Sri Lanka Parliament in its ongoing work of reform and modernization of the institution.

The work was carried out during a week in February/March and some further clarification obtained in the course of a private visit in May.

Process

Prior to my visit, I established contact with Dhammika Dasanayake, Deputy Secretary-General of Parliament, to whom the responsibility for coordination of my visit had been delegated by the Secretary-General. I ensured that the Parliament was familiar with and had copies of the IPU publication entitled ‘Evaluating Parliament’ which introduces the Toolkit to users and facilitators. We agreed that about a dozen members of senior staff would participate representing a good range of ranks within the group.

As work on application and use of the toolkit is still in its first stages, I contacted also Andy Richardson and Norah Babic, members of IPU staff involved in the project, who generously shared with me the extent of experience gathered so far.

There are no mandatory procedures specified for use of the Toolkit -- indeed the IPU publication says that 'each parliament will decide for itself how to approach the self-assessment exercise' -- but various helpful suggestions are made regarding the make up of a participant group, the role of a facilitator, the timeframe of work, documentation and possible outcomes.

Obtaining the presence at one time in one room of some 12 participants who perform senior roles in a working parliament of this size is always a difficult matter but Mr Dasanayake's preparations had resulted in the selection of the following group:

1. Mr Dhammika Dasanayake, Deputy Secretary-General
2. Mr Anil P Samarasekera, Serjeant-at-Arms
3. Mr Lacille de Silva, Director of Administration
4. Mr Jagath Arachchige, Director of Legislative Services
5. Mr Ranjan Pathinather, Deputy Director of Administration

and the following Assistant Directors:

6. Mr Janakantha Silva, Table Office
7. Mr W J U Thamel, Bills Office
8. Ms W A A Nandini Ranawaka, Consultative Committee Office
9. Mr M N Peiris, PAC & COPE Office
10. Mr Susantha Waidyaratne, Committees Office
11. Mr W M P de Silva, Petitions Office
12. Ms D S R Gunaratne, Finance & Accounts Office

It may be noted at this point that both the Secretary-General and the Assistant Secretary-General were away from the country on foreign missions and could not participate though I did meet the Secretary-General at the end of my visit.

The group and I had extensive discussions on the objectives and purpose of the work, the role I could play as facilitator and the procedures we could use.

We then went over the six areas of the question sheets to ensure that all participants started with the same understanding of the objectives and purpose of the exercise but care was taken not to enter into discussion of individual questions at this stage. It was pointed out that what was sought was a set of value judgements and that there would be no right or wrong answers. The final decision was that each participant would give their scores individually (and effectively anonymously) but with discussion among themselves if they wished. I took the precaution of warning them that they could find themselves tiring if they tried to fill the sheets at one sitting and that therefore they should take breaks rather than risk making a 'lazy assessment' which could happen especially with the later sets of questions. I also sounded an alarm against the possible tendency to give the medium rating of 3 where someone felt unsure of their views. I ensured that I was available to any or all members of the group during the period in which they were thinking out their ratings if they wanted to meet me to clarify any matter.

I must add that in this report I use the word 'rating' in preference to 'score' or 'mark' as it sounds a more neutral term.

We met again to receive the rating sheets and to discuss difficulties they may have experienced in the course of the work. The main problem seemed to be the different understanding of certain questions because of what the group thought was inherent ambiguity. I should mention that, while the members of the group had filled in the sheets individually, they did not hesitate to express their views openly on matters that arose in this discussion.

I was pleased to note that several participants had suggested questions which were not in the printed list and then proceeded to give their ratings for them. From the discussion I would say that these additions tended to be in areas of individual speciality which may also explain why in most cases there was not more than one person suggesting a question in a particular area. Some areas of concern not covered by the printed questions have also been raised. These matters are covered in a later section of this report.

Responses to Self-Assessment Questionnaire

A summary of the responses given by the group to the six sets of questions in the Toolkit follows. The rating is the modal figure, that is, the rating given by the greatest number of respondents. In most cases these were not difficult to identify and may be taken as representing the view of 70% or more of the respondents with the balance spread out on either side of this figure. A rating shown as x/y , or more accurately $x/x+1$, indicates a situation where more or less equal numbers gave ratings of x and $x+1$. The term 'no consensus' indicates a situation where there was a wide spread of responses from which no conclusion could justifiably be reached: usually this indicated some ambiguity in the question or in its applicability to the Sri Lankan situation. It could also be an indicator of lack of relevance to that situation.

There were several additional questions suggested. The rating for any of these is that given by the person posing the question.

In a summary of this sort, the problem could arise that responses to the questions on improvements, deficiencies and remedies may get so mixed as to result in a garbling of the results. Fortunately in this case that situation does not seem to occur and so comments under each of these categories have been collected together for ease of reading.

These responses have not been edited and the actual comments are reproduced save in cases of spelling out abbreviations and the like. Any comment made by me en passant is shown in *italics*. Where I have thought they may be helpful in understanding certain responses, I have added comments, again in *italics*, at the end of each section: these are mostly based on comments made by participants in the group discussions with me but I take responsibility for their presentation in this form.

For ease of reference, the responses to each section of the questionnaire are given on separate pages (beginning with page 6 and ending with page 19). There is also a listing (page 20) of matters of concern which participants thought were not addressed by the questionnaire. A different typeface has been used for these pages, again to facilitate reference to participants' views.

Some comments on the use of the collected material and recommendations on the further use of the Toolkit follow thereafter.

1. The representativeness of parliament

1.1 How adequately does the composition of parliament represent the diversity of political opinion in the country (e.g. as reflected in votes for the respective political parties)? **4**

1.2 How representative of women is the composition of parliament? **2**

1.3 How representative of marginalized groups and regions is the composition of parliament? **3**

1.4 How easy is it for a person of average means to be elected to parliament? **1/2**

1.5 How adequate are internal party arrangements for improving imbalances in parliamentary representation? **2**

1.6 How adequate are arrangements for ensuring that opposition and minority parties or groups and their members can effectively contribute to the work of parliament? **4**

1.7 How conducive is the infrastructure of parliament, and its unwritten mores, to the participation of women and men? **3**

1.8 How secure is the right of all members to express their opinions freely, and how well are members protected from executive or legal interference? **4**

1.9 How effective is parliament as a forum for debate on questions of public concern? **4/5**

1.10 Additional questions:

1.10.1 How effective is the proportional representation system presently being used (in ensuring representativeness? **1**

1.10.2 How adequately is the opposition resourced to carry out its functions? (*suggested as an amendment to 1.6*) **3**

What has been the biggest recent improvement in the above?
Appointment of a Select Committee on Electoral Reform; Buddhist monks were elected to Parliament (*traditionally Buddhist monks like most clergy did not enter into active politics but they have great influence because of their association with the majority religion and being seen as guardian's of the nation's culture – a group of monks have banded themselves into a political party and varying views have been expressed on their entry into Parliament*)

What is the most serious ongoing deficiency?

Members are not responsible for a particular constituency; Weak opposition; Lack of statesmanship; Under the present system only those rich enough can be elected; Nominations are given to kith and kin while educated people are reluctant to join the political process; Low representation of women

What measures would be needed to remedy this deficiency?

Constitutional reform; Electoral reform; Clean up the political process; Parties must encourage the greater participation of women

Comments:

1. Sri Lanka's present electoral system is based on proportional representation – the general feeling in the country appears to be that the

first-past-the-post system produced more 'representativeness' with a more meaningful relationship between parliamentarians and their constituents. The select Committee on Electoral Reform which has been sitting over a long period, spanning the life of two Parliaments, was set up to address this situation.

2. Women's representation in the Parliament is very low, the proportion being below the global and Commonwealth averages shown on IPU and CPA websites. An interesting aspect of this however is that women parliamentarians in Sri Lanka have, over the life of many Parliaments, ended up holding a large number of high posts making the proportion of women in such positions higher than in most comparable countries. Most observers will agree that this is not tokenism – indeed that would be difficult to maintain in a country where the posts of President and Prime Minister have been held by women who are also well represented in professions like the judiciary, university education, medicine, engineering and so on.

2. Parliamentary oversight over the executive

2.1. How rigorous and systematic are the procedures whereby members can question the executive and secure adequate information from it? **3**

2.2. How effective are specialist committees in carrying out their oversight function? **3**

2.3. How well is parliament able to influence and scrutinize the national budget, through all its stages? **3/4**

2.4. How effectively can parliament scrutinize appointments to executive posts, and hold their occupants to account? **3**

2.5. How far is parliament able to hold non-elected public bodies to account? **3**

2.6. How far is parliament autonomous in practice from the executive, e.g. through control over its own budget, agenda, timetable, personnel, etc.? **3**

2.7. How adequate are the numbers and expertise of professional staff to support members, individually and collectively, in the effective performance of their duties? **3/4**

2.8. How adequate are the research, information and other facilities available to all members and their groups? **3**

2.9. Additional question:

How far do the directives of oversight committees carry binding authority? **2**

What has been the biggest recent improvement in the above?

PAC/COPE (*Public Accounts Committee/Committee on Public Enterprises*) being assisted by experts; 17th Amendment to the Constitution giving powers to a Constitutional Council; Discussion of budget in committees at length; PAC/COPE Strengthening Project funded by World Bank; Some improvements in research work for oversight committees but more strengthening necessary; Pre-Budget Select Committee gives more parliamentary control over finance

What is the most serious ongoing deficiency?

No follow-up on committee recommendations; Constitutional Council not functioning at the moment; President holds many portfolios; Lack of interest of MPs – sometimes difficulty in finding a quorum; Insufficient pre-Budget review

What measures would be needed to remedy this deficiency?

Standing Orders need amendments; Opposition must stand against Parliament losing control of funds – some individuals have even sought judicial intervention; Selection of members of oversight committees should be from those with necessary knowledge and interest; Overall change in approach and attitudes; Committee of Review (post-Budget) should be set up

Comments

1. *The 17th Amendment to the Constitution provides for the setting up of a Constitutional Council (including among others the Prime Minister, the Speaker and the Leader of the Opposition) with wide-ranging powers including recommending to the President the names of persons suitable for appointment to the Election Commission, the Public Service Commission, the Police Commission etc and as Auditor General. For a*

variety of reasons the Council has never been established as a permanent entity though it functioned for a brief period between 2003 and 2005.

2. As will be noticed from the comments by participants, there is considerable progress to be made in the area of oversight and in ensuring that the observations of the two oversight committees are taken seriously. With the ending of the war with the LTTE (Liberation Tigers of Tamil Eelam) there is hope that this and other powers of Parliament will be restored to their former position.

3. There has been considerable concern regarding powers granted to the executive whereby funds could be moved from one head of expenditure to another. However a challenge to this practice in the Courts in 2007 failed on the grounds that Parliament had itself approved the arrangements.

3. Parliament's legislative capacity

3.1 How satisfactory are the procedures for subjecting draft legislation to full and open debate in parliament? 5

3.2 How effective are committee procedures for scrutinizing and amending draft legislation? 4

3.3 How systematic and transparent are the procedures for consultation with relevant groups and interests in the course of legislation?
no consensus (*a reflection of ad hoc approaches to consultation*)

3.4 How adequate are the opportunities for individual members to introduce draft legislation? 4

3.5 How effective is parliament in ensuring that legislation enacted is clear, concise and intelligible? **no consensus** (*this has to be noted in tandem with the statements below referring to insufficient review by legislative committees*)

3.6 How careful is parliament in ensuring that legislation enacted is consistent with the constitution and the human rights of the population?
4

3.7 How careful is parliament in ensuring a gender-equality perspective in its work? 3

3.8 Additional questions:

3.8.1 How satisfactory are the safeguards in regard to the formulation of secondary or delegated legislation? 1

3.8.2 How far does the executive interfere with the work of the legislature? 4 (*that is, high interference*)

What has been the biggest recent improvement in the above?

No responses

What is the most serious ongoing deficiency?

No detailed scrutiny of Government Bills by Committees; Debates in Parliament do not focus on the core issues; Participation of MPs in Committees is poor – they do not read bills or materials supplied to them; The executive has taken over legislative activities; Lack of time for discussion of 'urgent bills'; Parliamentarians need to be educated about their duties and responsibilities

What measures would be needed to remedy this deficiency?

All bills should be referred to legislative committees; Review of Subordinate Legislation; Fundamentals of Democracy need to be implemented; More time for public scrutiny of 'urgent bills'; More training for both Parliamentarians and Staff

Comment

There is provision in the Constitution for expeditious handling of a bill which the Cabinet has deemed 'Urgent'. In effect this has meant that such a bill passes through its various stages very quickly and with hardly any discussion. It has also become regular practice for all Government bills to be referred to a Committee of the Whole House where passage is quicker and examination less detailed.

4. The transparency and accessibility of parliament

4.1 How open and accessible to the media and the public are the proceedings of parliament and its committees? **3**

4.2 How free from restrictions are journalists in reporting on parliament and the activities of its members? **3**

4.3 How effective is parliament in informing the public about its work, through a variety of channels? **2**

4.4 How extensive and successful are attempts to interest young people in the work of parliament? **no consensus**

4.5 How adequate are the opportunities for electors to express their views and concerns directly to their representatives, regardless of party affiliation? **no consensus**

4.6 How user-friendly is the procedure for individuals and groups to make submissions to a parliamentary committee or commission of enquiry? **4**

4.7 How much opportunity do citizens have for direct involvement in legislation (e.g. through citizens' initiatives, referenda, etc.)? **2**

4.8 Additional question: *None suggested*

What has been the biggest recent improvement in the above?
Development of the parliamentary website; Appointment of Opposition Members as chairs of PAC/COPE (not a regular occurrence)

What is the most serious ongoing deficiency?

Committee work in camera (*comment by several*); **Accessibility restricted at present by security considerations** (*comment by several*)

What measures would be needed to remedy this deficiency?

Telecast all proceedings

Comments

1. *It is a common sight to see schoolchildren going through the various open areas and in the gallery of Parliament even with the very strict security of recent times. However there is no planned programme for young people to get involved in what Parliament stands for and how it works. There have been attempts to hold Youth Parliaments in live situations and on TV but these have never reached their expected fruition.*

2. *Similarly the scope for parliamentary education programmes for the populace in general exists but remains unfulfilled.*

3. *A parliamentary website has been set up and recently revamped in a more user-friendly format. this will undoubtedly help with taking the parliament to the people.*

3. *While any person may be present in the gallery for plenary sessions, meetings of committees are not open to the public.*

5. The accountability of parliament

5.1 How systematic are arrangements for members to report to their constituents about their performance in office? 2

5.2 How effective is the electoral system in ensuring the accountability of parliament, individually and collectively, to the electorate? 2

5.3 How effective is the system for ensuring the observance of agreed codes of conduct by members? 2

5.4 How transparent and robust are the procedures for preventing conflicts of financial and other interest in the conduct of parliamentary business? 2

5.5 How adequate is the oversight of party and candidate funding to ensure that members preserve independence in the performance of their duties? 1

5.6 How publicly acceptable is the system whereby members' salaries are determined? 2

5.7 How systematic is the monitoring and review of levels of public confidence in parliament? 2

5.8 Additional question: *None suggested*

What has been the biggest recent improvement in the above?

Discussions in progress regarding live telecast of proceedings in Parliament

What is the most serious ongoing deficiency?

The present electoral system does not contribute to the accountability of Members in the fullest sense; Implementation process (re telecasts etc) is very slow; Members' salaries are too high (*they are related to those of the judiciary*); Asset declarations are not made by some MPs

What measures would be needed to remedy this deficiency?

Change of the present electoral system; Pressure from professional organizations and social groups; Members' salaries should be on a par with the public service (*in general lower than those of the judiciary*); Asset declarations should be mandatory (*see Comment below*) and there should be a Code of Conduct

Comment

A uniformly low set of ratings for this area is indicative of a perceived lack of accountability and transparency in regard to MPs and their mores. It should also be noted that Asset Declarations are mandatory under law but the practice has not been enforced. The number of MPs submitting declarations has improved considerably in the recent past.

Members' salaries cannot be regarded as being high by the standards of most Parliaments.

6. Parliament's involvement in international policy

6.1 How effectively is parliament able to scrutinize and contribute to the government's foreign policy? **3**

6.2 How adequate and timely is the information available to parliament about the government's negotiating positions in regional and universal/global bodies? **3**

6.3 How far is parliament able to influence the binding legal or financial commitments made by the government in international fora, such as the UN? **3**

6.4 How effective is parliament in ensuring that international commitments are implemented at the national level? **2/3**

6.5 How effectively is parliament able to scrutinize and contribute to national reports to international monitoring mechanisms and ensuring follow-up on their recommendations? **1/2**

6.6 How effective is parliamentary monitoring of the government's development policy, whether as "donor" or "recipient" of international development aid? **3**

6.7 How rigorous is parliamentary oversight of the deployment of the country's armed forces abroad? **no consensus** (*possibly because of indeterminate relevance – the only forces serving abroad are UN Peacekeepers*)

6.8 How active is parliament in fostering political dialogue for conflict-resolution, both at home and abroad? **3**

6.9 How effective is parliament in inter-parliamentary cooperation at regional and global levels? **4**

6.10 How far is parliament able to scrutinize the policies and performance of international organizations like the UN, World Bank and the IMF to which its government contributes financial, human and material resources? **3**

6.11 Additional question: *None suggested*

What has been the biggest recent improvement in the above?

Parliament introduced new legislation ensuring compliance with UN conventions and agreements

What is the most serious ongoing deficiency?

These are subjects handled mainly by the Executive

What measures would be needed to remedy this deficiency?

Constitutional amendments (to give more powers to the legislature); All forums available in Parliament should be utilized to discuss these issues, eg Consultative Committees, Parliamentary Associations

Issues of Concern not addressed in the questionnaire

1. The effectiveness of Parliament largely depends on constitutional arrangements and structure. In a Presidential-Parliamentary system there is always sharing of power between the two institutions and Parliament does not enjoy supremacy in the full sense;
2. For Parliament to be more effective, we need to address issues relating to both Parliamentarians and members of staff. The area of strengthening/regulating/motivating/directing the Parliament Secretariat to meet ever-increasing challenges effectively and efficiently has not been addressed;
3. The role of MPs and Parliamentary Staff;
4. The role of the Speaker/Presiding Officers;
5. How new technologies may help MPs with their research and information needs.

Discussion and Commentary

In the course of discussion and sometimes through their responses, the participants have communicated various observations on the questionnaire which should be useful when further work is undertaken.

The first was that the questionnaire is designed for parliamentarians and that, as a result, staff may have other germane concerns affecting the institution which are not allowed for. For instance it was suggested that a question about the size of the institution and its ability to play its part in delivering a planned legislative programme would be of value. It was noted that a question of this sort is posed in connection with oversight committees (Question 2.7) and that this could perhaps be placed elsewhere in the questionnaire with extension to the full gamut of parliamentary operations.

Following on from this participants have commented that a consideration of training opportunities and issues relating to staff development and motivation are also relevant to the objectives of an exercise of this nature.

It was also remarked that the questionnaire needs amendment to cover adequately the situation of a presidential-parliamentary system as exists in Sri Lanka. We may note here that the Sri Lankan system is more akin to the French rather than to, say, the US presidential system.

More specifically it was pointed out that Questions 2.1 and 3.1 are ambiguous or misstated to the extent that procedures may exist but that what is important as a gauge of effectiveness is whether they are used in the intended manner.

Regarding question 4.1, it was pointed out that there is a very real problem in the wording in that in the Sri Lankan Parliament and many others, especially those deriving their existence from colonial legislatures, the public and the press may attend any plenary session but not those of committees.

Another weakness that exists in many parliaments including that of Sri Lanka is the lack of their control over secondary or delegated legislation, thus leading to a weakening of the legislature and a simultaneous strengthening of the executive. The questionnaire should perhaps address this point under section 3.

My own additional observations on this exercise are as follows:

- (i) The Toolkit is excellent in conception and design but of course an instrument of this sort cannot cover every situation – there will always be gaps or insufficiencies such as those mentioned above and consideration needs to be given to whether the questionnaire should be expanded or whether slightly different questionnaires be used for different circumstances. Each approach brings problems in its wake.
- (ii) As we have noted, the participants filled in the questionnaire independently. There are both risks and advantages in this process but as they were willing to discuss matters openly too, I believe the gains have outweighed any possible disadvantage. As far as I could gather, no major alterations were made as a result of the discussion to the ratings already given.
- (iii) This was an experiment in using the Toolkit with staff alone. The participants have made some comments on the Toolkit regarding the necessity to cover matters that impact upon the internal organization of parliaments and these deserve attention.
- (iv) As regards the Sri Lankan Parliament the impression one receives from this work with staff is that of a legislature which is reasonably well placed to service the demands of a democracy but which does not utilise fully the powers and the procedures at its disposal, perhaps because of a lack of understanding, perhaps because of a lack of will.
- (v) Regarding the success of the exercise as a technique for identifying ‘priorities and means for strengthening Parliament’ as mentioned on page 1, it must be noted that the observations of the participants point also to a requirement for constitutional and electoral reform. The executive is considered to be too strong and to encroach on the powers of Parliament. The present system of proportional representation is not seen as working well. The need for amendment of standing orders has been mentioned too. It now becomes important to use the Toolkit to gauge the views of Sri Lankan parliamentarians on these points. The early years of this century have not been an opportune time to carry out such exercises in Sri Lanka because of their preoccupation with the war but it is to be hoped that parliamentarians will now be able to turn their attention to these matters.

Acknowledgements

I wish to record my thanks to the Secretary-General of the Sri Lanka Parliament for facilitating my work and in particular, to Mr Dhammika Dasanayake, the Deputy Secretary-General, for making all the arrangements necessary at a time when Parliament’s resources and his own were very stretched.

Similarly the senior staff members who participated were very cooperative and made my work both meaningful and pleasant.

I am grateful to WBI and Mr Rick Stapenhurst for giving me the opportunity to assist in this program and to Mrs Norah Babic and Mr Andy Richardson of the IPU for sharing their experience in the use of the Toolkit in other legislatures.