

# PARLIAMENT WATCH – SRI LANKA\*

## 2011 Overview



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## **TOWARDS AN ACCOUNTABLE PARLIAMENT**

“Parliament Watch” is a program jointly implemented by Transparency International Sri Lanka (TISL) and South Asians for Human Rights (SAHR) to collectively advocate for a transparent, accountable and rights-focused Parliament and for the promotion of parliamentary best practices.

Implemented by four other South Asian countries in addition to Sri Lanka, (India, Pakistan, Nepal and Bangladesh), the objectives of the Parliament Watch program are; a) to examine the human rights implications of parliamentary action, b) promote transparency and accountability in Parliament, c) record and analyze the proactive introduction of enabling legislation to give effect to relevant international conventions, and d) promote public access to Parliament and generate an interest among the citizenry.

### **Rationale**

Information being an important pre-requisite for the empowerment of people and the promotion of transparent legislative practice, this report highlights existing good practices, access to parliamentary information and physical access to Parliament and the limitations imposed on both.

The report seeks to capture the gaps between legislative processes and practices against existing laws and regulations, any attempts made at proactive disclosure of information in the absence of laws guaranteeing access to information, important constitutional and other legislative amendments and their implications both on the legislature and the citizenry.

### **Methodology**

This report covers the period from January to December 2011. It was based on desk research, interviews and vital technical input by the Parliament Watch Advisory Committee and a broader group of stakeholders. The report has been reviewed and validated by the Advisory Committee; a distinguished two-member team that guided the research, offered insight based on their extensive professional experience and strengthened research quality with regular recommendations to ensure improvement.

The assessment specifically covers nine key areas under which the Parliament’s role and functions are evaluated using an indicator questionnaire, supported by desk research and interviews. These areas are:

1. Calendar of sessions and business of parliament
2. Record of business conducted
3. Papers Tabled in Parliament
4. Declaration of financial and criminal antecedents and entitlements of MPs
5. Functioning of Parliamentary Committees
6. Integrity mechanisms
7. Capacity and resources
8. Institutional independence
9. Role of the Legislature

## **Introduction to the Sri Lankan Parliament**

Sri Lanka departed from the Westminster model of Parliament with the introduction of the 1978 Constitution, concentrating executive powers to the office of the Executive President.<sup>1</sup> However, the Sri Lankan Parliament still retains the Westminster committee system which is considered a more representative and equitable model allowing cross-party representation.<sup>2</sup>

Procedurally, Sri Lanka indeed enjoys a robust parliamentary system that complies with internationally accepted norms of procedural transparency and accountability. In particular, strong laws and procedures in regards to financial transparency have gained international recognition.<sup>3</sup> However, the application of these laws in practice demonstrates significant weaknesses and much room for improvement.<sup>4</sup>

### **The 2011 Context**

Even though the year 2011 dawned with no signs of respite for the country from rule under emergency regulations, by August came the welcome news that these special regulations that give the armed forces a major role in civil matters, are being abolished. President Mahinda Rajapaksa made the announcement in Parliament on August, 25, 2011.<sup>5</sup>

The international scrutiny that Sri Lanka came under since the LTTE was defeated in May, 2009 continued well into 2011 with continued calls to address accountability issues that had arisen in relation to the last days of the war.

### **Area One: Calendar of Sessions and Business of Parliament**

1:1 Calendar of Parliament:

The annual calendar of scheduled Parliament sessions can be accessed by the public and the media in two ways: through the government gazette and through the Parliament's official website, [www.parliament.lk](http://www.parliament.lk). The calendar is circulated among the MPs in advance. Reported incidents of this rule not being practiced or eleventh hour changes not being effectively communicated to MPs have been recorded.<sup>6</sup>

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<sup>1</sup> The Constitution of the Democratic Socialist Republic of Sri Lanka.

<sup>2</sup> [unpan1.un.org/intradoc/groups/public/.../apcity/unpan034367.pdf](http://unpan1.un.org/intradoc/groups/public/.../apcity/unpan034367.pdf)

<sup>3</sup> Open Budget Index 2010, available at <http://pcij.org/resources/Final-English-OBI-Report.pdf>

<sup>4</sup> National Integrity System Sri Lanka 2010, pp. 70-86. Available at [http://www.tisirilanka.org/?page\\_id=1604](http://www.tisirilanka.org/?page_id=1604).

<sup>5</sup> Hansard, Volume 201 - No. 7, Pages 817-21, August, 25, 2011, Address To Parliament By His Excellency The President

<sup>6</sup> This was repeatedly highlighted during the debate on the 18th Amendment to the Constitution.

## 1:2 Calendar of Business:

### 1:2 (1) Agenda

The week's business is collectively decided upon by all political parties at a Political Party Leaders' Meeting. However, the practice is to have the government agenda reinforced with a tendency to de-prioritize or delay the agenda of opposition parties.

The Parliamentary agenda is made public through gazette notifications, by uploading on the official website and through delivery of the Order Paper and Order Book to specific institutions/offices. While not a regular practice, there are recorded instances of scheduled business getting suspended without an adequate explanation.<sup>7</sup>

### 1:2 (2) MPs Accessibility

The rules governing Parliament require that the day's agenda be made available to all the Members of Parliament.<sup>8</sup> The practice is to provide it at least one day ahead. In practice, there have been instances where such notice is not given specially if the business proposed is controversial and resistance by members is likely.<sup>9</sup>

### 1:2 (3) Accessibility for People

It is possible for interested individuals to obtain a copy of the day's provisional agenda through registration. The media can obtain the Order Paper ahead of time and it is generally printed a week prior to the sittings. It is also made available on line on the official web site of Parliament [www.parliament.lk](http://www.parliament.lk).

For all completed sessions of Parliament, a final and edited version of the Hansard, the official record of Parliament, is uploaded on the official website. While the website is updated daily, a Hansard takes about three to four days to be uploaded. It should be noted that the Hansard is serviced by a high quality staff. However, a common misperception is that the Hansard is a verbatim record. In fact, the "corrected" Hansard contains changes and alterations requested by MPs. Although voice recordings of all speeches are taken and kept for four months, it has not proven common practice to make such recordings available to verify the contents of the corrected Hansard.

A further concern is the reliance on e-access for records of Parliamentary activity. Much of Sri Lanka has limited access to the internet. In the absence of official information centers in the constituencies, the only practical way to access Hansards (unless registered with the Hansard Division) is through the public libraries. There is budgetary support for this initiative.

**Recommendation:** The order paper and order book should be available through District Secretariat Offices and Post Offices, while the Agenda should be published in the newspaper.

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<sup>7</sup> To accommodate Government requirements, items on the Order Paper are either suspended or simply not raised.

<sup>8</sup> [http://www.parliament.lk/business\\_of\\_Parliament/business\\_of\\_Parliament.jsp](http://www.parliament.lk/business_of_Parliament/business_of_Parliament.jsp)

<sup>9</sup> 18th Amendment to the Constitution of Sri Lanka.

## **Area Two: Record of Business Conducted**

### **2:1 Record of Member Attendance:**

The Parliamentary Secretariat maintains a members' attendance, arrival and departure register.<sup>10</sup> MPs' attendance at various parliamentary committees is also entered in a formal record. It is not possible for the public to request the attendance record of MPs.<sup>11</sup> There is also no easily accessed record of the number of times a MP spoke and the topics that were discussed.

An internet database of this information in a searchable format is lacking. This information can be gathered only through an assessment of Hansards and cross-checking with the Party Whips on the allocation of time on the daily speakers' list.

### **2:2 Leave of Absence:**

Parliamentarians can obtain authorized leave up to a period of three months. MPs who wish to obtain authorized leave beyond a period of three months should submit a written request to the Speaker through the leader of the relevant political party.<sup>12</sup> The public cannot access the MPs leave record through a formal record or through the official website.

### **2:3 Records of Debates and Discussions:**

Among the key developments recorded in making Parliament accessible to people is the experimental web-casting of parliamentary sessions.<sup>13</sup> On special occasions, rights to record and telecast/broadcast proceedings is granted to State-owned Sri Lanka Rupavahini Corporation (SLRC) exclusively. Live telecast of parliamentary proceedings are done by the SLRC on Budget day each year and on special addresses to the House by the President while private television stations can obtain Compact Discs (CDs) containing the day's proceedings which they air over their news programs. The Parliament website also uploads the entire days' proceedings within less than 24 hours after a day's sittings ends which can be accessed by the public.

The official website has been awarded as Best Government Website in 2009 and 2010 and Most Favourite Web Site (Tamil Category) by Bestweb.lk, and is a significant bright spot for Parliamentary transparency.<sup>14</sup>

### **2:4 Questions Raised and Answers Provided in Parliament**

The daily business question time is often an effective way of raising issues affecting respective constituencies. Notice of questions should be given in writing in advance though for urgent questions, this process can be expedited.<sup>15</sup> Questions should necessarily enter the Order Book and then are included in the Order Paper of the day.

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<sup>10</sup> Interview with Senior Parliamentary official

<sup>11</sup> Interview with Parliamentary Official

<sup>12</sup> [http://www.parliament.lk/business\\_of\\_Parliament/business\\_of\\_Parliament.jsp](http://www.parliament.lk/business_of_Parliament/business_of_Parliament.jsp)

<sup>13</sup> <http://www.parliament.lk/webcast/video/>

<sup>14</sup> Information available at <http://www.parliament.lk/awards/awards.jsp> and BestWeb.lk.

<sup>15</sup> [http://www.parliament.lk/business\\_of\\_Parliament/business\\_of\\_Parliament.jsp](http://www.parliament.lk/business_of_Parliament/business_of_Parliament.jsp)

Tradition and the Standing Orders require the Government to provide complete answers to all oral queries and those for written answer. However, it is common to have repeated requests for extensions of time to prepare responses, which effectively defeats the purpose of raising a question. There are also instances when ministers simply refuse to respond or offer partial responses.<sup>16</sup> This is a significant concern.

The Government continues to refuse to answer certain questions that would expose corruption and wrong doings by citing national security reasons. On June 7, 2011 there was one such instance where the Government refused to divulge the findings of a presidential commission appointed in 2005 by the incumbent President to investigate alleged irregularities committed in military procurement of ammunition for the three armed forces between years 2000-2005.<sup>17</sup>

The Parliament website contains searchable databases for both oral and written questions along with their answers. The tabled questions and motions are uploaded within a week but sometimes delayed, especially during the budget debate.

#### 2:5 Record of Voting

The roll call of votes on a specific bill is made available on the website. It can be accessed through the Parliament website and in the Hansard. The Sri Lankan Parliament had an electronic voting system installed a decade ago. After a few attempts to use the system, the House returned to the old practice of counting “Aye’s.” Despite the recent amendments to the Standing Orders of Parliament, there is no reference made to the use of the electronic voting facility.

***Recommendation:*** Unedited, verbatim records of the proceedings of Parliament should be made available and uploaded into a searchable online database.

### **Area Three: Papers Placed on the Table of Parliament**

#### 3:1 Bills and Legislative Instruments

All draft bills are required to be gazetted without exception. While there is also no time stipulation on advanced gazetting, translations are included in adherence to the official language policy, clearly stated in Article 22 (4) of the Constitution. The Standing Orders stipulate that all tabled documents should have translated versions, be they bills or motions.<sup>18</sup> The House has simultaneous translation when in session.

The general practice is to distribute copies of bills among MPs in advance, to ensure they have the opportunity to prepare for the debate. However, this rule is often breached.

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<sup>16</sup> <http://sinhale.wordpress.com/2009/08/25/piyasiri-refuses-to-answer-queries-says-summoned-media-to-only-note-what-he-says/>

<sup>17</sup> Hansard, Volume 199 - No. 7, June, 07, 2011, 911

<sup>18</sup> [www.parliament.lk/about\\_us/Standing\\_Orders\\_English.pdf](http://www.parliament.lk/about_us/Standing_Orders_English.pdf)

In 2011, the President directly sent for determination to the Supreme Court the controversial Revival of Underperforming Enterprises and Under-Utilized Assets Bill, thus depriving the public or even opposition legislators from challenging its constitutionality.<sup>19</sup>

This is a disturbing trend of using executive power to bypass the scrutiny of a piece of legislation prior to it being presented to Parliament. As Sri Lanka does not enjoy post-judicial review and a bill has to be challenged prior to its passage, this practice all but guarantees almost any bill deemed “urgent” will pass both Parliamentary and Judicial thresholds, regardless of content.<sup>20</sup>

Members of Parliament on both the sides have the opportunity to submit written recommendations on a proposed bill. However, there is no provision that requires Urgent Bills to be subject to any discussion. They are presented to the House, debated and passed on the same day unlike with the normal passage of Bills which requires a seven day period between the presenting of the Bill and the day when it is taken up for debate and approval. The “urgent Bill” process allows important bills to become law without public opposition, public or scholarly debate.<sup>21</sup>

A significant concern in Sri Lanka is the lack of practical space for public participation in the bill making process.<sup>22</sup> There is no proactive action to ensure that a consultative process prevails either through the publication of media notices or through the generation of public debates. Likewise, the Standing Orders or tradition does not support draft bills being revised at the constituency or grassroots level prior to parliamentary debate<sup>23</sup> the official website allows public access only to government bills. Private Members’ bills are excluded from the database, despite their possible relevance to specific constituencies.

### 3:2 Budget-Related Information

Sri Lanka is rated among the model states in South Asia in budget transparency, according to the Open Budget Index 2010. However, MPs do not receive copies of the budget prior to the formal presentation, a practice linked to a tradition of non-disclosure and not necessitated through any stipulation. However a month long debate is held each year during which the Budget is debated with allocations to individual government institutions taken up for debate separately.

The budget is uploaded on both the Parliament and Ministry of Finance websites immediately after being presented in the House. It includes ministerial and departmental allocations based on a needs assessment. However, the workings of the budget committee are not disclosed at any point.

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<sup>19</sup> Govt. means business: sends SC urgent bill to takeover underperforming State enterprises, Daily FT, October 25, 2011. < <http://www.ft.lk/2011/10/25/govt-means-business-sends-sc-urgent-bill-to-takeover-underperforming-state-enterprises/>>

<sup>20</sup> [http://transcurrents.com/tc/2010/09/public\\_debate\\_on\\_18th\\_amendmen.html](http://transcurrents.com/tc/2010/09/public_debate_on_18th_amendmen.html)

<sup>21</sup> [http://transcurrents.com/tc/2010/09/public\\_debate\\_on\\_18th\\_amendmen.html](http://transcurrents.com/tc/2010/09/public_debate_on_18th_amendmen.html)

<sup>22</sup> Interview with a former Secretary General of Parliament.

<sup>23</sup> India’s Lok Pal Bill and RTI Law.

The level of interest displayed by the citizens in accessing such information through available channels also remains low demonstrating a low level of interest among voters in the budgetary process itself.

**Recommendation:** The process of passing Urgent Bills should be amended to preclude any bill that does not make a clear and convincing argument for time-bound urgency.

#### **Area Four: Declaration of Financial and Criminal Antecedents and Entitlements of MPs**

##### 4:1 Declaration of Financial and Criminal Antecedents of Parliamentarians

Under the Declaration of Assets and Liabilities Law of 1975 (Amended by Act No. 74 of 1988) elected officials are required to disclose their assets and liabilities.<sup>24</sup> The Act covers lands, property, jewellery, vehicles and bank accounts of the MP, spouse and dependent children.<sup>25</sup> MP's declarations should be to the Speaker of Parliament, while ministers make such disclosure to the Executive President.

The asset declarations are considered confidential in practice and are not made openly accessible to the public. There is little public initiative to access such information despite an existing legal right to do so.

Since the introduction of the 1975 law, there have been no recorded instances of action being taken against MPs for making false declarations. The Commissioner of Elections has no power to reject nominations of the candidates for non-disclosure and there are no sanctions for failure to disclose. In fact, there is not even a procedure in place to verify how many MPs have even made the necessary declaration.<sup>26</sup>

Parliamentarians, by law, are not required to disclose campaign statements of accounts and are not required to disclose information about contracts with lobbyists. Furthermore, there is no law requiring the disclosure of criminal antecedents, nor do such antecedents disqualify a candidate from holding office.

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<sup>24</sup> <http://cimogg-srilanka.org/2005/09/presidential-candidates-%E2%80%93-declaration-of-assets-liabilities>

<sup>25</sup> All Members of Parliament, judges and public officers appointed by the President, public officers appointed by the Cabinet of Ministers, judicial officers and scheduled public officers appointed by the Judicial Services Commission (JSC) and staff officers in ministries and government departments; Chairpersons, directors, members of the Boards and staff officers of public corporations; elected members and staff officers of local authorities; office-bearers of recognized political parties for the purposes of elections under the Presidential Elections Act No.15 of 1981, Parliamentary Elections Act No.1 of 1981 or the Provincial Councils Elections Act No.2 of 1988 ; candidates nominated for elections to be held under the Presidential Elections Act No.15 of 1981, the Parliamentary Elections Act No.1 of 1981 or the Provincial Councils Elections Act No.2 of 1988.

<sup>26</sup> Interview with PAFFREL Official. In 2010, less than 10 legislators have reportedly declared their assets.

#### 4:2 Information on Constituency Development Funds and Related Expenditure

There is a standard allocation of Rs. 5 million for each MP to utilize for the development of their constituencies. The details pertaining to the monies allocated during each year are not freely available and can be accessed only at the District Secretariat. There is considerable bureaucratic red tape and actual resistance from officials regarding the release of this information.<sup>27</sup>

In June 2011, a motion was introduced by the UNP to increase the amount allocated to MPs from the decentralized budget. The demand was to increase this amount to Rs 10 million per annum.<sup>28</sup>

The Finance Act decrees that government ministries and specific projects that falls under the ministries must submit an annual report and a statement of accounts to Parliament. However, it is rarely or ever that annual reports are presented on time. This matter was dealt with by the Parliamentary oversight committee – the Committee on Public Enterprises (COPE), in its report presented to the House in December, 2011. In reference to the tabling of annual reports, COPE noted that almost all the institutions summoned before had not tabled the Annual Reports on time.<sup>29</sup>

#### 4:3 Amenities Provided to MPs

There is a lot of public interest in the amenities provided to the Members of Parliament. The Parliament website does not include the scheme of remuneration and allowances for MPs during a financial year. However, the public may access details relating to salaries, allowances, other amenities and details of pensions for former MPs through gazette notices or memoranda. The Parliamentary Secretariat may disclose information on MPs remuneration and facilities provided, but this disclosure is discretionary.

**Recommendation:** The law requiring the disclosure of assets and liabilities should be strengthened to provide meaningful sanctions for the failure to disclose assets and liabilities.

### **Area Five: Functioning of Parliamentary Committees**

#### 5:1 Real Time Access to Proceedings of Committees

In Sri Lanka, the official website provides sufficient information about the names of committees, membership, mandate, rules and the relevant reports.<sup>30</sup> The criteria for election/selection of MPs to parliamentary committees are not documented and the nominations are made by the respective political parties and not based on agreed criteria. As a result, questions have been raised regarding MPs qualifications for the committees on which they sit.

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<sup>27</sup> [www.ipu.org/PDF/publications/colombo\\_en.pdf](http://www.ipu.org/PDF/publications/colombo_en.pdf)

<sup>28</sup> Hansard, Volume 199 No 11, June, 21, 2011, Pages 1627-1640

<sup>29</sup> <http://www.parliament.lk/committees/ListCommReport.do?comID=COMM1045>

<sup>30</sup> <http://www.parliament.lk/committees/committees.jsp>

While committee deliberations are not open to the public, the media has indirect access to the workings of the committees. There is also a mechanism where the media can request access to committee meetings, but this practice is no longer in use. The minutes of sessions are not uploaded or published and remain confidential records. Non-member parliamentarians are required to obtain special approval from the Speaker of Parliament to access the committees.

#### 5:2 Access to Submissions Made to and Reports Generated by Committees

Edited reports of committee proceedings are accessible online and the committee reports are debated in Parliament. However, the legislative history records do not indicate the practice of implementing recommendations made by committees.<sup>31</sup>

The committees allow electronic and print media to cover proceedings and most committees are now accessed by the media. However, the two most important committees, the Public Accounts Committee (PAC) and the Committee on Public Enterprise (COPE) are not accessible to media. The committee sessions are hardly reported on and despite access, even the media does not attend sessions of open committees frequently.

**Recommendation:** The meetings of PAC and COPE should be made accessible to media without reservation.

### Area 6: Integrity Mechanisms

#### 6: 1 Codes of Conduct and Ethic

There is no specific code of conduct for all legislators, but specific rules under the Standing Orders govern MPs conduct. All MPs are required to take an oath as per the 1978 Constitution.<sup>32</sup> The Legislature is also able to deal with questions relating to members' ethical conduct through the provisions contained in the Standing orders of Parliament. However, there are no specific rules applicable on gifts and hospitality.

There are some restrictions applicable to ministers, (not ordinary MPs), on concurrent and post-service employment, specially designed to avoid possible conflict of interest. In addition, all MPs are barred from entering into contracts with the government while holding a portfolio.<sup>33</sup>

**Recommendation:** A code of ethics for members of Parliament should be introduced and compliance with this code should be monitored by an independent body.

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<sup>31</sup> COPE report recommendations made by Hon. Wijedasa Rajapakse, UNP MP spoken during the Sambhashana Forum, January 26, 2012.

<sup>32</sup> [http://www.parliament.lk/business\\_of\\_Parliament/business\\_of\\_Parliament.jsp](http://www.parliament.lk/business_of_Parliament/business_of_Parliament.jsp)

<sup>33</sup> A recorded instance of an MP being disqualified for contravening this stipulation is the disqualification of Dr. Rajitha Senaratne, a UNP MP, who was a registered government supplier of dental equipment. Following legal action, MP Senaratne was unseated.

## Area 7: Capacity and Resources

### 7:1 Financial Resources

The Sri Lankan legislature consists of 225 parliamentarians, 196 elected and 29 nominated by the respective parties.

The House budget is determined by the Ministry of Finance in consultation with the Treasury. Requests and proposals from the House and ministries are taken into account when preparing the final budget. For 2011, allocation for the running costs of Parliament was Rs. 1,517,500,000.00 These expenses cover personal emoluments, supplies, maintenance expenditure, and services such as transport, postal, water and electricity as well as for payment of retirement benefits.<sup>34</sup>

Article 148 of the 1978 Constitution stipulates that Parliament would exercise full control over public finance.<sup>35</sup> The budget is presented to the Legislature by the Minister of Finance and at present, this all important portfolio is held by President Mahinda Rajapaksa.

### 7:2 Human Resources

There is a competitive recruitment policy for the Parliamentary staff.<sup>36</sup> Available positions are advertised and suitable candidates are chosen after interviews and specific tests. The recruitment policy confers autonomy on the Legislature to make independent selections on staff at all levels. The Parliament staff is well trained and there are sufficient staff members for clerical, research and other services.

### 7:3 Infrastructure Needs

The general infrastructure needs of the Legislature are being met. However, when the Parliament was designed three decades ago, the physical needs were less. Despite the strain on the floor space, the Parliamentary Complex still manages to have adequate number of meeting rooms, committee rooms etc; to cater to the legislators and ministers. The Parliament also has a key underutilized resource, one of the finest libraries in South Asia. Parliamentary officials rarely access the library and unfortunately the public and the media have no access to this facility.<sup>37</sup>

**Recommendation:** The Parliamentary Library should be made open to the public subject to a registration process.

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<sup>34</sup> Budget estimates, 2011, Volume 1, Page 148

<sup>35</sup> [http://www.priu.gov.lk/Cons/1978Constitution/Chapter\\_17\\_Amd.html](http://www.priu.gov.lk/Cons/1978Constitution/Chapter_17_Amd.html)

<sup>36</sup> Interview with top parliamentary official

<sup>37</sup> Interview with two top parliamentary officials

## **Area 8: Institutional Independence**

### **8:1 Structural and Functional Independence**

Article 70 (1) of the 1978 Constitution confers upon the Executive President the powers to convene, dissolve and prorogue Parliament. The House therefore can be convened only through Executive action. However, a newly elected Parliament can be dissolved only after the completion of one year in existence.<sup>38</sup>

This provision has been made use of by the chief executive since the introduction of the 1978 Constitution to avoid stormy political discussions and possible defeats during crucial Parliamentary votes. In Sri Lanka, there is no limitation on the number of times the House may be prorogued within a calendar year.<sup>39</sup>

It is possible for the House to reconvene itself if the circumstances so required, but this process has to be sanctioned by presidential fiat. There have been instances where Parliament has been reconvened to discuss urgent matters of public importance despite being dissolved.

In theory, the Legislature has control over its own agenda. In reality the agenda is determined by the ruling party as it enjoys a two thirds majority in the House.<sup>40</sup> This provides for the indirect exercise of Executive power through the Legislature. The Speaker, Deputy Speaker and Deputy Chairman of Committees are elected by the entire House through a secret vote. In practice, the government enjoys a monopoly in making these appointments and there is very little chance of bills being processed and becoming law against the explicit will of the Executive.

### **8:2 Level of Influence by External Actors**

Religious leaders, businessmen and pressure groups do influence the decision makers in Parliament. In the past, the mediation of religious leaders has led to amendments to bills, for example regarding the minimum age of marriage. The influence on businessmen is less visible. However, funding various political parties has always been a way of obtaining tax incentives, tenders and state property.

***Recommendation:*** Rules regarding the defection of MPs elected by proportional representation should be strengthened to reduce the likelihood of the party of the Executive President holding an absolute majority in the Parliament.

## **Area 9: Role of the Legislature**

### **9:1 Parliamentary Oversight over the Executive**

Article 42 of the Constitution stipulates that the President is responsible to Parliament for the exercise, performance and discharge of his powers, duties and functions. While the

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<sup>38</sup> [http://www.priu.gov.lk/Cons/1978Constitution/Chapter\\_11\\_Amd.html](http://www.priu.gov.lk/Cons/1978Constitution/Chapter_11_Amd.html)

<sup>39</sup> [http://www.priu.gov.lk/Cons/1978Constitution/Chapter\\_11\\_Amd.html](http://www.priu.gov.lk/Cons/1978Constitution/Chapter_11_Amd.html)

<sup>40</sup> See note 5 regarding the questionable absolute majority of the current Parliament.

President enjoys immunity from legal action there is a provision to disqualify the President from holding office.<sup>41</sup> There are also sufficient powers vested with the Parliament itself to set up committee of inquiry on its own.

However, the effectiveness of such inquiries remains a moot point given the influence of the Executive President. Furthermore, Parliament is substantially restricted by rules that require a substantive motion before questioning the President, any minister, or MP.

### 9:2 Legal Provisions on Good Governance

Under the Bribery Act (No. 2 of 1965) and related legislation, corruption and bribery widely defined are illegal in Sri Lanka.<sup>42</sup> However, the general view is that the effectiveness of the Permanent Commission Investigating into Allegations of Bribery and Corruption is burdened by lack of capacity and inadequate powers.

There have been no recorded instances in the past decade where penal sanctions have been used against legislators and Parliamentary officials under the existing anti-corruption laws.<sup>43</sup> Certain Parliamentary committees have inferred wrong action by certain MPs but there have not been any initiatives on the part of the government to probe any of the allegations.<sup>44</sup>

Yet another attempt was made in June, 2011 to introduce Freedom of Information legislation as a Private Members Bill by UNP Gampaha district MP Karu Jayasuriya.

However, in 2011 MP Jayasuriya made a similar attempt but had to withdraw the Bill following assurances from Chief Government Whip Dinesh Gunawardane that the Government will present a similar bill for Parliamentary approval, this time around there was outright rejection of the UNP initiated Bill by the Government which voted it out. The Bill was defeated with 43: Ayes 32; Noes 99; Absent 93.<sup>45</sup>

In 2011, there was a positive development where the media covering Parliament is concerned, with journalists being allowed to bring laptops into the press reporters room located on the third floor of the House. This along with a Wi-Fi facility has enabled journalists to file their reports from Parliament and e-mail them directly to their offices, instead of previous practices, when copies had to be either handwritten or faxed or hand delivered to respective offices. This has also allowed in the prompt uploading of content to online web sites.

**Recommendation:** An urgent need is there for the prompt enactment of a Right to Information Act in the country.

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<sup>41</sup> Article 32 of the 1978 Constitution

<sup>42</sup> Under the Bribery Act (No. 2 of 1965). Available at [http://www.commonlii.org/lk/legis/num\\_act/ba2o1965139/](http://www.commonlii.org/lk/legis/num_act/ba2o1965139/)

<sup>43</sup> <http://www.hirunews.lk/3450>

<sup>44</sup> <http://www.lankaenews.com/English/news.php?id=4759>

<sup>45</sup> Hansard, Volume 199 - No. 11, Pages 1529-1530, Tuesday, 21st June, 2011