

Parliamentary Accountability, Citizen Engagement and Access to Information: The Indian Experience towards Transparent Governance

Dr. Lalit Dadwal
Associate Professor
Department of Laws,
H. P. University,
Shimla(H.P.)

Abstract

There are certain core values that are applicable to Parliaments, whatever their diverse cultures and traditions. The ability to put these core values into practice is the hallmark of a democratic Parliament. A democratic Parliament is one that is representative, open and transparent, accessible, accountable and effective. How these values are put into practice will vary enormously from country to country. Every Parliament decides on how they should be applied in a specific context. They indicate whether the way a Parliament works is consistent with democratic values. Parliaments as one of the key State institutions in a democratic system of governance have a critical role to play in promoting democracy and good governance. This paper attempts to analyze the contribution Parliament can make to promote good governance and consolidate democracy in India. It focuses on the representational role of Parliament thereby examining how Parliaments respond to the growing public pressure for greater involvement, information, accountability and better service delivery to citizens. It illustrates the different options that Parliament can use to better engage with the citizens to fulfill its role of representation. The paper highlights how Parliamentary representation is evolving, how Parliaments are responding to citizen's expectations and how the representational role of Parliament can be strengthened so that citizen can actively and efficiently participate in decision making processes through Parliament.

Key Words: Representative, Open, Transparent, Accountable, Accessible and Effective Parliament

A. Introduction

The Parliament as an important arm of the State has a crucial role in promoting and protecting democracy and good governance thereby establishing not only the necessary check and balances, but also developing norms and standards for institutions of democracy and governance. The role and functions of Parliament to promote democracy and good governance assume great significance today in view of the basic principles and assumptions associated with parliamentary democracy. A Parliamentary democratic system acknowledges the fact that, Parliament derives its powers directly from the consent of the people expressed through periodic elections and that Parliament is to implement the will of the people, among other functions. The existence of a Parliament is not synonymous with democracy, but democracy cannot exist without a Parliament.¹ Democracy, in its various manifestations over the centuries, is by far the most coveted political system that serves to link government to the people. A democratically elected Parliament is the only true voice of the people and accountability to the people it serves is the basic plank of a democratic system and one of its core principles is the principle of political equality, meaning that political power should be distributed as widely and evenly as possible among the people. This principle is captured by the adage: government of the people, by the people and for the people.²

Parliaments are, first and foremost, political institutions that are created to ensure the perspectives of citizens are reflected in the work of the government. In order to meet this mandate to represent the citizens that elect its members, a Parliament must be in constant contact with those same citizens. Part of that engagement involves public consultations, public engagement and a dialogue between parliaments, MPs and citizens. But as importantly, and more so as societies demand greater access to information, Parliaments must be transparent. Citizens must have the ability to easily access information, data and records related to the work of their representatives and the Parliament. The vast majority will be quite passive in accessing such knowledge, but that should not deter a Parliament from ensuring it is accessible. For as important as the use of such information is the perception that the Parliament is open and eager to provide information.

Indian Constitution recognizes Parliamentary form of governance. Under such a system there is a curious mixture of the legislative and executive organs of the State. The Parliament provides the Council of Ministers to run the administration of the State and holds it responsible. Article 75(3) expressly states that the Council

¹ UNDP/IPU, Global Parliamentary Report, 2012.

² Lincoln's Gettysburg address delivered in 1864 at the height of the American Civil War.

of Minister remains in office, so long as it enjoys the confidence of the Lok Sabha . The Parliament can pass a vote of no confidence against the Council of Ministers which compels it to resign collectively. Thus the Parliament holds the ministers responsible individually and collectively. This critical function of the Parliament ensures a responsive and responsible government. The Parliament of India is composed of the President and the two Houses: the Lok Sabha (House of the People or the lower House) and Rajya Sabha (Council of States or the Upper House). The Lok Sabha is the body of representatives of the people. Its members are directly elected, normally once in every five years by the adult population who meet the requirements to vote. According to Indian Constitution, Lok Sabha is the House to which the Council of Ministers is responsible to and Money Bills can only be introduced and discussed in Lok Sabha. Also it is Lok Sabha which grants the money for running the administration of the country (approves the budget). Members of Rajya Sabha, on the contrary, are not elected by the people directly but indirectly by the Legislative Assemblies of the various States.

As an organ of information the Parliament has a formidable role to play. All the important administrative policies are discussed on the floors of the Parliament. So that not only the Cabinets gets the advice of the Parliament and learns about its lapses but the nation as a whole is enlightened about serious matters of public importance. This undoubtedly contributes to the growth of political conscious on the part of the people. In addition, in order to make the citizens aware of the deliberations in Parliament, the Lok Sabha Secretariat has taken several steps to record, telecast and broadcast the proceedings of its House with the help of the official Media.³The Press and Parliament work in India includes wider coverage of various parliamentary events, activities and functions of the Lok Sabha Secretariat. The work involves maintenance of liaison with the print and the electronic media and various publicity organizations in both government and the private sectors and is looked after by the Press and Public Relations Wing which is in existence since April 1956. All matters concerning the Press Gallery of Lok Sabha, including admission of newspapers, news agencies, electronic media and their representatives to the Press Gallery of Lok Sabha; granting of passes for Central Hall and Lobby facilities, Press Gallery facilities to correspondents under various categories, allotment of seats, issue of annual/sessional/temporary Press Gallery passes, providing facilities to the media persons covering proceedings of Lok Sabha and its other functions, dissemination of information to the public on the business transacted by the Lok Sabha and other allied matters are normally handled by the Public Relations wing of Lok Sabha ⁴. About 200 daily newspapers, news agencies and electronic media in various

³ P.M. Sayad, "Parliament: A Multi-Functional Institution" in *Fifty Years of Indian Parliament* by G.C. Malhotra. New Delhi, Lok Sabha Secretariat. 1992

⁴ Philip Laundry, *Parliaments in the Modern World*. Hants (England), Dartmouth 1989.

Indian languages are accredited to the Press Gallery of Lok Sabha and about 450 regular correspondents have got access to it. Of these, about 200 have access to the Central Hall where they can informally interact with the MPs/Ministers. In addition, many correspondents from different news agencies are given temporary access facilities for covering the debates.

Information is the lifeblood of Parliament. Without the required information it would be impossible for Members of Parliament to effectively make legislation, hold governments to account and represent their constituents. When they carry out their work Members of Parliament likewise create, share and distribute information. The vast quantities of information come in a variety of forms like; minutes of proceedings, committee reports, submissions, evidence, annual reports, the reports of parliamentary commissions and independent oversight agencies, tabled documents, answers to questions etc. There are many formats and platforms for accessing such parliamentary information by the constituents which could provide them with knowledge on the functions of Parliament, as well as enable them to participate in parliamentary activities. This paper has touched upon such formats and platforms in details.

B. Parliament and the Right to Information: Open Debates and Discussions

(a) General

Parliament is not only legislative organ but also in the words of **Lord Denman**⁵ - a grand inquest of nation. Parliament is an organ which receives and disseminates information. It is the liaison organ between the people and the government. It performs two functions simultaneously. On the one hand it brings people's affairs to the notice of the government, and on the other, it reacts with the government in the formulation of policies through legislation. Parliament functions through free discussions, open debates, exchange of arguments and criticism. The discussion that takes place in Parliament is a collection of mini public opinion. From the business of Parliament, people gauge the attitude and vision of the government. A well-established parliamentary system ensures that the Parliament must know all government decisions. Parliament is informed first and it informs people afterwards. It asks questions as grand inquest on the matters of urgent public importance. It holds ministers responsible and accountable for their departmental administration.

⁵ *Lord Denman in Burdet v. Abbot*, 14 last 138, Quoted in V.G. Ramachandran's, *Law of Parliamentary Privilege in India*, 1966, p.136.

Parliamentary proceedings are protected by certain privileges so that the members can exercise full freedom of speech subject to constitutional provisions.⁶

Our Parliament is grand inquisition of the nation, calculated to monitor and control policies, programmes and doings of the executive. The representatives of the people can hardly be effective if they do not readily get free information on matters affecting public interest. To be educated in the causes of the people and the injustices inflicted upon them by executive action and to mould the policies of government, is a vital function of potent parliamentary activism. Therefore, freedom of information is necessary adjunct to parliamentary privilege.⁷

Serious investigative functions of Parliament are conducted by the committees of MPs, who can have outside specialists advising them. Such committees are perceived as the working hand of Parliament. If needed, such Committees request witnesses to be present during their meetings. The concerned minister decides which officials must appear and how to answer the questions. Sometimes informational requests are refused because of excessive costs which outweigh the information. Some information is excluded from being divulged in Parliament such as advice to ministers, inter-departmental exchanges on policy issues, the internal way of arriving at a decision by any minister, cabinet committee meetings and discussions in them, advice obtained from law officers, information supplied in confidence, sensitive information of a commercial and economic nature, judicial or quasi-judicial functions etc.

In the light of these remarks about parliamentary system in general, the right to information in the context of Indian Parliament may be examined as under:

(b) Parliament as an Information Centre

Parliamentary system of government is the basic feature of Indian Constitution that is based on popular sovereignty.⁸ The essential characteristics of a Parliamentary form of government are that under such a system, the head of the State is merely a constitutional head, and secondly, the executive vested with real power is made answerable to the legislature.⁹ Under the Indian Constitution, the President of India is a

⁶ Articles 105 and 194 of the Constitution of India.

⁷ V.R. Krishna Iyer, *Freedom of Information*, 1990, p.105.

⁸ *Keshvanand Bharti v. State of Kerala*, AIR 1973 SC 1461, *Jai Singh v. Union of India*, AIR 1993 Raj. 172, *Minerva Mills Ltd., v. Union of India*, AIR 1980 SC 1461. Also see, Preamble to the Indian Constitution

⁹ N. Kumar, *Constitutional Law of India*, 2002, p.16

constitutional head of the State as Article 74 provides for a Council of Ministers to aid and advise him in discharge of his functions. Secondly, Article 75 provides that the Council of Ministers is collectively responsible to the House of People. The same pattern has been adopted in the States. Although in the composition of the Union Parliament we have followed the British pattern, but Indian Parliament is not a sovereign body like the British Parliament.¹⁰ It is because of the reason that the Indian Parliament is a creature of the Constitution and is constituted under the Constitution, in accordance with the provisions of the Constitution. It may exercise only powers conferred by the Constitution, following the procedure laid down therein.

It is an established tradition of the Parliamentary system that Parliament monitors and controls the policies, programmes and the actions of the executive. The Indian parliamentary system is no exception to this. Parliament cannot perform the assigned job unless the members of Parliament easily get information on matters affecting public interest. Parliament has to mould policies of the government through the popular information. The Members of Parliament educate the people, share their grievances and call the attention of the government to provide immediate relief through utilization of information mechanism. Therefore, right to information is a necessary adjunct to parliamentary privileges.¹¹ Being an information centre,¹² Parliament debates matters of urgent public importance through regular process. Members of Parliament ask questions and seek clarification from the ministers in the session of Parliament. Members of Parliament are informed by constituents, by civil servants, by lobbies and interest groups, by employers and trade unions, by their own political parties and so on.¹³

(c) Questions

In the context of parliamentary institutions, question means to inquire or to interrogate. Questions are normally addressed to one who is competent or expected to be able to answer. The sole purpose is to elicit information through response or reply. It is an inherent and inalienable right of a Member of Parliament to seek or elicit information from the Government on a matter of public interest in order to enable him to discharge his duties enjoined by the Constitution.¹⁴ It is a unique parliamentary device to exercise

¹⁰ *Minerva Mills Ltd. v. Union of India*, AIR 1980 SC 1789 , *Keshvanand Bharti v. State of Kerala*, AIR 1973 SC 1461.

¹¹ V.R. Krishna Iyer, *op.cit.*, p.105.

¹² P. Birkinshaw, *Freedom of Information*, 1988, p.144.

¹³ *Ibid.*

¹⁴ A.R. Mukherjea, *Parliamentary Procedure in India*, 1983, p.77.

surveillance over the administration. It is an important instrument in the hands of the Members of Parliament (representatives of the people) to ensure answerability or accountability of the administration for its acts of omission or commission to the Parliament and the people. The entire range of governmental activities comes under the Scrutiny of Parliament by this procedure. Very often, members are able to pinpoint the administrative lapses and extract certain information and assurances or even commitments from the government which may be embarrassing and inconvenient to government.¹⁵

The right to put questions to Ministers for the purpose of eliciting information regarding matters under their administrative control was explicitly conceded to the Indian members of the Imperial Legislative Council for the first time in 1892 under the Indian Councils Act of 1892. This right was subject to certain conditions of admissibility and no discussion was permitted in respect of an answer given to a question. The next stage in the development of the question procedure was reached with the framing of rules, under the Indian Councils Act, 1909 when for the first time a provision was made for the asking of supplementary questions. Another significant stage in the development of question procedure came with the coming into force of the Montague Chelmsford Reforms of 1919, when the first hour of the meeting of the Council was earmarked for asking questions and since then the practice continues.¹⁶ The skillful use of this procedure by vigilant members has led to inquiries by the Government into matters concerning the violation of statutes, malpractices and misuse of public funds.

(i) Starred, Un-starred and Short Notice Questions

Questions are classified into three categories:

- 1. Starred Questions:** to which members desire oral answers in the House and which are distinguished by an asterisk. Supplementary questions may be asked in respect of answers to these questions. Names of not more than two members can be shown against any question in the list of starred questions.¹⁷

¹⁵ S.C. Kashyap, *Parliamentary Procedure : Law, Privileges, Practice and Precedents*, Vol.I, 2000, p.593.

¹⁶ M.N. Kaul and S.L. Shakhder, *Practice and Procedure of Parliament*, Vol. I, IIIrd Ed., pp.361-363.

¹⁷ *Manual of Business and Procedure in the Legislative Assembly*, 1926, p.31. Also see, Indian Legislative Assembly Rules, 1937, Rule 36.

2. **Unstarred Questions:** to which written answers are required by the members. The text of questions and answers are deemed to be laid on the table of the House of Minister and are printed in the debates. No oral answer is to be given and no supplementary questions can be asked. Questions seeking detailed information of statistical nature or replies of which are likely to be very lengthy are admitted for written answer.¹⁸
3. **Short notice Questions:** These relate to matters of urgent public importance and can be asked for oral answer at a notice of less than 10 days. Admissibility of short notice questions is dependent on two essential conditions: its subject matter must be urgent and the Minister concerned should agree to answer it. Names of upto four members can be clubbed to a short notice question and supplementary questions can be asked.¹⁹ Short notice questions are printed in a separate list and are asked after the question hour is over.

(ii) Persons to Whom a Question May be Put

Although it is mainly the Ministers to whom questions are put, a question may also be put to another member. A question to a Minister must also relate to public affairs with which he is officially connected or to a matter of administration for which he is responsible.²⁰ Questions may be addressed to a private member, provided the subject matter of the question relates to some Bill, Resolution or other matter connected with the business of the House for which that member is responsible.²¹ A member has to give a notice of a starred, unstarred or short notice question in writing in the prescribed form, the minimum period of notice is 10 clear days and the maximum period of notice is 21 clear days for a starred or unstarred questions.²²

(iii) Admissibility of Questions

The Presiding Officer has the authority to decide whether a question is admissible or not, and may disallow a question if in his opinion it is not admissible. Whether a question is admitted or disallowed by the Presiding Officer his decision cannot be challenged.²³ There are certain rules of practice, often embodied in the rules of procedure of legislatures, by which the admissibility of a question is judged. A question must relate to a

¹⁸ Manual, *op.cit.*, p.31. Also see, *Indian Legislative Assembly Rules*, 1937.

¹⁹ *Id.*, Rule 10.

²⁰ *Id.*, S.O. 14(1).

²¹ Manual, *op.cit.*, S.O. 14(2).

²² *Id.*, Rule 40; L.S. Deb; 30-4-1957; 28-7-1966.

²³ L.A.D. 1929, Vol. IV, p.128.

matter which is primarily the concern of the Union Government or the relevant State and is also the concern of the Minister to whom the question is put. A question must be asked with the object of eliciting information;²⁴ it must not be put in such a way as to suggest the answer. If any facts are stated in the question, the member must take the responsibility for the accuracy of the facts stated.²⁵ A question therefore cannot be put for the solution of an hypothetical proposition²⁶ or the expression of opinion, or the interpretation of law.²⁷ If the information sought is available in a accessible documents or books or in ordinary works of reference, and does not come within the official knowledge or duties of the Minister, no question may be asked for such information.²⁸

In order to be admissible, questions should relate to matters which are primarily the concern of the Government of India. It should not reflect on the character and conduct of any person whose conduct can only be challenged on a substantive motion.²⁹ It should not ask for information on a matter which is under adjudication by a court of law having jurisdiction in any part of India or pending before a statutory tribunal or authority performing any judicial or quasi judicial functions.³⁰

A question must not be of excessive length. Rule 41 of the Lok Sabha Rules, lays down that a question must not ordinarily exceed one hundred and fifty words; a question must be couched in proper language; it must not contain any arguments, imputation, ironical expressions or abusive epithets, and it must not bring in the name of any person not strictly necessary to make the question intelligible; it should not be asked about trivial matters; it should not repeat in substance a question which has already been answered or to which an answer has been refused; a question cannot ask for information about matters which are in their nature secret.³¹

A member may give as many notices of questions as he likes for a particular day, but the total number of questions that can be put down in his name in the list of questions, both starred and unstarred together, on a day cannot exceed five. The total number of questions in a starred list for a day is not more than 20 while for the unstarred list, the maximum number is 230.³²

²⁴ Parliamentary Debates 1983-94, Vol. IX, C.1620.

²⁵ Parl. Deb. 1882, Vol. 270, c.1132.

²⁶ Parl. Deb. 1998, Vol. 63, C.705.

²⁷ Parl. Deb. 1901, Vol. 89, C.1056.

²⁸ H.C.D., 1914, Vol. 66, CC.162, 939.

²⁹ L.S. Debate (2), 18-7-1956.

³⁰ Lok Sabha Rule, 41.

³¹ Lok Sabha Rules, Rule 41.

³² S.C. Kashyap, *op.cit.*, p.595.

(iv) Putting and Answering Questions

Questions are called according to the order in which they have been placed on the list for the day.³³ The Speaker calls the name of the member against whom question stands in the list. The member concerned merely speaks questions number and then Minister gives his reply. Priority is not accorded to any question out of its turn on request from a member.³⁴ It is only in very exceptional cases that questions lower down in the list have been permitted to be answered out of turn in view of their importance. If on being called, a member states that he does not intend to ask his question, the question is treated as having been withdrawn.³⁵ Likewise, if a member is present and does not rise to ask his question on being called and his presence is taken cognizance of by other members, his question is treated as withdrawn and answer thereto is not printed.³⁶

When a question appears in the names of two members and one of them is absent when the question is reached for oral answer, the other member if present in the House may ask the question.³⁷ A question not reached for oral answer during the time made available for questions, may be answered after the end of the question hour with the permission of the Speaker, if the Minister represents to the Speaker that the question is one of special public interest to which he desires to give a reply.³⁸

(v) Half-An-Hour Discussions

Half-an-hour discussion is a procedural device by which a member can raise discussion in the House for Half-an-hour at the end of a sitting on a matter arising out of an answer to a question – whether starred, unstarred or short notice. When a member feels that the answer given to a question is not complete or does not give the desired information or needs further elucidation on a matter of fact, the speaker may, on a notice given by the members, allow him to raise a discussion for half-an-hour. The speaker decides in each case whether the matter needs elucidation on a matter of fact and is also of sufficient public importance. Conditions of admissibility are generally the same as are laid down for the admissibility of question.³⁹ A

³³ Lok Sabha Rules, Rule 46.

³⁴ P. Deb (I), 21-4-1951, C.3367.

³⁵ L.S. Deb; 13.3.1959, C.6072.

³⁶ L.A. Deb., 22.2.1947, p.960.

³⁷ Rule 46, L.S. Rules.

³⁸ *Ibid.*

³⁹ Rule 55 and Direction 19.

member should give notice in writing in the prescribed form normally within three days of answering of the question and at least three days in advance of the day on which the discussion is desired to be raised. A notice should be accompanied by an explanatory note stating the reasons for raising discussion.

C. Parliamentary Sessions and People's Access

Sessions of Parliament are open except as provided by the Rules.⁴⁰ Admission of strangers to the various galleries is regulated in accordance with the rules made in this behalf under directions of the Speaker, and any matter not provided for in these rules is regulated by the speaker at his discretion. With the exception of the special box for which no admission cards are issued, admission to the galleries of Parliament is by cards, which are issued by an order of the Secretary-General.

The Public Gallery is generally for the use of the public. A member can apply for issue of visitor's card for persons who are personally known to him and are his personal friends or relations or in select cases for those who have been introduced to him by persons who are personally known to the members. Cards for admission to this gallery are issued on application made up to one clear day before the date of the sitting for which cards are required. One visitor's card is ordinarily issued to a member for a particular day for fixed hour(s). In exceptional cases however two cards may be issued.⁴¹ In emergent cases, when it has not been possible for a members to apply for a visitor's card within the prescribed time limit, application for a card for the same day may be made. In such cases, subject to accommodation being available, a card is issued to a member.

The speaker may cancel any admission card to any gallery at any time and order the holder of the card to leave the gallery, without assigning any reason there for. The speaker may, whenever he thinks fit, order the withdrawal of strangers from any part of the House.⁴² Any stranger who, when so ordered to withdraw, does

⁴⁰ Rule 386, Rules of Procedure and Conduct of Business in Lok Sabha.

⁴¹ Lok Sabha Bulletin (II), 9-7-1975, para 2402.

⁴² Rule 387.

not do so or otherwise mis-conducts himself or willfully infringes the regulations made in regard to the admission of strangers,⁴³ is removed from the precincts of the House or taken into custody.⁴⁴

D. Publication of Parliamentary Proceedings

Proceedings of the Houses of Parliament, papers connected with the proceedings, all the documents connected with the work of parliamentary committees, all the papers laid on the table or presented before parliamentary committees constitute official parliamentary papers and records. Custody of all parliamentary papers, documents and records in Lok Sabha belongs to its Secretary-General.⁴⁵ The printing of Lok Sabha papers is mainly done, under the orders of the Secretary-General or officers subordinate to him, in the Parliamentary wing of the Government of India Press, New Delhi. If there is excess volume of printing work which the parliamentary wing is unable to cope with, it is diverted to other wings of the printing press. All jobs of secret nature are done in the secret section of the printing press.⁴⁶

The Secretary-General causes to be prepared a full report of the proceedings of the House at each of its sittings and, as soon as practicable, have it published in such form and manner as the speaker may, from time to time direct.⁴⁷ A verbatim record of every thing said in the House is reported by the official reporters except certain words, phrases and expressions, if any, ordered by the speaker to be expunged from the proceedings of the House. Proceedings of the House are tape-recorded for the use of Parliamentary reporters to ensure correct transcription thereof.

⁴³ The following instructions are printed on the back of the Visitor's Card :

1. Admission is subject to accommodation being available.
2. The Visitor's card is liable to be cancelled without notice and without assigning any reason therefor.
3. A visitor may be asked to withdraw at any time from the gallery without assigning any reason therefor.
4. Visitor's are required to maintain silence and avoid movement of any kind. Demonstrations, applause, shouting, distribution or throwing of leaflets or papers or any other articles are prohibited.
5. Visitors are not allowed to take sticks, umbrellas, handbags, attach case, books, pamphlets, fire arms, explosives daggers, knives, stones, cameras, mobile phones etc. inside the gallery. They must declare and deposit such articles at the token cabin.
6. Visitors carrying cash or valuables in their hand bags should invariably ask for lockers.
7. Children below ten years of age are not admitted to the gallery.
8. Any infringement will render the persons concerned liable to action being taken against them.

⁴⁴ Rule 387 A. Any misconduct or infringement of regulations is treated as a grace offence and as contempt of the House, punishable with imprisonment.

⁴⁵ S.C. Kashyap, *op.cit.*, p.2286.

⁴⁶ Rule 382.

⁴⁷ Rule 379.

The daily Lok Sabha debates – original version are published in the form of a printed report which constitutes the permanent official record of the proceedings in the House. The indices to debates are also prepared with a view to facilitating reference and access to the official records of the business of the House, and are printed session-wise.⁴⁸ The debates and ancillary publications, viz., the indices and the synopsis are subsidized publications and hence sold at concessional prices for information. Government as well as private members Bills are also printed at various stages for information viz., to be introduced, as introduced, as amended by select or joint committee, as passed by Lok Sabha etc. As soon as a Bill is introduced in the House, a copy thereof is sent for publication in the official gazette of the same date.⁴⁹

With a view to providing facilities to the public to purchase Bills, Debates, Reports of Committees and other parliamentary publications, a sales counter has been functioning in the Secretariat since May 14, 1950. All priced parliamentary publications and some important publications of the Government of India can be bought at the sales counter.

E. Parliament and the Fourth Estate

Parliament is reservoir of information that transacts the business of the people and that is why the people have a right to know what their representatives are doing in Parliament. This raises two questions for consideration. Firstly, how do people get the information as to what has been discussed in Parliament? Secondly, who should inform people about the decisions taken in their name? The answer is simple enough. The fourth estate is the surrogate of the people to inform them. It is a vital communication channel, which informs the people about the working of their representative institutions. **Kaul and Shakhder** in their classic work on Practice and Procedure of Parliament⁵⁰ have set out what virtually obtains, with minor modifications, in all democracies:

"The Press plays an important role in parliamentary democracy. The press is still the chief means giving the people some notion of what is going on, the main vehicle alike to public information, public opinion and public criticism. A free and responsible press puts forth facts as also the standards of right and wrong not

⁴⁸ Kaul and Shekhdhar, *op.cit.*, pp.866-68.

⁴⁹ *Id.*, p.867.

⁵⁰ 3rd Edition (1978-79), pp.925-926.

only in the field of politics but also as regards the many aspects of human activity. It helps the citizen to make up his mind about the rival policies and programmes which different political parties put before him."

The press is the standard vehicle for the dissemination of public opinion. It is, again, the press which as a popular medium conveys to the people the substance of parliamentary legislation and discussion. The press keeps the people informed of what is happening in Parliament. It is through the Press that Parliament enjoys so much publicity and it supervises and controls the Executive effectively. The press is often called extension of Parliament. It is the press which struggles hard to unearth the administrative lapses, scandals and shortcomings, give expression to public grievances and hardships and reports on how policies are being carried out and administration is affecting the people.

Most of the raw material for parliamentary questions, motions and debates comes from the daily press and this is an important tool on which a member often relies. In fact, it is generally the press that provides the background needed to bring the work of Parliament in tune with the demand of time. Though what appears in the press may influence the members and provide them with necessary background, the material itself does not form an authentic record of facts and exclusive reliance cannot be placed by a Member of Parliament on the matter as reported. Thus, it has been ruled by successive speakers that questions, motions and other notices which are merely based on press reports may not be admitted. The members may be required to produce some other primary evidence on which his notice is based.

It is of paramount public and national importance that the proceedings of the Parliament are communicated to the people who are interested in knowing what passes within its walls, because on what is said and done there, the welfare of community depends. Press and an Indian citizen are in the same footing so far as the Constitutional right to information is concerned.⁵¹ Though a citizen and press have similar right and footing in law, the practice is not similar so far the news gathering is concerned. In particular to the access of parliamentary information, the press has got special privilege and easier access in comparison to the general public. There is a press gallery in each House of Parliament where only media people are allowed to enter. The Parliament secretariat has made special seat arrangement for media persons.⁵² The press gets entry pass for a prescribed period whereas the ordinary citizen has to collect it every day, if he wishes to observe the proceedings of the House. The entry pass issued to the journalists entitles them to move freely in the House

⁵¹ Article 19(1)(a), Constitution of India.

⁵² Kaul and Shekhdhar, *op.cit.*, p.814.

and also to record interviews with ministers, Members of Parliament, Speaker and other officials of the House, which is not allowed to an ordinary citizen.⁵³

The Press, while exercising its right to gather information relating to parliamentary business, has to exercise an extraordinary care and caution because mis-reporting or misrepresentation may lead to the contempt of the House that may be punishable. In such mis-reporting the press may lose its entry pass.⁵⁴ The press has no constitutional or legal right to publish the proceedings of Parliament and each House possesses the sole right to publish its proceedings. The Press has privilege to publish such proceedings subject to the permission given by the House. Parliament can withhold information either by sitting in closed session⁵⁵ or by refusing to admit representation of the press generally or individually or by expunging particular portion of the debates or other proceedings.⁵⁶

In its relation with Parliament, the press enjoys certain privileges. The Constitution⁵⁷ confers absolute immunity from any legal proceeding in any court of law on all persons connected with the publication of proceedings of either House of Parliament, in newspapers or broadcasts by wireless telegraphy. Provided the publications are substantially true reports, are for the public good and are not actuated by malice. This protection has been accorded within the overall limitation that the House has the power to control and if necessary, to prohibit the publication of its debates or proceedings and to punish for the violation of its orders.

⁵³ *Id.*, p.813.

⁵⁴ L.A.D., 7-3-1935, pp.1781-82, 1813.

⁵⁵ Rule 249.

⁵⁶ Rule 380.

⁵⁷ Article 361 A was inserted by forty-fourth amendment of the Constitution in 1978 in order to remove the shortcomings of the Parliamentary Proceedings (Protection of Publication) Act, 1956.

Article 361 A :

- (1) No person shall be liable to any proceedings, civil and criminal in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament or the Legislative Assembly, or as the case may be, either house of the Legislature of a State, unless the publication is proved to have been made with malice :
Provided that nothing in this clause shall apply to the publication of any report of the proceedings of a secret sittings of either House of Parliament or the Legislative Assembly, or as the case may be either House of the Legislature of a State.
- (2) Clause (1) shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any program or service provided by means of a broadcasting station as it applies in relation to reports or matters published in a newspaper.

F. Broadcast/Telecast of the Proceedings

Admittedly today in the governance of a country, Parliament plays a significant role. Being the people's highest political forum, the role as well as the responsibility of Parliament in the final analysis are closely related to the needs of the people and therefore, in their functioning they mirror the urges and aspirations of the people, their moods and their choice or opinion. Deliberations in Parliament constitutes, the most enlightened means of public education not only on political but on all questions of public importance.⁵⁸

In assessing the opinion of the people as also informing them, the electronic media aids the Parliament, in fact lends a powerful support to the Parliament, by communicating their deliberations to the people. Informed and enlightened citizenry is a *sine qua non* for the effective and efficient working of the democratic system. With a view to taking the Parliament closer to the people, live coverage by electronic media in Parliament began with the address by the President to both Houses of Parliament on 20th December, 1989.⁵⁹ Tele filming of Question Hour and its telecast on the following day was taken up on an experimental basis in December 1991. Since the Budget session of 1992, the presentation of the Railway and General Budget was also live telecast on national channel.⁶⁰ Since 25 August 1994, the Lok Sabha proceedings are telecast live by means of a low power transmitter within a range of 15-20 kms. from the Parliament House. From December 7, 1994, live telecast of Rajya Sabha proceeding commenced and also of the Question Hour in Lok Sabha and Rajya Sabha on alternate weeks throughout India.

For election campaigns each recognized political party is provided access to the official electronic media, i.e. radio (All India Radio) and television (Doordarshan), to project its programmes, and idea, to the nation at large. With the entry of television channels into the Indian houses, the television as a communication medium is making a tremendous impact on the political process in the country, especially educating the voters and informing the public opinion.⁶¹ Thus, the media has made significant contribution in taking the Parliament to the people and echoing people's pulse in the Parliament. As a popular medium, it has been conveying to the people the substance of parliamentary legislations and discussions. It has kept the people

⁵⁸ C.K. Jain, "Parliament and the Media", *Journal of Constitutional and Parliamentary Studies*, Vol. xxxii, No. 3-4, 1998, p.20.

⁵⁹ R.C. Tripathi, "Parliament of India : An Overview", *Journal of Constitutional and Parliamentary Studies*, Vol. xxxv, No. 1-2, 2001, p.55.

⁶⁰ S.C. Kashyap, *op.cit.*, Vol. I, p.2295.

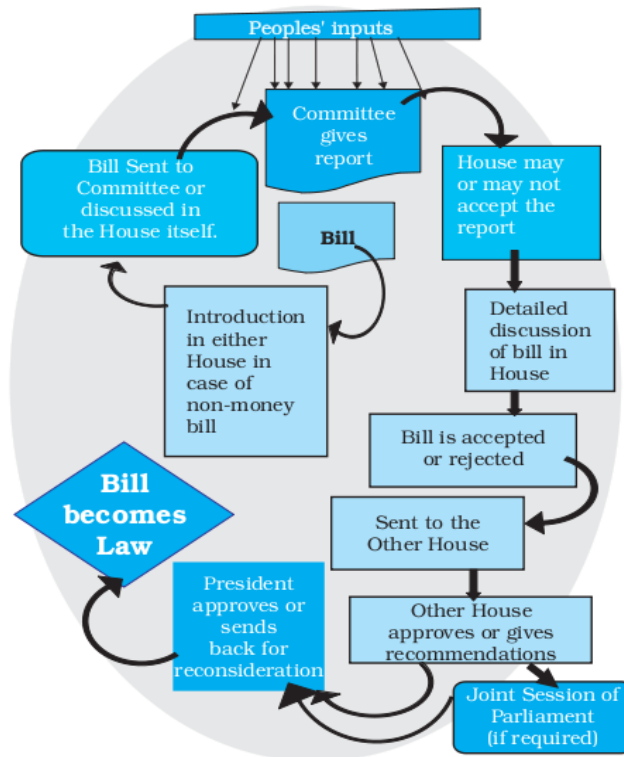
⁶¹ C.K. Jain, *op.cit.*, p.22.

informed of what is happening in the Parliament. Parliament gathers through the media, information about administrative lapses, shortcomings and to use the contemporary term "scam", which helps it to keep surveillance and ensure the responsibility of the executive to it effectively. Press also affords information on administrative excesses and wrong doings to be pursued by Parliament. In the first decade-and-a-half of independence, generally Parliament used to provide "raw material" to the press. In subsequent years, the role seems to have reversed. Of late, the media provides material which helps the Parliament in setting its agenda. Probably this is due to the added dimension in journalism called "investigative journalism".⁶² This has led to exciting disclosures not only about the shortcomings and weaknesses of administration or the public grievances, but also serious acts of omission and commission gravely affecting the image of administration, as also of those who are charged with the duty of serving the people and the country. In a way, this is of profound importance and in doing so, the media truly acts as a watch dog.

G. Pre-Legislative Scrutiny

Pre-Legislative scrutiny provides a legitimate space for the articulation of stakeholder views and perspectives and enables citizens to influence legislation at a formative stage. It can stimulate debate and create greater public awareness on Draft Bills. Such debate provides the government with the opportunity of incorporating alternative perspectives, drawing out differences in opinion and in some cases achieving a broad consensus amongst stakeholders. Thus, pre-legislative scrutiny can be an important mechanism through which law making can be opened up to the public. One such fine example is passing of RTI Act, 2005. During the drafting of the Right to Information Act, the Parliamentary Standing Committee reviewing the bill received a number of submissions from civil society groups seeking improvements in the draft RTI law. Many of these suggestions were later incorporated into the final text of the RTI Act 2005. Legislative process in India is explained through this chart:

⁶² One of the examples of investigative journalism is "Bribe for Question" Scam.



Prior to 2014 the only opportunity for people to express their opinion before passage of the law was if it is sent to a Parliamentary Committee. But Parliamentary Committees scrutinize and report of only those Bills that are submitted to them by the House. However, extremely significant and controversial legislation like the SEZ Act was not even sent to a Committee before its passage. In addition, given that the functioning of these Committees is quite opaque, and the fact that not all Bills go to Committees, this forum is necessary, but clearly not one that meets the needs or covers the advantages of pre legislative consultation. In fact pre legislative consultation is bound to make Parliamentary Committee debate far more enlightened.⁶³

The lack of transparency and public consultation in the drafting of legislation was severely criticized in India. For instance, amidst controversy the Civil Liability for Nuclear Damage Bill, a noted journalist criticized the government for trying to push through a “complex legislation with the potential to affect the lives of tens of millions of people” with “stealth, subterfuge and the barest minimum of consultation”.⁶⁴ Similarly, Bills such

⁶³ Mr Somnath Chatterjee made some unsuccessful attempts to make the proceedings of Parliamentary Committees transparent during his tenure as the Speaker of the Lok Sabha. See, Sunetra Choudhry, ‘Lok Sabha Speaker bats for Open Proceedings’ *NDTV* 5 March 2008 (available at <http://www.ndtv.com/convergence/ndtv/story.aspx?id=NEWEN20080043110>).

⁶⁴ Siddhartha Vardharajan “This is No Way to Write A Law”, *The Hindu*, 24 August 2010, available at <http://www.thehindu.com/opinion/lead/article592116.ece?homepage=true&css=print>, (accessed on 17 January 2017).

as the Prevention of Torture Bill, the Communal Violence Bill and Biotechnology Regulatory Authority Bill have been critiqued for their poor drafting, weak provisions and their failure to address the concerns of civil society groups and other stakeholders.⁶⁵

In January 2014, the Ministry of Law and Justice came out with a Pre-Legislative Consultation Policy which was to be followed by every ministry/department for every principal (Act) and subordinate legislation (rules under an Act).⁶⁶ The policy provided that the draft of the proposed law be placed in public domain, for a minimum period of 30 days, along with supporting documents explaining the rationale, the broad financial implications, the likely impact and an explanation of the legal provisions in simple language. It was also stated that a summary of the feedback received be also placed in public domain. Is this being followed? In the last couple of years, the government has used *MyGov.in*, an online portal, in some instances to undertake public consultation – like for the Draft Indian Institute of Management Bill, 2015, the Draft Trafficking Of Persons (Prevention, Protection and Rehabilitation) Bill, 2016. But, barring rare examples, in a majority of cases, consultations on Draft Bills happen beyond public gaze and in a manner which borders on opaqueness. Case in point, the drafting of the Aadhaar Bill, which as revealed by a recent Parliamentary Question, was undertaken by an organisation paid for this exercise by the government. There is no clarity on the procedure followed and on the stakeholders which were consulted by the organisation for coming up with the Bill, which has become the subject of many challenges since its passing.

Even in those cases, where public consultation was undertaken through *MyGov.in*, there are several apparent shortcomings: Government uses its discretion to decide whether it wishes to use the portal to undertake public consultation for a particular Bill; no formal mechanism exists to mandate the government to take the comments into consideration; only the Draft Bill is placed in public domain without any supporting documents explaining the rationale; there is no compulsion on the government to respond to concerns raised and several ministries continue to use their own websites to publish Draft Rules and invite comments, which dilutes the universal character of a citizen engagement portal like *MyGov.in*.

These shortcomings, however, can be addressed to some extent through the mechanism of Parliamentary Standing Committees, where government officials need to render explanations to parliamentarians, but

⁶⁵ Tarunabh Khaitan “A Bill Designed to Fail”, *The Hindu*, 19 May 2010, available at <http://www.thehindu.com/opinion/op-ed/article433182.ece>, (accessed on 17 January 2011)

⁶⁶ <http://www.legislative.gov.in/documents/pre-legislative-consultation-policy> Government of India Ministry of Law and Justice, Legislative Department, Dated 5th February, 2014

which, unfortunately, suffer from their own weaknesses. This stage arises after a Draft Bill has been approved by the Cabinet and has been introduced in either House of the Parliament. As per the procedure approved by the Ministry of Parliamentary Affairs, with some exceptions, each Bill may be referred to a department related Parliament Standing Committee. These Committees invariably invite comments from the public on such Draft Bills and present their reports which aid lawmakers while debating and reviewing the Bill. As has been pointed out, our parliamentary system, which provides that a Bill may or may not be referred to a Committee, is based on British parliamentary system in which every Bill compulsorily gets referred to a Committee. Moreover, in recent times, there has emerged a trend of evading reference to a Committee completely. Standing Committees may also aid in the policy-making process by taking up subjects for review on which a legislation may be imminent. For instance, the recent call for comments by the Standing Committee on information and technology on the subject of Citizens' Data Security and Privacy is clearly in anticipation of a possible legislation. The manner of consultation, however, has invited some criticism, for providing a very short window of just two weeks to send in comments and for treating such comments as 'confidential', a Parliamentary Convention, striking a blow to transparency around public consultation processes.⁶⁷

The Right to Information Act 2005 in addition to placing a legal obligation on the government to provide information, for the first time places an obligation on government departments to proactively publish information when formulating policies. Specifically, Section 4(1) (c) of the RTI Act requires every public authority to “publish all relevant facts while formulating important policies or announcing the decisions which affect public”.⁶⁸ In this way the Act for the first time places a legal obligation on departments to publish draft policies. This has been confirmed by the Central Information Commission which recently ruled that “Section 4(1) (c) of the RTI Act requires proactive disclosure of proposed laws/policies and amendments thereto or to existing/laws/policies to enable citizens to debate in an informed manner and provide useful feedback to the government, which may be taken into account before finalizing such laws/policies. The CIC’s decision follows from a complaint filed by Venkatesh Nayak against the non-disclosure of the draft Delhi Police (Amendment) Bill, 2010 by the Delhi Government. In another decision relating to the nondisclosure of the draft text of the Whistleblower’s Bill, the CIC has recommended that the Cabinet Secretariat amend

⁶⁷ Maansi Verma, “Parliament Logjam Part 10:Enabling Stakeholders Consultations in Policy Making can Deepen Democracy ,Improve Transparency”. <https://www.firstpost.com/india/parliament-logjam-part-10-enabling-stakeholder-consultations-in-policy-making-can-deepen-democracy-improve-transparency-4485223.html>

⁶⁸ Right to Information Act 2005, No. 22 of 2005, <http://righttoinformation.gov.in/rti-act.pdf>

its administrative rules to allow for greater public consultation on draft legislation.⁶⁹ The CIC's progressive interpretation of Section 4 sets an important precedent and if implemented sincerely by departments, may go a long way in bringing crucial aspects of government functioning under public scrutiny.

H. Transparency in Budgetary Process

A budget⁷⁰ is a key document since it provides a structure to the government's priorities in terms of policies and programs. Bringing transparency into budgets and democratizing the budget process gives citizens a say in policy formulation and resource allocation. Budget transparency refers to the extent and ease with which citizens can access information about and provide feedback on government revenues, allocations, and expenditures. Budget transparency, while not a goal in itself, is a prerequisite for public participation and accountability. A budget that is not transparent, accessible, and accurate cannot be properly analyzed. Its implementation cannot be thoroughly monitored nor its outcomes evaluated. Given the technical nature of budgets and the budget process, transparent budgets require that the information contained in budgets be presented in simplified form and actively disseminated to citizens. Furthermore, such information must be disseminated in a timely manner so that citizens can effectively provide feedback that can influence policy formulation and resource reallocation.

In India the budget goes through the following six stages in the Parliament: Presentation of budget, General discussion, Scrutiny by Departmental Committees, Voting on demands for grants, Passing of Appropriation Bill and Passing of Finance Bill under Rule 219 of the Lok Sabha⁷¹. India scored slightly better than the global average when it comes to budget transparency, according to results of the Open Budget Survey (2017) released on January 30. With a rank of 53 among 115 countries covered by the survey, India's score of 48 out of 100 for transparency (as against the global average of 43), showed an improvement of 2 percentage points over the 2015 index. Every two years, the International Budget Partnership (IBP), using over a hundred indicators, assesses budget transparency based on the amount, level of detail and timeliness of budget information made available to the public. Results of the Open Budget Survey (2017), highlight that the global average score of budget

⁶⁹ 9 V. Venkatesan, "Open to Scrutiny", The Frontline, 2010, Volume 27 - Issue 21, Oct. 09-22, available <http://www.frontline.in/fl2721/stories/20101022272108200.htm>, (accessed on 19 January 2017)

⁷⁰ Annual Financial Statement under Article 112 of the Constitution of India.

⁷¹ http://www.transparencyindia.org/pdf/1517403618_Transparency%20in%20Budgetary%20Process@.pdf (accessed on 25th November, 2017)

transparency has declined by 2 percentage points from 45 in 2015 to 43 in 2017. It reflects that 89 out of the 115 countries fail to make sufficient budget information publicly available. IBP states that this failure undermines the ability of citizens to hold their government to account for managing public funds.

To improve budget transparency, IBP suggests that India should draft and publish a pre-budget statement and mid-year review. Pre budget statements are published by nearly 50 countries. It should also increase the information in the budget proposals by providing detailed information on the financial position of the government and extra-budgetary funds. India should also provide more information, such as comparisons between planned revenue and actual outcomes and a comparison between the original macroeconomic forecast and actual outcomes.⁷² In terms of public participation, the Open Budget Survey (2017) gave India a score of 15 out of 100, denoting that few opportunities are provided to the public to engage in the budget process. Interestingly, this score is above the global average of 12. For improving public participation, IBP suggests introduction of a pilot mechanism (such as social audits) to enable the public and government officials to exchange views on national budget matters during monitoring of the national budget implementation.⁷³

Another issue in India is that, opposition parties do coordinate/cooperate with each other on the matters of utmost importance, but there is a clear need for a lot of improvement on this count. It seems that most political parties have yet to recognize the importance of such trainings and briefings for their members to improve their parliamentary performance. It is interesting to see, recently some political Party started training to the MPs on the parliamentary proceedings. This will definitely help them participate more efficiently in the legislative proceedings including Budget.⁷⁴ Despite ministers and MPs are setting trends by their active presence on social media to interact with the citizens, there are no formal platforms or modes, through which opinions on budget can be taken into account.

⁷² <https://timesofindia.indiatimes.com/business/india-business/india-scores-better-than-global-average-on-budget-transparency/articleshow/62731832.cms>

⁷³ *Ibid.*

⁷⁴ *Supra note 71*

I. Conclusion and Suggestions

Parliament can play an important leading role in promoting openness by setting an example through making its own operations as transparent as possible. This should involve a number of institutional measures, such as question period, getting material online as soon as possible and opening up Committees. But it should also involve innovative approaches to promote openness. It is essential to build awareness among Parliamentarians regarding importance of access to information and the need to open themselves. This will not only directly promote openness, but also enhance the ability of Parliamentarians to play active and effective oversight role. The Internet is very important in ensuring openness within Parliament. It is not only important that a wide range of parliamentary materials goes online, but also that they do so as quickly as possible. Material to be placed online should include virtually all documents that are not confidential and, specifically, full records of Parliamentary and Committee discussions (subject to the closure of these meetings in exceptional circumstances), a record of question period, voting records, reports, ownership declarations by Parliamentarians, work plans, working committees, timetables and so on. Media access to Parliament is also of the greatest importance. Parliamentary sessions and Committee meetings should be open to the media, including the broadcast media. In addition, active efforts should be made to promote greater and smoother interaction between the media and Parliament. Facilities should be provided in or near Parliament for the media, so that they have the support they need to report effectively. Media efforts should not be restricted to outlets based in the capital; efforts should be made to promote access for the local media as well. Foregoing study reveals that there are number of institutional mechanisms exist in India to promote openness. These include things such as parliamentary immunities, although it may be noted that these are normally restricted to statements made in Parliament, so that Parliamentarians may be somewhat more careful outside of that context. Parliamentarians are normally subject to certain reporting requirements, for example of their assets and, in general, these documents are public, although parts of them may not be. Parliamentary question periods are a very important means of promoting open governance. The reports of such proceedings should be provided online as soon as possible. Responses to written questions should be complete, relevant and accurate. The practice of asking live questions in Parliament is also an important openness mechanism. It is now widely recognized that Committees should, like Parliament itself, be open to the public and to the media. At the same time, there may sometimes be legitimate reasons for closing Committees; e.g., national security, privacy or to avoid premature disclosure of financial plans etc. The

meeting should then be closed, but only for as long as is necessary to deal with the particular business that forms the basis for the closure.

There is clearly a growing demand for greater transparency in the formulation and drafting of laws. In response, a number of Ministries are now proactively taking steps to engage with the public and seek comments and inputs on draft laws. While there is no formal requirement for pre-legislative scrutiny within the legislative process, there are ways in which the law making process can be made more participatory and open. Exploratory “green” or “discussion papers” enable government departments to frame key policy issues and concerns and put these out for public debate and comment. Proactive disclosure of draft bills on government websites for public comment is another way in which the public can be informed about the government’s proposals. When urgent legislation is necessary, any of these pre-legislative process requirements may be waived by the legislature through a resolution to that effect, before it can take up the urgent Bill for consideration. Legislation passed without pre-legislative consultation may be required to be brought before the legislature for a mandatory review after a specified time-limit.

The existing regime of asset declarations with respect to MPs required reform so that it covered all forms of assets. In this context it needs to be ensured that all forms of assets are covered and that they are extended to include information on assets of spouses and dependent persons

Parliament must adopt policies that ensure full transparency of parliamentary information. Parliamentary information includes information generated throughout the legislative process, including the text of introduced legislation and amendments, information on the scheduling and the legislative process, information on Committee and parliamentary debate, and all other information that forms a part of the parliamentary record. In addition, parliament must provide information on the management and administration of parliament, contact information and other basic information on parliamentary members and staff; information on the activities and affairs of members of Parliament, including information on political financing and asset disclosures of members of Parliament. Parliamentary websites are essential means of communication with citizens even in societies with limited Internet penetration, by facilitating access to parliamentary information by civil society, which can further disseminate information to interested citizens. Parliamentary information shall be released online in structured, open data formats that allow citizens analyze and reuse this information using the full range of technology tools. Data shall be hyperlinked and tagged with appropriate metadata to facilitate searchability. Privacy of information by citizen users of parliamentary websites shall also be respected. Parliament has a duty to continually improve its online presence by drawing

on good practices, by adopting the use of non-proprietary tools for search and analysis, and by exploring the use of interactive technology to foster the ability of citizens to participate in parliamentary processes.

Parliament should ensure that it's not only the parliamentary information that has to be made public, but at the same time it must also ensure that the information is broadly accessible to all citizens through multiple channels. Transparency of parliamentary information is not an end in itself. Parliament has a duty to actively engage citizens and civil society in parliamentary processes and decision-making, in order to effectively represent citizens and to give effect to the right of citizens to petition their government. Parliament shall recognize the right and duty of civil society, media, and the general public to monitor parliament and parliamentarians. Parliament shall encourage dialogue and consultations between parliament and civil society organizations that monitor parliament in order to improve the quality of monitoring efforts and to reduce barriers in accessing parliamentary information.

Parliament has a responsibility to make public comprehensive, detailed information about the national budget and expenditures, including past, current, and projected revenues and expenditures, and information regarding the parliament's own budget, including information about its own budget execution, bids and contracts. This information should be made public in its entirety, along with plain language summaries, explanations or reports that help promote citizen understanding of this complex information.

Parliament shall ensure that legal or technical language does not serve as a barrier to citizens seeking to access parliamentary information. Parliament has a duty to develop plain language summaries and other simple tools to make parliamentary information readily available and understandable to a broad range of citizens.

The right to access information held by public bodies is a fundamental human right, crucial in its own right and also as a cornerstone of democracy, participation and good governance. Recognition of this key right is essential to empowering all members of society, including Parliamentarians, to strengthening parliamentary democracy, to reversing practices of government by the few and to improving the relationship between Parliament and the media. The right of access should be subject to a narrow, carefully tailored regime of exceptions to protect certain overriding public and private interests. Exceptions should not be phrased in vague or subjective language but should, as far as possible, be set out in clear and objective terms. Exceptions should apply only where there is a risk of substantial harm to the protected interest, and where

that harm is greater than the overall public interest in having access to the information. The practice in Scotland in this regard is commended.

There should be a concerted effort by government and public bodies to address the problem of a culture of secrecy. Parliamentarians should play a leadership role in this area, sending a clear signal to public officials that they fully support openness and setting a positive example through their own openness. Parliamentarians should also seek to employ innovative strategies to address the culture of secrecy and to involve public officials in promoting openness. Transparent governance is now recognized as a cornerstone of democracy and as an essential obligation for Parliaments, the executive, public bodies and others carrying out official functions and roles. In the absence of transparency, fulsome participation, good governance and accountability will be hindered, while corruption and inefficiency will thrive.