

Feedback on the Inter-Parliamentary Study Programme at Canberra, Australia

14th to 24th March, 2011

Attended by Vidya Sagar

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FEEDBACK/ REPORT ON INTER-PARLIAMENTARY STUDY PROGRAMME AT CANBERRA, AUSTRALIA

1. First of all, I would like to express my sincere thanks for all those instrumental in nominating for and assisting me participate in the Inter-Parliamentary Study Programme at Canberra, Australia. Initially, when I got to know the fact that I had to attend the training programme alone, I was very apprehensive and sceptical. Not only myself but all those also who got to know that I was the solitary participant from India, expressed their concern. But this training programme ultimately turned out to be a great learning experience and confidence booster. It provided an ideal atmosphere to mix up with participants from eight different countries/Parliaments and broadly share the experience of working of Parliament in different countries.

2. In all, there were nine participants in the Inter-Parliamentary Study Programme including me. The other participants included Ms. Graciela Servidio, Director of International Inter-Parliamentary Relations from Argentina; Mr. Yi Li, Senior Staff of Foreign Affairs Committee from China; Mr. Kwesi Eshun, Director, Department of Research from Ghana; Mr. Zamani Sulaiman, Secretary of the Senate from Malaysia; Mr. Vincent Sinalumbu, Deputy Director, Division Research, Information, Publications and Editorial Services from Namibia; Ms. Kirsten Robinson, Deputy Clerk, Legislative Assembly from Western Australia; Dr. Sione Fatanitavake Vikilani, Clerk Assistant, Reporting from Tonga and Mrs. Lakaaga Uniuni, Sr. Hansard Reporter from Tuvalu.

3. Ms. Fiona Way was the Programme Coordinator and Mr. Colin Chistian, the Asstt. Programme Coordinator. They were so caring and hospitable that they never let us feel as that we were away from our home. Being a vegetarian, was going to prove very difficult for me, was my initial assessment but thanks to the concern and care shown by these two people, I did not have to face any problem in fooding. I, therefore, express my sincere thanks and gratitude to them as well.

4. Study Programme started on Monday the 14th March, 2011 with a tour Programme of the Australian Capital City of Canberra. We were taken to National Capital display at Regatta Point, Black Mountain Tower, Nation Museum, etc. At National Capital display at Regatta, we were told about the history of the making or development of Canberra City. We were informed that it all started when political debates over formation of an Australian Federation started in the early Twentieth century. Melbourne, the largest city of Australia was to be the obvious choice for the capital but some of the States – New South Wales and Queensland vouched for Sydney which was older than Melbourne and a large city too. Melbourne- Sydney rivalry was so stark that neither of the two would ever agree to the other one becoming the capital city. Ultimately a compromise was reached and it was decided that Melbourne would be the temporary capital of the Australian Federation and that a new Capital would be built somewhere between Sydney and Melbourne. After an extensive search the present site Canberra some 300 kms. away from Sydney to its South-West was selected in the foothills of the Australian Alps.

The American Architect Mr. Walter Burley Griffin designed the layout of the Capital city. Construction work commenced in 1913. Provisional Parliament opened in Canberra in 1927 in a building now known as 'Old Parliament House' in the vicinity of the present Parliament Building. Construction work was completed in 1988 and Canberra is now known as Australian Capital Territory.

5. In Australia, the National Parliament is called as the Australian Federal Parliament while State/Territory Legislature is also called as Parliaments unlike us as we have one Parliament at the National level only and State Legislatures are known as Legislative Assemblies. Similarly, the Central Govt. is known as Commonwealth Govt. and State level Govts. are, like us, called as State Govt.

6. The first session on the first day started with introduction to the Federal parliament within the Australian political system. The Federal Parliament came into being in 1901 when six British colonies decided to come together to form a federation. Those British colonies are now called six states viz. West Australia; South Australia; Queensland; New South Wales; Victoria and Tasmania. There are two Territories – the Capital territory of Canberra and North Australia. Like us, trade, commerce, taxation, external affairs, defence communications, banking, insurance, etc. fall within the purview of the Central Govt. known as Commonwealth Government and State Govts. take care of education/ law & order, public health, transport, local Govt., etc.

7. It has a parliamentary form of Govt. with constitutional monarchy based on Westminster model. The functioning of Australian Parliament is more or less similar with ours except for certain procedural variations. There are three organs of the Govt. – Executive, Legislative, Judiciary. Monarch represented through Governor-General, Prime Minister and the Cabinet from the Executive. They have a bicameral legislature – The House of Representatives and The Senate. The House of Representatives consists of 150 members elected through preferential votes by the people for a term of three years. The Senate or the Upper House is a 76 member body, 12 each represented by six States and 2 each from two territories. Senators have a term of 6 years. Half of the Senators get elected every three years. Members of the Senate are elected through proportional representation method. Although there is multi-party system in Australia, there are traditionally two Parties – Labour & Liberal Parties with the Australian Green being of recent origin formed in 1992 but it is supporting the Govt. of the day. For a Member to get elected to the House of Representatives, he/she requires 50% of the votes + 1. Voting for citizens over 18 years of age is compulsory. The Australian Electorate Commissioner conducts elections for Federal Parliament while States have their own mechanisms to conduct elections. Voter turn out in Australia is 90-95%.

8. Australian Parliament is also having a second chamber of the House of Representatives called the Main Committee. The matters which are referred to it by the House of Representatives are discussed and debated here. The Deputy Speaker presides over and the Deputy Clerk of the House assists this Committee to transact its

business. Voting does not take place here and hence no decision is taken here. The sitting is held in a Committee like room and perhaps this is why it is known as Main Committee. The quorum for the sitting is three Members – one each from the Govt, the opposition and the cross benches. Independent Members and Members from minor parties are known as cross benches. After an issue has been discussed and debated in the Main Committee, it is referred back to the House of Representatives which takes a final view on the matter. This Main Committee serves the purpose of an ideal training and experience gaining ground for the Deputy Clerk of the House to go on ultimately to become clerk of the House of Representatives.

9. Main Committee, primarily serves the purpose of a debating forum and in the process saves the precious time of the House of Representatives.

10 The Clerk of the Senate, Dr. Rosemary Laing and the Clerk of the House of Representatives Mr. Bernard Wright, both made presentations on 'Parliament overview' on the opening day and exchanged views with the participants. Dr. Rosemary Laing was very much appreciative of the efficacy of our Department-related Parliamentary Standing Committee system when she was apprised that Govt. pays due consideration to the recommendations of the Committees. She was also very pleased to know that Govt. Submits Action Reports in a time bound manner and Ministers concerned make/lay a Statement within six months of the presentation/laying of a report. She also queried if our Committees undertake visit to other places for on the spot study as Australian

Parliamentary Committees do? Both the Clerks were highly receptive and appreciative of the Indian Parliamentary system.

11. One topic of presentation on the opening day was – Minority Govt. – challenges and opportunities followed by a Round Table discussion. The Speakers included the Deputy Clerks of both the Houses of Australian Federal Parliament. They appeared overly concerned over the formation of a Govt. in 2010 which lacked an outright majority in the House of Representatives for the first time since 1940-43 with coalition having the strength of 76 as against 74 of the Opposition. They were concerned as the minority Govt. was having its consequences on the parliamentary practice and procedure, and overall functioning of the Parliament. The reason why they were more perturbed over the formation of a minority Govt. lied in the terms of agreements signed between the Leader of the Australian Labour Party – the Prime Minister and the Members of Parliament – independents and Greens who supported the Govt. from outside. The terms of agreements inter-alia included – “Improved processes and integrity of Parliament” necessitating changes in the Parliamentary Practices and Procedures. Some of the discernible changes they witnessed were:-

- (i) changes to Parliamentary agenda – more time allocated to Private members’ business and bills;
- (ii) changing role of House Committees – increased pre-legislative scrutiny of Bills as all Bills were to be referred to a select Committee which would refer the

controversial Bills to the concerned standing or joint Committees;

- (iii) broader policy interests and constituency interests influencing debate and progress of the legislation, etc;
- (iv) more negotiations are required in legislative matters which lead to delays.

12. Australian Federal Parliament has a fairly well developed Committee system. They have a large number of Committees which are broadly categorised as Standing Committees, Select Committees, Legislative and General Purposes Committees, Estimates Committees, etc. The Standing Committees include Committee on Procedure, Committee on Privileges, Committee on Appropriation and Staffing, Library Committee, House Committee, Publications Committee, Committee of Senators Interests, Committee on Regulations and Ordinances, Committee for Scrutiny of Bills, Selection of Bills Committee, etc. Legislative and General Purposes Committees consist of Committee on Community Affairs; Economics; Education; Employment and Working Place Relations; Environment; Communications and the Arts; Foreign Affairs; Defence and Trade; Legal and Constitutional Affairs, etc. These Committees are appointed at the commencement of each Parliament consisting broadly of 6 to 7 Members. Prior to the formation of a minority government in 2010, the composition of the Committee used to be such that government members used to be the Chairman of Committees but now chairman of some of the Committees are from opposition and other parties as well. There

used to be majority of government members, roughly in the ratio of 4:2 in the Committees.

13. Committees often undertake study visit to various places as our Committees also do. The period within which the Committee is to submit its report is decided by the Senate or the House of Representatives but normally it is forty one days with the provision that extension may be granted by the House, if so requested for. Generally, there is no time limit within which Action Taken Reports on the reports submitted by the Committees are to be given. But, now with the formation of the minority government, it has been included in the terms of agreement for support by the independent members that within six months from a Committee Report being presented in the House, a Government response will be tabled in the House. If no such response has been received within six months, a statement signed by the relevant minister must be tabled stating the reasons why the response could not be prepared in time. It has also been provided that the Minister concerned must also make themselves available to appear before the relevant Committee at the next reasonable available opportunity to answer questions on that statement. However, Action Taken Report on 164 Reports is still awaited. Ordinarily, the meeting of the Committee is open for the public who can witness the proceedings of the Committee. In order to formulate any opinion on any issue before the Committees views/suggestions are invited from the experts, interested persons, etc.

14. Question Hour in Australian Parliament evokes great response and excitement and enjoys a very significant place among

parliamentary devices. There are two types of Questions in Australian Parliament viz. Questions on Notice and Questions without Notice. Questions without Notice are like question for oral answer in our Parliament but no notice is required to be given by the Members in this case nor do the Ministers need to furnish written replies to those questions. The Questions without Notice are asked by the concerned Members on the Floor of the House, reply to which is given extempore by the Prime Minister or the Minister concerned. The names of the Members who have to put the Questions are decided by the Leader of the Opposition and the Party Whips. Members from the Opposition, the Ruling Party and the Cross Benches are called by rotation to ask the Questions. Questions time starts at 2 P.M. and goes up to approximately 3:30 P.M. from Monday to Thursday. A Member is given one minute to put the question and the minister who replies the question is allowed four minutes to answer that question in the Senate, whereas, in the House of Representatives, a Member is given 45 seconds to put the question and the Minister gets four minutes to reply. The Leader of the Opposition or their delegate has the option of asking one supplementary question during each question time. It has been provided in the Rules that answers must be directly related to the Questions, but this order is generally not adhered to mainly because the questions are asked without notice and it is not easy for the Minister concerned to focus on the relevant point only.

15. When we witnessed the question hour in the House of Representatives, almost all the Members including the Ruling Party were asking questions relating to a Government proposal for

imposition of carbon tax and the Prime Minister was answering those questions. The answers mostly had political overtones which led to frequent heated arguments and noisy/acrimonious scenes.

16. Questions on Notice have to be submitted by the members in writing to the Clerk of the House and if found in order they are included in the Notice Paper. However, there is no time limit within which the Minister concerned has to give reply to those questions. If the questions on notice remain unreplied for 60 days in the House of Representatives and 30 days in the case of senate, the Member concerned with the permission of chair raises this issue in the House. Till such a question is replied, the question continues to be included in the notice paper. Written reply to question on notices is furnished to the Member concerned, a copy of which is also endorsed to Clerk of the House.

17. Members of the House of Representatives or Senators are not required to mark their attendance on a register, as is the case in our Parliament. Sergeants at Arms in the House of Representatives and the Black Rod in the Senate takes note of the attendance of the Members. These two officials are allotted a seat each in the respective chambers of their Houses and they are present in the respective Houses throughout the proceedings of the House.

18. To ensure that Members stick to the time limit given to speak, digital wall clocks are installed in the chambers of both the Houses. The watch shows the total time given to the Member and thereafter it starts ticking in descending order which gives the Speaker an exact idea of how much time is left with him to speak

further. Members generally adhere to the time schedule and the presiding officers are not required to remind the Members of the time left with him or her. Operation of the watches is controlled by the Clerks of the respective Houses. This is a very good mechanism to regulate the Speakers to adhere to the time schedule.

19. One day, we had an opportunity to interact with the senior officials of the New South Wales Parliament at Sydney. One of the sessions was devoted to:- ‘over view of the accountability mechanisms in place for members of the Legislative Assembly – Members Code of Conduct, the role of the New South Wales Independent Commission Against Corruption (ICAC) and the role of the Committee on the Independent Commission against Corruption.’ We were informed that the ethics regime in the Parliament of New South Wales consists of three elements:-

- (i) Rules: - The provisions which identify acceptable and unacceptable behaviour, the Code of Conduct for Members, the Independent Commission against Corruption Act, the Guidelines on Members entitlements;
- (ii) Regulatory framework:- Disclosure obligations, ICAC investigations, enforcement of the code; and
- (iii) Advice: - Role of the Parliamentary Standing Committees, role of the Parliamentary Ethics Advisors.

20. In 1998, the New South Wales Parliament adopted code of conduct for its Members which inter-alia provides that the private interests of a politician should not conflict with the public interests; that gifts or benefits be declared and should not be accepted if they could reasonably be seen to compromise their personal judgment or integrity; that the use of public resources is appropriate and accounted for. Disclosure of assets and liabilities of the Members of Parliament are put on the website for the information of the public. This is something which is common to almost all the Parliament, but the most interesting aspect was the fact that the conduct of Members of Parliament also came within the purview of the Independent Commission Against Corruption which was established in 1989 as a component of the Government's programme to restore the integrity of the public administration and public institutions in New South Wales. Salient features of the ICAC are:-

- (i) Independence from executive government
- (ii) Focus on preventing corruption and enhancing integrity of the public sector in making recommendations for prosecution or disciplinary action but does not have the power to prosecute itself and possesses coercive powers similar to the Royal Commission. ICAC has the power to investigate any corrupt conduct or official misconduct which has been elaborated in the ICAC Act like bribery, fraud, theft, element having offenses, tax evasion, harbouring criminals, etc. In the case of Code of Conduct of a

Minister of the Crown or a Member of a House of Parliament, a substantial breach of an applicable code of conduct, could also form a ground for ICAC to investigate the matter. ICAC has the powers to require a public authority to produce a Statement of Information, obtain documents and other things from a person, whether or not they are a public authority or official, enter premises occupied or used by a public authority and inspect documents and other things. It can also override claims of privilege by public officials in obtaining documents and information. It can summon a person to give evidence, issue a warrant for arrest of a person, etc. When asked as to why Members of Parliament have been brought within the ambit of the ICAC scrutiny, it was informed that rampant corruption in New South Wales in 1980s required that an institution or a mechanism with coercive powers be setup to restore the faith or trust of the public in the political system. It was, therefore, done to avoid any suggestion that MPs are using their position for private gain.

21. Prior to 2004, the administrative structure of the Australian Federal Parliament was more or less the same as we have in our Parliament. At present there are three Departments viz. – The Department of the Senate, the Department of parliamentary Services and the Department of the House of Representatives. The Department of the Senate extends support, advice and assistance to the functioning of the Senate (The Upper House), its Committees

and Senators and similarly the Department of the House of Representatives plays the identical role for the House of Representatives (the Lower House). President of the Senate (counterpart of Hon'ble Chairman, Rajya Sabha) is the administrative Head of the Deptt. of Senate and the Speaker is the Head of the House of Representatives. There are Clerks (Counterpart of our Secretaries-General) and Deputy Clerks and other hierarchy of officers and staff to support the functioning of parliament.

22. The Department of Parliamentary Service (DPS) come into being in the year 2004 as a result of administrative reorganizing exercise undertaken in the year 2003. Under this exercise different allied Services such as Library Services, Reporting Services (Hansard) Central IT Services, Broadcasting/TV facilities, Building/estate Services and Security Services have been amalgamated into one and restructured as the Deptt. of Parliamentary Service. Both the Speaker and the President jointly share the responsibilities of administrative head of this service and there is a separate Clerk as the executive head of this Department. DPS provides support services to both the Houses of Federal Parliament.

23. As informed to us, attempts of administrative reform or restructuring started way back in 1911 and several suggestions were made to amalgamate or create the Parliamentary Deptts. Various models proposed in this direction included creation of four Deptts.; three Deptts., two Deptts. and even one single Deptt. However, the significant change of amalgamating the allied

services into one Deptt. came in 2003 when decision of creating the Deptt. of Parliamentary Services was finally put into practice in February, 2004. The rationale behind reorganization or restructuring of the Deptts. has mainly been financial although some arguments in favour of providing better and efficient services to the Senators and members of the House of Representatives were also advanced. It was initially estimated that by amalgamating allied services under the Deptt. of Parliamentary Services would lead to a net saving of around 5 to 10 million Australian Dollar per annum. However, the most recent review of amalgamation noted the savings of only 2 million dollar per annum.

24. There is a legislative framework which provides for appointment and service conditions of the Parliamentary officials called the Parliamentary Service Act, 1999. It recognizes and sets out values unique to Parliamentary Services which call for specialized services together with impartiality. This Act provides that the Clerk of the Senate or the House of Representative would be appointed by the President and the Speaker respectively who must consult with the Senators/ Members of House of Representatives. Appointment is for a 10 year term (not renewable) from amongst the persons who must have extensive knowledge of and experience in relevant parliamentary law, practice and procedure. Appointment of heads of any other Deptts. – e.g. Secretary of Deptt. of Parliamentary Services is for a five year term which is renewable for further five years. Other appointments in the Departments are made by the concerned Clerks of the House and the Presiding Officers are not involved in the process.

25. By an amendment made to the Parliamentary Service Act, 1999, a post of parliamentary Librarian has been created to provide a high quality information services to Senators/Members.

26. Australian Federal parliament is proactively engaged since 1988 in providing Parliamentary education services to school, teachers and students. The target group is taught about the main functions of Parliament which include:–

- (i) Parliament makes and amends laws
- (ii) Parliament represents the people
- (iii) Parliament is where ‘the government’ is formed
- (iv) Parliament scrutinizes the government

27. To give a practical shape to this programme, they have adopted a two pronged strategy of teaching and reaching. Teaching is done at Parliament House, Canberra where students themselves play the role of Speaker, Minister, Leader of Opposition and Members, etc. Over two thousand six hundred classes are held covering approximately 90,000 students annually. Almost 18 classes are held per day during the period of May to November every year. Since, 1988, almost 1.5 million Australian students have participated in the role play at Parliament House. Coverage of students through teaching is around 20 per cent. The rest 80 per cent coverage of students and teachers is through the ‘reach’ programme which includes website, publications, teachers and students programs. Other reaching activities include – working with schools – Principals & teachers; university out reach, etc.

28. To perform the above task Australian Federal Parliament has a dedicated Parliamentary Education Office (PEO) which is headed by a Director and there is an Education Manager below him. They are assisted by three Project Managers, two Publishing Officers and one Web Developer. Then, there are five Parliamentary Educators with a pool of six casual Parliamentary Educators. Parliamentary education office functions under the overall Supervision of Presiding Officers and Clerk.

29. It is an excellent programme which acts as a vital link between the people and the Parliament, a sine-quo-non for democracy to thrive in a country.

30. I found that Australians are tough task makers. We had to leave the Hotel sharp at 8.30 am and we were back at around 6.30 pm. They are very hard working, descent and well mannered. They have a very conducive working atmosphere with no undue emphasis on hierarchy. We found during our meeting with the President, the Speaker and the Clerks of both the Houses that they were very cooperative and in informal in approach. They freely intermingled, shared ideas and exchanged views with us. We were made to feel comfortable. It was in fact a very nice experience being in the company of the high dignitaries and we really relished and enjoyed every moment.
