

**International Conference on Effective Legislative-Executive Relations  
15-17 April 2006, Kabul, Afghanistan**

**Building Effective Legislative-Executive Relations  
for the Afghan Democracy**

**The Mashrano Jirga, National Assembly of Afghanistan  
Support to the Establishment of the Afghan Legislature (SEAL) Project,  
UNDP Afghanistan**

# **Building Effective Legislative-Executive Relations for the Afghan Democracy**

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**Conference Report**  
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## **Section 1: Conference Background**

Modern democracies are characterized by shared decision making by the legislative and executive branches. Generally a country's constitution formally structures this interaction. Practically precedent and practice then fill in the gaps to create the political system under which a government operates on a daily basis. Of course, the type of governmental system under which a country operates fundamentally influences the structure and tenor of legislative-executive relations. In accordance with the Constitution, the Islamic Republic of Afghanistan is a unitary one. The form of Government is Presidential. The Afghan legislature-the National Assembly- is a bicameral body. This newest constitutional democratic institution was inaugurated on 19 December 2005.

### **The Afghan Context**

Afghanistan had a ten-year-long parliamentary experience during the so-called constitutional period which was brought to an end by the coup of July 17, 1973. Unfortunately, all expertise in this field was largely scattered during the thirty years of crisis and armed conflict and there are no persons with parliamentary experience in the country anymore. In the absence of any representative legislative organ, the executives influenced by internal and external factors, dominated the governance of Afghanistan. This somewhat destroyed the fabric of 'checks and balances' among the three principal organs of the country.

For Afghanistan to sustain its institutional development, effective partnership with all stakeholders needs to be established and strengthened. This partnership should be promoted not only between the three organs of State but also between these institutions and non-state actors such as civil society. With the establishment of the National Assembly on 19 December 2005, the level of accountability of the executive is expected to increase significantly, together with the enhancement of the transparency of the legislative process. Public awareness of Parliament has also been raised considerably. However, lack of clarity and understanding about parliamentary process and parliament's oversight role might contribute to mutual distrust between the legislators and the executives. The proposed 'International conference on Effective Legislative-Executive Relations' will be a major step towards exploring the trends and issues of legislative-executive relations primarily in the context of Afghanistan. In this regard, it will discuss global good practices, and explore lessons learned by international community. The Conference also aims to enhance the mutual trust and confidence among the key stakeholders of the executives and the legislature.

### **Partnership for Parliamentary Development**

The overall goal of the project 'Support to the Establishment of the Afghan Legislature' (SEAL) is to contribute to the establishment of a fully operational and efficient parliament recognised by all the people of Afghanistan as their representative institution, accountable and transparent, and that will be the interface between citizens and the

Government. Based on a comprehensive needs assessment, the capacity of the new institution has already been enhanced in areas of professional development of its staff; information technologies (equipment and infrastructures), legal and institutional framework, and legislative development. The capacity building programmes dedicated to members of the Wolesi Jirga and Mashra Jirga are in steady progress.

As part of its continued effort to contribute to the establishment of a legal regime and environment for the Afghan National Assembly, the SEAL Project in close collaboration with the National Assembly facilitated the arrangement of the Conference. It is expected to contribute significantly to the nascent process of parliamentary development in Afghanistan.

### **Objectives**

1. To deepen the understanding of legislative-executive relationship;
2. To strengthen the legislative capacity in legislative-executive relations
3. To explore the issue of parliamentary oversight of the executive
4. To contribute to the growth of a functional relationship between the legislature and the executive; and
5. To learn lessons (good practices) from other parliamentary jurisdictions on legislative-executive relations

### **Participants**

The members of the Mashrano Jirga of the National Assembly, and the key management staff of the relevant government ministries including representatives of the State Ministry of Parliamentary Affairs were the core participants of the International Conference. Senior members of the National Assembly administration also joined the conference as observer. The total number of participants were 150. It is expected that the conference will be repeated again for the Members of the Wolesi Jirga in future.

### **Resource Persons**

Members of the Parliaments of Bangladesh, India (Upper House), Sri Lanka; senior executives of Canada, Germany, Sri Lanka, senior representatives of the UN/UN Democracy Fund, the Inter-Parliamentary Union (IPU), Canadian Parliamentary Center and the SEAL Project participated in the discourse.

### **Seminar Process**

The plenary presentations deliberated on designated themes. The open forums were designed to provide participants adequate opportunities to raise critical questions and promote articulate discussion. The task of the breakout group session moderators was to guide the participants towards attainment of the conference objectives through ensuring active participation. The facilitators supported the thematic discussion by presenting the local context. The resource persons shared their regional and international experience

with the members of the thematic group. Moderator and/or Rapporteur from each group briefly presented their group findings to the respective plenary session.

### **Suggested List of Publications**

#### **IPU Handbooks and Studies for Parliamentarians:**

- Parliament, the Budget and Gender
- A Guide to Parliamentary Practice
- Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices
- The Parliamentary Mandate
- Democracy: its Principles and Achievement

#### **Other resources include:**

- National Democratic Institute for International Affairs, 2000. Strengthening Legislative Capacity in Legislative-Executive Relations.
- UNDP. Governing Systems and Executive-Legislative Relations.  
<http://www.undp.org/governance/docs/Parl-Pub-govern.htm>
- Michael L. Mezey, 1998. "Legislative-Executive Relations," in George Kurian, ed., World Encyclopedia of Parliaments and Legislatures
- World Bank Institute, 2004. Legislatures and Oversight.

## **Section 2: Conference Deliberations**

### **Opening Session: Building Effective Legislative-Executive Relations for the Afghan Democracy**

**Key theme:** Importance of harmonious relationship between the legislative and executive organs of the state for the sustainability of the Afghan democratic endeavours. Transparency and accountability of government

**Mr. Sayed Hamid Gilani:** The Mashrano Jirga of the Afghan National Assembly firmly believes in closer cooperation among the principal organs of the state. I thank all participants, resource persons, organizers of the conference and wish them all productive days of conference

**Mr. Sibghatullah Mujaddidi:** The Mashrano Jirga is delighted to receive participants and resource persons of the International Conference. The theme of the conference is very important especially against the backdrop of the recent formation of both the houses. It is therefore, imperative now to build a healthy relationship between legislative and executive bodies. Articles 81, 90, 94 and other relevant articles of the Afghan Constitution clearly demonstrate that parliament is representative of the entire nation The National Assembly of Afghanistan is also the premier lawmaking body of the state. It has also clear mandate of ensuring oversight of the executives. UNDP Afghanistan and its SEAL Project deserve our deepest appreciation for their continued support to the National Assembly and also to the arrangement of the International Conference. The Mashrano Jirga has already established 16 Commissions, 7 parliamentary groups. It also approved budget for the current fiscal year.

**Mr. Kawun Kakar:** The Government of Afghanistan, particularly the State Ministry of Parliamentary Affairs wish to extend its support to the functioning of the National Assembly. After 25 years of war, which completely destroyed every thing in Afghanistan, it is hearting to note that we were able to make progress in our democratic endeavour following the Bonn agreement. This conference, I believe, will be very fruitful to build good relation among the government bodies specially between the legislative branch and the executives.

**Ms. Ameerah Haq:** Parliaments play a central role in the democratic governance process. Parliamentarians represent the people, reflecting their values, interests and concerns. These are in turn brought to a national forum – the legislature – where they can be debated, mediated and incorporated in its law and policy-making and oversight functions. Strong legislatures help to ensure democracy, the rule of law, human rights and an efficient marketplace. The legislative branch provides a counterbalance to the executive branch and gives the electorate a voice in public policy. It is the principal

forum for debate on public policy issues and a place for compromise and consensus building.

The demands on legislatures and its members have grown in volume and complexity for a number of reasons, including advances in information and technology, the globalization of economies and the interdependence of nations and nation states. As well, parliamentarians are increasingly confronted by changing expectations and demands from their multiple constituencies. These trends pose specific challenges to the capacity of members, committees, and legislatures as a whole, to perform their functions effectively. These trends also highlight the critical importance of informed and substantive knowledge support services to the work of parliamentarians.

As the proportion of democratically elected governments has risen, there has been a significant increase in the number of requests for international assistance to strengthen parliaments. UNDP, along with other multilateral organizations, bilateral donors and non-governmental organizations has responded to the increasing demand for technical assistance in this area by making legislative assistance a core component of its governance interventions. The UNDP SEAL Project is an example of such coordinated UN response to the request for assistance from the Government of Afghanistan.

**Ms. Marie Musdupuy:** France welcomes the joint initiative of the House of Elders and the SEAL project to convene this conference, important in substance and timely in moment. Afghanistan is in the process of building not only its parliamentary tradition, but also of establishing the relations between the Parliament and the Government. These relations must be carefully considered, because they will have a decisive influence on the efficiency of both the Parliament and the Government in the future.

The relationship between the legislature and the executive should benefit from a spirit of partnership which aims at the national interest, the development of the country, and the welfare of its population. It is important that both institutions balance their authority and respect each other's role. Parliament must meet some basic criteria to be effective; it must be representative of all citizens, and in the case of the Upper House of all regions, it must be proactively engaged in law-making and be fully empowered and committed to exercising its functions. The Members of Parliament must also be properly resourced to carry out their responsibilities and exercise oversight of the executive. The inauguration of the library of the National Assembly a few days ago is a good sign that efforts are undertaken in this field.

But resources alone do not guarantee oversight. The Executive must provide current and accurate information to the Parliament about its activities. As a representative of the French Government, I should like to provide you with some information on why the function of the Minister for the relations with Parliament came into being, and on the role he plays nowadays.

The Constitution of the Fifth Republic, adopted in 1958 and still in force in France, imposed incompatibility of the ministerial function with the mandate of a Member of

Parliament. The role of this ministerial department for the relations with Parliament became, therefore, much more important. No text, however, institutionalised its competencies with the exception of a decree stating simply: ‘The Minister for the relations with Parliament has the task to follow the relationship between the Government and the Parliament’. The content, or if you prefer the job description, has gradually evolved into today’s practice.

The role of the Minister for relations with the Parliament is twofold in France:

- Organising the order of business of the two Houses for the Government
- Ensuring that the parliamentary institution functions well.

In the first case, the Minister’s task is to supervise that government priorities with regard to bills are respected when the orders of business of the Houses are drawn up. In the second case, he will suggest to the Government a division of labour between the Houses and ensure that not all draft bills are sent to one single House. But in general, this Minister is the messenger of the Government towards the Parliament, he is also a privileged discussion partner for the Members, both for those who support the government and for those who qualify themselves as opposition.

These are just some elements about the relations between the legislative and executive powers in my country. They have gradually found the form they have today. I sincerely hope that this conference will bring to you, Members of the Mashrano Jirga, such information that will allow you to contribute to building sound and beneficial relations between these two essential institutions in a modern State.

**Mr. Monjurul Kabir:** With the inauguration of the Afghan National Assembly on 19 December 2005, the political process as agreed in Bonn Agreement (2001) reached its culmination. The Islamic Republic of Afghanistan has now a constitution (2004), an elected presidency (2004), a representative bicameral parliament (2005), and a powerful judiciary undergoing gradual reforms. However, the critical issue of legislative-executive relations is yet to be explored. The mechanism to ensure parliamentary oversight is also at its infancy. This international conference is expected to lay the foundation of these very essential developments to ensure the growth of democracy and democratic governance in Afghanistan. Today’s inauguration of the conference as planned is a remarkable testimony of concerted cooperation among all key stakeholders.

We wish to thank everyone who has contributed to this critical process of substantive dialogue. The combined support from both the legislative and the executive branches is example of legislative-executive coordination for a good cause.



## **Plenary Session 1: Exploring Legislative-Executive Relations**

**Key themes:** The session discussed the Afghan trends and practical issues within the broader framework Afghan legislative-executive relations. Aspects of electoral reform, particularly the SNTV system and its implication for member-constituency relationship were also debated. The session also explored fundamentals of the legislative-executive relations.

**Mr. Monjurul Kabir:** One cannot really discuss the issue of legislative-executive branch relations without understanding three fundamental factors of the Afghan government: (1) it has a separation of powers Constitution; (2) it has largely decentralized, undisciplined political parties which are not directly represented in the Parliament; and (3).

While some friction is by nature necessary between the two branches, a change in approach might well be helpful and eventually lead to a more effective relationship between the two. The executive branch feels that it is micro-managed by the legislative branch, and the congressional position is that the executive branch deals with Congress in a less than straightforward manner. Both sides could take the necessary steps to restore the balance and trust in their relationship and at the same time increase their respective responsibilities.

Separation of powers, the heart of the three branch system of government, historically has slowed down the government in order to make it better, not halt it in its tracks. The division of labor between the branches is an opportunity to share the burdens of governing. Given the problems facing Afghanistan, and given the public's yearning for stability, peace and development, the House and the President have a responsibility to work together.

The nature and the functions of the present Afghan National Assembly are considerably affected by a number of constitutional and legal factors that set the stage.

The Single Non-Transferable Vote system (SNTV) is the chosen electoral system in Afghanistan for the 2005 Wolesi Jirga and Provincial Council elections. According to SNTV, candidates stand for elections as individuals and not as part of a party list. Votes are counted for the individual candidates and not according to party affiliation. Candidates stand for election in multi-member constituencies. This means that more than one person represents each constituency.

The peculiar electoral systems may provide little incentive for legislators to reach out to civil society and constituents. Because of the SNTV system, there is no direct political demarcation among the members of the National Assembly, which also makes the House management difficult. Absence of party structures, and traditions may discourage the legislature from playing effective lawmaking or oversight roles.

As per the Rules of Procedures, formation of parliamentary groups has been completed in Mashrano Jirga. The process is still on at the Wolesi Jirga. However, it remains to be seen how the parliamentary groups function in the absence of parliamentary political framework here in Afghanistan.

For a variety of reasons, legislatures almost always inherit a position of weakness vis-à-vis the executive. Executive resources, even in very poor nations, tend to dwarf those of the legislature; legal powers often favor the executive; political party structures undermine the ability of legislatures to play their representative function; and so on. Until 19 December 2005, Afghanistan was highly dominated by its all powerful presidency. In fact, some tend to view the National Assembly, as ‘another government office’. The establishment of parliament and its subsequent gradual development is the first major step towards creating somewhat ‘balance of power’ between the two organs of the state.

When a legislature is ineffective in carrying out its functions, society suffers. As the Afghan legislative links and communication with society are still fledgling, the legislature might perform its representation function below the level of high popular expectation. Also, civil society may not be organized and equipped to interact successfully with the legislature. Inadequately prepared legislators and staff, and insufficient control over resources also combine to limit legislative lawmaking and oversight performance.

The strength of the relations between the two houses of the National Assembly is yet to be tested. More exchange of information between the two Houses is a prerequisite for a politically healthy relationship.

**Mr. Magdy Mertinez-Soliman:** Today, Afghanistan is serving as an important model and the Afghan parliament, in particular, for the important role that representative institutions play in the social reconstruction of the country. What the Afghan legislature may not be aware of is the extent to which this experience is inspirational for other post conflict countries as far away as Sierra Leone, Liberia, Haiti or Ecuador, who are now looking at how to rapidly support the parliament so that it can play its role in the aftermath of important post conflict elections.

Parliaments are the representative branch of the governing structure, but their interaction with all other state organs is fundamental to their ability to be effective in their work. And the first duty for a Parliament to legitimately exercise oversight over a Government that has been elected is, of course, to closely represent interests of the people. Parliaments who stay entrenched in the capital city, whose members mind their business but not that of the villages, whose MPs don’t interact with citizens except to request their vote, four or five years later, can be easily ridiculed and ignored by a strong and astute government. Parliaments whose MPs know what people need better than the Ministers and their provincial antennas, who send Committees out to the constituencies and who are able to present united fronts when the national interest is at stake, cannot be easily bypassed by the Executive. In this sense, we could establish an analogy: the more Parliament is

accountable to the people, the more it will be able to hold government accountable. The less a Parliament is accountable to citizens, the easier it will be for the executive to escape its oversight. Therefore, the type of constituent relationships established by Parliament will influence its relationship with Government.

At times, we refer to legislative-executive relations in terms of the separation of powers between the parliament and the executive branch and the reinforcement of that separation. This often refers to the extent to which parliament can exercise oversight such as through:

- Approval and removals of cabinet appointments and important representational positions
- Its powers to remove the Chief Executive (President or Prime Minister) through censure and no-confidence; and
- The responsibilities for initiating and amending legislation – such as the national budget for example

However, it is perhaps equally, if not more important at this juncture of political development and reconstruction in Afghanistan to look at where the legislature and the executive need to interact in the course of their work and what the mechanisms are for making that more beneficial. The legislature and the executive are not independent: they are interdependent. There will be an amount of tension needed, and also a great level of cooperation.

**Mr. Martin Chungong:** In nearly all democracies, leaders of the executive branch (i.e., presidents, prime ministers, cabinet ministers) typically command much of the political power, control the financial resources, possess staff dedicated to developing policies and implementing laws, produce the bulk of legislation, and manage government contracts and administer government programs. Despite executive dominance in many countries, the relative balance of power between the legislative and executive branches in a country can be changed. If new legislatures are going to have a central role in a nation's governance, it is up to legislators themselves to build strong legislative institutions, by asserting themselves in the regular law-making or oversight functions, or through specific structural changes via constitutional amendment, legislation or rules of procedure. We should carefully study the legislative process and the involvement of legislators on a broad front which embraces detailed questions as well as general matters within the context of a changing society or of one that resists change. Intervention by the legislature takes the form of influence and participation.

**Mr. G. L. Peiris:** A system of separation of powers, such as that which nominally exists in Afghanistan, can promote effective and responsive governance under certain conditions. Under these conditions, a legislature can exercise political control over the bureaucracy and curb any tendencies for administrators to use their discretion for wasteful, corrupt or abusive purposes. The discussants identify three broad ways in which the legislature may control the bureaucracy: oversight, statutory control, and the budget. For these to work, of course, there needs to be a certain level of cooperation between the

branches so that executive officials take the legislature's actions seriously. However, above all, public opinion is very important because it is the leverage used to press the government to bring make changes to the administration of public services.

**Issues raised at Open Forum**

- Corruption in Afghanistan and need for anti-corruption measures
- Judicial corruption and judicial accountability
- Electoral reforms

## **Plenary Session 2: Parliamentary Oversight of the Executive**

**Key themes:** The session began with an overview of methods of parliamentary supervision of the executive. Speakers argued that supervision of the executive does not mean controlling the executive. A number of mechanisms were highlighted: the legislative process itself, allowing the opposition to present policy alternatives; questions; parliamentary committees, which are able to play a watch-dog role through the representation of opposition members; private members' bills, which help to alleviate the dominance of the executive in policy-formulation; the ombudsman with the power to investigate cases of maladministration in government departments; the threat of members crossing the floor; pressure groups and the press; as well as a lively and active opposition capable of generating credible alternatives. The speaker pointed out that no one device is sufficient for the effective supervision of the executive. A culture of responsiveness and accountability could be sustained and enhanced only by ensuring that reports are fully and publicly debated, and by co-opting the media in informing the public about relevant facts and problems.

### **Country Papers**

**Afghanistan - Mr. Moosa Maroofi:** Lawmaking, Peoples' Representation and Oversight are the three specific duties that make a Parliament distinct from the Executive and Judicial branches of the government. However, since the main given topic limits the scope of the discussion to the Parliament's Oversight authority in terms of its relation with the Executive, therefore it seems necessary to primarily define the Oversight authority and then elucidate its scope and mechanism of implementation in the context of the present Constitution.

The authority to constantly keep the government's performance under Parliamentary scrutiny is known as oversight. There are three components of Oversight

- Demanding accountability.
- Checking the effective spending of authorized funds by the Executive.
- Proper administration of laws.

Articles 75, 103, 88, 93 bestow upon the National Assembly, consisting of both Houses, the constitutional authority to exercise oversight over all activities of the government. Moreover, Article 91 recognizes three additional powers for the Lower House including the approval or rejection of appointments that are enumerated in Articles 64 and 117. Thus Article 92 gives significant powers to the Lower House with regard to interpolation and vote of confidence while Article 77 makes the Ministers responsible to the President and the Lower House. Article 89 authorizes the Lower House to appoint a special commission to inquire about and study government's actions.

These articles are drafted in a way to enable the Parliament to utilize five tools that are necessary for conducting a positive, effective and enduring oversight role:

1. Approval of President Appointments
2. Questioning of Ministers
3. Votes of No Confidence

#### 4. Formation of Committees

#### 5. Special Committee of Inquiry

I got the impression during the progress of discussion in the Seminar that there was a sense of resentment as far as the Members of the Upper House (Mishrano Jirgha) were concerned. The members of the Senate were somehow under the impression that because the Senate was not given the authority in terms of giving or denying the vote of confidence to the members of the cabinet, the Oversight role of the Upper House was remarkably less significant in comparison to the role of the Lower House (Wolesi Jirgha). This concern was further highlighted by a present member of the UH who was once an MP during the period of Monarchy or Parliament under the 1964 Constitution. He reminded the audience that the powers of the two houses were fully balanced then with regard to the vote of confidence for the government.

While it is true that under the present constitution the powers of the Lower House are more than equal with the Upper House, the Upper House on the basis of 75, 103, 88 and 93 have more than adequate authority to exercise oversight in terms of the decisions, conduct and performance of the Executive branch of the Government.

The present Afghan Constitution has provided the Parliament with all the necessary powers as far as the power of oversight is concerned. Nevertheless, fully utilizing this power in a legalistic and meaningful manner depends on the political wisdom, tactfulness and steadfastness of the Members of Parliament individually and collectively.

It is still very young as far as the age of this Parliament is concern. Naturally, every day in terms of conducting Parliamentary business adds to its experience, maturity and perfection. Although time is of the essence in the national life and interests, but patience too has its own virtues. Having said that, the need for organizing more seminars such as this one that enable the MPs to get together with their colleagues as well as domestic and foreign experts to discuss various constitutional, legal and practical matters outside the official atmosphere of the Parliament.

**Bangladesh - Mr. Faruk Khan:** The Parliament of Bangladesh is a unicameral legislature composed of 300 Members of Parliament (MP) directly elected by about 70 million voters every five years. The 300 MPs elects 45 women MPs as per proportion of seats in the parliament thus there are total 345 MPs in Parliament. A total of nine parties now have their representation in the parliament, although there are about 100 political parties. BD has a parliamentary form of government. The Speaker is the guardian of the parliament who runs the parliamentary activities with the help of one Deputy Speaker, Chief Whips and Whips of the government and the Opposition. The Leader of the House who is the Prime Minister and the Leader of the Opposition helps in running the parliament.

The Parliament of Bangladesh is mandated to oversee that the executive carries out laws, executes policies and programmes, spends money according to budget authorization and

address the real concerns of the people. In Bangladesh the constitution provides for oversight through the committee system with constitutional provisions:

Article 76(1): Parliament shall appoint from among its members the following standing committees, that is to say –

- i. A Public Accounts Committee
- ii. Committee of Privileges; and
- iii. Such other committees as the Rules of Procedures of Parliament require.

Article 76(2): “In addition to the committees referred to in clause (1), Parliament shall appoint other standing committees, and a committee so appointed may, subject to this Constitution and to any other law-

- a) Examine draft Bills and other legislative proposals;
- b) Review the enforcement of laws and propose measures for such enforcement;
- c) In relation to any matter referred to it by Parliament as matter of public importance, investigate or inquire into the activities or administration of a Ministry and may require it to furnish, through an authorized representative, relevant information and to answer questions, orally or in writing;
- d) Perform any other function assigned to it by Parliament.

Rules 247 and 248 of the Rules of Procedures of the Parliament of the People’s Republic of Bangladesh outlines the procedure for the functioning of the standing committees. Parliamentary oversight also operates through various other mechanisms. Adjournment motions, call attention notice, discussion on matters of urgent public importance, every day questions-answers, budget discussion etc are some of the mechanisms by which BD Parliament carries out its tasks of oversight functions. The Awami League government (1996-2001) introduced “Question Time” in the Parliament for the Prime Minister which has added an additional and important oversight tool.

In Bangladesh Parliament there are 46 Parliamentary committees of which 38 are for oversight function, i.e. 35 standing committees on ministries plus the Public Accounts Committee (PAC), the Public Undertaking Committee (PUC) and the Estimate Committee (EC). Functioning of the standing committees, which enjoy sufficient power under the rules of procedure, however has been far from being fully effective. Parliamentary oversight through the committee system, as far as the change over from the presidential to the parliamentary form is concerned, has not yielded the desired results so far. The committee system for oversight in Bangladesh, however, has been in existence for only about fifteen years and therefore, to make it effective it needs to continue working with all necessary institutional support.

**Canada - Mr. Jean Jacques Blais:** Canada has a parliamentary system in the British tradition, with a fusion of powers whereby the members of the executive branch are by definition members of the lower house of Parliament (the House of Commons). By definition of our electoral system, members of the governing party almost always have a majority of the seats in the House of Commons. It is a challenge for the legislative branch to carry out its oversight role in the context of an executive-dominated legislature. The government, with its majority, could technically deny the opposition the right to conduct its oversight role. But, by convention, it does not do so. To protect the right of the

opposition to hold hearings on the reports of the Auditor General (OAG), all reports are permanently referred to the Public Accounts Committee (PAC) according to the standing orders of the House of Commons. Second, by convention, the chairman of the PAC is a member of the largest opposition party in the House of Commons. This is the only committee of the House which is chaired by an opposition member. But the chairman has a difficult task. Since committee membership is based on the proportion of seats each party has in the House of Commons, the chairman and the opposition parties are outnumbered by government members on the Committee. It is very noteworthy that wherever possible, the committee, despite the domination by government members, works by consensus. The role of the chair in bringing about this consensus is absolutely critical. The more adversarial the chair, the less likely the committee will work effectively. Likewise, while the PAC questions top civil servants and government officials and often asks tough questions, its guiding mission is to make recommendations on the improvement of public services, not to punish individual civil servants or to cast blame on a particular individual. In this way, the PAC is often seen not an adversary to the government, but rather a partner in the improvement of public services. MP's are important and influential players in performing Parliament's oversight role, but they use their role to get answers rather than to chastise individuals for mistakes they have made.

**India - Mr. S. Gopalan:** India follows the British style of parliamentary democracy. This impacts deeply on the legislative-executive relations in the country.

Unlike in Presidential forms of government, ministers in India's executive have necessarily to be members of the parliament (either of the Houses). There is a full fledged Cabinet Minister in charge of Parliamentary Affairs. He facilitates day to day liaison between the government and the parliament; indicates inter se priorities in the agenda of the government to be taken up in the parliament; and attempts to harmonize differences between the Treasury benches and those of the Opposition.

Ministers have to appear before the Parliament to –

- reply to oral questions on the performance of their Ministries;
- be answerable to discussions following up their replies;
- respond to Calling Attention Notices from members;
- be answerable in short duration House discussions on matters of urgent public importance;
- hold themselves accountable in House debates on substantive and non-substantive issues; and
- collectively face Adjournment Motions and No Confidence Motions.
- Individual ministers also take individual responsibility and resign in the context of major failures in their performance.

The Indian parliament has a very long tradition of functioning through Committees of the Houses. This tradition dates back to the constitutional reforms of 1919. There are, as on date, 36 committees – 19 of them are Ad Hoc (“select” or Joint Committees of both



Houses; and 17 are “departmentally related standing committees,” mandated to monitor the performance of the concerned ministries regularly).

Subject to their specific mandates, the committees have the authority to -

- examine legislative proposals;
- oversee implementation of laws;
- examine validity of delegated legislation
- “study issues” (examples are ; study of draft Five Year Plans, Study on Sports etc).
- conduct enquiries” (examples: enquiries into Bofors Arms deal; and irregularities in Securities and Banking transactions);
- scrutinize budget;
- consider Annual administration Reports of Ministries/Departments;
- consider national long term policy documents;
- examine budget estimates and public accounts;
- monitor implementation of assurances given by the ministers in the parliament;
- hear petitions from the public; and
- call for persons, papers and records.

In the matter of holding the government accountable whether it be in the plenary of the Houses by operation of various accountability devices, or through Committee processes, balance of power in the legislative-executive relations in India – as in other parliamentary forms of government – is substantially tilted in favour of the executive.

**Sri Lanka - Mr. G.L. Peiris:** Parliament is responsible for national legislation. Today, it is the most important source of law. There is hardly any government activity conducted at the national, provincial or local level without legislation. It covers areas such as welfare, commerce, communication, human rights, environment, insurance, income tax, foreign investments, health, employment, housing and a myriad of important areas in a rapidly changing world.

**Germany - Mr. Friedhelm Maier:** In Germany we have a parliamentary system in which the chancellor is elected by the parliament and he or she and most of the ministers usually are members of the Parliament. Beside the right to pass laws there are different tools the member of Bundestag can use to control and to oversee the government, and to strengthen the position of the parliament by this way.

We may them group into three categories

- Informal tools
- formal tools and
- institutions to control the executive which are created by the parliament and which are responsible to it.

As informal tools I would mention

- letters to the ministry, the minister himself, or even to the

- chancellor of the Federal Republic of Germany with
- questions
- grievances
- suggestions or
- depictions of a situation which must be changed

In each case the executive is expected to answer and to deal with the subject. The executive is forced to put their own ideas on the table or to refuse to do so. In both cases the members of parliament can react and decide whether to take the next or another tool to force the executive to give a statement.

**For example:**

- a press release
- an interview with a newspaper or TV-programme making public the grievances and the members comments on the statement of the executive.

Other informal tools are the questions during the debates in the plenary or in the committees especially when the parliament debates the budget.

A further informal way to control the executive may be putting questions in the meetings of the parliamentary groups. Of course this is only available to those members which belong to parliamentary groups which back the government. Other members who belong to the opposition prefer a public debate via the media.

The members of Parliament have some very effective but informal tools:

- Every member of the Bundestag is entitled to address to the Federal Government brief individual questions for oral or written reply. Each Member may submit two questions to the Federal Government for the Question Time in each week of sittings and, in addition, up to four questions per month for written reply. A lot of members often publish the answers in the local press.
- If the Federal Government's reply to an oral question is not satisfactory to a parliamentary group or five per cent of the members of the Bundestag may demand a "debate on matter of topical interest".

This instrument is also available for the parliamentary groups on at least five per cent, if an actual question came up to the interest, and the members want to know the position of the government.

- Together with a certain number of colleagues (at least 5 per cent of the total number of members) the member of Parliament may submit to the President:
  - o major interpellations, &
  - o minor interpellations.

The most important instrument which oversees the work of the executive is the Committee of Inquiry. This instrument is set in shrine in the Basic Law of the Federal Republic:

In accordance with Article 44 of the Basic Law the Bundestag has the right to set up committees of inquiry to investigate specific matters; it is obliged to do so upon the motion of one quarter of its Members. This very important minority right is used in particular by the opposition to ensure investigation of cases of alleged misgovernment, maladministration or misconduct on the part of individual politicians. When the Committee of inquiry has finished his work it sent a written report to the parliament which is debated.

### **Issues raised at Open Forum**

- Applicability of good practices from different countries in the context of Afghanistan
- Transparency of governance and accountability of government (Anti-corruption measures)

### **Plenary Session 3: Strengthening Legislative Capacity for Effective Legislative-Executive Relations**

**Key themes:** The session explained how practically, relations between government and parliament are played out in the context of legislation and/or oversight. The session will also explore how e-governance could facilitate the process of effective legislative-executive relations and parliamentary oversight.

**Mr. Magdy Mertinez-Soliman:** Let me add a last thought on how a Legislature can be treated differently, depending on its relationship with the political party in power. I have served a government in majority in the House, and then the next government that was the largest minority in Parliament. In the first case, the temptation was always there to ignore the Parliament: they were from the same party, no need to consult a lot. In the second case, there was a risk of obstruction and indeed a situation where the Legislature battled the government perhaps too hard.

For the UN, democracy, – grounded in the UN Charter is a fundamental aspect of human well being and sustainable human development. Peoples’ participation in decision-making (albeit decisions affecting social, political and economic matters) is a vital aspect of every traditional culture but at the national political level it needs to be constitutionally guaranteed through the election of representative bodies with robust legislative and oversight capacities. We certainly hope to be able to be an additional partner to UNDP, through the recently created UN Democracy Fund, to support initiatives in this very direction.

You have already taken sides – the good side – by convening this conference as the result of a good discussion over the past months.

**Mr. Jean Jacques Blais:** The making of law is arguably the most important activity of government. I want to briefly mention the framework for this activity and the principles that govern it. It is of the utmost importance that Canadian Departments embarking on law-making initiatives plan and manage them in accordance with this Directive and the supporting documents issued by the Clerk of the Privy Council. Its main objectives are to:

- ensure that the Cabinet has the information and other support it needs to make sound decisions about proposed laws,
- outline the relationship between Acts and regulations and ensure that they are viewed as products of a continuous process of making law,
- ensure that proposed laws are properly drafted in both official languages and that they respect both the common law and civil law legal systems,
- make it clear that law-making initiatives can be very complex and must be properly planned and managed, and
- ensure that Government officials who are involved in law-making activities understand their roles and have the knowledge and skills they need to perform their roles effectively.

This Directive sets out principles and general directions on how these objectives are to be met. Planning the Government's legislative program begins up to one year before the opening of the session of Parliament in which the various legislative items are to be introduced. Experience has shown that the planning and preparation process should be spread over the whole year, as opposed to a short period immediately before a session. This stems in part from the established procedure for the approval of individual bills. This procedure involves three separate steps:

- Cabinet approval of the policy is sought,
- Approval of the Minister of State and Leader of the Government in the House of Commons is sought for introduction of the bill.

As part of the Prime Minister's June 1997 changes to the Cabinet decision-making system, the Special Committee of Council was given new responsibilities as a ministerial forum at the Cabinet committee level for discussing the Government's overall legislative planning and for specific legislative issues requiring decisions by Cabinet.

The Minister of State and Leader of the Government in the House of Commons is responsible for the Government's legislative program in the House of Commons including examining in detail all draft bills. Accordingly, departments and agencies whose

Ministers are bringing forward legislative proposals are urged to keep in close contact with the Legislation and House Planning Secretariat of the Privy Council Office, which provides support to the Leader of the Government in the House of Commons and to the Special Committee of Council. In particular, it is important to inform them of any significant changes in the timing of Ministers' plans to bring bills forward.

The proposals are prioritized by the Leader of the Government in the House of Commons and a tentative outline of the legislative program for the next sitting, together with the assignment of priorities for the various proposals, are reviewed by the Special Committee of Council. The Leader of the Government in the House of Commons normally advises the Special Committee of Council and the full Cabinet of the updated legislative program twice a year.

**Ms. Malkanthi Wickremasingah:** The paramount law of our country, the Constitution of the Republic, provides in explicit terms that, - "Sri Lanka is a Free, Sovereign, Independent and Democratic Socialist Republic." In the Republic of Sri Lanka Sovereignty is in the People and is inalienable. Sovereignty includes the Power of the government, fundamental rights and the franchise (Article 3)

The Constitution of Afghanistan too provides for that Sovereignty shall be in the nation, that is the citizen of Afghanistan.

Article 4 of the Constitution, provides that Sovereignty of the People shall be exercised and enjoyed in the following manner.

- (a) the Legislative Power of the people shall be exercised by Parliament, consisting of elected representatives of the People and by the People at a Referendum;
- (b) the executive power of the people, including the defense of Sri Lanka, shall be exercised by the President of the Republic elected by the people.
- (c) the judicial power of the People shall be exercised by Parliament through courts, tribunals and institutions created and established, or recognized, by the Constitution or created and established by law, except in regard to matters relating to the privileges, immunities and powers of Parliament and its Members, wherein the judicial power of the people may be exercised directly by Parliament according to law.
- (d) the fundamental rights.....
- (e) the franchise .....

These two Articles relate to the Sovereignty of the people and the exercise of that Sovereignty. Sovereignty which ordinarily means power, and the people, their dignity and rights are supreme.

Powers of Government are separated in the Constitution but the uniqueness in our Constitution is that each organ of Government will exercise the power of the PEOPLE attributed to that organ.

The Powers of Government continue to be reposed in the People and they are separated and attributed to the three organs of Government; The Executive, the Legislature and the

Judiciary, are the three organs, which, being the custodians, exercise such power in trust for the People.

The powers attributed to the respective organs of government include the powers that operate as checks in relation to other organs that have been put in place to maintain and sustain the balance of power that has been struck in the Constitution.

This power should be exercised only in trust for the people and for the benefit of the People.

Legislation to be worthy of that name must have certain inalienable attributes and characteristics:

The most important is that legislation must be applicable generally as opposed to having operation exclusively in respect of an individual or a narrowly defined category of individuals. It is preposterous for Parliament to seek by use of the legislative process to oppress or harass an individual whether for political or for personal reasons. This reality has been accepted through out the democratic world. As declared by William Blackstone in his work "Commentaries of the laws of England" laws ad hoc or ad hominem namely laws which purport to deal with a particular situation or a particular person is not being law at all. Laws if they are to earn the respect of the community for which they are intended must of necessity be even handed in their formulation and application.

In terms of our Constitution there is provision for reasonable classification with regard to Legislation. This means that Tax Legislation could be passed, which would apply, to persons who come under a high income group.

Laws fall in to two categories

- Enacted Legislation and
- Subordinate Legislation or Delegated Legislation.

Legislation are Laws passed by Parliament and subordinate legislation are Regulations, Order, by laws made under Legislation. Both categories of Legislation require the approval of the Legislature.

Parliament of Sri Lanka, consists of 225 members and one house of elected representatives for a period of six years. Of the 225 members 196 are directly elected on the basis of proportional representation and the balance 29 members are elected on the basis of the votes polled by the respective parties.

### **Breakout Group Sessions & Report back to Plenary 3**

#### ***Group 1: Legislative-Executive Relations in Legislative Process***

**Summary:** In a democracy, checks and balances are required to hold the executive accountable. Several specific mechanisms are available for this purpose. Questions serve the purpose of obtaining information, and help to press for action. Written questions are extensively used many in many democracies. which makes them quite costly to process. Oral questions are asked almost daily. Questions to the prime minister or the chief executive are increasingly becoming a common feature of parliamentary oversight. However, a main problem is that proper answers are frequently avoided. When an urgent matter arises, a special question may be allowed by the speaker. This opportunity is mainly used by the opposition. Parliament's scrutiny of the executive is further facilitated through the work of the parliamentary standing committees. Adjournment debates, requested by members and replied to by a minister, are usually poorly attended. The use of statements in the house, giving members an opportunity to question a minister, is getting less common. Many statements are now made to the press rather than the house.

Letters and petitions to Petition Committee is another effective tool. Outside Parliament judicial review also helps to check decisions by ministers. More generally, the voting process itself functions as the ultimate sanction, and ministers can be held accountable through the concept of individual ministerial responsibility (i.e., British system). It was up to the opposition to wisely use these available mechanisms.

There should be code of conduct for the parliamentarians and the members of the executive.

#### ***Group 2: Scrutiny of Budget and Development Finance***

The passage of budget is the single most important activity that the Government would steer through Parliament. In all political systems it is generally accepted that the executive has a primary role in developing a budget and presenting it to the Parliament for approval.

The Parliament will have the right to review, debate and in some cases the right to amend and reject or approve the annual budget. The process vary from country to country based on the Constitution, laws, legislative rules of procedure, balance of political power, tradition, customs, balance of power among the political actors and the expectations of the people.

- The annual budget is not only a technical instrument compiling income and expenditure:
- It is the most important policy statement of the executive as to its vision for the country,

- It gives the Government perspective as to the socio-economic state of the country.
- It outlines the fiscal, financial and economic objectives and priorities,
- It reflects the level of gender sensitivity of Govt. policy

Budgetary process encompasses three main phases:

- The formulation of the budget,
- Reading and adoption,
- Execution and oversight

Formulation of the budget is typically the domain of the Executive. Very often the process is complicated and requires a vast amount of information which only the Executive has direct access. However in a democratic environment this process demands transparency, which in turn requires an input from the Parliament, civil society and the people.

The parliament influence budget making in a number of ways:

- By requiring the Government to table a medium term policy statement before the Parliament to ascertain Government priorities and vision,
- Through committees,
- Trough parliamentary mechanisms such as questions, motions, inquiries, representations to ministers etc.,
- Pre-budget consultations through the finance committee.

Once tabled in Parliament the budget becomes “parliament’s property”.Very often the jargon or the language in which the budget is couched is very unfriendly and quite intimidating to those who are unfamiliar with economic issues.

Necessary time should be made available to parliament to scrutinize the budget and should not be rushed through. Until such time the budget is passed a ‘vote on account’ can provide the Government ministries and departments the necessary funds to meet the immediate requirements.

As pointed out before the Parliament can review, debate, some cases amend, approve or reject the spending plan of the Executive.

Parliament’s capacity to deal with the budget depends on many factors, including;

- the Constitution, laws, legislative rules of procedure, tradition, customs, balance of power among the political actors and the expectations of the people,
- the capacity of the Members of Parliament to understand and analyse the budget,
- support services including the services of experts, researchers and specialized staff attached to budget committees,
- availability of information from the executive including gender disaggregated data.



The power to amend a budget should not cripple the executive specially in the context of an democratic transition. Executive and Parliament must act as partners interested in achieving a common goal.

A legislature's fiscal duties are only partially discharged when it approves the annual budget. An essential component of parliament's fiscal responsibility is careful and ongoing oversight of the executive's implementation of the budget. Many countries have evolved formalized means of conducting legislative oversight by the legislature itself or through other entities to assist or to carry out oversight on behalf of the parliament.

The principal oversight mechanism in most parliaments is the Public Accounts Committee. In some parliaments the budget committee or the finance committee may be entrusted with this function. It is the usual practice that a member of the opposition will head this committee. The committee is usually empowered to review all government spending, call government and other witnesses and request for documents. The findings of the committee are tabled and debated in the House and in some jurisdictions the relevant Ministers are called upon to respond within a given time frame.

Many countries have evolved independent auditing entities to assist parliament in this task of oversight. The office of the auditor general is an example of such entity. In the present day an audit will encompass not only a financial audit but also a performance audit (value for money audit).

Gender sensitive budgeting is a mechanism through which certain sections of the society, for example women, who are marginalized in the making of budgets are recognized and are allocated an equitable share of the benefits specially in development programmes. It is the general practice that the legislature should have control over its own budget.

### ***Group 3: Bicameralism and Coordination with Executive Agencies***

Bicameralism is the practice of having two legislative or parliamentary chambers. Thus, a bicameral parliament or bicameral legislature is a parliament or legislature which consists of two Chambers or Houses. Bicameralism is an essential and defining feature of the classical notion of mixed government. Bicameral legislatures tend to require a concurrent majority to pass legislation.

Growing awareness of the complexity of the notion of representation and the multifunctional nature of modern legislatures may be affording incipient new rationales for second chambers, though these do generally remain contested institutions in ways that first chambers are not. An example of political controversy regarding a second chamber has been the debate over the powers of the Canadian Senate.

The relationship between the two chambers varies; in some cases, they have equal power, while in others, one chamber is clearly superior in its powers. The first tends to be the case in federal systems and those with presidential governments. The latter tends to be the case in unitary states with parliamentary systems.

The Upper House generally has less political power than the Lower House, however, the

Afghan Upper House enjoys some sort of constitutional preference in terms of budget approval. While the constitutional authority of asking questions from ministers is granted to Wolesi and Mashrano Jirga, only the former has been given the authority to “approve the cabinet” and move the motion of vote of no confidence against the government. The Upper House can be more successful by taking creative initiatives, and quickly responding to pro-people demands like restoring human security, provision of education, health, electricity.

Consolidating role of the ‘Parties’ and the ‘Whips’ in the houses gives the necessary dynamism and support to the individual actions of the MPs. An individual MP has to first ensure the support of the “party” before engaging in complex situations, and deal through the superiors/ hierarchy to which s/he belongs to.

#### ***Group 4: E-governance: Interfacing Parliament with Executives***

E-Governance or electronic governance can be defined as delivery of government services and information to the public using electronic channels. Such means of delivering information is often referred to as information technology or 'IT' in short. Use of IT in government facilitates an efficient, speedy and transparent process for disseminating information to the public and other agencies, and for performing government administration activities.

E-Government refers to government’s use of ICTs to work more effectively, share information and deliver better services to the public. e-Government is more about government – the process of reform and resulting benefits - than about the technology.

The use of information and communication technologies (ICTs) has dramatically changed government services, business models, and people’s expectations of the quality and efficiency of information sharing and service delivery. The resulting benefits can include: increased efficiency in governments’ functions; greater trust between government and citizens from increased transparency; empowerment of citizens through access to information; and contributions to overall economic growth.

Many governments across the globe are embracing e-Governance and redefining the way they serve their citizens. Top class e-Governance solutions mean all transactions with the government can be done through one counter without having to wait in long queues. This is one of the many visions envisaged by the concept of electronic or e-governance. Most e-Governance solutions support and simplify governance for all parties — government, citizens and businesses. They thrive on offering outstanding solutions that support and stimulate good governance through better public service delivery to individual citizens and businesses, transparency in information, and easier citizen access to authorities.

The concept of e-Governance has already making strides all over the world. Besides speeding up the processes and reducing the workload, e-governance projects have set off other developments. Compared to the conventional system, e-Governance has helped checking corruption and generated 100-fold increase in the revenue in some of the spheres where it was implemented.

*Computer based technology can enable members of the parliament to:*

- Establish improved and fast communications amongst their colleagues, to other branches of the government and to the Public
- Excel at Public Outreach by using alternative but effective ways of communicating with their constituencies
- Access to critical information in a timely manner and efficient manner
- Reach wider audience for disseminating information and view points

*Technology can enable the Public to:*

- Have the latest data about the proceedings
- Track events and votes in a real time basis
- Identify their representatives and their stands, affiliation and voting record
- Submit petitions
- Enter opinions to contemporary dialogue
- Remove the physical distance barrier and reach their representatives directly

However, due to infrastructural constraints in Afghanistan, introduction of e-government in parliament, or e-parliament will take some time. Easier access to critical government and governance information will enable parliamentarians.

### **Reporting back to Plenary 3 (Role of Upper House in a democracy)**

**Ms. Najma Heptullah:** I'm really impressed by the depth of discussions that took place in four separate groups. I truly understand the reasons of existence of both political and socio-economic bicameralism of parliaments. The political role which the upper house has in some states, by representing a counterbalance to the lower house, halting it, putting an end to all exaggerations and mitigating unfounded decisions, cannot be ruled out in the choice of parliament structure. On the other hand, modern society is not a unified nation which differs only by political beliefs; it also represents a whole range of business groups, professions, different strata. It is the upper house deputies, elected by the often elected by the chief executive/president based on the proposals made by the academies, universities, chambers, farmers' cooperatives and other cultural and business institutions, i.e. civil society institutions, that can represent these interests in the most legitimate way.

As a body intended to provide greater representation to smaller states, the Upper House (Senate) is generally relatively unrepresentative. In proportional election system within each state ensures that Senate incorporates much more political diversity than the lower house, which is in many democracies basically a two party body. Consequently, the Senate frequently functions as a house of review, intended not to match party political strength in the lower chamber but to bring in different people, in terms of geography, age and interests, who can contribute in a less politicised manner to the process of legislative enactment.

#### **Plenary Session 4: Role of Parliamentary Commissions & Committees**

**Key themes:** The value of a strong committee (which is known as 'commission' in Afghanistan) system in enabling parliament to hold the executive accountable was agreed and much of the discussion concerning committees supported the recommendations contained in the Latimer House Guidelines (developed from a joint colloquium on "Parliamentary Supremacy and Judicial Independence....towards a Commonwealth Model" held in June 1998, by the CPA, the Commonwealth Lawyers' Association, the Commonwealth Legal Education Association, and the Commonwealth Magistrates' and Judges Association).

**Mr. Dammika Dasanayake:** Any House as a whole:

- Does not have sufficient time and flexibility to examine a matter in depth,
- Inconvenient to summon witnesses and experts before it and question them,
- Inconvenient to meet often and long hours for a particular purpose,
- Not possible to undertake field visits and site inspections.

The employees of the National Assembly should be proud to serve the respective House and be guided by values that motivate them to provide an excellent service and non-partisan expert advice.

The SEAL Project should consider some basic aspects for capacity building training:

- A proper understanding of the Rules, Practices and Procedures,
- Customs, conventions and usages in the National Assembly,
- Parliamentary ethos and culture which would include promptness in attendance, polite and courteous service, efficient and deft handling of papers, rendering assistance to Members/Ministers etc.,
- Research techniques and subject related competencies,
- Modern technologies.

Members of the National Assembly, and the committee staff should be recipient of such training. Availability of technical expertise and advisers would help build capacity for the new parliament like the Afghan National Assembly.

**Mr. G.M. Quader:** Bangladesh is a unitary country. It does not have any provincial government and federal government, instead single government runs the affairs of the entire country.

The system of government is unicameral. Bangladesh has one house of nation known as Jatiya Sangsad. The house consists of 300 members of parliament elected directly from 300 different constituencies. In addition, there is a provision for 45 reserved seats for women. The reserved seats are distributed amongst the political parties proportionate to their representation in the parliament.

System of government is parliamentary or ministerial. One of the members of parliament who commands support of majority members of parliament is appointed as Prime

Minister. MP selects other member of cabinet mostly from the MPs. All executive power is exercised by or on the authority of the MP.

It is stipulated in the constitution ‘The Cabinet shall be collectively responsible to Parliament.’ The main concept is to run the government with the elected representatives. At the same time it is important that the government so framed works for the people. That is the reason the above provision that Cabinet is to be collectively responsible to parliament has been made. It is one of the important functions of parliament to make government accountable to it and thereby ensures that people’s interest is not ignored in statecraft. Parliament committees are formed to perform as mini parliament in order to facilitate making government accountable by scrutinizing activities of its different machinery.

Government should be required to respond to committee reports - and for committees to monitor government's implementation of recommendations contained in reports. The report of the Public Accounts Committee is of critical importance.

**Mr. Martin Chungong:** *Working in committees allows Parliament to:*

- Increase the amount of work that can be done (it is more efficient for a large group to delegate its work to smaller groups than to try to do it all in a single group)
- Ensure that issues can be debated in more depth than can be done in plenary sessions (because more time is available to concentrate on details)
- Increase the participation of members of Parliament (MPs) in discussions (members of a group can participate more fully when the group is small)
- Enable MPs to develop expertise and in-depth knowledge of the committee's area of work
- Provide a forum for the public to present its views directly to MPs, something which is not possible in a plenary sitting of Parliament
- Provide a forum for Parliament to hear evidence and collect documents which are relevant to the work of the specific committee
- Committees have to report to the plenary group that has appointed them, and the plenary group must ratify certain decisions they make. For example, once a committee has considered a bill, the bill must be debated and voted on in the house. Committees are, in general, proportionally representative of the parties in Parliament.

Different kinds of committees have one or more of the following functions:

- They monitor and oversee the work of national government departments and hold them accountable
- They oversee the accounts of national government departments and state institutions
- They take care of domestic parliamentary issues
- They examine specific areas of public life or matters of public interest
- They consider bills and amend them, and may initiate bills
- They consider private members' and provincial legislative proposals and special petitions

- They consider international treaties and agreements

Committees have the power to summon any person to appear before them, give evidence or produce documents, they may require any person or institution to report to them, and they may receive petitions, representations or submissions from the public. They play a crucial role in the lawmaking process.

**Ms. Najma Heptullah:** A Parliamentary Committee is a group of Members of Parliament, appointed by the Parliament, to investigate policy issues, proposed legislation or government activities. The membership of these Committees tends to reflect the diverse political make-up of the House from which they are drawn. The work of Parliament has become more complex. Members have to consider an increasing range of issues and legislation. At the same time more people in the community want to participate in the democratic process. Committees allow Parliamentarians to examine an issue in more detail and with greater public input than if the matter was considered by either House as a whole.

Committees provide an opportunity for individuals and groups to put their views directly to Parliamentarians. Committees also provide excellent way of overcoming the problems encountered in many legislatures of securing adequate information from the executive. Without information, parliament cannot hold the executive accountable but often there are inadequate means of obtaining information. A committee system - although not perfect - could provide an effective means of securing information from the government

### **Plenary Session 5: Role of Political Parties & Parliamentary Groups in Effective Legislative-Executive Relations**

**Key themes:** Role of political party in a democracy; strength and weakness of a party system within parliamentary framework.

**Ms. Thusitha D. Pilapitiya:** A central feature of any modern democracy is the presence of political parties. A political party is a group of citizens organized to seek and exercise power within a political system. All parties participate to some extent in the exercise of political power, whether through participation in government or by performing the role of opposition. Parties are the vehicles by which citizens come together freely to campaign for public office to win a majority of seats in a legislative body, to express their own interests and needs as well as their aspirations for the society in which they live. Without parties, citizens lack alternative vehicles of organization and the potential for concentration and abuse of power is exacerbated. Parties present to the public alternatives in government, policies and people.

Political parties nominate candidates, organize political competition, unify portions of the electorate, translate policy preferences into public policies, and when out of power, they provide a constructive critical opposition. Organized political parties serve two major purposes – first, they define and express a group's needs in a way that the public and

political system can understand. Secondly, they develop enough common ideas among a significant group so that they can exercise pressure upon the political system.

Several questions come to mind in an attempt to understand the relationship between parties and Members of Parliament in general. How do political parties handle the challenge of party discipline on the one hand and parliamentary independence on the other hand? How do political parties relate to their parliamentary groups? How influential and cohesive are parliamentary groups? Whether the newly formed parliamentary groups could fulfill the aspirations of the Afghan people?

**Mr. Faruk Khan:** The Bangladesh (BD) parliamentary system is almost a shadow of the Westminster system, thus the prominence of and whipping by the political party in the parliament is very clearly observed. In Bangladesh there are about 100 Political Parties out of which about 20 puts up candidates in parliament election. Political parties exist for the last about 100 years in Bangladesh. It started with All India Congress and Muslim League during British time. During Pakistan period number of political parties came into being including my party Bangladesh Awami League (AL) which was formed on 23 June 1949 (56 years ago). On the basis of principles, beliefs and activities political parties can be termed as Rightist, Ultra Rightist, Centrist and Leftist, however the rightist & centrist parties of Bangladesh enjoys over 90% of popular support. The political parties regularly carries out activities, observes important days, organize rallies, public meetings to mobilize public opinion in favour of popular demands. Articles 37, 38 and 39 of the constitution provides for ‘freedom of assembly for public meeting and procession (37), ‘freedom to form political parties, unions, associations (38) ‘freedom of speech and thought (39). Art – 34 (expression), 35 (political parties) and 36 (demonstrations).

Almost all major political parties of Bangladesh have associate party organization from national to district to sub-district to union and village level.

The national election is conducted on the party basis. All the candidates except a few independent are nominated by various political parties who run the election using the party election symbol and sometimes using the party fund. The party organization in the respective constituencies organizes and helps the candidates in the conduct of the election. Once elected, the first to greet the elected MPs are generally the party leaders and workers of all level. In the process of this “greeting” many MPs assure and promise to the party workers and leaders that they will **work** for the party. Thus, in the early stage of the birth of an MP, party control is established. A clear example of this fact is, in the present Bangladesh parliament, out of 345 MPs there is only one independent MP. Once oath is taken as an MP, the MPs come under the umbrella of Article 70 of the constitution (Anti-Floor Crossing Provision)

In a parliamentary system, Whips of political parties play a very important role. The efficient and smooth functioning of the parliamentary system depends to a considerable extent upon the office of the ‘Whips’ who can be rightly said to be the managers of the parties within the legislatures.

**Mr. Jean Jacques Blais:** In Canada, the party caucus has also emerged as a critical element in the policy-making processes, even to the extent of forcing the withdrawal of a government bill. Instead of Parliaments being an arena of independent debate and expression, Members of Parliament have had to contend with the pervasive influence of the Executive on the one hand and their political parties on the other. For example, Members of Parliament from the ruling party and often even the opposition parties have been induced or pressured into supporting government bills and motions in anticipation of government appointments or other political favours.

**Mr. Ram Jethmalani:** The party system often shows the signs of senility, deterioration and self-destructiveness. Today; whoever has the most money wins the election. This political power play based on money is one of the reasons why we have today elected oligarchies, and elections merely exchange one oligarchy with another. Unless the political party system changes and reforms itself substantially it will drag democracy itself along to distinction. . This is not at all unusual in a sub-continent in which state power is prized trophy to which elites aspire as it is a passport to accumulation of wealth, prestige and influence. So the people must be active participants in the political process to keep it above narrow party politics.

### **Issues raised at Open Forum**

**Peaceful Change of Power:** In many new and emerging democracies, society is moving from a period of domination by one political party or group. Many of the old assumptions and practices of the former political system have to be discarded if a democratic system is to grow. For example, in countries where political power never changed hands peacefully, new political leaders and citizens alike must come to understand that political opponents are not mortal enemies, and that compromise and the sharing of power are not signs of weakness but are instead essential ingredients of the democratic process.

**Role of Media & Civil Society** – Constructive engagement with political party and parliamentary groups is essential.

### **Plenary Session 6: Role of Ministry of Parliamentary Affairs in Effective Legislative-Executive Relations**

**Key themes:** Defining the scope of the Ministry of Parliamentary Affairs; its potential role in improving legislative-executive relations.

**Mr. Kawun Kakar:** This is a very important discussion in the context of Afghanistan. The Government of Afghanistan has very recently set-up a state ministry of Parliamentary Affairs. The office is expected to act as one-stop service center for the Afghan Parliamentarians and the National Assembly as a whole. The central responsibility of the Ministry of Parliamentary Affairs is to ensure smooth, effective and meaningful interaction between the Government and the Legislature. The Ministry of



Parliamentary Affairs acts as the main coordinating agency between all Divisions of the Government and both the Houses of Parliament.

**Ms. Malkanthi Wickremasingah:** In Sri Lanka a Ministry has been established to assign the subject of Parliamentary Affairs. The Vision of the Ministry of Parliamentary Affairs is -"To provide the necessary facilities to the Members of Parliament to maintain their services to the public more productively. For the purpose of achieving this Vision, the Ministry has adopted a Mission to implement policies, Plans and Programmes in respect of services provided by the Members of Parliament to the public more productively.

Therefore the role played by the Ministry is a supportive role which facilitates the Members of Parliament to provide the service to the Public in more effective and efficient manner, as Members of Parliament are the people's representatives and their main task is to serve the people whom they represent. This Ministry has been created to provide that role. This amounts to strengthening of Parliamentary Democracy. With this objective the Ministry implements plans and programmes for members to be more productive and provide material support and assistance to the Members.

Some of the activities undertaken by the Ministry are;

1. Appointment of staff to Members of Parliament, so as to enable them to be more effective and efficient.
2. Payment of salaries to the staff.
3. Provision of equipment and vehicle.
4. Providing training to staff on public relations, communication and office administration.
5. Providing Insurance coverage to Members of Parliament
6. Payment of Pension to the Members of Parliament who are entitled to same.

**Mr. G.M. Quader:** In Bangladesh we have an identical Ministry with wider jurisdiction known as 'Ministry of Law, Justice & Parliamentary Affairs'. The Constitution of Bangladesh lays down the basic framework of the Government of Bangladesh. Part IV deals with the Executive, while Parts V and VI deal with the Legislature and the Judiciary respectively. Article 55(6) of the Constitution empowers the President to make rules for allocation and transaction of the business of the Government. The Minister is the Chief Executive of the Ministry. There is a Minister of State. The Secretary is the overall administrative head of the Ministry. The Law Ministry has two wings, namely, the Law and Justice Wing and the Legislative Drafting Wing. Each Wing is headed by an Additional Secretary.

Ministry of Law is the administrative ministry for the Sub-ordinate Judiciary, Administrative Tribunals, various other special courts and tribunals, Department of Registration, Office of the Attorney-General, the Bar Council, Law Commission, Judicial Administration Training Institute, Office of the Administrator General and Official Trustee (AGOT), Marriage Registration, Government Pleaders, Public Prosecutors,

Notary Public, etc. Apart from this, all legislative matters, be it principal or sub-ordinate legislation, are dealt with by the Ministry and Law. It also maintains close liaison with Parliament Secretariat. In inter-governmental relations the Ministry of Law, Justice and Parliamentary Affairs shall be consulted-

- on all proposals for legislation;
- on all legal questions arising out of any case;
- preparation of important contracts, international agreements, international conventions pronouncing and modifying international law;
- on the interpretation of any law;
- before the issue of or authorization of the issue of a rule, regulation or bye-law, etc. in exercise of statutory power;
- before tendering advice on a mercy petition against an order of death sentence and pardon, reprieve, respite, remission, suspension or commutation of any sentence;
- before involving the Government in a criminal or civil proceeding instituted in a Court of Law; and
- Whenever criminal or civil proceedings are instituted against the Government.

The Ministry keeps a close contact with the Ministries/Departments of the Government in respect of Bills pending in the Parliament, new Bills to be introduced and Bills to replace Ordinances. The Ministry keeps a watch over the progress of Bills from the stage of approval by the Cabinet till the Bill is passed by both Houses of the Parliament.

**Mr. Ram Jethmalani:** In a Parliamentary form of Government, the day-to-day working of the Parliamentary system makes large claims on time and resources of the various Ministries/Departments. Over a period of time, Parliamentary programme covers numerous intricate matters-financial, legislative and non-legislative-concerning various Ministries/Departments of the Government. The Ministry of Parliamentary Affairs, though small in size, is one of the key Ministries of the Union Government. The task of efficiently handling diverse and enormous parliamentary work on behalf of the Government in the Parliament has been assigned to the Ministry of Parliamentary Affairs. As such, the Ministry of Parliamentary Affairs serves as an important link between the two Houses of Parliament and the Government in respect of Government Business in Parliament. Created in May, 1949 as a Department entrusted mainly with the above function, it is now a full-fledged Ministry.

The Ministry renders secretarial assistance to the Cabinet Committee on Parliamentary Affairs, which, then recommends prorogation of both the Houses of the Parliament, Govt's stand on Private Members' Bills and Resolutions. In order to ensure smooth passage of Bills, in Parliament, officials of the Ministry have to be in constant touch with the officials of Ministries/Departments sponsoring the Bills and the Ministry of Law, Justice and Company Affairs which drafts the Bills.

The Ministry constitutes Consultative Committees of Members of Parliament and makes arrangements for holding their meetings both during the session and the inter-session periods. The guidelines regarding the composition and functioning of these Committees

are formulated by this Ministry. Notifications in respect of any Sub-Committees/Study Groups set up by the Consultative Committees are also issued by this Ministry. The Ministry pursues with the other Ministries for prompt and proper implementation of assurances given by Ministers in the Parliament.

There are also several other items of work allocated to this Ministry which involve liaison between Members of Parliament, two Secretariats of Parliament and the various Ministries. Looking after the welfare and amenities of the Members is also an important function assigned to this Ministry. The Minister of Parliamentary Affairs nominates Members on various Committees, Councils, Boards and Commissions set up by the Government.

### **Closing Sessions-Towards Strengthening Parliamentary Democracy in Afghanistan**

**Mr. A.H. Monjurul Kabir:** The Conference outlined the following issues with an agenda for action:

#### ***A. Long-term Agenda for Political Reform***

**1. Electoral Reform:** The existing SNTV system is found inadequate to ensure the representation better. A special parliamentary committee could be formed to examine the critical issues of electoral laws and system in a comprehensive manner, and gather opinions from the members of the National Assembly and other key stakeholders.

**2. Developing Political Party System:** The Conference reinforces the critical role of political party in the growth of parliamentary process and practices. It suggests hosting a meeting with all parliamentary groups of both houses to discuss the issues further for the consolidation of the political party structure within the constitutional framework of Afghanistan.

**3. Combating Corruption:** The issue of corruption including judicial corruption was extensively discussed and debated. It was agreed that the parliamentary commissions should take an active oversight role over the public expenditures. The conference also calls for the establishment of the office of Parliamentary Anti-corruption Commissioner/ombudsman.

**4. Transparency:** There should be adopted a code of conduct for parliamentarians and members of the executive. Ministers and parliamentarians should disclose their financial interests and potential conflicts of interests.

#### ***B. Cooperation and Coordination between Legislative & Executive Branches***

The relationship between parliament and the executive should not be acrimonious nor should it be limited to critical and adversarial action. Parliament must work

with the executive in a constructive way and each branch of government should respect the specific role of the other. In particular the following steps should be undertaken:

- Promoting constructive dialogue on the issues of national interest on a regular basis.
- Enhanced information sharing between government agencies and the National Assembly of Afghanistan
- Increased cooperation between the state ministry of parliamentary affairs and the National Assembly of Afghanistan. Good practices from other similar ministries should be codified and followed here.

### ***C. Capacity Building of the Members and the staffers***

**1. Training:** Induction and regular training programmes should be organised for parliamentarians and key parliamentary staff. In particular following trainings were identified as important:

- Training on Legislative & Constitutional affairs
- Training on Budget analysis, Financial Management, and Development Finance
- Training on Presentation and Communication skills
- Training on Leadership and House Management
- Training on Basic English
- Training plus attachment on Computing & E-parliament

**2. Research & Information:** MPs should have access to sufficient legal, administrative and research resources and support to ensure that they can fulfill their roles. In particular:

- Adequate resources should be provided for the parliamentary/political groups (including opposition) to carry out its scrutiny functions.
- Parliamentarians should have sufficient resources to draft private members' bills and amendments to government legislation and to engage in meaningful questioning of the executive.
- Non-partisan information should be made available including an excellent parliamentary library. There should be non-partisan research staff available with 'on-line' resources where possible.
- Parliamentarians should have Internet access either personally or at least through their parliamentary library.
- Government documents should be published on the Internet to make them readily available to parliamentarians and the public.

### ***D. Public Awareness & Outreach***

1. **Democracy awareness:** Democracy awareness programmes should be launched country-wide to build public awareness about democracy, democratic institutions, elections, and right to vote.

2. **Engaging civil society with thematic discussions at commission level:** National Assembly should forge partnership with credible civil society organizations, NGOs, think-tank on issues of their technical competence. CSOs and NGOs can also contribute to the creation of public awareness about the role of National Assembly in a democracy.

3. **Media** should play *pro active* role in disseminating constructively the parliamentary proceedings with a view to enhance public awareness of governance.

The conference point to the conclusion that the arrangements for oversight and accountability functions of the Afghan Parliaments need to be understood, and then strengthened. This will in turn enhance their legitimacy and relevance and thereby their potential for conflict transformation and peace as well. The international participants do however point out that this requires more than an institutional focus on parliament and does entail programming on sensitive areas such as political culture and political parties. Moreover work in this area is in the nature of a process and is qualitative rather than quantitative. Results will be seen over time and outcomes cannot be telescoped or rushed.

**Mr. Sayed Hamid Gilani:** On behalf of the Mashrano Jirga of the National Assembly, I wish to express our sincere gratitude to the organisers of the Conference and the international resource persons, particularly the Members of Parliament from our neighbouring countries for their valuable contributions to the Afghan democratisation process. The three-day conference was an eye opener for us. Our participation in this conference gives us the opportunity to exchange our views on important issues of cooperation among our government colleagues and to exchange mutual experiences gained in the work of our parliaments, which is of exceptional importance for further development of parliamentary democracy.

**Mr. Farooq Wardak:** The legislature is a fundamental component of democratic government. Indeed, the need for strong legislatures is reflected in the very meaning of democracy: “rule by the people.” In order for the people to rule, they require a mechanism to represent their wishes—to make (or influence) policies in their name and oversee the implementation of those policies. Legislatures serve these critical functions. A legislature is the principal forum for debate on vital issues. A legislature can serve as a demonstration of pluralism, tolerance of diversity and dissent—as well as a place for compromise and consensus building. The government is eager to cooperate with the legislature to ensure a smooth process of governance. The government believes that the separation of powers have to be adhered to and further consolidated.

**Mr. Martin Chungong:** As a globally recognised forum for parliamentary dialogue, the Inter-Parliamentary Union sees its responsibility as a promoter of peace and co-operation between the peoples of the world. In the interests of respect for the law and the democratic process, its goal is to create representative institutions in all parts of the world. This is why the IPU strives to promote contacts and an exchange of experience between the parliaments and parliamentarians of all countries, and to address issues of international interest. We are very happy to be a modest part of this very important process in Afghanistan. I must thank the SEAL Project/UNDP Afghanistan for their continued substantive work and support to the Afghan National Assembly, and their excellent organisation of this international conference. I'm also impressed with Senators' intense willingness to learn, in particular on ways of curbing corruption.

**Mr. Mustafa Ghulam:** As Afghanistan sets out on a new path of development charted by the Afghanistan National Development Strategy, agreed with the international community at the recent conference in London, the Afghan National Assembly will have a monumental responsibility to fulfill. In the endeavors to come, the Afghan legislature will not only guide the government by laying down the legislative framework for its actions, but also oversee the implementation of the programme of action, as set out by the new government. This is no easy task for an institution that has just been revived after a break of almost three decades. The SEAL project of the UNDP, mindful of the crucial role of capacity development for the new legislature, has been involved in this very effort since long before the new legislature was inaugurated.

This conference has been a major step in further empowering the Afghan legislature to accomplish the goals set by its development agenda. Discussions on issues like bicameralism and oversight of executive power alongside introduction of new concepts like e-governance must have contributed a great deal to its success. Our heartfelt thanks go to our guests, participants from Bangladesh, India, Sri Lanka, Canada, Germany, IPU/Geneva, and UNDEF/NY, who have enriched the discussions and deliberations with their experiences, I would like to express my deepest gratitude to them for sharing their knowledge and to all members of Mashrano Jirga for their active participation in the proceedings.

**Ms. Thusitha D. Pilapitiya:** The SEAL project is very pleased to assist the development of parliamentary mechanisms and practices essential for the effective democratic control of public institutions and agencies. We wish to thank everyone in the process for their enormous support for the organization of this conference. Thank you.

**Mr. Sibghatullah Mujaddidi:** I hope to express our deepest appreciation to UNDP SEAL Project for taking this extremely useful and timely initiative. Our senators are immensely benefited from the expertise that the conference made available for us. I do hope that the SEAL Project would continue to support us in future-in our hours of needs.

### **Section 3: The Conference Papers**

## Section 4: The Conference Programme

### Day 1

*Saturday, 15 April 2006*

**0845 – 0930 Registration & Collection of Documents**

**0930 – 1030** Opening Session: Building Effective Legislative-Executive Relations for the Afghan Democracy

- Recitation from the Holy Quran
- Address of Welcome: Mr. Sayed Hamid Gilani, First Deputy President of Mashrano Jirga, National Assembly of Afghanistan
- Opening Remarks:
  - HE Mr. Sibghatullah Mujaddidi, President, Mashrano Jirga, National Assembly of Afghanistan (Chair of the Session)
  - Ms Ameerah Haq, Deputy Special Representative of the UN Secretary General, UNAMA & Resident Representative, UNDP Afghanistan
  - Mr. Kawun Kakar, Presidential Adviser, Government of the Islamic Republic of Afghanistan
  - Ms. Marie Musdupuy, Representative, French Embassy, Afghanistan
- Vote of Thanks: Mr. A.H. Monjurul Kabir, Conference Coordinator

**1030-1100** Tea/Coffee Break

**1100 – 1200 Plenary Session 1: Exploring Legislative-Executive Relations** (Overview, key issues and presentation of critical challenges to be addressed at the subsequent sessions of the Conference. The session will explore legal framework in the context of the constitutional separation of powers. Good practices and lessons from other jurisdictions will be presented. Relevant issues e.g., presidential vs. parliamentary systems of government, etc will also be discussed).

**Chair:** Professor G. L. Peiris, Member of Parliament, former Minister of Justice, and Constitutional Affairs, Government of Sri Lanka

**Panellists:** Mr. A.H. Monjurul Kabir, Legislative Adviser, The SEAL Project/UNDP Afghanistan (*Afghan Trends and Critical Issues*).

Mr. Martin Chungong, Director, Division for the Promotion of Democracy, Inter-Parliamentary Union (IPU), Geneva (*IPU experiences*)

Mr. Magdy Mertinez-Soliman, Executive Head a.i., UN Democracy Fund, NY (*Global perspective*)



**1200-1300**      **Open Forum** (free-flowing discussion and ‘Q & A’ session)

**1300-1430**      **Prayer & Lunch Break**

**1430-1530**      **Plenary Session 2:** Parliamentary Oversight of the Executive (objectives [transparency, accountability], mechanisms available: questions, interpellations, commissions, committees of enquiry. Other instruments of oversight: ombudsman, auditor general and their relations with parliament)

**Chair:** Mr. Sayed Hamid Gilani, First Deputy of Mashrano Jirga, National Assembly of Afghanistan

**1430-1515:** Brief Presentation of Country Papers-I (Major trends & issues)

**Panelists:**

Afghanistan: Professor Moosa Maroofi, Kabul University

Bangladesh: Mr. Faruk Khan MP, Member of Parliament, Bangladesh

Germany: Mr. Friedhelm Maier, Director General, Head of the Directorate- General, Parliamentary Services, Administration of the German Bundestag

**1515-1540:** Tea/Coffee Break

**1540-1630:** Brief Presentation of Country Papers-II (Major trends and issues)

**Panellists:**

Sri Lanka: Professor G.L.Peiris MP, former Minister of Justice, and Constitutional Affairs, Government of Sri Lanka

Canada: Mr. Jean Jacques Blais, P.C., Q.C. former Minister, Canada & Member, Board of Directors, The Canadian Parliamentary Center

India: Mr. S. Gopalan, Senior Consultant, SEAL Project/UNDP & Former Secretary General, Lok Sabha, India

**1630-1730**      **Open Forum** (free-flowing discussion and ‘Q & A’ session)

**End of Day I**

## Day II

*Sunday, 16 April 2006*

**0900-1015 Plenary Session 3: Strengthening Legislative Capacity for Effective Legislative-Executive Relations** (The session will explain how practically, relations between government and parliament are played out in the context of legislation and/or oversight. The session will also explore how e-governance could facilitate the process of effective legislative-executive relations and parliamentary oversight)

**Chair:** Mr. Magdy Mertinez-Soliman, Executive Head a.i., UN Democracy Fund, NY

**Co-chair:** Mr. Sayed Hamid Gilani, First Deputy of Mashrano Jirga, National Assembly of Afghanistan

**Panelists:** Mr. Jean Jacques Blais, P.C., Q.C. former Minister, Canada & Member, Board of Directors, The Canadian Parliamentary Center

Ms. Malkanthi Wickremasingah, Secretary, Ministry of Constitutional Affairs, Government of Sri Lanka (*Sri Lankan experience*)

**1015-1030** Tea/Coffee Break

**1030-1200 Breakout Group Sessions** (Overview, key issues and presentation of critical questions to be addressed by the breakout groups. In particular, the groups would discuss innovative strategies within the constitutional framework of Afghanistan.)

*Time-keeper & Rapporteur for each group will be selected from respective group members*

### **Group 1: Legislative-Executive Relations in Legislative Process**

Moderator: Mr. Sayed Hamid Gilani, First Deputy of Mashrano Jirga, National Assembly of Afghanistan

Facilitator: Mr. A.H. Monjurul Kabir, Technical Adviser, Legislative Affairs, SEAL Project/UNDP

Resource Person: Mr. Ram Jethmalani, Member, Upper House, Parliament of India (Former Minister, Government of India).

Mr. Friedhelm Maier, Director General, Head of the Directorate-General, Parliamentary Services, Administration of the German Bundestag

### **Group 2: Scrutiny of Budget and Development Finance**

Moderator: Dr. Burhanullah Shinawari, Second Deputy of Mashrano Jirga, National Assembly of Afghanistan

Facilitator: Mr. S. Gopalan, Senior Consultant, SEAL Project/UNDP

Resource Person: Mr. Dammika Dasanayake, Deputy Secretary General, The Parliament of Sri Lanka

**Group 3: Bi-cameralism and Coordination with Executive Agencies**

Moderator: Mr. Aminuddin Mozaffare, Secretary, Mashrano Jirga, National Assembly of Afghanistan

Facilitator: Mr. Abdel-Ellah Sediqi, Deputy Project Manager, SEAL Project/UNDP Afghanistan.

Resource Person: Mr. Martin Chungong, Director, Division for the Promotion of Democracy, Inter-Parliamentary Union (IPU), Geneva

Mr. Jean Jacques Blais, P.C., Q.C. former Minister, Canada & Member, Board of Directors, The Canadian Parliamentary Center (Commonwealth context and its relevance to Afghanistan).

**Group 4: E-governance: Interfacing Parliament with Executives**

Moderator: HE Mr. Abdul Khaliq Hussaini, Deputy Secretary of Mashrano Jirga, National Assembly of Afghanistan

Facilitator: Mr. Krassimir Benevski, Technical Adviser-ICT, SEAL Project

Resource Person: Mr. Raul Zambrano, Policy Adviser, E-Governance, Bureau for Development Policy, UNDP HQ/NY; &

Mr. Javid Hamdard, Country Coordinator, Global Internet Policy Initiative (GIPI)-Afghanistan

**1200-1315 Reporting back to Plenary 3 - Strengthening Legislative Capacity for Effective Legislative-Executive Relations**

**Chair:** Mr. Magdy Mertinez-Soliman, Executive Head a.i., UN Democracy Fund, NY

**Panelist:** Ms. Najma Heptullah, Member of Parliament, Upper House, The Parliament of India (*Brief remarks on Role of Upper House in a democracy*)

**Moderator and/or Rapporteur from each group would briefly present their findings to the plenary session.**

**1315-1430 Prayer & Lunch Break**

**1430-1600 Plenary Session 4: Role of Parliamentary Commissions & Committees**

**Chair:** Ms. Najma Heptullah, Member of Parliament, Upper House, The Parliament of India

**Panelists:** Mr. Dammika Dasanayake, Deputy Secretary General, The Parliament of Sri Lanka (*parliamentary executive perspective- the critical role of parliamentary administration in supporting committees and commissions*)

Mr. G.M. Quader, Member of Parliament, Bangladesh (*Member's perspective-the experience of Bangladesh*)

Mr. Martin Chungong, Director, Division for the Promotion of Democracy, Inter-Parliamentary Union (IPU), Geneva. (*Role of Special Ad hoc Committee*)

**1600-1615:** Tea/Coffee Break

**1615-1700:** Open Forum (free-flowing discussion and 'Q & A' session)

**1900-2030:** Dinner hosted by the President of the Mashrano Jirga in honour of international participants, resource persons, and members of the Mashrano Jirga

**End of Day II**

**Day III**

***Monday 17 April 2006***

**0900-1030 Plenary Session 5: Role of Political Parties & Parliamentary Groups in Effective Legislative-Executive Relations**

**Chair:** Ms. Thusitha D. Pilapitiya, Project Manager, The SEAL Project, UNDP Afghanistan

**Panelists:** Mr. Faruk Khan MP, Member of Parliament, Bangladesh (*Politician's perspective-Bangladesh experience*)

Mr. Jean Jacques Blais, P.C., Q.C. former Minister, Canada & Member, Board of Directors, The Canadian Parliamentary Center (*Canadian context and its relevance to Afghanistan*)

Mr. Ram Jethmalani, Member, Upper House, Parliament of India (*Upper House perspective-experience of India*)

**Open Forum** (free-flowing discussion and ‘Q & A’ session)

**1030-1045:** Tea/Coffee Break

**1045-1230 Plenary Session 6: Role of Ministry of Parliamentary Affairs in Effective Legislative-Executive Relations**

**Moderator:** Mr. Kawun Kakar, Presidential Adviser, Islamic Republic of Afghanistan

**Panellists:** Ms. Malkanthi Wickremasingah, Secretary, Ministry of Constitutional Affairs, Government of Sri Lanka (*Sri Lankan experience*).

Mr. G.M. Quader, Member of Parliament, Bangladesh (Bangladeshi experience)

Mr. Ram Jethmalani, Member, Upper House, Parliament of India

**Open Forum** (free-flowing discussion and ‘Q & A’ session)

**1230-1430** Prayer & Lunch Break

**1430-1530 Closing Sessions-Towards Strengthening Parliamentary Democracy in Afghanistan** (The session is expected to identify guidelines for future working relations between government and parliament, a potential agenda for action)

**Presentation of the Recommendations of the Conference:** Mr. A.H. Monjurul Kabir, Technical Adviser, Legislative Affairs, The SEAL Project/UNDP Afghanistan

Closing Remarks

- Mr. Sayed Hamid Gilani, First Deputy President of Mashrano Jirga, National Assembly of Afghanistan
- HE Mr. Farooq Wardak, State Minister for Parliamentary Affairs,, Government of the Islamic Republic of Afghanistan
- Mr. Martin Chungong, Director, Division for the Promotion of Democracy, Inter-Parliamentary Union (IPU), Geneva.
- Mr. Mustafa Ghulam, Country Director a.i., UNDP Afghanistan
- **Chair:** HE Mr. Sibghatullah Mujaddidi, President, Mashrano Jirga, National Assembly of Afghanistan
- **Vote of Thanks:** : Ms. Thusitha D. Pilapitiya, Project Manager, The SEAL Project, UNDP Afghanistan

End of the Conference