



**NATIONAL**  
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**REPORT ON THE STUDY MISSION  
OF SOUTH AFRICAN AND NAMIBIAN  
DELEGATES TO INDIA AND MALAYASIA**

*December 1996*

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From December 1 to 14, a joint South African-Namibian parliamentary delegation participated in a study mission focused on the representative nature of the second chambers of Parliament in India and Malaysia. Delegation members were associated with the Namibian National Council and new South African National Council of Provinces, or NCOP. The visit was designed, organized and sponsored by the National Democratic Institute for International Affairs (NDI), with financial support from the US Agency for International Development and the National Endowment for Democracy.

This document is a report on the objectives and results of the mission. It highlights key issues, and cannot be seen to fully represent the views of all members of the delegation.

## **BACKGROUND**

The parliamentary delegation consisted of ten South Africans and five Namibians representing the respective countries' national parliaments, provincial/regional and local government. Senator Dan Neville of Ireland also joined the delegation.

The common thread in the South African and Namibian situations is the decision to maximize representation of provincial/regional interests in national policy. This is manifested in efforts to strengthen links in Namibia between the National Council and regional governments and in South Africa between the NCOP and provincial governments. To achieve this cohesion, leaders at all levels must define and redefine the practical working relationship between the national houses and regional/provincial and local governments.

This study mission allowed parliamentary leaders from both countries to look at how participation at various levels of government influences the legislative process in the Indian and Malaysian contexts. India and Malaysia were selected for the study from among several countries based on two criteria: 1) the states' role in electing members to the second house, and 2) their status as developing nations.

The primary objective of the visit was to closely examine the role of the Rajya Sabha, the second chamber of the Indian National Parliament; and the Dewan Negara, the second chamber of the Malaysian National Parliament. The study included the internal workings of these two chambers, their relations with the respective first chambers (the Lok Sabha and Dewan Rakyat) and state legislative assemblies, and constituency outreach activities. In examining these structures, participants were able to compare intergovernmental relations, representative decision-making and public participation in the respective countries.

Co-leaders of the delegation were Rev. Speaker M. Chabaku, of the Free State Provincial Legislature in South Africa, and Hon. E. Uirab, National Council MP and Deputy Chief Whip of Swapo in Namibia. Other participants included:

South Africa: Senator C. Ackermann; Mr. F. Cachalia, Leader of the House, Gauteng Provincial Legislature; Ms. N. Cetywayo, Senate staff member; Adv. J. de Lange, Member of National Assembly; Mr. N. Isaacs, Member of the Western Cape Provincial Legislature; Mr. D. Kgware, Member of the Northern Cape Provincial Legislature; Ms. M. Manana, Member of the Mpumalanga Provincial Legislature; Senator M. Moosa; and Ms. F. Sithole, Deputy Chairperson of the South African Local Government Association.

Namibia: Hon. S. Cloete, MP and Chief Whip of the DTA; Mr. R. Hongoze, Member of the Erongo Regional Council; Hon. N. Kaiyamo, MP; and Mr. A. Ngeama, National Council staff member.

NDI staff included: Eric Happel, Namibia program assistant; Erin Martin, Namibia country director; Jennifer Pelzman, South Africa program officer; and Andrew Pflaum, South Africa program officer.

The delegation spent approximately four working days each in India and Malaysia. In both places they spent considerable time at the parliaments, meeting primarily with representatives of the second houses but also with counterparts in the first house. In addition, they met with academics, journalists and others with relevant experience. In India, a scholar from the respected think tank Centre for Policy Research, Dr. A. Mehra, accompanied the delegation to most of its meetings.

## FINDINGS

The study of India and Malaysia afforded the delegation a close look at the evolution of parliamentary democracy as manifested in their respective second chambers. The two political and legislative systems contrasted sharply with each other, and, in some ways, with the models established in Namibia and South Africa. Yet delegates were interested in seeing how these more-established second houses had evolved to meet the needs of each nation, particularly in terms of social and economic development. By engaging counterparts and witnessing the operations of parliament in the two developing nations, delegates were able to explore and compare relationships that are still being defined in South Africa and Namibia.

*In summary, the delegation found that:*

- In both India and Malaysia, the second chambers are not used to spotlight state concerns or push state interests. This responsibility is not within the political or constitutional mandate of members of these chambers, but some critics outside parliament said the absence of close ties has served to diminish the contribution of the second chambers to national policy.
- Members of the delegation felt strongly that close ties between elected leaders at various levels are essential to keeping the interests of South Africa's provinces and Namibia's regions high on the national policy agenda.
- In Malaysia, the government has not allowed parliament to fully assert its constitutional powers, believing total autonomy could undermine ethnic unity and economic growth. The result is that individuals or citizens must work through the political parties or central government to voice their opinions or concerns.
- In India, the houses of parliament enjoy a strong working relationship because of frequent communication and regular meetings at the level of members and staff.

- India's and Malaysia's state governments, including the legislatures, have closer ties to the strong central governments than to the national parliaments.
- Members of the delegation said they believed their political and historical situations mandated close consultation between national parliamentary leaders and counterparts working at the regional/provincial and local levels.
- Constituents tend to turn to the state and national ministries for assistance with their individual problems. However, one Indian MP said parliamentarians in his country are increasingly drawn into casework because constituents are unable to resolve issues through central government channels.
- A standing committee system was established in the Indian parliament in 1993 to give parliament greater power to scrutinize the work of the executive branch of government. In Malaysia, standing committees do not exist because leaders believe they obstruct the efficient movement of legislation through parliament.
- Local government in Malaysia is appointed by the central government, rather than elected, because leaders there believe politics at the local level has historically fostered ethnic unrest.

### **The Second Chamber**

In India and Malaysia, the second chambers bring a state perspective to the national legislative and policy-making by virtue of the way in which members are elected, but most members do not use their work in parliament to advance the causes of individual states. In both countries, the constitutional powers of each house and their procedures permit consideration of state issues but this is seldom done. Instead, most of the business of the houses focuses on national issues. Members channel their efforts into strengthening laws and policies that affect the nation as a whole. It falls on the strong central government, through national ministries and the state executive, to address matters within the states. Parliament's mandate is to oversee that activity. This is in marked contrast to the second chambers in Namibia and South Africa, where both houses are meant to be highly representative of the regions/provinces.

Oversight is seen as a primary responsibility of MPs in the parliament of India. Parliamentary leaders cited procedural question innovations such as "Calling Attention," "Zero Hour" and "Special Mention" -- in which members have various means to raise any matter of public interest before the entire house -- as an extension of their oversight powers and a forum to highlight issues of concern to the states. These and other innovative procedures -- when considered along with the size of the houses, massive staff support structures and political dynamism of the country -- make the Indian Parliament one of the most elaborate legislative systems in the world.

In Malaysia, the weakness of the second house was manifested in its inability to oversee the executive. Oversight functions are not discouraged by the rules, but by the ruling party, which defines politics as a drive for consensus. In fact, the Deputy Minister for Local Government and Housing from the Dewan Negara said the second house had amended a bill only once in its history, and that attempts to amend bills were seen as a vote of no confidence in the government. Some delegates said this political dynamic would be rejected in Namibia and South Africa, but others took the less impassioned view that the development of each country's system depended upon its own particular political and historical context.

In both countries, reform, or the need for reform, was a central issue with several individuals outside Parliament who met with the delegation. In India, they included former Rajya Sabha MP and grandson of Mahatma Gandhi, Mr. R. Gandhi, who highlighted the increasing elitist tendencies of parliament, and the ever-widening gap between the governed and the governing. His sentiments were echoed in part by Dr. Mehra of the Centre for Policy Research, who cited the perception held by many Indian citizens that parliament, and government in general, has become irrelevant because of corruption and its failure to represent the interests of the majority.

In Malaysia, University of Malaya Law Professor M P Jain took a negative view on whether the Dewan Negara succeeds as a representative institution for the states. He said that members are "conscious of their public duty and the need for contact with the people. But when they come to Parliament, the opinion of that individual hardly comes into it; it is only government policy that counts." The result, he said, was strong doubt as to whether the Dewan Negara could make a contribution to government policy-making different than that of the Dewan Rakyat. The Malaysian Constitution originally provided for a stronger Dewan Negara, but the house was weakened over time in an effort to promote political consensus. One delegate warned colleagues that they should attempt to guard against that happening in Namibia or South Africa.

For many members of the delegation, the comments about public disillusionment affirmed that they are correct in placing great importance on the representative function of the NCOP and National Council. While in India, Senator Moosa of South Africa said "This trip has confirmed for me that we are on the right track. The kind of gap we're seeing here is exactly what we are trying to address with the NCOP." Senator Neville elaborated on that, tying into Professor Jain's remarks. He said that second chambers in many countries struggle against the notion that they become redundant by duplicating the functions of the first house. "Keeping close links with the regions or provinces is one way to make a separate, relevant contribution," he said.

### **Relationship between the Two Houses**

Indian parliamentary leaders and staff in both houses reported a strong working relationship, due to close coordination and regular meetings with the elected leadership and at various staff levels. Top staffers in each house, such as the Secretary General in the Rajya Sabha, are key players in the operations of parliament. They have power to take major responsibility in running the houses. One specific communication method is an annual calendar drafted in both houses to assist the other house in planning its business. Another is the Business Advisory Committee, comprising

members of all political parties, to receive schedules and notice of government business. The Constitution empowers the President to call a joint sitting of both houses to resolve disputes over legislation, but this is seldom done. In general, joint sessions are rare.<sup>1</sup>

In Malaysia, officials reported that the relationship between the two houses was cooperative but that the Dewan Rakyat controls the flow of legislation. Most legislation is introduced in the first chamber, and it controls the joint parliamentary budget. The Dewan Negara Executive Council sets the schedule and business of the second house; it is chaired by the Prime Minister. The rules allow for joint committees and joint sessions of the two houses, but they are not common.

The delegation paid close attention to the administration of the parliaments and their respective staff resources. The Indian Constitution empowers the houses to have separate staffs. Currently, only security services and staff recruitment personnel are shared. In addition, the houses share the parliamentary library but have separate groups of researchers designated to each house. The structure is elaborate: the Rajya Sabha has more than 1,000 employees, the Lok Sabha has close to 2,000. Among them are 450 committee staffers and 150 researchers; many of whom have law degrees. One staff member explained that a committee of members of both houses meets to assure parity between the houses in staff work conditions, salaries and other employment issues. Several delegation members noted the Indian parliament's commitment to staff training and development and said it should also be a top priority in Namibia and South Africa. In addition, the delegation enjoyed reading and receiving copies of nine booklets published by the Rajya Sabha secretariat for new members and staff. The booklets cover topics ranging from committee procedures to etiquette for members. Mr. Cachalia of South Africa said he would like the Gauteng Provincial Legislature to draft a similar set of booklets for its members and staff, and asked NDI for assistance in developing them.

In Malaysia, the two houses are served by one common staff. Several administrative staffers are designated to the specific houses, including the Deputy Secretary of Parliament, who is the top public servant in the Dewan Negara.

## Committees

The sophistication of committee operations in the parliaments of India and Malaysia varies. India has an extensive and complex committee system, including 17 "departmentally related standing committees" that bear similarity to portfolio committees. This system was created in 1993 to increase Parliament's oversight of decision making with the government's 44 ministries. In Malaysia, the Dewan Negara has five committees including public accounts, standing rules and three administrative committees. While the rules mandate a committee stage, most legislation

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<sup>1</sup> Coincidentally, the delegation witnessed an unusual joint session to mark the first sitting of the Constitutional Assembly, which drafted India's Constitution in 1946. The delegation was privileged to sit on the floor of the house to hear remarks by the President, Vice-President, Prime Minister and Speaker.

considered in that second chamber is reviewed by the entire house, sitting as a committee of the whole. One Malaysian parliamentarian said committees are not a priority because they slow the implementation of government policy.

What distinguishes India's departmentally related standing committees is that they are joint committees of the Rajya Sabha and Lok Sabha. Each has 15 Rajya Sabha members and 30 Lok Sabha members, for a total of 45. Seven are currently chaired by Rajya Sabha members; 10 by Lok Sabha members. The establishment of these committees, fifty years after the opening of parliament, was cited as an example of the continuous reform efforts undertaken by the legislative leadership in India.

Seven standing committees existed prior to their creation, primarily to administer the house, including its rules, privileges, schedule and housing for members. In addition, the system included committees on petitions, subordinate legislation, assurances and matters laid on the table. Among these, the Assurances Committee is another Indian parliamentary innovation, mandated to follow up on "assurances" or commitments made by ministers during floor debate in the house. The committee is yet another tool extending the Rajya Sabha's oversight powers, as is the Committee on Subordinate Legislation. This committee offers the Rajya Sabha a mechanism to deal with implementation of laws by reviewing statutes, regulations and by-laws that evolve from legislation. This committee was of considerable interest to members of the delegation.

### **Money Bills**

In both countries, the second chambers have a limited role in passing money bills. In fact, all money bills must be introduced in the first chamber. In India, the Rajya Sabha's powers on money bills are restricted to *recommending* amendments to money bills, and the Lok Sabha then has the power to amend the bill accordingly or ignore the Rajya Sabha recommendations. Indian states voice their opinions and set their own spending priorities by drafting an Annual State Plan that reports on anticipated projects and projected costs. These plans are then submitted to the Ministry of Finance, which ultimately determines their funding levels through the national budget. This annual plan process was of particular interest to delegates from Namibia, where regional governments are charged with drafting an annual report for the National Council. "It should be our regions who are setting these priorities," one delegate said.

In Malaysia, the process is also controlled centrally. The annual budget, known as the "Supply Bill," and all other supplementary money bills must be introduced by ministers in the Dewan Rakyat. They are sent to the Dewan Negara for their consideration. The rules of the Dewan Negara allow members to amend money bills, but this has never been done.



## **Role of the State Legislatures/ Governments**

Delegates looked closely at state representation in India's and Malaysia's parliaments and asked for further information about the way in which they accommodate the opinions of the public on legislation. In theory, the Indian parliament can pass a motion to send a bill to the state legislative assemblies for public comment. However, this rarely happens. Similarly, state legislatures may refer bills to the public for comment, but this too is rarely instituted.

Intergovernmental relations in both countries are facilitated largely through informal or conventional mechanisms, rather than through formal institutions, and the second chambers have no particular role to play in this regard. In both India and Malaysia, the absence of formal relationships is influenced by the strongly centralized nature of the two countries' federal systems, with most legislation and financial powers being controlled at the centre. One formal institution that does exist in India is the Interstate Council, which convenes the Prime Minister of the country and the chief ministers of each of the states. Another institution is the establishment of state offices in Delhi, although these offices serve primarily to make arrangements for the state's chief minister when he or she visits the capital, rather than to fulfill a political or policy role.

In Malaysia, videoconferencing technology is being introduced at the local and state levels, to allow chief ministers to communicate with their district officers without convening frequent meetings in the capital city. This was of particular interest to the South African delegates, as the NCOP is pursuing this technology for use by the national and provincial legislatures.

As one Indian observer noted, "there is widespread sentiment that the states should have a greater power." In this context, the interests of political parties most strongly influenced members of the second chambers, rather than the interests of their respective states. This was also true in Malaysia, where a leader in the State Legislature in Selangor said there was limited interaction with the Dewan Negara and described its members as "figure heads." These comments served as reinforcement to the delegation that importance should be placed on formal, strong ties between the national legislatures and the regional/provincial governments and legislatures.

## **Constituency Work**

According to leaders in both countries, members of the Rajya Sabha and the Dewan Negara emphasize work in the national parliament over that of their constituency. They do not have parliamentary offices in their constituencies. Nothing in the political culture of either country mandates formal or informal relationships or dialogue with constituents. Beyond public comment on legislation, members of Parliament are not expected to offer constituency services. That is perceived to be the role of state and central government. Yet in India, Rajya Sabha members said that because the government is unable to meet the basic needs of its 950 million citizens, they are pushed increasingly to engage in constituency matters, such as helping citizens gain access to government services. In Malaysia, an opposition MP said he has tried to push the issue of constituency work as a subject of reform within the Dewan Negara, but has failed.

Both parliaments offer some members a special "constituency allowance" to spend in their home district in any way they deem fit. Typically, these monies are used to fund the work of an NGO or citizens group in a given member's constituency. In India, the allowance is strictly for members of the Rajya Sabha. In Malaysia, only members of the ruling party are entitled to the allowance, which amounts to the equivalent of R525,000 for members of the Dewan Rakyat, and the much smaller sum of R60,000 per year for Dewan Negara members.

### **Political Parties**

In both countries, some members of the second chambers are elected to service by their state legislatures. But in neither case do those members report back or take direction from the state legislatures. Coalitions are central to political party operations in India and Malaysia, and members of the second chamber are closely tied to them. In India, close to 30 parties hold seats, and most all of them vote with or are members of one of several coalitions formed after elections.

In Malaysia, the ruling party is actually a coalition of parties known as the Barisan Nasional that has won every national election since its formation in 1971. In parallel with the Government, party policies are developed at the national level and passed down to state organizations. A deputy minister told the delegation that this results in a "limited democracy," but that this was a sacrifice most Malaysians were willing to make for economic growth. Most delegates rejected this approach as a model for Namibia or South Africa. Nonetheless, they were impressed with the government's New Economic Plan and National Development Policy, which resulted in 8 to 9 percent economic growth in the GDP during the past nine years. One delegate said that "the most important thing for us to learn in Malaysia is how we as elected leaders can take a more active role in marrying full democracy with full economic growth." Another seconded that, saying that in Malaysia there was "good merging of economic development at all levels of government, while in South Africa our development plans are disjointed" across the spheres of government.

### **Local Government**

While most consultations during the visit were with national or state leaders, the delegation did meet with local leaders in both countries. Their effectiveness in lobbying the national government is limited, in most cases because of tight central control. The sheer size of elected government in India complicates communication, as it extends to very local levels, with more than 3,500 state legislators and 3 million local officials elected every five years. (One-third of these local seats are reserved for women, and a bill is before the parliament to institute that provision at the state and national levels.) In Malaysia, the Constitution was amended in the 1970s to abolish local government elections and fill that tier of government with centrally-appointed civil servants overseen by the Ministry of Local Government and Housing. As a result, there is little accountability to citizens at the local level.

## **Attachments**

- Program for the delegation's visit to Malaysia and India
- Terms of Reference
- Biographies of Delegates
- Sample Evaluation Form

## **Documents Received**

*For copies of any of these documents, please contact NDI in South Africa or Namibia*

### **India**

- Rajya Sabha Information at a Glance (28 pp., 1996)
- Parliament of India: An Introduction (38 pp., 1995)
- Rules of Procedure and Conduct of Business in the Council of States (164 pp., 1991)
- The Constitution of India (440 pp., 1995)
- Orientation Pamphlets for New Members of the Rajya Sabha (1996)
  - Rajya Sabha -- Its Contribution to Indian Polity
  - How to be an Effective Legislator
  - Role of the Leader of the House, Leader of the Opposition and Whips
  - Executive -- Its Accountability to Parliament
  - Committee System
  - Department-Related Parliamentary Standing Committees
  - Raising of Matters of Public Importance by Members
  - Question Hour -- Its Effectiveness
  - Parliamentary Privileges
- Role of the Council of States in Our Federal System, L.P. Singh, India's Policy Problems: Economic and Political Challenges, V.A. Pai Panandiker, Editor, 1991.
- Prospectus for Centre for Policy Research, 1996-98, New Delhi. (80 pp.)

### **Malaysia**

- Standing Rules and Orders of the Senate (227 pp., 1989)
- Standing Rules and Orders of the House of Representatives (264 pp., 1986)
- Federal Constitution (300 pp., 1995)
- Master Planner, cover story in Time Magazine on Malaysian Prime Minister Mahathir Mohamad, 9 December 1996. (10 pp.)



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