
REPORT
to the
Commonwealth Parliamentary Association (Western Australian Branch)
on the
22nd Commonwealth Parliamentary Seminar
24-29 November 2011, New Delhi
India

I was privileged, from 24 to 29 November 2011, to represent the Parliament of Western Australia at the 22nd Commonwealth Parliamentary Association (CPA) Seminar in New Delhi, India, at which I also gave a presentation (Session 6) and chaired a session (Session 9).

Those attending were

Australia

Me (Western Australia)
Mr Craig Baumann MP (New South Wales)
Hon James ('Jim') Wilkinson MLC (Tasmania)

Britain & Mediterranean Regions

Hon David Agius MP (Malta)
Ms Margaret McDougall MSP (Scotland)
Rt Hon Lord Loomba CBE (United Kingdom)

Canada

Mr Parm Gill MP (Canada)
Mr Yves Blanchet MNA (Quebec)

Caribbean, Americas & Atlantic Regions

Mr Jairam Seemungal MP (Trinidad & Tobago)

Asia

Hon Rana Nasir MPA (Punjab Province, Pakistan)
Hon Achala Jagoda MP (Sri Lanka)

Africa

Hon Lucas Chepkitony MP (Kenya)
Hon Kapenambili Paulus MP (Namibia)
Hon Dr Mara Abeid Daftari MP (Tanzania)
Hon Siphon Nkosi MPL (Kwazulu/Natal Provincial Legislature, South Africa)
Hon Boltumelo Matshose MP (Limpopo Provincial Legislature, South Africa)
Hon Harry Kalaba MP (Zambia)

Also attending was Dr William Shija, Secretary General of the CPA, and several Indian parliamentarians. As the Indian Parliament was in session from time to time over the course of the seminar, the number and composition of the Indian contingent changed. Several of the scheduled presenters proved unable to attend.

I arrived in the early hours of Wednesday 23 November and was met at the Indira Gandhi International Airport by CPA India Branch staff, who escorted me from the aircraft and to a VIP lounge to await the retrieval of my luggage and for the processing of my papers. From there I was driven to the 'The Ashoka' Hotel, at which all the delegates were lodged, and my check-in facilitated. The hotel is located in the 'Government/diplomatic' sector of New Delhi.

The bulk of the Seminar was held in the Parliament House Annexe ("the Annexe"), located within the precincts of Parliament House. Delegates were transported (in the morning) to and (in the evening) from the seminar, and to and from other seminar-related events, in two buses escorted by police vehicles. Security was a matter of concern to the organisers, as there are terrorist incidents from time to time.

Before the Seminar formally commenced on the morning of Friday 25 November, a group photograph was taken in the Annexe (not all delegates were present). The Annexe itself, a modern building which serves both ceremonial and functional Parliamentary purposes, was delightfully and painstakingly decorated with flower displays, many consisting of elaborate flower-petal arrangements around the base of pillars and on floor spaces.



Following the seminar photograph, we were led into the Main Committee Room for the Opening Ceremony. CPA Secretary-General Dr William F Shija delivered a welcoming address, which was followed by the Inaugural Address from Smt Meira Kumar, Speaker of the Lok Sabha (the Indian Lower or 'Peoples' House). Ms Kumar is the first female Speaker of the 552 member House. A copy of her speech is reproduced below.

It is indeed an honour for me to welcome the Distinguished Delegates and Guests who have assembled here to participate in the 22nd Annual Commonwealth Parliamentary Seminar. On behalf of the people and Parliament of India and on my own behalf, I extend my greetings and warm wishes to each one of you. I hope your stay in India will be extremely pleasant, stimulating and enriching.

I am delighted to have Dr. William F. Shija amidst us under whose dynamic stewardship the Commonwealth Parliamentary Association has been striving to nurture and foster democracy in the Commonwealth countries. I compliment the Commonwealth Parliamentary Association for their initiative in organizing this 22nd Annual Commonwealth Parliamentary Seminar together with Parliament of India. These Seminars bring together Parliamentarians on a common platform to appreciate and understand the emerging challenges before democratic governments and define the roles and responsibilities of the parliamentary institutions in addressing them.

Parliamentary democracy is undoubtedly the most accepted, successful and ideal form of political system. It is perceived as the best form of governance to fulfil the hopes and aspirations of the people. In this Seminar, we will deliberate and discuss various topics of parliamentary interest including the role of the CPA in the Commonwealth in fourteen sessions to be held over a period of three days. I am confident that this Seminar will help reinforce the representative character of parliamentary community in the Commonwealth.

Democratic institutions have flourished in India since time immemorial. After Independence, we have adopted this well proven form of governance to fulfil the dreams of our people. As the political nerve centre of the largest democracy in the world, the two chambers of our Parliament reflect the sovereign will of the people of India. On it lies the onerous responsibility of transforming mindsets and creating an equitable and inclusive social order free of all forms of discrimination. Friends our Parliament does not merely legislate, it is an agent of social change. In the session devoted to the theme '*Parliamentary and Political Scene in India*' the participants will have an insight into the operational dynamics of the Indian polity.

The Office of Presiding Officer occupies a key position in parliamentary democracy and is vital for the efficient and systematic transaction of business in the House. This institution represents the collective voice and opinion of the House and therefore remains crucial in maintaining people's faith in democratic institutions. By performing administrative, judicial, regulatory and supervisory functions, the Presiding Officer not only guides the proceedings but also safeguards the rights and privileges of the House, its Committees and its Members. It is, therefore, imperative to delve into the changing dimensions of the interface between Presiding Officers and various aspects of the functioning of the Chambers presided over by them. In this context, the discussion on '*The Role of the Presiding Officers vis-à-vis the Parliamentary Staff and the Standing Orders*' during this Seminar is a timely initiative.

In the contemporary parliamentary system, Committees have emerged as the best suited device for detailed scrutiny of administrative action and for ensuring executive accountability to the institution of Parliament. The Indian Parliament has three Financial Committees and twenty four Departmentally Related Committees apart from several other committees. These committees are vested with adequate powers and operate as sentinels of accountability. The unprecedented growth in the range, magnitude and complexity of governmental activities over the years, warrants further reinforcing of the Committee system in Parliaments to make them more meaningful and effective. By exchanging the experiences of our respective Parliaments, we can evolve ways and means to further enhance the efficacy of our Parliamentary Committees.

Ethics, transparency and accountability are basic attributes of public life. People expect their elected representatives to adhere to highest standards of ethical and moral values in the discharge of their public duties. However, a general deficit in peoples' faith in the hallowed institution of Parliament is being witnessed the world over. As elected representatives, it is our responsibility to restore and strengthen people's trust and confidence in democratic institutions and processes. The culture of ethical growth, self-correction and uprightness must emanate from our representative institutions. We must evolve self-disciplining mechanisms to ensure probity, values, ethics and transparency in the public life. The discussion session

on *'Parliamentary Ethics, Transparency and Accountability'* will provide us an opportunity for self-introspection.

Our Parliaments reflect the hopes and aspirations of the people and are mandated to strive for their well-being and advancement. They are in a unique position to influence government decisions and mould public opinion for ensuring prosperity, peace, harmony and development. Freedom of knowledge and Right to Information are the keystones of parliamentary democracy. In this globalized era, it is of paramount importance that Parliaments take the lead in disseminating information about their activities and enhance transparency in the functioning of the executive. The Right to Information Act enacted by Indian Parliament not only empowers the people but also ensures transparency in public institutions. The issues involved in creating an enabling environment for further advancing the cause of the people's right to information will be discussed during this Seminar which will generate ideas to further fine-tune our existing transparency legislations.

As public expectations from Parliamentarians rise, the role of Parliaments cannot be restricted to the traditionally performed legislative, supervisory and deliberative functions only. Of late, their influence has increased and their work contours expanded to encompass several socio-economic and contemporary issues like gender equality, human rights, HIV/AIDS, terrorism and sustainable development. Parliaments the world over have been consistently engaging themselves on all these vital issues in their endeavour to address the concerns of the people.

I firmly believe that parliamentary democracy cannot survive and flourish unless gender-based discriminatory practices are eradicated from the society. We have to move out of the folds of inequitable and patriarchal social system and conservative patterns of development. Parliaments have to proactively strive to transform social attitudes. Growth and development can never be achieved amidst instances of human-rights violation and discrimination on grounds of gender, race, religion and language. Inclusive, equitable and sustainable growth is the need of the hour. It is, therefore, the prime responsibility of us Parliamentarians to promote gender-empowerment not only by focusing on issues of gender-based discrimination but also by enacting suitable forward looking legislations. This subject, of enormous socio-political importance, will be deliberated upon in this Seminar.

Amidst the expanding roles and responsibilities of the Parliaments and the global dimensions of the challenges before democracies, we Parliamentarians have much to share and learn from one another. The 22nd Annual CPA Seminar, which we are honoured to host, is yet another occasion for Parliamentarians from across the Commonwealth to not only have thought provoking deliberations on issues of common concern but also to build consensus and chart out grounds for co-operation on matters warranting immediate attention from the representative institutions.

I am sure we will have serious introspective discussions and fruitful interactions during this

seminar. With these words, I have great pleasure in inaugurating this Seminar.

Thank you.

The Secretary General of the Lok Sabha, Shri T K Viswanathan, then gave a vote of thanks.

Following an introductory briefing, we moved to a committee meeting room and proceeded with the first session.

The routine was to have a delegate chair the session, with one or more delegates or non-delegates making a presentation. Following the presentation, the delegates would ask questions or make comment on the subject matter, often with reference to the situation in their own jurisdictions, either by way of explanation of their practices or to highlight a problem or issue that they have encountered.

Summaries of many of the sessions are available on the CPA website (although there are some inaccuracies – I am credited with having made a presentation for Session 5, rather than the delegate for Tasmania).



Parliamentary Annexe Seminar room and (most of the) delegates

Day One : Friday, 25 November 2011

Session 1 – The Commonwealth and the Role of the CPA

Chair: Mr Craig Baumann MP (New South Wales)

Presenter: Dr William F Shija, Secretary-General, Commonwealth Parliamentary Association

This session outlined the history of the Commonwealth and the role of the CPA. A comprehensive paper was issued under the name of Secretary-General Dr Shija, which is available to members who would like a copy. A copy was also made available of the CHOGM 2011 Communique relating to the Commonwealth Heads of Government Meeting held in Perth 28-30 October 2011.

Session 2 – The Parliamentary and Political Scene in India

Chair: Ms Margaret McDougall MSP (Scotland)

Presenters: Justice Dr M Rama Jois MP, Rajya Sabha (India)

This session provided a brief outline of the Indian parliamentary system and political scene. India is the world's second most populous country and its largest democracy. Some 344 million people voted in the last election. It consists of a federal government and 28 state governments. Some 545 constituencies are represented by the members of the Lok Sabha, the 'House of the People' or lower house, in its federal, bicameral, legislature. Each member is elected by direct adult franchise. The upper house, or Rajya Sabha, is elected by the members of the state assemblies.

Interesting features of the Indian parliamentary system are the relative impotence of the Speaker, who cannot control conduct, even unruly behaviour, in the House. Vocal protests of a character that would not be tolerated in Western Australia are commonplace in the Lok Sabha, and 'walk-outs' are a common tactic. Further, the members are subject to an 'anti-defection law' – if a member fails to follow a Party position, or crosses the floor against his or her Party, the member loses their seat.

A common concern in India is that of corruption at all levels. Indeed, one of the major pieces of legislation grinding its way through the Parliament during the course of the seminar, and attracting considerable controversy, was a Bill to establish an independent 'corruption ombudsman' to receive and deal with complaints from the citizenry.

The Speaker of the Lok Sabha in her inaugural address had said that democratic institutions have "flourished in India since time immemorial" and the presenter spoke of the stability of democracy in India, claiming that its democratic tradition could be traced back to the early emperors who had appointed advisers to assist them in their deliberations: this as evidence of a 'democratic tradition', in the sense we understand democracy was, I thought, a rather long bow to draw.

Session 3 – The Role of the Presiding Officer, the Parliamentary Staff and the Standing Orders

Chair: Mr Jairam Seemungal MP, Deputy Speaker, (Trinidad & Tobago)

Presenters: Shri S Bal Shekhar, Additional Secretary, Lok Sabha (India)

Mr Craig Baumann MP (New South Wales)

Presenters spoke to the subject in the context of the Indian system. The role of the presiding officer in the Indian Parliament is regarded as the spokesperson for and the 'custodian of the rights' of the House and to be neutral politically. The presiding officer, *inter alia*, presides over debates and the observance

of rules of the House and decides the validity of notices. The Speaker has a casting vote and can participate in the debate. The Speaker also allocates time for debate with a view to achieving a balanced debate. This is done by dividing the time for debate proportionately among the Parties in the House according to their numbers. For example, if there were 10 hours available for a debate, a list of speakers from each Party would be supplied to the Speaker, who would divide the time among the Parties. This is a practical solution to the challenge faced by the numbers of members in the Lok Sabha, some 545 members representing 37 Parties. In India, the tradition is to attempt to achieve some consensus to avoid the need for contested votes, no doubt due to the diverse number of Parties and political groupings, and the 'anti-defection law'.

A propos the latter, the Speaker also performs a quasi-judicial function in adjudicating disputes about whether a member has effectively forfeited his or her seat.

The Speaker also has administrative responsibilities and is the employer of the Parliamentary staff. Parliamentary staff are independent officers of the Parliament and politically neutral: they, much like our staff, assist in the work of committees in drafting reports and etcetera.

The Clerk of the House acts as an adviser to the House. Albeit impartial, the Clerk must be sensitive to the politics of the day so that he or she can anticipate issues that may arise and be able to assist Parliament to function effectively.

The Standing Orders are based to a large degree on those of the United Kingdom's House of Commons. In 1992 they were rewritten in 'plain English' form.

Dr Shija mentioned that the CPA was working towards the standardisation of procedures in democratic legislatures, by providing some 87 'benchmarks' for areas rules should generally cover.

Other delegates outlined features of our systems.

Session 4 – The MP and the Political Party

Chair: Hon Siphon Caphas Nkosi MPL (Kwazulu Natal Provincial Legislature)

Presenters: Shri S Bal Shekhar, Additional Secretary, Lok Sabha (India)

Mr Yves Francois Blanchet MNA (Quebec)

This session covered the relationship between the Member of Parliament and his or her Party. It is axiomatic that the Party chooses its candidates to represent it, and the Party views the candidate as someone having not only 'win-ability', but as someone able to speak for the interests of the Party and his or her constituents. Allied to that is a legitimate expectation that the Member will do so.

This means that the Member has at least two loyalties – one to his or her Party and one to the constituency he or she represents. In most liberal democracies, Members also feel an additional loyalty to the institution of Parliament. These conflicting loyalties and expectations from time to time create serious tensions.

In India, Members are seldom allowed a 'free' or 'conscience' vote, and reflect the 'Party line' when speaking – as one presenter put it, they have no "personal line of argument". Indeed, this regimen extends to the organs of government: Chief Executive Officers of government departments attend before Committees to explain the Government's policy, not Ministers.

One delegate opined that the Party allegiances and structures contributed to what he thought was the low opinion the community held of Members.

I outlined the practice in Western Australia in the Parliamentary Liberal members and the practices, to the extent I was aware of them, of other WA Parties. Some other members outlined the practices of their jurisdictions, which tended to be variations on these themes.

Session 5 – Parliamentary Ethics, Transparency and Accountability

Chair: Mr Parm Gill MP (Canada)

Presenters: Hon Jim Wilkinson MLC (Tasmania)

Shri Achala Jagoda MP (Sri Lanka)

This session concerned corruption oversight in the presenters' jurisdictions. The Tasmanian presenter noted that there was no systemic corruption in the public sector, although misconduct did occur – of some 36 recent complaints to their Integrity Commission, only one was found to have merit. He raised the question whether the Integrity Commission was worth the expense and whether the money could be better applied elsewhere. He mentioned that an 'industry' can grow around corruption allegations and suspicions – courses conducted by experts, lecture circuits by consultants, conferences attended by hundreds of delegates, etcetera. The other presenter outlined how the issue was addressed in his jurisdiction.

One again, along with other delegates offering some insight into their jurisdictions, I mentioned the position here.

Cultural Programme & Seminar dinner

The first day's proceedings concluded with our being returned to the hotel to freshen up. In the evening we were taken to the open-air Amphitheatre at the Parliament Library Building to see a cultural programme of three different regional dances (the Bharatanatyam, the Bamboo dance, and the Kalbelia dance), before the formal seminar dinner hosted by the Speaker.

Day Two : Saturday, 26 November 2011

Session 6 – Parliamentary Committees and the Committee System

Chair: Hon (Dr) Maua Abeid Daftari MP (Tanzania)

Presenters: Hon Michael Mischin MLC (Western Australia)

Shri S Bal Shekhar, Additional Secretary, Lok Sabha (India)



Presenting session 6: 'Parliamentary Committees and the Committee System'

This session concerned the role of Parliamentary committees in Western Australia.

I outlined the committee system of the Western Australian Parliament and the roles and functions of each. I also mentioned some of the issues that arise from time to time, such as

- the structure and length of reports;
- the timeliness of reports and the balance between achieving comprehensiveness at the risk of redundancy of the content;
- skeletal legislation, extent of advertising and seeking submissions from potentially interested parties;
- Henry VIII clauses and parliamentary sovereignty;
- the use of open and closed sessions and parliamentary privilege;
- the influence and objectivity of advisors, especially those with technical knowledge unavailable to the Committee members, and the need to control the content and tone of the report;
- the dangers of politicisation of reports by way of commentary and recommendations;

and so on.

Session 7 – The Relationship between Parliament and the People

Chair: Hon Lucas Kipkosgei Chepkitony MP (Kenya)

Presenters: Mr Parm Gill MP (Canada)

This session explored the need for exchange of information between the people and their Parliamentary representatives, and the levels of ‘citizen participation’ in the political process – ranging from the citizen who reads about or discusses politics, to voting, to contacting Members, to Party membership, to participation in campaigns and, in some cases, to a political career.

The level of participation in many jurisdictions, as evidenced by voting where non-compulsory, is declining; it is thought that this suggests a decline in public confidence or trust in the system. The role of money was discussed: lack of transparency in political contributions may result in a lack of confidence in the decision-making process. It would be desirable if candidates were to reflect the diversity of their societies. The role of technology was spoken of, and the ability to be better informed and so be a better representative of the views of the constituency.

Part of the role of a Member, as a conduit between the people and the government and Parliament, is to engage constituents in the political process.

Session 8 – Financial Scrutiny of the Executive (Parts I & II)

Chair: Mr Jairam Seemungal MP, Deputy Speaker, (Trinidad & Tobago)

*Presenters: Ms Margaret McDougall MP (Scotland)
Shri N K Singh MP, Rajya Sabha (India)*

This session dealt with the importance of financial scrutiny of the executive and mechanisms to achieve that end. A comprehensive paper (‘A Brief on “Financial Scrutiny of the Executive”’) was provided by the Indian presenter. A copy of the Scottish Parliament’s Financial Scrutiny Unit’s Briefing ‘Guide to the Scottish Budget’ of October 2011 was distributed by the Scottish presenter, as an example of an effective scrutiny that would provide useful and accessible information to the public. I also have a copy of her speaking notes.

All are available to members who would like them.

The Kenyan delegate advised that its government goes through a period of negotiations before settling its budget.

Session 9 – Parliament, the Executive and the Public Service

Chair: Hon Michael Mischin MLC (Western Australia)

Presenters: Shri Prem Das Rai MP (India)

This session wrestled again with the age-old question of “who wins: the Parliament or the Executive?”

Of course, there is necessarily a tension between the theoretical primacy of Parliament and the Government’s necessity to govern. Generally the Executive wins, for the very good reason that the Executive has succeeded in gaining a mandate to govern.

There was discussion about the role of the public service as the mechanism by which the Executive governs and the challenges that may arise from time to time. These included: ‘old’ public servants who have been appointed by a previous and long-standing regime who do not recognise the legitimacy of,

or are unsympathetic to, a new government; the difficulties in translating policy into action; and the impediments inherent in bureaucracies to information flow between the government and the governed.

In India, the complaint is of a ‘bloated’ bureaucracy, inherited from the British but excessive in a modern context. It is no longer, as it once was, a reservoir of all knowledge and challenges include how it is to keep up with the fast-changing needs of a modern and increasingly complex society. India faces particular challenges with its large and (to a significant extent) poorly educated population, diverse cultures and languages (a tour-guide told me she does not go to some other parts of India because she cannot speak or understand their language), and limited and unreliable infrastructure.

Delegates discussed the issues peculiar to their jurisdictions.



Chairing session 9: Shri Prem Das Rai MP (India) [at left] & Dr William F Shija, Secretary-General, Commonwealth Parliamentary Association [at right]

Session 10 – Services for MPs

Chair: Hon David Agius MP (Malta)

Presenters: Shri Inder Singh Namdhari MP (India)

Hon Siphon Caiphos Nkosi, MPL (Kwazulu Natal, South Africa)

This session outlined the salaries, allowances and benefits (including travel, library and computer and other information technology support) available to Members in India and in Africa. It generated a great deal of comparison with the situation in other jurisdictions. Some features were more generous than those enjoyed locally; others less. Much no doubt depends on the ‘buying power’ of the relative currencies – for example, South Africa doesn’t have ‘constituencies’ as such and representatives are

deployed to areas, where they must fund their own constituency office. For this they receive 39,000Rand per month (roughly US\$5,000).

Appearance of brinkmanship was always a danger in the course of this session, but I sensed that Western Australian Members are not too badly off compared to some of their brother and sister members overseas.

Day Three : Sunday, 27 November 2011

Sunday was an early (6.00 am) start for an excursion to Agra to visit several sites of interest, including the Taj Mahal and Agra Fort. Although it was only some 70 km from New Delhi, the congestion on the roads meant a trip of several hours. We did not return to our hotel until 9.00 pm. It did, however, provide an insight into the challenges faced by a parliamentary democracy governing the world's second most populous country (some 344 million people voted in the last election).

Day Four : Monday, 28 November 2011

Session 11 – Parliament and HIV/AIDS

Chair: Hon Boltumelo Joyce Matshose MPL (Limpopo Provincial Legislature, South Africa)

Presenters: Dr Sundeep Khanna, Principal Secretary to Speaker of the Lok Sabha (India)

This session was of more relevance and interest to delegates from African and Asian jurisdictions. Delegates were provided with two papers – a copy of the presentation and Lok Sabha Secretariat Brief prepared for the seminar.

Copies are available for members who would like them.

Session 12 – Parliament, Gender and Human Rights

Chair: Lord Raj Loomba CBE (UK)

Presenters: Ms Yashodhara Raje Scindia MP, Lok Sabha (India)

This session concerned progress and challenges in this field irrelevant in Australia.

I mentioned the participation of women in Western Australia at the party-political level and as Members.

Visit to Parliament

We were scheduled to visit the Lok Sabha on the first day of the seminar, to observe its proceedings, but this could not be arranged. The Lok Sabha was engaged in some rather tumultuous debate concerning several Bills and, due to deadlocks and political manoeuvring, it frequently sat only part of a day. We did get to tour the building and the chambers on our last day, but were not able to witness it in action.

I thank the Commonwealth Parliamentary Association (Western Australian Branch) for entrusting me with the responsibility of being its delegate to the 22nd Commonwealth Parliamentary Seminar.



Hon Michael Mischin MLC
Member for North Metropolitan Region