Chapter - IV

ROLE OF THE LEGISLATURE IN FOREIGN POLICY MAKING
The foreign policy of a State is an instrument to promote national interest in the context of the prevailing international political system. Both in its formulation and execution, it cannot be brought within the purview of Parliamentary control; it is a subject under the jurisdiction and concern of the States' Executive and has very little to do with domestic legislation. Hence, the role of the legislature is very limited. The making of foreign policy...is the business of the Executive and for almost all practical purposes, the Executive is unfettered in its exercise of this function [1].

Together with the Constitutional and Institutional limitations, there are other factors too, that deny the legislature an effective role in the field of foreign policy. These include: the remoteness of the foreign policy issues from the socio-economic realities in which lies the primary interest of the legislators; the obvious emphasis in foreign policy on "national-interest" and general consensus within the country rather than on its regional and group interests; and the lack of

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sufficient incentive, information and interest on the part of common legislators in the international relations including foreign affairs of their own country [2]. Also the necessity to ensure secrecy in diplomatic negotiations, the need for quick responses to international crisis situation and for foreign policy decisions to be made even when Parliament is in recess or under dissolution, have all made subordinate the role of Parliament in democratic politics in the matter of foreign policy decision making.

PAKISTAN

In Pakistan, since foreign policy making has been the exclusive domain of the Chief Executive and a narrow circle of advisors, it has been traversed only occasionally by legislatures, whenever they were in existence. This has taken the form of comments and reviews of foreign policy developments. Legislative "interference" in this form can enable the Executive to make rational choices and maximise agreements on chosen policies.

Legislature, as an institution gives opportunities to the legislators to enquire, discuss and in some cases (which are very 2

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rare) to give directions to the policy makers. In Pakistan, however, the Legislature has hardly ever functioned so, it has merely legitimised the decisions made by the Executive [3].

The National Assemblies

Pakistan till 1971, has had two Constituent Assemblies and Four National Assemblies. The First Constituent Assembly existed for seven years, from 1947-54; the second from 1955-56. The third assembly was called the First National Assembly which lasted for only two years, that is from 1956-58; the Second National Assembly from 1962-65; the third National Assembly from 1966-69 and the fourth from 1970-73.

The First National Assembly [4] in its short life of two years, saw four Governments changing hands, and was finally abrogated with the promulgation of Martial Law on October 7, 1958. The years that immediately followed had no constitution or Legislature.

The Second National Assembly (1962-65) came into existence with the promulgation of the New Constitution on March 1, 1962 [5] and when political parties were banned in the country. New

3 This was disclosed to the author by Salamat Ali.

4 It came to be called so with the promulgation of the first Constitution on Mar 23, 1950.

members were seen to dominate, especially landlords, lawyers and businessmen [6].

The Third National Assembly was elected, following the Presidential elections in 1966, with the Muslim League winning 124 seats out of a House of 156. This Assembly was, however, faced with a crisis in 1969, when some members of the opposition resigned collectively [7]. Finally in February 1969, the National Assembly was prorogued.

Elections to the Fourth National Assembly were held in December 1970. This National Assembly as per the Legal Framework Order [8] was to act as a Constitution making body, before taking over as a legislatively body [9]. But events in the country, leading to the dismemberment of Pakistan, disrupted the session of the Legislature, which assembled for its session of April 14, 1972, minus its Eastern Wing.

Their combined strength was 136 out of a total of 156, though most members were new. See Talukdar Maniruzzaman, "Group interests in Pakistan politics, 1947-1958", Pacific Affairs, Vol. 39, 1966, pp.80-91. The first meeting of the National Assembly was however, held on Jun 8,1962, when the new Constitution came into force.

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9 Ibid.
Legislative Business:

Legislative discussion concerning foreign affairs has taken one of the following forms:

1. The Foreign Policy Debates: Wide ranging and full discussion on Pakistan's foreign affairs by the legislators, in response to a debate called for by the Government [10].

2. The Budget Session Debate: Discussion of foreign affairs as a result of an Opportunity offered by the Budget Session.*

3. Issue Oriented Debate.

4. Question Hour: wherein legislative probes are conducted on foreign policy through questions.

Debates on Foreign Policy

It was Prime Minister H.S. Suharawardy, in 1957, who first held the formal debate on foreign policy in the legislature, evoking a great deal of interest and enthusiasm amongst legislators [11]. In 1962, during the discussion on the Central

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10 Discussion of Presidential orders in the National Assembly came in 1963, when the acting Speaker, Cheema was delivering his ruling on the admissibility of an adjournment motion. See Pakistan Observer, (Dacca), 30 Nov 1963.

* Interestingly, the role of the Opposition has also been discussed during the Budget Session. The Central Minister for Law and Parliamentary affairs, S.M.Zafar, in a speech said,"...The duty cast upon the Opposition is to find out weaknesses, drawbacks and the defects in the Government policies, and which are to be found in Legislative measures...". For details see, Pakistan National Assembly Debates, Vol.1, Jun 20, 1967, pp.1779.

Budget, reference to Foreign Policy was made by the Minister of External Affairs, Mohammed Ali [12].

In winding up a one day debate on foreign policy in the National Assembly on August 21, 1964, Bhutto said that Pakistan would welcome any development that would contribute to a settlement of Indo-Pakistan difference. But to opposition demands for Pakistan to quit pacts with USA and UK, he said, "Pakistan was not going to leave them or basically change her foreign policy" [13].

An issue which has figured most prominently in the foreign policy pronouncements of the Pakistani statesmen in the National Assembly has been the Kashmir issue [14].

Bhutto, in 1966, then Foreign Minister in Ayub's Cabinet, severely attacked the Tashkent Declaration in the National Assembly. Other members too participated in the debate which was carried over to the next day, that is March 15, 1966 [15]. There was intensive legislative participation, for even public opinion was very high on this issue. The legislators accused the Government in its failure to safeguard the interests of Pakistan.

15 For details see Pakistan National Assembly Debates, Vol.1, Mar 1966, pp.355-571.
The Budget Session Debate:

Reference to foreign relations during the debates on Budget has been very limited [16], while Issue Oriented debates have been frequently resorted to, by the legislators. Beginning with the debate on March 28, 1948, relating to Pakistan's membership of the United Nations, this category has involved other issues like Kashmir, Dutch action in Indonesia, the Suez Crisis, the Hungarian Crisis etc.

The Question Hour:

The Question Hour is another means of eliciting information. Questioning during the prescribed hours has been very frequently used in the assembly, related to matters on foreign affairs. This has been resorted to for getting clarification on issues regarding foreign affairs [17]. The issue which has received the maximum attention during question hour, has been the Indo-Pak relations, which covered enquiries about statements of Indian leaders, the Indo-Pak boundaries, and other disputes with India.

Another frequently debated issue during question hour has been the performance of the Foreign Ministry. Legislators' interest have centered round, the failure or achievements of the Ministry, the Foreign Missions Abroad, the personnel and expenditure involved and the publicity by the diplomatic corp.

16 During discussion on Finance Bill, the Opposition concentrates its attack on Defence and Foreign Policies of the Government. See discussion on Pakistan's relations with the CENTO partners. For elaboration see Dawn, (Karachi), PJun 28, 1968.

The assessment of the performance of the Ministry takes several forms—the behaviour of the serving diplomats that is, the reception accorded by them to Pakistani citizens staying abroad, as well as to those who go from Pakistan for short durations. Another question related to the Foreign Ministry is the concern for the national image projected by it [18].

**Legislative Participation on Fundamentals of Foreign Policy**

Legislative interest in the fundamentals of foreign policy has been quite high. But, underneath an apparent agreement on such questions, there have been occasions when legislators have differed.

A case in point is the large supply of arms to India in November 1962, during the Sino-Indian war of 1962. Legislators like Sardar Bahadur Khan Mehoob Haq, Mufti Ahmed, Fazal Elahi and Nasrullah Khan, raised concern and doubts [19] about the motives of the West in their supplying of arms to India, and made pleas for an independent policy.

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18 This keeps a constant check on Foreign Office personnel. Told to the author by Riaz Khokhar, a Pakistani diplomat in the Pakistani Embassy in New Delhi, Oct. 1984.

19 See *Pakistan National Assembly Debates*, Vol.1, Nov 22, 1962, pp.2-311. Most of the Legislators were convinced of the deception by the U.S. and Britain and refused to be taken in by Government reassurances. The debate lasted for eight days. Also see "Pakistan and the World—Quarterly survey", by a Staff study in *Pakistan Horizon*, Vol.16, no.3, 1963, pp.259-265.
After Pakistan's war with India in 1965, China was put in a new perspective, which is evident from the Pro-China sentiments voiced by both the Government, as well as opposition benches [20].

The aspect of Soviet Union as a big power was raised during heated discussions in the National Assembly on the Tashkent Declaration of March 1966 [21].

The fear of betrayal, whenever moves of reconciliation with India were attempted, were always voiced in the Assembly in a critical tone [22].

The foregoing analysis might create an impression of the Legislature being an important input in the foreign policy process. The reality is, however, far removed. The Pakistan National Assembly proved an ineffective body because of its inadequate techniques of persuasion, its insufficient financial powers [23] and its dominance by the Government party.


22 Kizilbash and Mumtaz, n.8, p.20.

23 Farid Ahmed, a member of the National Assembly once commented, "So far as the recurring expenses are concerned... the Legislature has got no say...". See National Assembly of Pakistan Debates, Vol.2, Jun 12, 1963, p.329.
Although the right to move resolutions was another important weapon which enabled the members to bring pressure on the administration, in practice, very few resolutions were discussed on the floor of the House [24].

The Executive tendency to dominate the Legislature is a continuing phenomenon, which is evident from the Executive pushing through its viewpoint on major policy, decisions [25]. Discussions on them are merely limited options, available to the legislators. Also, one finds, that there is no attempt to bring important, far-reaching changes in policy before the Legislature. The decision to enter the American Camp in 1950's and the later decision to seek independence from it in 1960, find no mention in any of the debates in the Legislature during that period [26].

Legislative debates thus serve as a formality to be completed rather than functioning as an effective instrument in the making of foreign policy.


25 Decisions with regard to foreign policy is taken at a high-level conference presided over by the President himself. See Asian recorder, (N.Delhi), Jul 2-8, 1962, p.4666.

26 This decision was taken by Ayub and his close associates in the Army, as is borne out in Ayub's autobiography.
NEPAL

In the case of Nepal, inadequate experience in democratic institutions and polity, as also the greater urgency of socio-economic reforms, have made the constitutional and institutional limitations all the more glaring and have kept the foreign policy issues still further from the domestic focus. Besides, its foreign policy has been of an elitist character [27], and being dominated thus by a charismatic leader, it did not leave any scope for other influence including that of the Legislatures.

During the Ranas rule which was an oligarchy, there was hardly anything resembling a Legislature [28].

After the fall of the Ranas in 1951, the king ruled all by himself till 1958. Though there were loud talks of democracy, institutional structures corresponding to it were virtually non-existent. Nevertheless, there was an Advisory Assembly in the name of a Legislature. In 1959, Parliamentary democracy under a constitutional monarchy came into existence, but lasted only for eighteen months, for King Mahendra scrapped the system on 15 December, 1960.s In 1962, two years after the Parliamentary

28 The Ranas used to discuss matters of the State with a body called "Bhardari Sabha". It was composed of distant relatives and confidantes of the Rana rulers and the initiatives of consulting it lay entirely with the Ranas themselves. It was more like an advisory committee than a Legislature.
system was dissolved, Mahendra introduced the Panchayat System, which had four tiers, of which the Legislature was called the Rashtriya Panchayat.

The Advisory Assembly (1951-1958)

The Advisory Assembly was introduced in October 1951 as an interim legislative arrangement. In a royal proclamation which gave legitimacy and constitutional validity to this arrangement, King Tribhuvan stated that pending the elections for a Constituent Assembly to frame a constitution for Nepal, he was constituting "one advisory assembly to assist and advise" him and his Cabinet. This proclamation was incorporated in the Interim Constitution through an amendment in 1952, where detailed provisions for the powers, composition and functions of the Assembly were also laid down [29].

This Assembly could discuss matters connected with the legislative and executive functions of the Government [30], but had no power to exercise any influence on the Executive since it was debarred to discuss the personal conduct of the king and his family on the one hand and any censure motion against "any Minister of the Cabinet as a whole" [31], on the other. During the second session of the Assembly an incident quite contrary to this provision occurred [32]. An unofficial cut motion of the

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30 Ibid., Art.53.
31 Ibid., Art.53 (b) and (d).
32 In Feb 1955.
Indian Rupee against the demands of the Ministry of External Affairs was passed by the Assembly [33]. As a result, the then Prime Minister M.P. Koirala tendered his resignation which was accepted sometime later.

The defeat of the Government in fact resulted from the discussions within the Cabinet which was a coalition of three political parties and Independents and, the cut motion was not aimed at bringing about a change in the foreign policy of the Government. Besides, the decisions of the Assembly were not binding upon the king or his Government [34]. Nor was the latter obliged to resign on an adverse vote in the Assembly. This experiment was probably to enlighten the people in Parliamentary procedure and processes.

King Mahendra while inaugurating the Third Assembly in November 1958 said:

It is furthermore my expectation that the House, in course of its operation, will dig up a mine of experience and knowledge to be capitalised during the session of the next elected Parliament [35].

There was restriction on the Assembly's scope of influencing the foreign policy in particular, by debarring it to discuss, "any question or matter which might affect the friendly relations of the Government of Nepal with any foreign power" [36].

33 Indian rupee was legal tender in Nepal at that time.
34 Art. 57,58, n.29. Also see Mahendra's message in the National Assembly in Asian recorder, Mar 8-14, 1958, p.1933.
36 Art. 53 (a), n.29.
This restriction was evident in the debates of the Assembly, when members were not allowed detailed discussions on matters of vital importance, the main thrust being on Nepal's relations with India and China. Free discussions were allowed on matters that did not come under Art 53(a) - Non-official resolutions which were in conformity with the policy of the Government were, however, readily endorsed.

The Assembly was thus made to act as a communication channel between the Government and the people. The Government in turn got popular endorsement for its foreign policy decision through this channel. It was evident in the Royal Addresses and the statements and speeches made by the Prime Minister and his colleagues in the Assembly. In these speeches and statements, the achievements of the Government in various fields including external affairs were highlighted [37]. The Assembly on its part had neither power -- in terms of Constitutional provisions -- nor resources in terms of expertise -- to influence Government's thinking [38].

The Parliament:

The Advisory Assembly was succeeded by the Parliament instead of a popularly elected Constituent Assembly, as envisaged

38 Told to the author by Rishikesh Shaha.
in the Interim Constitution. The new Constitution which came into force in 1959, granted "power to make laws for the peace, order and good Government" to the Parliament [39]. It consisted of His Majesty and two Houses, the Senate (Maha Sabha) and the House of Representatives (Pratinidhi Sabha) [40]. The House of Representatives had 109 members elected directly from electoral districts covering the whole country, through adult franchise and secret ballot and for a term of five years [41]. The Senate had 36 members, half of which were to be elected by the House of Representatives and the remaining half to be nominated by the king [42].

The Executive was wholly responsible to Parliament for its action. It could discuss any matter except the personal conduct of the king and his successor and the conduct of the Chief Justice or any judge of the Supreme Court in the discharge of his duties [43]. The members of the Parliament enjoyed freedom of expression and vote during their deliberations in Parliament. More privileges were secured for them later through the adoption of an official Bill in August 1960.

The Parliament was thus a truly representative body. Having the constitution as its source of origin and legitimacy, it was

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40 Ibid., Art.18.
41 Ibid., Art.22.
42 Ibid., Art.19(1) and (2) and Art.21(1).
43 Ibid., Art.34.
free from 'undesirable' and 'excessive influence', particularly of the king and cabinet, to which the Advisory Assembly was subjected. On the other hand, it was not only competent, at least theoretically, to exercise effective restraint over the Cabinet, but was also aware of its national responsibilities [44].

This awareness was evident in the interest and excitement witnessed in the Parliament during its proceedings. Debates on foreign policy covered almost every aspect of the subject with a particular emphasis on China and India [45].

The revolt of Tibet against Chinese authorities and its repercussions along Nepal's northern border had given rise to a number of issues craving for settlement between Nepal and China. The issues were demarcation of boundary, dispute over the ownership of Mount Everest, incidents of border violation by the Chinese troop, influx of Tibetan refugees, conditions of Nepalese traders in Tibet and the wider question of Nepal's defence and security.

The parliament expressed strong sentiments on these issues. Following instances can be recalled in support of this. In late June 1960, a Nepalese bodyguard was killed and a few others were


45 Ibid.
captured by the Chinese troops in the Muztang region of Nepal. A nominated member of the Senate (Dil Bahadur Shreshta) moved an adjournment motion. In response to this the Home Minister made a statement in the House on 30 June, 1960 [46]. The concerted attack by the members of Parliament on the way the Government was dealing with the Chinese counterpart in the situation, led Prime Minister B.P. Koirala to present his correspondence with the Chinese Prime Minister before the House on 26 July, 1960. In order to defend the Government's policy, Koirala also gave a full account of his talks with the Chinese leaders. (He had talks with the Chinese during a state visit to China in March, 1960) [47].

Similarly, the agreement on the Gandak Irrigation project between India which assumed controversial contours and was being played up by the opposition parties against the Government, was fully discussed and defended by Government in the legislature [48].

Thus, due to the vigilance on the part of the opposition in Parliament, the Parliament was able to elicit information from the Government. There were instances when the opposition even tried to take initiatives with a view to influencing the Government. For instance, in the first session of Parliament,

47 The commitment to give this account had been made in response to a demand from Bani Bahadur Karki. See Nepal Press Digest, (Weekly), Regmi Research Institute, Kathmandu, Apr 26 - May 28, 1960.
48 Muni, n.44, p.31.
Mrigendra Shumsher of the Gorkha Parishad sought, through a resolution, the formation of fifteen member committee of the Parliament, "to study the Gandak agreement and give it a final shape on the international basis" [49]. In the second session Bharat Shumsher of the Gorkha Parishad [50] demanded a secret session of the House of Representatives to discuss freely and fully the issue of Mount Everest [51]. Besides a Parliamentary commission to study the condition of Tibetan refugees in the northern districts of the kingdom was also demanded [52].

A major drawback of the opposition was its own organizational weakness. They had no common grounds to be united and the Gorkha Parishad and the Communist were individually inclined more towards the Nepali Congress (the ruling party then) than with each other. This was quite clear in the Communist Party's support to the Government's policy of moderation and sobriety towards China, and Gorkha Parishad's support for the policy of friendship with India vis--vis with China.

To this divided opposition was added the overwhelming majority of the ruling party in the Parliament. This gave the

49 This demand was, however rejected since the negotiations on the agreement were only at a primary stage.
50 Later recognised as the Leader of the Opposition.
51 This too was not accepted. For details, see Muni, n.44, pp.31-32.
52 The government disclosed that it was planning to send such missions but disapproved the inclusion of politicians, including members of Parliament. Ibid.
Government the final say in deciding the quantum of information to be given to the Parliament, and also the nature and extent of involvement to be allowed to the opposition. The debate on the 'Everest' issue is a case in point [53].

The weak and divided opposition was therefore unable to exert effective pressure and thus gave the Executive a smooth sailing in Parliament. The Government even tried to evolve conventions and institutionalize them [54].

There was a standing committee of the Parliamentary Wing of the ruling party dealing with foreign affairs, but this Committee could not make its effect felt. It was eclipsed by Prime Minister B.P. Koirala's towering personality and his extensive grip on international affairs.

The Rashtriya Panchayat

The Panchayat system as contained in the 1962 Constitution (amended in 1967) envisages a four tier structure. On the lowest rung of the ladder are the village (Gaon) and town (nagar) Panchayats; placed above them are district (zilla) panchayats, then there are the zonal (Anchal) panchayats, who form the

53 Most of the questions and adjournment motions tabled on this issue were either disallowed, or when allowed were rejected. It clearly appeared that the government was concealing information from the Parliament and wanted to deal directly with the Chinese government. See Nepal Press Digest, 18-25 Apr, 1960 and 10-17 May, 1960.

54 Bharat Shumsher was recognised as the Leader of the Opposition.
electoral college for electing representatives to the National Panchayat (Rashtriya Panchayat) [55]. The Rashtriya panchayat constitutes the apex of the partyless Panchayat Democracy stipulated by king Mahendra. It is a unicameral Legislature, constituted from four sources: the Anchal Sabhas (Provincial Councils), class organisation, the intelligentsia and the king (Article 34 of the Constitution) [55]. The first three nominate twenty percent of the total number elected from the former. In all, the Rashtriya Panchayat has 140 members. Their tenure is six years with one third of them retiring every two years, making the House permanent.

Groups within Parliament

There are six class organizations, membership of which is mandatory for becoming a candidate to all tiers of the Panchayat. These organisations are, the Nepal Women's Organisation, Nepal's Peasant Organisation, Nepal Youth Organisation, Nepal Elder's Organisation, Nepal Labourers Organisation and the Nepal Ex-Servicemen's Organisation. In the absence of political parties, these organisations play an important role, by discussing various aspects of the issues that come up in Parliament [57].

57 Told to the author by Chura Bahadur Hamal (Minister, Nepalese Embassy), Oct 1984. Also see Lok Raj Baral, Pattern of representation in the National Panchayat of Nepal, (Kathmandu, 1975), p.9.
But these groups according to Rishikesh Shaha hardly ever succeeded, in even putting across a controversial opinion on any subject, be it domestic or foreign. The presence of these groups is only an eyewash, to convince people that despite a partyless system, people of differing views are encouraged to discuss issues concerning the foreign relations of the country. The existence of this group is thus only farcical.

As regards the power and privileges of the National Panchayat, it resembles those of the Advisory Assembly, rather than those of the Parliament. The National Panchayat has mandatory powers in certain matters. It can discuss any matter other than the conduct of the members of the royal family and that of the judiciary [58]. Laws cannot be passed without the approval of the National Panchayat, but, of course, require royal assent [59]. The king enjoyed a wider discretionary power as compared to that enjoyed by him vis-à-vis the Parliament prior to the 1962 constitution. The king had the power to veto, which even in the last resort could not be challenged or over-ruled by the National Panchayat. The king appoints the Chairman of the Rashtriya Panchayat and can also remove him [60]. Also, the king has the power to send messages to the Rashtriya Panchayat

59 Ibid.
60 Art.39(1),(2) and (3), n.56.
persuading it to pass a particular legislation in the way originally introduced by his Government. The king can also issue ordinances when the Rashtriya Panchayat is not in session and under proclamation of Emergency, the king assumes unlimited law-making power [61].

The mere fact that the members of the National Panchayat are not directly elected by the people, makes them responsible not to the people but to their immediate electors and to that extent reduces popular control over them. The Legislature being unicameral reduces the scope of popular participation in the legislative process and increases the authority of the Executive vis-a-vis the legislature [62].

The In-Camera Session:

The Panchayat proceedings are not open to the Press or Public, except that occasionally a very limited number of individuals are permitted to observe the proceedings, after proper screening.

The constitutional provision that the National Panchayat sessions shall be held in camera until such time as the king may deem it fit to declare them open has very much undermined the influence of the National Panchayat as a popular representative


legislature. Only summary records of the proceedings are published which do not give sufficient insight into the influence it exercises over the Executive. Although newspapermen like other members of the Nepali public were free to attend, they could not report what they actually heard in the debate on the floor but were required by law to confine themselves to printing merely the official summaries of the proceedings as given in the communiques put out by the Legislature's secretariat [63].

The 1967 constitutional amendment further dimmed the chances of political parties coming into limelight, for the amendment forbade political parties and organisations which were politically motivated.

A report prepared by the Secretariat of the Rashtriya Panchayat said:

...the members of the Rashtriya Panchayat whether elected or nominated, have no feeling of groupism and are not swayed by party politics...Cut motions as a form of disapproval of policy, or token protests have practically no useful function owing to the partyless character of the Rashtriya Panchayat [64].

Foreign policy statements contained in the king's inaugural address to the Rashtriya Panchayat sessions have highlighted the

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63 Disclosed to the author by Rishikesh Shaha. He referred to the 'in-camera' sessions as being similar to a 'fascist assembly', for there could be no discussions, and even if there were differences among ministers, nothing would get publicised.

achievements of the Government, particularly the king himself. Even on specific issues and aspects of the policy, the Rashtriya Panchayat has only reflected the mood of the king's Government. This is evident from the fact that during its first four sessions, the Rashtriya Panchayat was highly critical of India and its attitude towards Nepal [65]. But when the official relations between India and Nepal resumed normalcy, India's criticism in the Rashtriya Panchayat also receded in the subsequent sessions.

The Rashtriya Panchayat neither had adequate power nor proper institutional structure to influence the foreign policy. This is evidenced by the following example. The withdrawal of the Indian technicians from the Northern border checkposts was demanded on 24 June, 1969 by the then Prime Minister K.N.Bista in a Press interview to the Government controlled paper 'The Rising Nepal'. Rishikesh Shaha, the former Foreign Minister and a member of the Rashtriya Panchayat reacted to this statement questioning its propriety. He asked why such an important decision was announced through the Press when the House was in session. He alleged that there had been questions on the subject in the House, but the Prime Minister did not reply to them there [66]. It was clear that the House was kept uninformed about it.

65 India had disapproved of King Mahendra's action terminating the Nepal Congress government and the Parliamentary system. See India Lok Sabha Debates, Vol.XLIX, no.24, 16 Dec 1960, col.5975, cited in Munir, n.44.
The National Panchayat is a legislative body with its own distinctive features, not found in most legislatures of other countries. It is not a sovereign deliberative body. The king is the sovereign authority and powers emanate from him. Whatever power or influence the National Panchayat enjoys comes from the king.

The National Panchayat should be open to the public in general and the Press in particular to establish a closer link with what the members say within the House and outside it. But because of the unique provision in the 1962 Constitution which specifies that all sessions of the National Panchayat must be held 'in camera' unless royal permission is granted for an open meeting, it is difficult to appraise the influence of this body on the legislative process [67].

CEYLON

The Parliament, one of the democratic institutions nurtured and built into the political tradition of Ceylon grew into an indispensable forum of political debate, respected as such by both Government and the opposition.

The Parliament, during the early years of independence consisted of members from upper middle classes, both from the

point of education and occupation [69]. Even members of Parliament belonging to the political parties were composed of kin relations. It was a kind of kindred oligarchy [69].

Composition of the Parliament:

The Ceylonese Parliament comprised Her Majesty the Queen, and until 1971, two chambers, the Senate and the House of Representatives [70].

The Senate consisted of thirty members, fifteen elected by the House on the basis of the single transferable vote and fifteen appointed by the Governor-General on Prime Ministerial advice. The constitution provided that in appointing Senators the Governor-General should endeavour to select persons who had distinguished themselves in public service, or in professional, commercial, industrial or agricultural life, including education, law, medicine, science, engineering and banking. Selection from this wide range of subjects was hoped to get specialists who would make valuable contribution to the political education of the country [71]. The Senate had at best only a power to delay non-money bills for a maximum of one year [72].

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70 The Senate was abolished with effect from Sep 28, 1971. One of the charges being that it had been obstructing the 'progressive legislation' of the government.
71 For a detailed analysis of the working of the senate, see, I.D.S. Weerawardene, The Senate of Ceylon at work, (Colombo, 1955).
In its first twenty three years (1947-70), the Senate rarely interfered with important legislation. Occasionally amendments of an inconsequential nature were suggested or made. When it did obstruct legislation, as in mid-1970, it incurred the wrath of the United Front (UF) Government which seized the opportunity to have it legislated out of existence [73].

The House of Representatives as constituted under the General elections of 1947, 1952 and 1956, comprised 101 members, but in 1959, a fresh demarcation took place under which the number of constituencies was increased to 151.

The conduct of business in the House was similar to that of the British House of Commons. The social composition of the House after each General election from 1956 to 1970 tended to become progressively democratised with members emerging from the lower layers of society. This made the post 1956 member of Parliament to cast himself in a more dynamic role as the 'peoples' representative [74].

The Legislature at work

Legislative business concerning foreign affairs has taken one of the following forms:

1. 'Public' discussions on foreign policy - this forms an important feature of the Parliamentary system in the country.

73 Ibid., p.206.
74 Ibid., p.211.
This public view is put forth by the various Pressure Groups within the Parliament [75].

2. Substantive motion or a debate - A specific issue of foreign policy might lead to the discussion of a substantive motion, or even a statement made by the Prime Minister or Foreign Minister can lead to a debate. The speech from the Throne, or the Presidents' Address are also subjects of discussion [76].

3. The Budget session debate: The affairs of the Foreign Office are also discussed during the deliberations on the Appropriation Bill.

4. Question Hour - An opposition member of the Parliament may raise questions regarding the policies and the Foreign Minister or someone on his behalf; is obliged to reply to the opposition and defend their policy.

Despite so many alternatives available to the legislators to elicit information, the majority of them were ignorant of the finer points of international diplomacy. For example, Ceylon would trade with South Africa but oppose apartheid. This stand by the Government was never discussed in the Parliament.

There have been learned men, but they did not really care. Only a few erudite learned men gave thought to the country's

75 For details, see section on 'Pressure Groups'.

76 For example, a debate on Foreign Policy followed a discussion on supplementary estimate by the Minister of Defence and External Affairs - J.R.Jayawardene set the ball rolling by some carefully phrased digs at the government. See Ceylon Daily News, (Colombo), Sep 25, 1970.
foreign policy and its relevance to the development of the country [77].

Constitutional Provision:

There is no provision in the Constitution to the effect that all these subjects (mentioned above), are to be brought forth for legislation. It has merely become an established convention for discussion of these topics in Parliament. Since they are not subject to Parliamentary ratification, the discussions and questions are only a form of eliciting information and knowing the exact stand of the Government.

Nevertheless, Parliament has been a critical forum mirroring public opinion on foreign policy issues and has presented near alternatives [78]. For instance, the UNP Government did agree to consider some of the amendments put forward by the opposition benches on the Indo-Ceylon Citizenship Amendment Bill [79].

The Government Parliamentary Group:

The emergence of the Government Parliamentary Group as an active participant in the determination of policy, created several opportunities for members of Parliament to interfere in

77 Told to the author by Park Nadesan.
79 For detailed discussion on the issue see Ceylon Parliamentary Debates, Senate Official Report, Vol.19, Jan 22, 1964, cols. 2154-2186. Also see col.2315-3318.
the work of Administration. For instance, the passage of the Paddy Lands Act was largely the work of the 'Forward bloc of the Government Parliamentary Group'. This group pressurised the then M.E.P. Cabinet, led by S.W.R.D. Bandarnaike, to accept the Bill and certain members of the group even openly defended the Minister in Parliament [80].

In 1964, attempts to frame legislation for taking over the Press were rejected by the Government Parliamentary Group. The main objection being that the provision of the draft Bill 'did not go as far as the members of the Group would have liked it' [81].

Besides granting approval to proposed legislation and on occasions amending it and determining policy questions, the Group also helped to resolve disputes and iron out differences among its members [82].

Generally at the beginning of each week during which the House assembled, the Group met to discuss parliamentary business for the week. Cabinet Ministers were called upon to explain important policy matters and proposed legislations. Resolutions were usually moved by the more active members, and if adopted,

82 Wilson, n.72, p.204.
had to be acted upon by individual Ministers or the Cabinet, as circumstances demanded [83].

There were occasions when Ministers were criticised for their failure to give effect to the Group's decisions, or for the inefficient handling of affairs which came within the purview of the Ministry.

The Group's influence depended a lot on the balance of forces within it, as well as on the personality of the Prime Minister [84].

In the pre-1956 phase, with the UNP in power, this Group could not exert itself. However, in the post-1956 period, it began asserting itself. In 1956 it rejected Bandarnaike's first draft Bill providing for Sinhala as the only official language. It also expressed its opposition to the Budget proposals of the Finance Minister, Felix Bandarnaike, to reduce the rice subsidy, despite the Prime Minister's full backing. Criticism of Government policy by this Group was probably an important cause for reversal of policy on the Hungarian issue in the U.N. in 1957.

Dudley Senanayake too had faced opposition from this Group during his premiership from 1965-70.

83 Told to the author by A.Amrithalingam (TULF leader), in an interview in Colombo, Mar 1984.

84 Told to the author by S.U.Kodikara.
Groups within Parliament:

It becomes essential for the decision-makers in the Island to take account of certain groups like the Buddhists, Indians and the Muslims in the foreign policy formulation process. They make their presence felt within the Parliamentary group or even try and influence from outside by lobbying.

For instance, the Chinese action in Tibet in 1959 engendered a reaction in the Ceylonese Buddhist circles, which organised public meetings condemning the Chinese and which called upon the then Prime Minister, Bandarnaike, to take the initiative in calling an Asian Regional Conference to discuss Tibet or to refer the matter to the U.N [85]. But Bandarnaike, who had only two years prior to this, established diplomatic relations with China, did not pay any heed to their requests.

On the other hand, in response to the concern of the monks in Ceylon over the persecution of Buddhists in Vietnam [86], the Ceylonese Government had to use the good offices of the U.N Secretary-general to take suitable action in the matter [87]. As a result, the UN sent a fact-finding mission to Vietnam [88].

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During Mrs. Bandarnaike's second term in office, we can find a strong influence of a minority group on the foreign policy making of the country. This was the Muslim community. This was quite noticeable, as the Middle-East was coming up as a major market for Ceylonese tea. There had been a discernible pro-Arab leaning, as this Muslim community was making its presence felt.

The Muslims are the second largest community — the least educated, rich, and who lived under the British patronage, and because of this background were affiliated to the UNP Government.

**Pressure Groups:**

There were two groups functioning outside the Parliament. One was the Islamic Socialist Front formed by Badiruddin Mahmud. The other group, the Socialist Study Circle had in its fold the Left oriented sympathisers but was not politically as active as the Islamic Socialist Front. These two were break-away groups from the muslim community which influenced the United Front Government, after the 1970 elections. They contributed to the UF policies. Even the party manifesto was drafted by them for the UF [89].

Badiruddin Mahmud, the founder of the Islamic Front, was little known before 1956 except perhaps as a teacher. But after 1956, he came to be closely associated with S.W.R.D. Bandarnaike. He used to regularly undertake trips to the U.N.

89 Told to the author by Mervin De'silva.
In Sirimavo's Cabinet of 1960, Badiruddin held an important portfolio, that of Minister of Education [90]. Mrs Bandaranaike, to win the support of the Muslim community, even recognised the Palestine Liberation Organisation and closed the Israeli Legation in Colombo. She also encouraged the Tea market in the Middle-East.

These two Muslim groups are, however, not very active now. Since they are not institutionalised, they channel their views through the Media or the parliament as lobbies. They have reacted to foreign policy issues only when it directly affected them [91].

The Role of the Opposition

The opposition benches in the Parliament, especially in the House of Representatives, appear to have a significant influence on the foreign policy decisions. For instance, after the Government enters into a treaty, it is tabled for debate in the House [92].

The Minister whose ministry is in question is, therefore, careful not to expose himself to the criticism of the opposition

90 Reference to him was made by one of the members while referring to Muslim members of Parliament in connection with the setting up of District Councils. See Ceylon Parliamentary Debates, House of Representatives, Vol.9, 1968, cols.303-305.

91 Told to the author by Mervin De'silva.

92 "This is when the Opposition can question the Government on related Foreign Policy issues" - told to the author by A. Amrithalingam.
by espousing a controversial foreign policy unless it is an important article of faith in the party programme. For example, there existed during 1948-56, a fundamental divergence of approach between the Government and the Opposition on important foreign policy issues. From 1956 onwards, the Governments in office have espoused Non-alignment as a basic tenet of their foreign policy, though the Governments under the SLFP banner were pro-communists and those under the UNP had a pro-western tilt [93].

On the controversial Ceylon-China Maritime Agreement, the opposition was critical of the UNP Government. It was criticised as one having "ominous" implications, particularly in the light of the strategic location of Trincomalee on the East coast of Ceylon in any armed conflict between India and China [94].

The Indo-Ceylon Agreement of 1964 on the future of people of Indian origin was criticised by the Ceylon Democratic Workers' Congress. They charged its authors with treating the settlers as a commodity rather than human beings in an effort to solve a political tangle [95].

However, elements of consensus on issues such as anti-colonialism, anti-racism, disarmament and arms control have

93 Ibid.
95 For details see Asian Recorder, Dec 9-15, 1964, pp.6184-6185.
existed in Ceylon, whatever the political complexion of the Government in power. Whatever differences of opinion are there, the Parliament discusses it.

From the foregoing analyses it is evident that elected assemblies in Pakistan have been intermittent in a largely military and bureaucracy-dominated polity. The elected assemblies have been weak and have been assigned only a minor role in decision-making. They did not originate any legislation, no committee examined it and they seldom ever debated it. They tended to simply ratify decisions of the Government. Support in the Assembly has been maintained through patronage and the legislators have seldom been able to challenge the concentration of power in the Executive. In Nepal, the 'in-camera' sessions of the legislature is itself an indication of the secondary role it plays in policy formulation. Also, since there are a handful of nominated members to the Rashtriya Panchayat, debates become meaningless and they only serve to legitimise the decisions already taken by the King. In Ceylon, the Parliament has at best mirrored public opinion, seldom providing direction or exercising effective control over the Executive.