

EMBEDDING CITIZEN PARTICIPATION IN THE NATIONAL LAW- MAKING PROCESS IN SRI LANKA: IDENTIFYING GAPS AND MAKING REFORMS BASED ON THE UK PARLIAMENTARY SYSTEM

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1. Introduction

The national law-making process in Sri Lanka involves two main steps: the pre-parliamentary stage for the consideration of options for action and drafting of the law, and the parliamentary stage for the consideration and enactment of the law. Even though the Constitution and the Standing Orders of Parliament control the process, Sri Lanka faces significant challenges in terms of transparency in the process. There exist very limited mechanisms for people to have a voice in the making of legislation. Looking at the Parliament of the United Kingdom, the country exhibits greater transparency in the law-making process in terms of the different steps followed in the process. This paper aims to examine the law-making process in Sri Lanka, analyze the main problems in the process, and explore how the United Kingdom's approach may improve transparency in the Sri Lankan law-making process.

2. The Law-Making Process in Sri Lanka

The law-making process in Sri Lanka involves two stages: the pre-parliamentary stage and the parliamentary stage. While the Constitution and Standing Orders establish the formal steps, in practical implementation, the roles played by various institutions in these stages reveal significantly varying levels of transparency.

2.1. *Pre-Parliamentary Stage*

When a Ministry identifies the need for new legislation or amendments, it prepares a Cabinet Memorandum explaining the objectives and necessity of the proposed law. Cabinet approval is the first institutional

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checkpoint, confirming political endorsement. Following approval, the Legal Draftsman's Department is instructed to draft the Bill in accordance with the approved policy. The Legal Draftsman converts broad policy goals into precise legal provisions. The process at this initiation stage gives the Executive complete control over the content and structure of proposed laws.

Once a draft is completed, it is reviewed by the requesting Ministry to ensure consistency with its policy direction. The draft is then referred to the Attorney-General, whose constitutional role is to examine whether the proposed Bill is inconsistent with the Constitution. Though the Attorney-General's review is a key legal safeguard, the process remains confidential and unavailable to the public. After incorporating the Attorney-General's recommended changes, the draft is translated into Sinhala and Tamil and returned to the Ministry for final examination.

Importantly, this entire pre-parliamentary process works without any legal obligation for public disclosure, consultation, or publication of policy papers. Concept papers, impact assessments, and draft texts remain internal documents. While this stage provides the best opportunity for meaningful public participation in shaping policy direction, in practice, it is the most unclear stage of law-making in Sri Lanka. As a result, citizens are excluded from understanding the substance of proposed laws before they reach Parliament, thereby limiting democratic participation.

2.2. Parliamentary Stage

Once the Cabinet approves the final draft, it moves into the parliamentary stage. For ordinary Bills, Article 78(1) of the Constitution requires publication in the Gazette at least seven days before the Bill is placed on the Order Paper.² This is the only legally mandated moment when proposed legislation becomes publicly accessible. After the First Reading, the Bill is formally introduced and assigned a number.

² Article 78 - [(1) Every Bill shall be published in the Gazette at least seven days before it is placed on the Order Paper of Parliament.]

Between the First Reading and the Second Reading, citizens may challenge the Bill in the Supreme Court under Article 121(1) on constitutional grounds, including ostensible violations of fundamental rights or procedural constitutional requirements.³ Formally, the Court cannot review policy weaknesses or harmful social impacts, although it has in some cases developed interpretative techniques that enable it to examine these considerations as an integral element of the Bill's constitutionality. The formal limitation, however, reflects the principle of the separation of powers, whereby the courts review only constitutional compliance and leave policymaking and social impact considerations to the elected legislature and executive. Parliamentary proceedings are suspended until the Court issues its determination, which is communicated to the Speaker. Although Parliament is expected to act in accordance with the determination, there is no constitutional mechanism guaranteeing compliance.

Under the Sri Lankan Constitution, even where the Supreme Court determines that a Bill is inconsistent with the Constitution, Parliament may still enact it provided the Bill is passed in accordance with the special majority laid down in Article 84(2).⁴ This is a deliberate measure to safeguard the legislative freedom of Parliament, while ensuring the separation of powers under the Constitution.⁵ But it can be argued that

³ Article 121 - (1) The jurisdiction of the Supreme Court to ordinarily determine any such question as aforesaid may be invoked by the President by a written reference addressed to the Chief Justice, or by any citizen by a petition in writing addressed to the Supreme Court. Such reference shall be made, or such petition shall be filed, 117[within fourteen days] of the Bill being placed on the Order Paper of the Parliament and a copy thereof shall at the same time be delivered to the Speaker. In this paragraph "citizen" includes a body, whether incorporated or unincorporated, if not less than three-fourths of the members of such body are citizens.

⁴ Article 84(2) Where the Cabinet of Ministers has certified that a Bill is intended to be passed by the special majority required by this Article or where the Supreme Court has determined that a Bill requires to be passed by such special majority, such Bill shall become law only if the number of votes cast in favour thereof amounts to not less than two-thirds of the whole number of Members (including those not present) and a certificate by the President or the Speaker, as the case may be, is endorsed thereon in accordance with the provisions of Article 80 or 79.

⁵ Montesquieu, *The Spirit of the Laws* (1748); AV Dicey, *Introduction to the Law of the Constitution* (10th edn, Macmillan 1885).

this procedure does not strike the appropriate balance between Parliament and the courts in the making of constitutionally compliant legislation. A comparative perspective can be drawn from the United Kingdom, where the courts issue a declaration of incompatibility under the Human Rights Act 1998. This highlights a problem, but does not strike down the law, leaving Parliament the option of amending it.⁶ Comparably, a hypothetical mechanism in Sri Lanka could include temporary suspension of non-compliant Bills, mandatory reporting to the courts, or public accountability measures, balancing judicial supervision with legislative independence.

At the Second Reading, members debate the general principles of the Bill. Thereafter, the Bill may be referred to a Committee, often a Sectoral Oversight Committee, for consideration and for proposing amendments.

However, amendments cannot alter the “*merits and principles*” of the Bill under Article 78(3), limiting the scope for substantive revisions.⁷ After committee review, the Bill proceeds to the Third Reading, usually on the same day, after which it is put to a final vote. Once approved, the Speaker certifies the Bill under Articles 79 and 80(1), formally enacting it as law. And after the law is passed, no one can question it.⁸

Overall, Sri Lanka’s law-making process is institutionally structured but offers limited transparency and engagement. In the early stages, the executive dominates and at every stage, public participation is minimal.

3. Key Factors that Make the Law-making Process in Sri Lanka Problematic

⁶ Human Rights Act 1998, s 4.

⁷ Article 78 - [(3) Any amendment proposed to a Bill in Parliament shall not deviate from the merits and principles of such Bill.].

⁸ Article 79 - The Speaker shall endorse on every Bill passed by Parliament a certificate in the following form: – “This Bill (here state the short title of the Bill) has been duly passed by Parliament.” Such certificate may also state the majority by which such Bill was passed. Article 80 - (1) Subject to the provisions of paragraph (2) of this Article, a Bill passed by Parliament shall become law when the certificate of the Speaker is endorsed thereon.

The Sri Lankan law-making process exhibits significant gaps in transparency and public participation. Since concept papers, policy proposals, and draft bills are not required to be published during the pre-legislative stage, ministries and the Cabinet are free to make decisions in total secrecy.⁹ This lack of pre-legislative transparency prevents citizens from understanding how legislative ideas are developed. Public consultation is also absent, as there is no engagement of experts, civil society, or affected groups, and no impact assessments or explanations of policy choices are made available.

Access to draft laws in Sri Lanka is very limited, as Bills are only disclosed through a Gazette seven days before the First Reading, giving the public almost no time for engagement. Challenging draft laws (such as the recent amendments to the Prevention of Terrorism Act) in the Supreme Court is equally restrictive. The Court can only review whether the amendments violate the Constitution, not the original Act, and its determination goes to the Speaker rather than the petitioners. Filing a petition requires expensive legal assistance, extensive documentation, and strict compliance with procedures, all within the two-week deadline that includes weekends and public holidays.

The Colombo Port City Economic Commission Bill was placed on the Order Paper of the Parliament on April 8th, 2021, by then the Supreme Court was on vacation. In accordance with the Constitution, any citizen who wishes to challenge the Bill, claiming it to be inconsistent with the Constitution, has one week in which to file a petition, in this case until April 15th, 2021. The petitioner points out that the time period between April 8th and April 15th contained a weekend and three public holidays, leaving people with a meagre two working days to seek legal advice and a lawyer, and subsequently, did not give the stakeholders the necessary time to really understand the bill and its implications.¹⁰ Similarly, in the case of the Divineguma Bill 2012, a constitutional challenge failed due

⁹ Ermiza Tegal and Nisara Wickramasinghe, 'Law-making for the people must be with the people' Daily FT (online, 4 June 2025) <<https://www.ft.lk/columns/Law-making-for-the-people-must-be-with-the-people/4-777267>> accessed 6 December 2025.

¹⁰ Zulfick Farzan, 'BASL challenges Port City Economic Commission Bill in Supreme Court' Newsfirst (Colombo, 15 April 2021) <[BASL challenges Port City Economic Commission Bill in Supreme Court](#)> accessed 6 December 2025.

to a strict procedural interpretation of the term “delivery”. It was that “delivery” required physical handover to the Speaker, and a petition sent by registered post did not satisfy this requirement. These illustrations indicate how procedural and temporal constraints can restrict effective constitutional scrutiny.¹¹

Recent data suggests public engagement in the legislative process remains weak. A survey conducted in 2023 revealed that 61.5 per cent of respondents were unaware of the proposed Anti-Terrorism Act, while 40 per cent of those who were aware opposed the draft due to concerns regarding potential political misuse. Similarly, 71.6 per cent of respondents reported being unaware of the Online Safety Bill at the time of its introduction.¹²

These figures are accompanied by procedural problems. The Ministry of Justice’s May 2023 call for comments on the ATA was reported as one of the few occasions in which public input was sought on a Bill, while the Online Safety Bill (2023) has been criticized for poor stakeholder consultation, hand picking of ‘experts’, weak institutional systems, and an overall lack of transparency, all of which help explain the low public awareness and the mistrust reflected in the percentages above.¹³

4. Adapting UK Parliamentary Practices to Sri Lanka

Sri Lanka can strengthen its law-making process by adapting practical measures from the UK’s pre-parliamentary stage and public consultation system. Green Papers that include policy ideas, options, and questions should be published by the ministries, together with

¹¹ J C Weliamuna, ‘Impeachment of Sri Lanka’s Chief Justice: An Unconstitutional Witch-hunt’ *Groundviews* (11 March 2012) <<https://groundviews.org/2012/11/03/impeachment-of-sri-lankas-chief-justice-an-unconstitutional-witch-hunt/>> accessed 6 December 2025.

¹² Pulse.lk, ‘What is lacking in Sri Lanka’s law-making process ...’ (Facebook, 6 November 2023) <<https://www.facebook.com/pulse.lk/posts/what-is-lacking-in-sri-lankas-lawmaking-process-in-collaboration-with-the-centre/508985878495003/>> accessed 6 December 2025.

¹³ Pulse.lk, ‘What is lacking in Sri Lanka’s law-making process ...’ (Facebook, 6 November 2023) <<https://www.facebook.com/pulse.lk/posts/what-is-lacking-in-sri-lankas-lawmaking-process-in-collaboration-with-the-centre/508985878495003/>> accessed 6 December 2025.

public and expert feedback on the policy.¹⁴ White Papers that include the final policy and how the feedback affected the proposal should be presented.¹⁵ Draft Bills and consultation documents could be published online, with responses collected through online forms, emails, written submissions, and stakeholder meetings, and feedback summarized publicly with a formal government response. These reforms would extend the time frame for citizen participation and improve transparency, in contrast to the current two-week limit for petitions in Sri Lanka.

The UK Parliament has several mechanisms for public participation throughout the legislative process. E-Petitions can be started by any member of the public and remain open for six months; the government responds at 10,000 signatures, and Parliament may consider debate at 100,000 signatures.¹⁶ Public consultations are conducted before a Bill is introduced, through draft Bills or Green and White Papers, generally lasting twelve weeks. Citizens can contact MPs or Lords at any stage to present their views or suggest amendments. During the Committee stage, Public Bill Committees may seek written evidence from the public and experts, with submission deadlines set for each Bill. Private and Hybrid Bills allow targeted public input, with deadlines determined by the Bill Committee.

Sri Lanka has recently added a new feature to the official Parliament website (as of December, 1st 2025), allowing the public to consult Members of Parliament either privately or publicly through the platform.¹⁷ This feature is designed to improve public-MP interaction, but does not replicate the UK's e-petition mechanism. Instead, it

¹⁴ UK Parliament, 'Weekly Information Bulletin 29 May 2010' <<https://publications.parliament.uk/pa/cm201011/cmwib/wb100529/wgp.htm>> accessed 6 December 2025.

¹⁵ *ibid.*

¹⁶ UK Parliament, 'get involved – sign a petition' <<https://www.parliament.uk/get-involved/sign-a-petition/>> accessed 6 December 2025.

¹⁷ Daily News, 'Sri Lanka Parliament relaunches official website with "My Parliament" citizen engagement portal' (2 December 2025) <[Sri Lanka Parliament relaunches official website with "My Parliament" citizen engagement portal - DailyNews](#)> accessed 6 December 2025.

provides a feature for citizens to raise concerns or seek clarification directly with MPs via the website.

Through the MP Voting Records and Statistics on the UK Parliament website, citizens can easily access detailed information on individual MPs, including voting records and attendance statistics. This transparency ensures accountability, and it enables the public to monitor representatives' actions effectively. In comparison, the Sri Lankan Parliament website provides limited information about MPs, often lacking detailed voting histories and performances. Expanding MP profiles to include comprehensive data would strengthen public oversight and engagement with parliamentary processes in Sri Lanka.

A recent positive step is the Ministry of Justice's call for public submissions on the proposed Prevention of Terrorism Bill, with the draft published in all three languages.¹⁸ However, this remains an *ad hoc* executive initiative rather than a formal, legally mandated consultation process.

5. Challenges to Adapting Reforms in Sri Lanka

Sri Lanka has recently taken a positive step by enabling citizens to interact with MPs through the upgraded parliamentary website, but the fact that it took nearly two decades to introduce this feature signifies that the country's digital capacity, resources, administrative culture, and political priorities are not yet fully prepared for more advanced consultation mechanisms such as e-petitions, Green or White Paper processes, or other technical improvements.

In practice, several socio-political difficulties are likely to limit the effectiveness of public consultation in general law-making in Sri Lanka. These include the difficulty of identifying public representatives in a diverse society, low participation due to the perception that law-making is the sole responsibility of government institutions, and the mistrust that exists in a post-war context.

¹⁸ Staff Writer, 'Public Invited to Submit Views on New Prevention of Terrorism Bill' (News 1st, 20 December 2025) <[Public Invited to Submit Views on New Prevention of Terrorism Bill](#)>accessed 24 December 2025.

Collectively, these issues limit the practicality and success of implementing a broad public consultation mechanism.

6. Conclusion

This paper focused on the lack of transparency and meaningful citizen participation in Sri Lanka's law-making process, especially at the pre-parliamentary stage, where executive control is at its highest. While the constitutional framework seems to provide a formal legislative structure, practical obstacles, including secrecy, a lack of access to draft laws, and restrictive judicial review times, impede democratic participation. The comparative discussion with the United Kingdom illustrates how structured consultation mechanisms can enhance transparency and accountability without weakening legislative authority. However, as discussed above, limited technological capacity, institutional constraints, and the persistence of post-war mistrust in Sri Lanka may continue to restrict meaningful public engagement, thereby affecting the practical success of such reforms.