

## Depth of Social Work

# Legislation Procedure in the Parliament

We can see the detailed procedure of legislation in parliament in Articles 70-88 of Constitution of 1973. National Assembly & Senate, both houses of parliament does job of central legislation. All laws made by parliament have to pass through same essential steps. Every type of social legislation is also done in the same way which we are going to discuss in detail.

### 1) Preparation Of Bill/Proposal

When Central Govt. feels specific law, it gets for written preparation of that proposal according to Govt. point of view. When opposition members or common members in National assembly want so, they prepare legislation bill/proposal by using their own resources.

### 2) First Reading

After preparation of proposal, it is sent to Speaker of National Assembly. Then it is published and included in official gazette. Unofficial proposals are not placed in official Gazette. Moving member presents proposal in the House on the day decided by Speaker of National Assembly. It is called introduction of proposal/bill in the House. Then moving person requests speaker to present proposal for debate in house or to send to committee. After debate on that proposal, if majority of members in Assembly approve, it is send to committee.

### 3) Committee

Different committees are formed in National Assembly & Senate to deal with different type of proposals for law making. For example, Education committee deal with such proposals which are concerned educational matters. Every committee discusses proposal in detail committee may take opinion from experts, ministers and common citizens. That committee sends the proposal back in house with its positive or negative opinion. Committee is not allowed to change the actual proposal.

#### 4) Second Reading

This step is considered very important. After coming back from committee, proposal is discussed in depth with detail. Every member may take part in discussion. After completion of debate, moving person requests speaker to present proposal for voting. If majority of members favor it, proposal is considered valid for ~~next~~ step.

#### 5) Third Reading

Date & time is decided by speaker of National Assembly for third reading on Proposal. At this stage, proposal is not discussed in detail. After short debate, members cast votes in favor or opposite to proposal. After approval of majority, proposal is handed over to Upper House.

#### 6) Proposal in Second House

If senate is second House, it prepares its decision within three months. If it does not decide in limited period, proposal is considered a "Law" without its approval. Senate may reject or amend or approve ~~the~~ proposal. If it amends, National Assembly repeats the above procedure. After second approval from National Assembly, proposal is not sent to senate. It is directly sent to president for final approval.

Some times, joint meeting of both houses (Senate & National Assembly) is called to approve a proposal. Speaker of National Assembly presides such meeting. If he is absent, chairman of senate presides. Proposal is sent for final approval if majority of both houses approve it.

#### 7) Approval of President

*both houses it is sent to President.*  
~~After approval of proposal from both houses, it is sent to President. It is sent with the~~ advice of Prime Minister. President makes it complete law after signing it. President keeps powers to approve the proposal or to send it back for revision. If both houses approve it again, President has to sign it.

*Final term*

In modern times, the judiciary perform not only the function of punishing crimes, an settling disputes, but has also the duty of preventing the violation of rights and threatened infraction of the law. This is called preventive justice. It is performed by issuing writs and restraining orders or injunctions. Failure to obey injunctions or a writ constitutes contempt of court and is punishable by imprisonment or fine.

In a federal state, the judiciary has the power to declare the acts or statutes of the central or provincial legislatures or executive orders or unconstitutional if they are outside their jurisdiction or powers as defined by the constitution. The constitutions of such federal states as the U.S.A, Pakistan, and India have conferred the power of judicial review on their high and supreme courts.

In many countries, the judiciary performs the function of giving advisory opinions on questions of law when requested by the executive or the legislature. This function is usually performed by the High Court or the Supreme Court, as in Pakistan. Almost in all countries, the judiciary is called upon to perform certain miscellaneous functions of non-judicial nature. For instance, the judges may be empowered to grant licenses, or act as receivers in bankruptcy cases, guardians of minors and administration of estates, or to naturalize the aliens, etc.

Independence of the judiciary means that the judiciary should be independent of the other two organs the legislature and executives, so as to administer justice with impartiality and according to law. For this purpose it is necessary that the appointment and tenure of judges should not depend upon the pleasure of the other organs.

First of all, an independent judiciary is necessary for securing an impartial trial of the accused. It protects the liberty and rights of the citizens. It is the bulwark of individual liberty. Secondly, it has to try state officials for offences committed by them in the course of performing their public duties. An independent judiciary can protect individual liberty and rights from official infringements. Thirdly, the independence of the judiciary is essential for the protection of the constitution and law against encroachment by the government, or private individuals. This is particularly true of a federal constitution which has to be preserved from the encroachment by the federal or unit governments.

## Function

welfare and security of the average citizen than the feeling that he can rely on certain and prompt administration of justice. Justice is the foundation of the state. Indeed Laski says, the judicial processes and procedure, in spite of their forbiddingly technical character, the more closely related to liberty than the splendid sentences in which Rousseau depicts the conditions of its attainment. Lord Bryce paints a dismal picture if the judiciary fails to work properly and honestly. He says, "if the law is dishonestly administered, the salt has lost its flavor: if it be weakly or fitfully enforced, the guarantee of order fails, for its more by the certainty than by the severity of punishment that offenders are repressed. If the lamp of justice goes out in darkness, how great is the darkness." Obviously therefore, "adds Laski, "the man who are to make justice in the courts, the way in which they are to be chosen, the terms upon which they shall hold their power and other related problems, lie at the heart of political philosophy. When we know how a nation-state dispenses justice, we know with some exactness the moral character to which it can pretend.

In The modern times, the judiciary performs several functions, but there is no uniformity about them in various states. The primary function of judiciary is to apply existing laws to the cases or legal disputes brought before the courts for settlement. These cases may be civil or criminal. When a case is brought before a court, its duty is first to find the facts, then to discover the law applicable to the case, and pass a judgment according to it. The judiciary applies the laws, ascertains and decides rights, punishes crimes, administers justice and protects the innocents from injury and usurpation. Nevertheless, to a judge a law is as it is laid down by the legal sovereign, no matter if it is good or bad, just or unjust, moral or immoral.

Sometimes the law is not clear, either because the law makers did not foresee the circumstances of the case, or the wording of the statute is ambiguous or because two or more laws applicable to the case is in conflict. In deciding such cases, the judge has some discretion in interpreting the laws and deciding the case in the light of principles of justice, equity and commonsense. This way he not merely applies a law but even make it. Such decision becomes precedents for other judges who have to decide similar cases later on. These precedents become the judge-made laws or case-laws. They play an important role in the legal system of such countries as Britain, U.S.A, Pakistan, India and other countries which follow the English common Law. In these countries, the judges may become the creator of new laws and supplement the work of the legislature.

Dept. of Social Work

Final term

## Role of constitutional forces in shaping social legislation

Political institutions play a major role not only in shaping social legislation but in all matters of Government. Role of political institutions is increasing everywhere in the world with the passage of time. Most of the function of other institutions are being performed by the political institutions because of their supremacy over other institutions. For example care of sick people (through hospitalization), education of children, price fixation, credit facilities, settlement of disputes about property and ownership, land reform, trade, commerce, transportation, communication, banking, family law and their implementation fall with jurisdiction of political institutions.

Whenever we talk about the political institutions, we mean the government of the state. There are three main branches of government.

1. Legislative
2. Executives
3. Judiciary

These three branches of government are the strong forces which not only make law but implement these laws and also interpret in different situations. Here we specially concerned with social legislation i.e. Lunacy Act 1898, child labor Act 1991 were enacted after passing through the above three branches. We can explain it as under.

### **Legislature:**

The chief function of the legislature is to formulate laws (either social legislation or any other legislation). Legislature passes new laws, amend or repeal old ones. A law is first presented before the legislature (parliament) as a bill or a legislature proposal. It goes through several stages of debate and deliberation in the legislature called legislative process. Legislature (parliament) includes National Assembly and Senate. In case it is accepted by the majority of its members at every stage, it is considered as passed by it. Then it is placed before the head of the state for his signature and it becomes an act or law, i.e. Family Act 1976. An act is enforced by the executive organ of state and interpreted by the courts.

administrative function. In the parliamentary or cabinet form of government, the executive directly and actively participates in law making.

Executive plays a vital role in the implementation of law. All the social legislation was passed in the past as well as in the present was implemented by the executive. For example, The Family

Laws were passed by the legislature and assent of president and then implemented by the lower-executive. The offender of the law arrested by the police-officers who bring the offender to the magistrate who makes decision accordingly to the situation. Similarly, those mentally abnormal persons who are dangerous for the normal people are arrested by the police and are sent to the mental-houses by the permission of magistrate. Thus the police department and magistrate who is the executive play their role in shaping "Social Legislation".

### **Judiciary:**

Judiciary is the third branch of the government and a great role in the social legislation. It interprets the law in specific situations. It performs certain functions which are very necessary for the life and happiness of citizens. It protects rights and liberties of the citizens. Justice is the foundation of a state. The judges and lawyers play a great role in social legislation.

For example, child committed crime in the age of 12 years. According to the Bombay Children Act 1921, the offender is called "Juvenile offender". He was arrested by police and was kept in separate prison specify for the juveniles. There are separate courts for these procedures. The lawyers try to give proof in favor of offender. Finally judges make decision according to situation.

Henry Sedgwick has rightly emphasized that "the importance of the judiciary in political construction is rather profound than prominent. On the one hand, in popular discussion of forms and changes of government, the judicial organ often drops out of sight. ~~On the other hand, in~~ determining the nations rank in political civilization, no test is more decisive than the degree in which justice, as defined by the law, is actually realized in its judicial administration, both as between one private citizen and members of the government.

It performs certain functions, which are so very necessary for the life and happiness of the citizens. It ascertains and protects the rights and liberties of the citizen. It punishes crime and protects the innocent from the injury and usurpation. There is no better test for excellence of the government than the efficiency of its judicial system, for nothing more nearly touches the

Law plays a great role in the life and interests of the citizens. They must therefore be made with great care and deliberation. The legislature must be representative of the people to understand their needs and interests. Owing to the complexity of and dynamic nature of modern life, the legislative function of the modern legislatures has assumed great importance as well as proportions. In all democratic states today, the legislatures have control over the national finances. It has power to grant money to the government, which can not collect taxes without previous approval. The reason is that the legislature, as representatives of the people, is the custodian of their interest and public money. It supervises the revenue and expenditure of the government, reviews them by discussing and passing the national budget, presented in the legislature before the beginning of a new financial year. The legislature also controls the executive, especially in the cabinet of parliamentary form of government. The cabinet is responsible to the legislature. In any case, the legislature keeps a check on the work and policies of cabinet of the government.

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### Executive:

The second organ or branch is the executive. In broad sense, the executive includes all officials of the state from the highest to the lowest, from president down to the policeman or a patwari who execute or enforce law or administer the country. In narrow sense, it denotes the heads of executive departments who determine the policy of the government that is the president and the minister or the cabinet.

The executives perform the political function of formulating law, while the administrators perform administrative function of enforcing it. The executives lay down the policy of the government, the permanent public service carry it out in the day to day administration of the country. The executive sees that the laws are properly enforced, but the actual enforcement in daily administration is the primary duty of public services. Executive mostly consists of representatives, elected for a certain period of time for their offices, by the people, while the public servants are permanent officials, appointed to their posts under civil service rules or recruitment, promotion and retirement. The essential function of executive is to maintain law and order. The executive has also the duty of defending the state against foreign aggression or internal revolt, in order to preserve its integrity and security. Executive has to perform

7th week