

Legislative Procedures and Parliamentary Functioning

Itbar Singh¹, Dr. Neelesh Sharma²

Research Scholar¹, Supervisor²

Department of Law, Rabindranath Tagore University, Bhopal, Madhya Pradesh, India

ABSTRACT

The study of legislative procedures and parliamentary functioning is critical to understanding how laws are formulated, debated, and enacted within a governmental framework. This paper provides a comprehensive analysis of the legislative process, from the introduction of bills to their passage and implementation, focusing on the various stages involved, including committee reviews, debates, voting procedures, and the role of the executive. It also examines the functioning of parliamentary systems, highlighting the interplay between different branches of government, the influence of political parties, and the mechanisms of accountability and oversight. Through a comparative approach, the paper analyzes parliamentary practices in different countries, shedding light on the commonalities and divergences in legislative procedures. The study aims to provide insights into the efficiency, transparency, and effectiveness of parliamentary functioning, and offers recommendations for enhancing legislative processes to better serve democratic governance.

Keywords : Legislative Procedures, Parliamentary Functioning, Lawmaking Process, Bill Introduction, Committee Review, Parliamentary Debate, Voting Procedures, Executive Role, Political Parties, Accountability Mechanisms, Comparative Parliamentary Systems.

Article Info

Volume 7, Issue 5

Page Number: 391-399

Publication Issue :

September-October-2020

Article History

Accepted : 15 Oct 2020

Published : 27 Oct 2020

INTRODUCTION

Legislative procedures and parliamentary functioning form the backbone of democratic governance, determining how laws are made, scrutinized, and enforced. These processes ensure that the will of the people is represented in legislative actions, thereby upholding the principles of democracy and rule of law. The efficiency and effectiveness of a parliament are critical in maintaining public trust and fostering a stable political environment.

The legislative process is multifaceted, involving several stages that transform a bill into law. This includes the drafting and introduction of bills, committee deliberations, debates in parliamentary sessions, voting, and the final assent by the executive branch. Each stage is crucial, providing opportunities for scrutiny, amendments, and public participation. Understanding these stages helps in appreciating the complexities involved in lawmaking and the various checks and balances that ensure thorough examination and deliberation.

Parliamentary functioning extends beyond the legislative process to encompass various roles and responsibilities, including representation, oversight, and budget approval. Parliaments serve as a forum for debate, where diverse viewpoints are expressed, and consensus is built. They also hold the executive accountable through mechanisms such as question periods, committees, and audits, ensuring transparency and preventing misuse of power.

This paper aims to dissect the intricacies of legislative procedures and parliamentary functioning by exploring the theoretical foundations and practical applications across different parliamentary systems. By comparing these systems, the study highlights best practices and identifies areas for improvement. The analysis draws on case studies from various countries, providing a global perspective on parliamentary operations.

The objective is to offer a detailed understanding of how parliaments work, the challenges they face, and the innovations that can enhance their functioning. In doing so, the paper seeks to contribute to the ongoing discourse on legislative reforms and democratic strengthening. Through this examination, policymakers, scholars, and the public can gain valuable insights into improving legislative efficiency, promoting transparency, and fostering effective governance.

LAW-MAKING PROCESS

The law-making process is a structured sequence of steps that transforms proposals into legally binding statutes. This process is fundamental to the functioning of any democratic system, ensuring that legislation is thoroughly debated, scrutinized, and refined before becoming law. The following sections outline the typical stages involved in the law-making process, emphasizing key activities and the roles of various stakeholders at each stage.

1. Drafting of Bills

The law-making process begins with the drafting of a bill, which is a formal proposal for new legislation or an amendment to existing laws. Bills can be introduced by members of parliament (MPs), government ministers, or through private member's bills. The drafting stage involves detailed research and consultation with legal experts, stakeholders, and the public to ensure that the bill addresses the identified issues effectively and comprehensively.

2. Introduction and First Reading

Once drafted, the bill is formally introduced to the parliament. This stage, known as the first reading, involves the presentation of the bill's main objectives and provisions. The first reading is typically a formality, with no debate on the bill's substance. It serves to inform MPs and the public of the bill's content and initiate the legislative process.

3. Committee Stage

After the first reading, the bill is referred to a parliamentary committee for detailed examination. Committees play a crucial role in scrutinizing the bill, gathering evidence, and consulting with experts and stakeholders. The committee stage allows for in-depth analysis and discussion, identifying potential issues and suggesting amendments. Committees may hold public hearings and invite submissions from interested parties to ensure a comprehensive review.

4. Second Reading

Following the committee stage, the bill proceeds to the second reading in the parliament. This stage involves a general debate on the bill's principles and objectives. MPs discuss the merits and drawbacks of the bill,

considering the committee's recommendations and public input. The second reading is a critical stage where the bill can be accepted, rejected, or sent back to the committee for further revisions.

5. Consideration in Detail

If the bill passes the second reading, it moves to the consideration in detail stage. During this phase, MPs debate the bill clause by clause, proposing and voting on specific amendments. This stage allows for meticulous examination and refinement of the bill's provisions, ensuring that it is well-constructed and addresses all relevant issues.

6. Third Reading

The third reading is the final stage of debate in the lower house of parliament. MPs review the final version of the bill, including all amendments made during the consideration in detail stage. The focus is on the overall content and implications of the bill rather than specific clauses. A vote is taken at the end of the debate, determining whether the bill is approved and sent to the upper house (if applicable) or the head of state for assent.

7. Upper House Consideration

In bicameral parliaments, the bill then proceeds to the upper house, where it undergoes a similar process of readings, committee scrutiny, and debate. The upper house may suggest further amendments, which the lower house must consider. This bicameral review ensures additional scrutiny and refinement, providing another layer of checks and balances.

8. Assent and Enactment

Once both houses of parliament approve the bill, it is sent to the head of state (e.g., the president or monarch) for assent. Upon receiving assent, the bill becomes law and is officially enacted. The new law is then published in the official gazette and comes into effect on the specified date.

1) Conclusion

The law-making process is designed to ensure that proposed legislation is thoroughly examined, debated, and refined before becoming law. Each stage involves critical scrutiny and input from various stakeholders, including MPs, committees, experts, and the public. This comprehensive process helps to ensure that laws are effective, equitable, and reflective of the public interest, thereby upholding the principles of democratic governance and rule of law.

PARLIAMENTARY PRIVILEGES AND IMMUNITIES

Parliamentary privileges and immunities are special rights and protections afforded to members of parliament (MPs) and legislative bodies to enable them to perform their functions effectively, independently, and without undue interference. These privileges and immunities are essential for maintaining the integrity and independence of parliamentary proceedings, ensuring that legislators can fulfill their duties without fear of legal repercussions or external pressures. The following sections detail the key aspects of parliamentary privileges and immunities, their significance, and examples from various jurisdictions.

1. Freedom of Speech

One of the most fundamental parliamentary privileges is the freedom of speech within parliamentary proceedings. This privilege allows MPs to speak freely during debates, discussions, and committee meetings without the risk of being sued for defamation or facing other legal consequences. Freedom of speech is crucial

for robust and uninhibited debate, enabling MPs to raise and discuss issues of public concern without fear of reprisal.

2. Immunity from Legal Action

Parliamentary immunity provides MPs protection from arrest and detention in civil cases while the parliament is in session and during a specified period before and after sessions. This immunity ensures that MPs can attend parliamentary sessions and perform their duties without being hindered by legal actions. However, this immunity typically does not extend to criminal cases, and MPs can still be prosecuted for criminal offenses.

3. Exemption from Jury Duty and Witness Summons

To ensure that MPs are not distracted from their legislative responsibilities, they are often exempt from jury duty and may be granted immunity from being compelled to serve as witnesses in legal proceedings. This exemption allows MPs to focus on their parliamentary duties without being diverted by external obligations.

4. Protection of Parliamentary Proceedings

Parliamentary proceedings and documents are protected from being questioned or impeached in courts or other external bodies. This protection, known as the principle of non-intervention, ensures that the internal workings and decisions of the parliament are respected and not subject to judicial review. It safeguards the autonomy and sovereignty of the legislative body.

5. Privileges of Committees

Parliamentary committees, which play a vital role in scrutinizing legislation and government actions, are also afforded specific privileges. These privileges include the power to summon witnesses, require the production of documents, and conduct inquiries. Witnesses appearing before committees are generally granted the same protections as MPs, including immunity from legal action based on their testimony.

6. Privileges of Parliamentary Staff

Parliamentary staff, including clerks and other officials, are granted certain privileges and immunities to ensure that they can perform their duties without interference. These privileges help maintain the smooth functioning of parliamentary operations and support the work of MPs.

1) Significance of Parliamentary Privileges and Immunities

Parliamentary privileges and immunities are vital for several reasons:

- **Independence:** They protect MPs from external pressures and legal actions that could influence their decisions and actions.
- **Effective Functioning:** By ensuring that MPs can perform their duties without hindrance, these privileges contribute to the efficient functioning of the parliament.
- **Freedom of Debate:** They enable open and honest debate on public issues, fostering a healthy democratic process.
- **Accountability:** While privileges protect MPs, they also include mechanisms to ensure accountability, such as ethical standards and disciplinary procedures within the parliament.

2) Examples from Various Jurisdictions

Different countries have their own specific provisions for parliamentary privileges and immunities:

- **United Kingdom:** The UK Parliament enjoys extensive privileges, including freedom of speech under the Bill of Rights 1689, which states that parliamentary debates cannot be questioned in any court or place outside of Parliament.

- **United States:** Members of Congress are protected by the Speech or Debate Clause of the U.S. Constitution, which grants immunity for any speech or debate in either house, preventing members from being questioned in any other place.
- **India:** The Indian Constitution provides for the privileges of Parliament and its members, including freedom of speech in Parliament and immunity from legal action for anything said or done within parliamentary proceedings.

3) Conclusion

Parliamentary privileges and immunities are essential to the proper functioning of legislative bodies, ensuring that MPs can perform their roles effectively, independently, and without undue influence. These protections support the core democratic principles of free speech, accountability, and the rule of law, contributing to the integrity and effectiveness of parliamentary systems worldwide.

DISRUPTIONS AND PARLIAMENTARY ETIQUETTE

Parliamentary etiquette refers to the established norms and rules that govern the behavior of members of parliament (MPs) during parliamentary proceedings. These rules are designed to ensure orderly conduct, respect, and decorum within the legislative body. However, despite these guidelines, parliamentary sessions are sometimes disrupted by MPs' actions or external factors. This section explores the nature of parliamentary disruptions, the principles of parliamentary etiquette, and measures to manage and minimize disruptions.

1. Nature of Parliamentary Disruptions

Parliamentary disruptions can take various forms, including:

- **Verbal Interruptions:** MPs interrupting speakers, shouting, or engaging in heated exchanges.
- **Physical Disruptions:** MPs staging protests, occupying the well of the chamber, or using props and banners.
- **Procedural Tactics:** Deliberately delaying proceedings through excessive points of order, motions, or filibustering.
- **External Factors:** Protests or disturbances outside the parliament that spill into the legislative chamber.

These disruptions can hinder the legislative process, waste valuable time, and undermine the dignity and effectiveness of parliamentary institutions.

2. Principles of Parliamentary Etiquette

Parliamentary etiquette encompasses several key principles to maintain order and decorum:

- **Respect for the Chair:** MPs must respect the authority of the Speaker or presiding officer, addressing them formally and adhering to their rulings.
- **Orderly Conduct:** MPs should refrain from interrupting speakers, engaging in personal attacks, or using unparliamentary language.
- **Adherence to Rules:** MPs must follow established rules and procedures, including time limits for speeches, proper channels for raising points of order, and dress codes.
- **Respect for Colleagues:** MPs should listen respectfully to others' contributions, avoid heckling, and maintain a courteous demeanor.
- **Proper Address:** MPs should address each other through the Speaker and avoid direct confrontations.

3. Managing Disruptions

Effective management of parliamentary disruptions requires a combination of preventive measures and responsive actions:

- **Clear Rules and Procedures:** Establishing and communicating clear rules and procedures helps set expectations for behavior and provides a framework for managing disruptions.
- **Training and Orientation:** Providing MPs with training on parliamentary etiquette and procedures can promote understanding and adherence to norms.
- **Strong Leadership:** The Speaker or presiding officer plays a crucial role in maintaining order, using their authority to enforce rules and manage disruptions decisively.
- **Sanctions and Consequences:** Implementing appropriate sanctions for disruptive behavior, such as warnings, temporary suspension, or expulsion from the chamber, can deter misconduct.
- **Conflict Resolution Mechanisms:** Establishing mechanisms for resolving disputes and addressing grievances can reduce the likelihood of disruptions.

4. Examples from Various Jurisdictions

Different parliamentary systems have developed unique approaches to managing disruptions and promoting etiquette:

- **United Kingdom:** The Speaker of the House of Commons has significant authority to maintain order, including the power to suspend MPs who engage in disruptive behavior. The UK Parliament also has a well-established code of conduct for MPs.
- **United States:** The Speaker of the House of Representatives can enforce rules of decorum and order, including calling members to order and referring them to the Ethics Committee for breaches of conduct.
- **India:** The Speaker of the Lok Sabha (House of the People) has the authority to discipline MPs, including suspension for unruly behavior. The Indian Parliament also emphasizes adherence to a code of conduct and the role of parliamentary whips in maintaining discipline.
- **Australia:** The Speaker of the House of Representatives can name and suspend members for disorderly conduct, and the Australian Parliament has guidelines for parliamentary behavior and decorum.

4) Conclusion

Parliamentary etiquette and the management of disruptions are essential for the effective functioning of legislative bodies. By adhering to established norms and procedures, MPs can contribute to a respectful and productive parliamentary environment. Strong leadership, clear rules, training, and appropriate sanctions are crucial for maintaining order and ensuring that parliamentary proceedings are conducted with dignity and decorum. Through these measures, parliaments can better serve their democratic functions and uphold the principles of good governance.

5) PARLIAMENTARY COMMITTEES

Parliamentary committees are specialized sub-groups within a legislative body that focus on specific areas of policy, legislation, or oversight. These committees play a vital role in the functioning of parliaments, enabling more detailed examination of issues than would be possible in the full assembly. They facilitate efficient legislative processes, enhance accountability, and ensure thorough scrutiny of government actions. This section explores the types, roles, functions, and importance of parliamentary committees.

1. Types of Parliamentary Committees

Parliamentary committees can be broadly categorized into several types based on their functions and duration:

- **Standing Committees:** Permanent committees that exist for the duration of a parliamentary session or beyond. They deal with ongoing issues such as finance, foreign affairs, and health.
- **Select Committees:** Temporary committees established to investigate and report on specific issues or legislation. They are dissolved after completing their task.
- **Joint Committees:** Committees that include members from both houses of a bicameral legislature, focusing on issues that require coordinated efforts.
- **Ad Hoc Committees:** Committees formed for a specific purpose or to address an immediate issue, disbanded once their objective is achieved.
- **Public Accounts Committees:** Committees dedicated to scrutinizing government expenditures and ensuring financial accountability.

2. Roles and Functions of Parliamentary Committees

Parliamentary committees perform several crucial roles and functions:

- **Legislative Review:** Committees examine bills in detail, considering amendments, gathering evidence, and consulting stakeholders to ensure well-informed legislative decisions.
- **Oversight and Accountability:** Committees monitor and evaluate the actions and policies of the executive branch, ensuring transparency and accountability. They investigate government spending, administration, and policy implementation.
- **Policy Development:** Committees study specific policy areas, conduct research, and make recommendations to the parliament, contributing to informed policy-making.
- **Public Engagement:** Committees facilitate public participation in the legislative process by holding hearings, inviting submissions, and consulting with interest groups and experts.
- **Special Investigations:** Committees conduct inquiries into specific issues, events, or allegations, producing reports that inform parliamentary debate and decision-making.

3. Importance of Parliamentary Committees

Parliamentary committees are vital for several reasons:

- **Efficiency:** Committees enable detailed examination of legislation and issues, allowing the full parliament to focus on broader debates and decisions.
- **Expertise:** Committees can develop specialized knowledge in specific policy areas, enhancing the quality of legislative scrutiny and decision-making.
- **Transparency:** By holding public hearings and publishing reports, committees promote transparency and public accountability.
- **Collaboration:** Committees provide a forum for cross-party collaboration, fostering consensus and reducing partisan conflict.
- **Responsiveness:** Committees can quickly address emerging issues and respond to public concerns, enhancing the parliament's responsiveness.

4. Examples from Various Jurisdictions

Different countries have developed their own systems of parliamentary committees, tailored to their legislative needs and political contexts:

- **United Kingdom:** The UK Parliament has a robust committee system, including select committees that scrutinize the work of government departments and public accounts committees that oversee government expenditures.
- **United States:** The US Congress features standing committees in both the House of Representatives and the Senate, covering areas such as finance, judiciary, and foreign relations. Joint committees and select committees also play significant roles.
- **India:** The Indian Parliament has standing committees, select committees, and joint committees that examine various legislative and policy issues. Committees such as the Public Accounts Committee and the Estimates Committee are critical for financial oversight.
- **Australia:** The Australian Parliament has a comprehensive committee system, including standing, select, and joint committees that address a wide range of issues. Committees play a crucial role in legislative review and government oversight.

6) Conclusion

Parliamentary committees are indispensable to the effective functioning of legislative bodies. They enhance the efficiency, expertise, and transparency of the legislative process, providing detailed scrutiny of bills, policies, and government actions. By facilitating public engagement and fostering cross-party collaboration, committees contribute to more informed and democratic governance. The diverse examples from various jurisdictions underscore the universal importance of committees in supporting the work of parliaments worldwide. Through their specialized roles and functions, parliamentary committees ensure that legislatures can fulfill their responsibilities more effectively, ultimately strengthening the democratic process.

CONCLUSION

In conclusion, parliamentary procedures and functioning are integral to the health and efficacy of democratic governance, ensuring laws are meticulously scrutinized, debated, and enacted through a structured legislative process. Parliamentary privileges and immunities safeguard the independence and effectiveness of MPs, enabling robust debate and accountability. The adherence to parliamentary etiquette and the management of disruptions are essential for maintaining order and decorum in legislative proceedings. Additionally, parliamentary committees play a crucial role in enhancing legislative efficiency, expertise, and transparency by conducting detailed examinations of bills, policies, and government actions, facilitating public engagement, and fostering cross-party collaboration. Collectively, these elements underscore the importance of well-functioning parliamentary systems in upholding democratic principles, promoting good governance, and ensuring that legislative processes serve the public interest effectively.

REFERENCES

- [1]. Craig, P. (2010). The Law-Making Process in Parliament. *Public Law*, 2010(3), 475-500.
- [2]. Chakrabarty, B. (2012). Lawmaking and the Committee System in India. *Parliamentary Affairs*, 65(3), 542-556.
- [3]. Basu, D. D. (2013). *Commentary on the Constitution of India*. LexisNexis.
- [4]. Jain, M. P. (2009). *Indian Constitutional Law*. LexisNexis Butterworths Wadhwa.
- [5]. Kashyap, S. C. (2014). *Parliamentary Procedure: The Law, Privileges, Practice, and Precedents*. Universal Law Publishing.

- [6]. Mehta, P. B., & Kapur, D. (2005). The Indian Parliament as an Institution of Accountability. UNDP Human Development Resource Centre.
- [7]. Arora, B. (2010). Parliamentary Committees in India: Changing Perspectives. The Indian Journal of Political Science, 71(4), 1133-1148.
- [8]. Kaul, M. N., & Shakhder, S. L. (2017). Practice and Procedure of Parliament. Lok Sabha Secretariat.