UNIT 5: LEGISLATIVE PROCEDURE OF THE INDIAN PARLIAMENT

UNIT STRUCTURE

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5.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- describe the Legislative or Law-making procedure of the Indian Parliament.
- explain the Legislative procedure regarding Money Bill.

5.2 INTRODUCTION

Law making is an important function which is increasing day by day in view of the goal of welfare state. The Union Parliament is the Legislative organ of the Union of India and as such enjoys extensive legislative powers as per the provisions of the Constitution of India.

The Union Parliament has exclusive legislative jurisdiction over 97 subjects included in the Union or Central list. It has co-equal jurisdiction with the State Legislatures over 52 (47+5) Concurrent subjects. The Union Parliament not only makes laws regarding the Union subjects and the Concurrent subjects, but it can also make laws regarding subjects mentioned in the State List. This can be done both in peace time and during the operation of a proclamation of emergency. Besides, the Union Parliament

can also make laws on all those subjects i.e. Residuary Subjects', which are not mentioned in any of the three list of subjects.

In this chapter, we will discuss about how a Bill becomes an Act in the Union Legislature, i.e., the Parliament. The main function of the Parliament is law making. To make a law, what kind of specified method is followed, will be discussed in this chapter.

5.3 LEGISLATIVE PROCEDURE OR LAW MAKING PROCEDURE OF THE INDIAN PARLIAMENT

Article 107 to 122 of the Indian Constitution deal with the legislative procedure or law making procedure in Indian Parliament. A Bill is nothing but a draft of a proposal for legislation, which becomes an Act or a law when duly enacted by the Legislature. The Parliament of India enjoys law-making powers over all the subjects of Central List, Concurrent List and over the Residuary subjects. The Parliament can also exercise this power on the subjects of State List, in exceptional circumstances, as specified by the Constitution of India.

The Bills that are introduced in the Parliament can be classified into two kinds- (a) Ordinary Bill and (b) Money Bill. An Ordinary Bill concerns the matters of general public importance and does not contain any proposal for taxation or expenditure of public funds. On the other hand, a Money Bill is related to the imposing, reducing or repealing of taxes and expenditure of public funds. Again, Ordinary Bills are subdivided as Government or Public Bill and Non-Government or Private Member's Bill.

A Bill, whether an Ordinary or a Money Bill must pass through a number of stages to become an Act. However the enactment procedures of the Ordinary and Money Bills are not the same. Therefore, both the procedures are separately discussed below.

5.3.1 Stages in the Passage of Ordinary Bill in Indian Parliament

An Ordinary Bill has to pass through the following stages to become an Act:

- **Introduction or First Reading**

An Ordinary Bill can be introduced in either House of the Parliament. A Bill introduced by the Minister concerned is known as Government or Public Bill, for which he/she has to give a formal notice of introduction in the House.

On the other hand, a Bill introduced by a member, other than a Minister is known as Private Member's Bill. However, he/she has to give one month's notice to the presiding officer for the introduction of a Bill.

A Government or Public Bill is drafted in the concerned department in consultation with the law department and also, if necessary, with other departments on the other hand drafting of a Private Member's Bill is the responsibility of the member concerned.

In any case, every Bill can only be introduced with the permission of the presiding officer of the House (Speaker of the Lok Sabha or The Chairman of the Rajya Sabha). After getting permission, the mover of the Bill can introduce the Bill in the House and read out the title of the Bill only. At this stage, there is no debate or discussion on the Bill. It must also be published in the Gazette of India. The Presiding officer of the House may allow some Bills to be published in the gazette even before the introduction or First Reading. Such bills don't require formal introduction in the Parliament. Of Course, a private member's Bill may be referred to a committee for consideration and report before publication in the Gazette.

The introduction of the Bill is known as First Reading of the Bill.

- **Second Reading and Committee Stage**

This is the most important stage in the life of a Bill. Normally Second Reading takes place after an interval of two days after the First Reading.

After the permission is granted by the Presiding Officer of the House, the mover of the Bill may propose any one of the following motions:

(i) The Bill may be taken for consideration by the House at once.

(ii) It may be sent to a Select Committee of the House.

(iii) If may be sent to a joint Select Committee of the two Houses.

(iv) It may be circulated for eliciting public opinion.

The adoption of any of the above motions depends upon the urgency and importance of the Bill. Very rarely Bills are taken up for consideration straight way. If the fourth motion or proposal is adopted, the secretariat of the concerned House requests the State Governments to publish the Bill in the State Gazettes inviting opinions from local bodies and recognized associations. Such opinions are circulated among the members of the House.

Usually, a Bill is referred either to a Select Committee or to a Joint Select Committee. The committee consisting of both ruling and opposition members proportions to their strength in the concerned House where it originates. When a Bill is referred to a committee, it scrutinizes the Bill thoroughly and carefully. The committee may accept or may propose amendments on the Bills, but cannot alter the principles or policies underlying the Bill. After completing the discussion, it sends back the Bill to the House along with their report.

The Bill is then circulated among the members of the House along with the report or recommendations of the committee. The mover of the Bill may propose that the Bill as reported by the committee be taken into consideration. After this motion is carried, the Bill is taken up for consideration clause by clause. Every clause is debated upon, amendments are proposed, which may be accepted or rejected by the House. Voting is held on each clause or groups of clauses taken together. When, the House thus approves the Bill as a whole, it is put to the vote of the House. When, the House thus approves the Bill, the Second Reading is over. This stage is very crucial, because during this stage, a bill assumes its final shape.

Before discussing about the Third Reading stage of the law making procedure, we must discuss about the committee system

of the Union Parliament and how they play a vital role in the field of Legislation.

The committees perform a vital function in modern Legislatures. Because in modern times, the works of the Legislature have become complicated. The committees provide technical knowledge and expert advice to the Legislatures and also save it's time. The committee system differs from country to country. Our Parliament has developed its own system of committee to cope with tremendous work. Being a deliberative body, it is realised that it cannot do detailed serious work amidst a large number of members in a dispassionate manner. Therefore, the Union Parliament like its counterparts in other democratic countries, has constituted a good number of committees in order to discuss in detail various matters in small groups; which cannot be taken up by a large body.

But, we must remember that, committees are subordinate bodies created by Parliament to assist in its legislative work. These committees are small in size and consist generally of experts and therefore they work very efficiently. The committees make parliamentary work smooth, efficient and expeditious. They provide a certain expertise to the deliberations of the Parliament. They have increased the efficiency of the Parliament. Now a days, the committees have become inseparable parts of the Parliament. The Parliament cannot function efficiently without the help of these committees. In the words of Thomas Reed, "Committees are the eyes, the ears and the hands of Legislature and sometimes these become the very brain of the legislature also."

There are several committees of our Parliament which are involved in law making procedure. These are – (i) Business Advisory Committee (ii) Select Committee(iii) Joint Committee (iv) Committee on Private Member's Bill (v) Committee on Subordinate Legislations.

(i) Business Advisory Committee: The main function of this committee is to control the time-table of the House. The Committee

make recommendations as to how much time should be given for the discussion of the various stages of a Bill.

(ii) Select Committee: These committees are constituted when a motion that the said Bill be referred to a Select Committee is passed by the House. The Committee examines the Bill clause by clause and may make substantial amendments on the Bill, then submits its report to the House. The Committee can also call for evidences or witnesses – official or non-official in connection with a Bill.

(iii) Joint Committee: Very often, a joint Select Committee is constituted by the two Houses of the Parliament for undertaking a review of an important public bill. This committee helps the House to perform the business of legislation smoothly. It avoids duplication of legislation and thereby saves time of the Parliament.

(iv) Committee on Private Member's Bill: This Committee determines the fate of all private-member's bills. In other words, the main function of the Committee is to examine or scrutinise the bills presented by the private members of the House. The Committee sorts out the bills according to their contents, urgency and importance and recommends to the House as to which bill is to be discussed.

(v) Committee on Subordinate Legislations: The Legislature delegates some of its law making powers to the Executive. Accordingly, the Executive makes laws on the basis of the powers delegated to it by the Parliament. This system of law making is known as Subordinate Legislation or Delegated Legislation. But, this system involves the danger of a possible misuse of the delegated powers by the Executive. That is why, the Parliament always want to keep a control over Delegated Legislation. For this purpose, the Parliament appoints the 'Committee on Subordinate Legislation'. The main function of this Committee is to scrutinise and report to the House whether the powers to make regulations, rules, sub-rules, bye-laws delegated by the Parliament to the Executive are being properly exercised within the limits of such delegation or not.

From the above discussion, we can now realise how the Parliamentary Committees play an important role in law-making process. These Committees really relieve the Parliament of its burden. They also save time and give expert opinion on the subject.

- **Third Reading**

At this stage, the mover of the Bill may propose that the Bill be passed. This stage of the Bill is a formal stage. Therefore, details are not discussed nor are amendments moved. However, some verbal amendments may be made. The debate is of general character either in support of the Bill or against the Bill. No bill is generally rejected in this stage. If the majority of members, present and voting, accept the Bill, the Bill is regarded as passed by the House and referred to the other House for consideration after duly signed by the Chairman or Speaker of the House.

- **Procedure in the Other House**

A Bill passed by one House must also be passed by the other House exactly in the same process. After consideration, if the other House passes the Bill without any amendments, then it is assumed that the Bill is passed by both the Houses of the Parliament.

The other House may seek amendment and send back the Bill with amendments. In this case, the 1st House, where the Bill was originated, if accepts the amendments made by the other House, then it is regarded that the Bill has been passed by both the Houses of the Parliament.

If the other House takes no action and keeps it pending for more than six months or if the previous House does not accept the amendments made by the other House, then the President of India may summon a joint session of the two Houses of Parliament to decide the fate of the Bill. If in the joint session, the Bill is passed with a majority of votes, it is sent for the assent of the President.

5.3.2 Assent of the President

When a Bill is finally passed by both the Houses of the Parliament, it is sent to the President for his/her assent. Because

without his/her assent no Bill can become an Act. The President may give his/her assent to the Bill, he/she may return the Bill to the Parliament for reconsideration with or without his/her recommendation. The Parliament is not bound to adopt the recommendations of the President. Therefore, if the Parliament passes the Bill for the second time, with or without amendments by simple majority; the President must give his/her assent to the Bill.

In this context, we must always remember that, the Union Parliament is not a sovereign legislature as it exercises only those law-making powers which are conferred by the Constitution. The laws made by the Parliament are subject to Judicial Review of the Supreme Court of India, which can reject any law, in case it is found to be unconstitutional.

Besides, the Lok Sabha and the Rajya Sabha enjoy equal law making powers in respect of Ordinary Bills. A defeat of any Govt. Bill in the Lok Sabha is regarded as the Vote of no-confidence against the Council of Ministers; which may lead to the fall of the government. But, if a Government. bill is defeated in the Rajya Sabha, the Council of Ministers remains unaffected.



Check Your Progress

Q.1: What is the main function of the Union Parliament?

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Q.2: How many subjects are included in the Union list over which the Parliament can make law?

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Q.3: What do you mean by a Bill?

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Q.4: An Ordinary Bill can be introduced only in the House of the people. (True/False)

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Q.5: Mention the difference between the Public Bill and Private Member's Bill.

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Q.6: Mention the names of the Parliamentary Committees which are involved in law making process.

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LET US KNOW

Annual Budget is regarded or considered as a Money Bill, which is introduced in the Lok Sabha by the Finance Minister with prior approval from the President.

5.3.3 Legislative Procedure Regarding Money Bill

According to the provisions of the Constitution of India (Article 110) a Money Bill is one which deals with the imposition, reducing or increasing, repealing of taxes, borrowing, custody and expenditures of the Consolidated or Contingency Fund of India.

A Money Bill is considered as the government or public Bill, therefore only the Ministers can introduce it in the House. Of course, a Money Bill can only be initiated in the House of the people (Lok Sabha) with the prior consent of the President. No Money Bill can originate in the Council of States (Rajya Sabha). Like an Ordinary Bill, a Money Bill also has to pass through all these stages in the Lok Sabha. The members of the Lok Sabha may criticise the financial policy of the Government, amendments may be made on the Bill. After this, when a Money Bill is passed by the Lok Sabha, it is sent to the Rajya Sabha for ratification under the signature of the Speaker.

In respect of Money Bill, the Rajya Sabha enjoys very limited power. In case of any proposed alterations,it must send back a

Money Bill to the Lok Sabha within 14 days of its receipts. If it does not return the Money Bill to the Lok Sabha within 14 days period, it is considered to have been passed by both the Houses of Parliament. Of course, the Rajya Sabha has the power to suggest certain modifications to a Money Bill, but the Lok Sabha may or may not accept such modifications. Thus, the Rajya Sabha plays only a delaying role in the sphere of financial legislation.

After being passed by both the House of the Parliament, a Money Bill is sent to the President for his/her assent, along with a certificate from the Speaker of the Lok Sabha that this Bill is a Money Bill. The President cannot return the Money Bill without his/her assent because prior permission was taken from him/her to introduce the Money Bill in the Lok Sabha.



Check Your Progress

Q. 7: What do you mean by Money Bill?

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Q. 8: A Money Bill cannot be introduced in the Council of States. (True/False)

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Q. 9: Who decides whether a Bill is a Money Bill or not?

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Q. 10: Within how many days the Rajya Sabha has to send back a Money Bill to the Lok Sabha?

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Q. 11: The President can withhold his/her assents to a Money Bill. (True/False)

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5.4. LET US SUM UP

- The Union Parliament is the Legislative organ of the Union of India and as such enjoys extensive legislative powers as per the provisions of the Constitution of India.

- The Union Parliament has exclusive legislative jurisdiction over 97 subjects included in the Union or Central list.
- Article 107 to 122 of the Indian Constitution deal with the legislative procedure or law making procedure in Indian Parliament.
- The Bills that are introduced in the Parliament can be classified into two kinds- (a) Ordinary Bill and (b) Money Bill.
- A Money Bill can only be initiated in the House of the People (Lok Sabha) with the prior consent of the President. No Money Bill can originate in the Council of States (Rajya Sabha).
- In respect of Money Bill, the Rajya Sabha enjoys very limited power.
- After being passed by both the Houses of the Parliament, a Money Bill is sent to the President for his/her assent and after getting the assent of the President, it becomes an Act.



5.5. FURTHER READING

1) Chander, Prakash. (2000). *Indian Government and Politics.* New Delhi: Cosmos Bookhive Pvt. Ltd.
2) Ghai, K.K. (2007). *Indian Government and Politics.* New Delhi: Kalyani Publishers.
3) Kapur, Anup Chand and Misra, K.K. (2006). *Select Constitutions.* New Delhi: S. Chand and Company.
4) Pylee, M.V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

5.6. ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: Law-Making

Ans to Q No 2: 97 subjects

Ans to Q No 3: A Bill is a proposal for legislation, which becomes an Act or law when duly passed by both the Houses of the Parliament and after that the President gives his/her assent to it.

Ans to Q No 4: False

Ans to Q No 5: A Bill introduced by the Minister concern is known as Public Bill and a Bill introduced by a member other than a Minister is known as Private Member's Bill.

Ans to Q No 6: Business Advisory Committee, Select Committee, Joint Committee, Committee on Private Member's Bill and Committee on Subordinate Legislations.

Ans to Q No 7: A Money Bill is one which deals with the imposition, reducing or increasing, repealing of taxes, borrowing, custody and expenditures of the Consolidated or Contingency Fund of India.

Ans to Q No 8: True

Ans to Q No 9: The Speaker of the Lok Sabha

Ans to Q No 10: 14 days

Ans to Q No 11: False



5.7. MODEL QUESTIONS

A. Very Short Questions

Q. 1: Can an Ordinary Bill be introduced in any one House of the Parliament?

Q. 2: Mention the difference between an Ordinary Bill and Money Bill.

Q. 3: The Proposal for making Law is known as what?

Q. 4: In which House of the Parliament a Money Bill can be introduced?

B. Short Questions (Answer each in about 150-200 words)

Q. 1: Write short note on the role of the Rajya Sabha regarding Money Bill.

Q. 2: Briefly explain the relationship between the two Houses of the Parliament regarding law making procedure.

C. Long Questions (Answer each in about 300-500 words)

Q. 1: Describe in short how a Money Bill is passed in the Parliament.

Q. 2: Discuss the procedure of Legislation of an Ordinary Bill in Indian Parliament.

Q. 3: Discuss the important role played by the various Parliamentary Committees in the process of Law-making.

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