

## UNIT 5: PARLIAMENTARY COMMITTEE AND THE LAW MAKING PROCESS

### Learning Objectives

#### Why are parliamentary committees useful for lawmaking?

After studying this unit you should be able to:

- Discuss the functions of parliamentary committees in the law-making process;
- List challenges that confront parliamentary committees.

### **Introduction**

Unit 5 is devoted to the critical role committees play when new laws are proposed. Often the legislative powers of a country are vested in parliament. Procedures for passing public, private and hybrid bills often require committing such bills to the committee of the whole or other parliamentary committee for consideration. In a number of developing countries' bills are initiated by the executive but parliament is expected to scrutinize and make amendments to ensure that the bill conforms to national and international policies. This unit focuses on the role parliamentary committees play in the conduct of work in the legislature.

Parliamentary committees have come to assume center stage in legislative decision-making. Parliamentary committees, as of today, remain the focal point of legislative oversight of governments. Even though its evolution has been relatively slow, parliamentary committees – whether in separation of powers or parliamentary

**Box 5.1**  
**Major milestones in the evolution of democratic parliamentary committees**

- The spread and the increasing appreciation for democratic systems of governance around the world;
- A plethora of competing parliamentary parties and increased participation in floor debates, i.e. internal changes in rules, committee structure, party structures and leadership;
- Increased recognition given to the legislative phase of policy-making, which have turned parliamentary committees into vital meeting places and a clearinghouse for political and policy conflict and resolution;
- The spread of democratic systems of government, and with it the evolution of regional parliamentary bodies around the world, has created what has come to be termed 'inflationary pressure' on the creation and spread of parliamentary committees to cater to the varying needs of the people. For instance this proliferation has created such parliaments as The Commonwealth Parliamentary Union, The European Parliament; the Economic Community of West African States (ECOWAS).
- Increasing significance of parliaments around the world and the need for committees and subcommittees to attend to the needs of divergent societies.

Government systems – are considered one of the significant organizational features of modern parliaments.

### **Evolution of Parliamentary Committees**

Parliamentary committees have emerged as a central institution to democratic governance and have moved in tandem with the flourishing of democratic practices and ways of governing.

## Challenges with Parliamentary Committees

- Embedding evolving policy challenges into already codified jurisdictional definitions, e.g. crosscutting issues such as the environment, trade, health, and welfare. These issues demand integrated deliberation and oversight. Thus it is argued that even as democratic parliaments throughout the world experiment with more elaborate committee structures, those with older highly developed committee systems are reaching for more varied and flexible alternatives;
- *Inadequate resources*: parliamentary committee staff members are required to support the activities of committees that, for instance, carry out research and communicate between parliamentarians. However the resource constraints that have hindered the progress of most parliaments also extend and affect parliamentary work at the committee level;
- Changing phases of parliamentary committees; - According to Longley & Davidson (1998). Parliaments, which were expected to decline in significance in the 1960s and 1970s, have rather developed new and vital political roles and have introduced innovations in institutional structures, most recurring are parliamentary committees. The evolving nature of parliamentary committees in most parliaments sometimes creates challenges in being able to tell the mandate of a committee from its name. A good example is the use of the term "finance committee" and "budget committee". The mandates of these committees are often unique to the countries in which they are found.
- Managing the relations between parliamentary committees and government ministries' departments and agencies; - Without clearly defined guidelines, clear understanding of the mandate of the committee and without well established channels of communication, managing the relationship with government ministries department and agencies can be a daunting task especially where the rules of engagement and committees' oversight role are not well established as pertains in young and emerging democracies.

- Managing and sustaining inter-parliamentary committee relations. Inter-parliamentary cooperation can be very beneficial in strengthening peer support and peer learning but often there are practical challenges related to managing and sustaining such relations. Lack of financial resources to promote reciprocal visits can hinder such partnership. Most Parliaments are yet to take advantage of new Information Technology facilities that can allow online interaction without the cost associated with travel. Inter parliamentary associations such as the IPU may need to increase support for inter-committee relations.

In spite of these challenges, most Parliamentary committees are an integral part of the law making process in their countries. Work carried out in such committees make it possible for parliaments across the globe to carry out their legislative function.

### **Parliamentary Committees and the Law Making Process**

Parliamentary Committees play a central role in the process of enacting laws. As stated earlier, in most democratic countries the power to legislate is vested in Parliament.

Proposed legislation, called bills, is first introduced to the floor of the House. The bill is then taken through a number of stages or steps, including the committee stage before it can become the law or an Act.

### **Steps in Parliamentary Law-making**

The details of the legislative process may vary from legislature to legislature especially between bicameral and unicameral legislature. However, there are some fundamental steps that most bills are taken through in order for them to become laws. Appendix IV shows step by step the legislative process in the New Zealand Parliament.

### **Introduction and First Reading**

Parliaments receive the proposed law or bill, from the required state institution through its representative, usually the sector minister or from the other Chamber in bicameral legislatures. This stage is often referred to as *Introduction of Bills*. When the bill is introduced to the floor of the House there is laid down Parliamentary procedures that need to be followed. For example, a formal notice may be required and the Prime

Minister or the sector Minister may give a speech. The Clerk or presiding officer also reads the title of the bill; this is termed the *1<sup>st</sup> Reading*.

### **Committee Stage and Second reading**

After the first reading a bill may be referred immediately to the appropriate committee. It is at the *committee stage* that most of the detailed work is carried out. The committee may involve the public in this process to varying degrees. The general public and institutions may be asked to send inputs, public hearing may be held. This is also the stage where committee members have the opportunity to make proposals for amending the bill. The committee may then present its report to the House. In Westminster systems the second reading is the first important stage the bill must go through. At this stage the bill is read for the second time and debates commence. The debates are not restricted to the content of the bill but can cover the circumstances for its presentation; detailed debates of the clauses are not expected at this stage.

### **Consideration and Third reading**

The Consideration Stage is the stage where the whole House discusses the bill in detail. Debate on the bill is carried out clause by clause, proposed amendments are debated, arguments are then made to either support the proposals or to reject them, new suggestions can also be made to amend a clause. The process for debate on the floor of the house at this time might allow Members to speak more than once to a question proposed by the chairperson. The committee report on the bill forms a crucial background that informs this debate. To make this process effective parliament will often give a particular timeline that must elapse between the committee stage and the considerations stage. In the House of Commons a fortnight after a standing committee has examined a bill, the committee report is presented to the entire House for consideration. In the Parliament of Ghana, the bill is taken through the consideration stage at least forty-eight hours after the second reading. The consideration stage is very important because it gives other Members of Parliament the opportunity to introduce amendments to the bill. The third reading with a motion that the bill is now read for the third time then follows the consideration stage. This stage is often very short with no debate.

In most bicameral parliaments, the bill then goes to the next chamber where it is taken through similar stages as in the previous chamber. Once there is agreement on the content of the Bill, it is then submitted to the appropriate office e.g. the office of the president for presidential assent or to the King or Queen for Royal assent.

### **Royal Assent or Presidential Assent**

The Clerk of Parliament is often responsible for ensuring that the bill reflects all the relevant amendments and recommendations. This is then printed and certified as true copies. The required numbers of copies are then presented to the King/Queen or to the President. Presidential or Royal seals are affixed and the President or Queen/King assents to the bill by placing the signature under the pre-agreed text e.g. "I hereby signify my assent to this bill" or "The queen wishes it."

In instances where the President or the King/Queen does not agree with portions or some clauses of the bill, s/he may refuse to assent to the bill.

The above shows that Parliamentary committees play a critical role in the law making process. Once a Bill has been referred to the appropriate committee or committees, the expectation is that the committee responsible will carry out the needed investigation and analysis and will report to the House its amendments and recommendations or the rejection of the bill. In some Parliaments such as the German Bundestag the "Committee responsible" is expected to provide definite decision. See Box 1.5 below

#### **Box 5.2 Committee Responsible – The German Bundestag**

Designation as the "committee responsible" means that this committee is responsible for further handling of this bill. The committee responsible must, in keeping with Rule 62 of the Rules of Procedure of the German Bundestag, recommend to the Bundestag a definite decision – the acceptance of the bill, the acceptance of amendments decided upon by the committee, or the rejection of the bill- and is obliged to attend to matters referred to it without delay.

*Source: Schreiner, H.J. & Linn, S. (2006) The German Bundestag: Functions and Procedures. NDV*

## **Committee Clerks and the Law Making Process**

The Committee Clerk must know the procedure for the law-making process especially the procedure required for the committee stage and the consideration stage of a bill in order to assist the committee chairperson and committee members in their work. At the committee stage members are often expected to move and debate amendments to the Bill. This often involves a close look at each clause and Schedule of the Bill. According to Limon & McKay (1997) Public bills referred to committees in House of Commons are often looked at in a specific order unless otherwise ordered. The order is as follows: Clauses, new clauses, schedules, new schedules, Preamble, and then title (if amendment is required). Motions can also be proposed to look at the bill in a different order. A clerk must know this procedure and must assist when needed. In addition to providing the chairperson and members with guidelines, the clerk to the committee must ensure that the minutes of proceedings of the committee are properly captured and reflect true occurrence at the meeting.

Limon & McKay's (1997) presentation of "Proceedings in Committee on Public Bills in the House of Commons" points to some basic procedures that can be followed at the committee stage. Though the overall process may be unique to each parliament there are a number of fundamental questions that committee staff can help the committee address to ensure a smooth process at the committee level. A clerk to the committee must have the knowledge and skills to help the committee address these questions:

The basic questions include the following:

- What is the mandate of the committee on this bill? What is the function of the committee?
- In what order can/should the bill is considered by members?
- Does the committee have the power to divide one clause into two?
- Can the committee transfer clause(s) from one section of the bill to another?
- How do you postpone the consideration of a clause? Do you need a motion?
- Do you need to give notice of amendment in committee? When and how?
- What is the procedure for introducing an amendment?
- What is the procedure for withdrawing an amendment?

- In what order should the chairperson call amendments to the bill?
- Which amendments are admissible and which are not and why?
- How do you introduce new clauses?
- How do you close committee proceedings and
- What is the procedure for communicating committee minutes of proceedings to the House?

Simple guidelines that address these questions can help simplify the work of the committee clerk and facilitate review of bills at the committee stage.

In sum, parliamentary committee can serve as the focal point for most of the works that Parliaments must carry out in passing bills into law. When properly resourced, parliamentary committees can contribute positively to ensure that laws are passed based on real needs and is properly structured to bring about the needed change.

### Unit 5 Questions

Please answer each of the following questions. If you are taking this course in a group you may meet to discuss your answers.

1. What are the key stages in parliamentary law making?
2. What functions do parliamentary committees play in the law making process?
3. What are the common challenges faced by parliamentary committees in the law making process?

### **Select Bibliography**

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### **Relevant Internet Resources:**

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<http://www.parliament.uk/works/newlaw.cfm> [Accessed January 2007]

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