PAKISTAN INSTITUTE FOR PARLIAMENTARY SERVICES

Dedicated to Parliamentary Excellence

DRAFTING AND ASSESSING LEGISLATION

Participants' Book



September, 2012

Module 1

PIPS Module 1

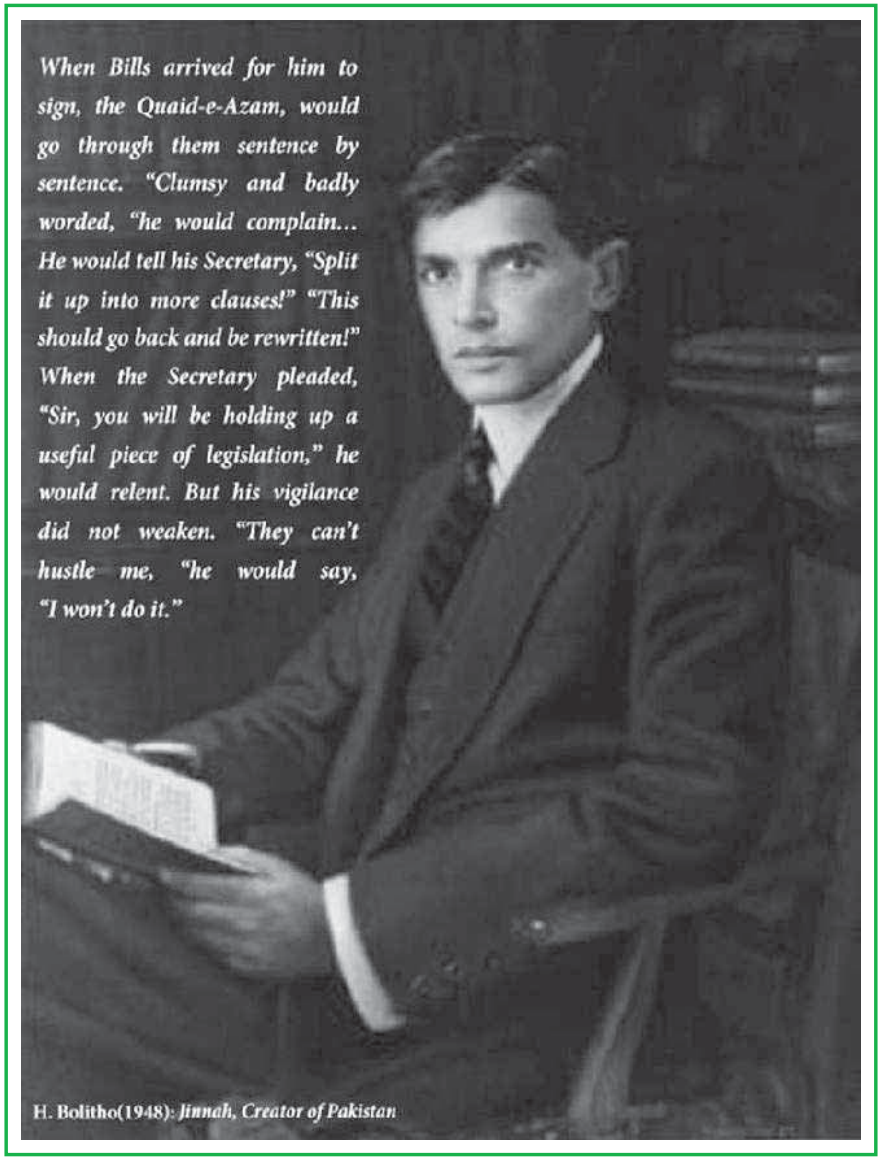
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void,' or 'building or structure.' Whenever you discover that you may strike out a word without changing a sentence's meaning, ask the drafter to justify using that word, or leave it out.



(who usually have legal advisors).

Specify who does what

A bill should specify the person who must behave as it prescribes

A legislative sentence must give a command, prohibition or permission to only a person or body capable of acting as prescribed.

Ensure the drafter uses same word for the same concept, different words for different concepts.

Seek the proponents of a bill to provide a research, which explains justification of need and impact assessment of intended legislation.

Use gender-sensitive terms to keep the legislation inclusive of all members of the society.

DON'TS THAT SHOULD BE AVOIDED

Avoid Cross References: To avoid repeating a definition of a word already defined in another law, a drafter might write, "In this statute, a 'steam engine' has the meaning it has in Statutes 1998, Chapter 17, section 3(1)." To understand the new law, a reader must scramble to find the old one. Instead, to make the new law more usable, you should make sure that, instead, the drafter copies the old definition in the new text.

Do not write long and difficult sentences: Long sentences make any writing difficult to understand. Only occasionally must a bill express a complicated idea that requires a long sentence. To achieve clarity in those cases, drafters should use tabulations

A bill's sentence should never use a passive voice: In the ***passive*** voice, the sentence's ***subject*** appears as its ***object:*** 'A farm in an agent's district shall be visited not less than twice in one year.' The passive voice (much beloved by bureaucrats) too easily omits the actor. Even if, writing in the passive voice, a drafter indicates the actor:('A farm in an agent's district shall be visited *by the agent* not less than twice in one year'), the sentence leaves unclear whom it commands to act.

Avoid vague and ambiguous words: An ambiguous word has a several possible different meanings. ***Never approve a statute that contains a word that in context seems ambiguous.*** Insist that the drafter clarify the word (probably by specifying a definition).

Avoid redundant terms: drafters sometimes use redundant words like 'null and

A simple bill, like one prohibiting spitting on the sidewalk, may expressly address only one aspect of one sub-system. When enacted, however, the new law will exist in the context of other laws that provide for the on-going operation of the other seven sub-systems. Assuming the other seven sub-systems function reasonably well, you can assess a simple bill on its face. A large and complex bill (for example, a bill creating a new University or a new Agricultural Bank) may incorporate rules affecting all sub-systems.

Accessibility asks, can a reader readily understand how the law requires primary role occupants and implementing agency officials to behave?

Usability asks, can a reader easily use the law's text?

DOS TO FORMULATE A COMPLETE, ACCESSIBLE AND USABLE BILL

Grouping and Ordering of a bill's provisions: The ***grouping and ordering of a bill's provisions*** help determine its ***accessibility*** and ***usability. Grouping*** reflects the drafters' decisions as to ***what prescriptions belong together*** in each section, Chapter, or Part. ***Ordering*** comprises the order of prescriptions within each group. The principles used for grouping and ordering determine the bill's outline.

Think about the principles according to which different people might sort out piles of used clothing. A used-clothes salesman might sort them for the different markets in which he hopes to sell them (warm clothes to markets in cold climates, for example); the director of a home for the homeless, according the sizes of the garments and whether for men, women, or children; a paper manufacturer, according to the clothing's utility for grinding into pulp to make rag-type papers; a laundry operator, according to their colors and the likelihood of their discoloring other clothing in the washing machine load. In the same way, drafters should group and order their bills' provisions to facilitate their users' convenience.

To assess an outline's accessibility and usability, see if you can discover by what principle the drafter grouped and ordered the bill's provisions. If you cannot, ask the bill's supporters. If they cannot articulate a meaningful principle, return the bill for redrafting.

Insist that drafters write bills in plain, easy and simple language: If you receive a bill masked by sentences in a form that you cannot understand, insist that the drafter rewrite them ***in language that you can understand.*** If you do not understand a bill's sentences, you should vote against the bill. A bill should use a vocabulary easily accessible to its readers. A bill to strengthen peasant cooperatives should use words easily understood by those likely to use the bill daily: Department of Cooperatives officials, and cooperative officers and members who do not have lawyers at beck and call. A bill about banks, in contrast, may primarily aim to help judges and lawyers resolve disputes about and among banks

PAKISTAN INSTITUTE FOR PARLIAMENTARY SERVICES

FOREWARD

The Parliament of Pakistan, has proudly accomplished another milestone in Pakistan's parliamentary history by establishing the Pakistan Institute for Parliamentary Services, PIPS, which is the country's premier research and training institution exclusively for national and provincial parliamentarians as well as parliamentary functionaries. It is a matter of satisfaction that the Institute has recently commenced its full-fledged legislative, research, capacity building and outreach services at its new premises.

The Institute aims to setup an institutionalized system of undertaking research and analysis as well as holding capacity building events and policy dialogues to assist parliamentarians to undertake their arduous tasks of legislation, representation and oversight. The Institute provides for regular and elaborate skill development programs for parliamentary functionaries. It has a Training of the Trainers Program for developing lead facilitators in parliamentary areas from among legislators and senior parliamentary officials. PIPS training and research wings have laid out comprehensive Training Standards and Procedures to run its professional development courses and orientations.

In this context, the Institute has developed its curriculum comprising modules in 21 areas of parliamentary significance. These include modules on Drafting and Assessing Legislation, Question Hour, Legislative Research, Parliamentary History, Conflict Resolution, Business of the House, Budget Process, Parliamentary Privileges and Code of Conduct, Constituency Relations and a Youth Guide on Parliament. Most of these comprehensive training modules consist of a *Facilitator's Guide*, a *Participants' Book* and a *Power Point Presentation* developed according to the PIPS Training Standards and Procedures, and these cater for one week thematic professional development courses.

I am pleased to share the Module on Drafting and Assessing Legislation with the kind readers and all concerned stakeholders. The module is aimed at equipping Members and parliamentary functionaries of the National Parliament and the Provincial Assemblies, with the concept of legislative drafting and to develop essential skills required to comprehend the semantics of bill procedure and the various steps involved. It would apprise the parliamentarians about important constitutional provisions on legislative process as well as a modern model to assess, evaluate and improve a bill under discussion.

We extend our special thanks to our long-time partner the Konrad-Adenauer-Stiftung of Germany who have kindly offered to provide support for publishing the first concise issue of PIPS Module on Drafting and Assessing Legislation.

Khan Ahmad Goraya
Executive Director

Islamabad
Wednesday, September 19, 2012

PIPS, Ataturk Avenue (Service Road) F-5/2, Islamabad; Ph 051-9091325, Fax: 051-9091507

Completeness asks, does the bill and associated laws include all the prescriptions necessary to accomplish the desired institutional transformation? *The primary system composed of prescriptions directed to changing the primary role occupants' behaviors, plus seven other subsystems to ensure the primary role occupants behave as prescribed.*

A complete legislative scheme prescribes behaviors that institute eight subsystems (SEE CASE STUDY OF A DRAFT BILL at the end of the chapter). It consists of rules addressed to:

1. Primary role occupants.
2. Principal implementing agencies.
3. Sanctioning agencies.
4. Dispute-settlement agencies
5. Funding agencies.
6. Monitoring and evaluation agencies.
7. The agency that makes regulations under the law.
8. The personnel who keep the corpus of the law in order.

FIVE STEPS TO UNDERSTAND A BILL

In short, to understand a bill, you should take five steps:

1. **Outline the bill,** following its numbering system for Sections, Chapters, and Parts. Fill in the Chapter and Part headings from the bill.

2. **Read each section carefully.** Make sure that you understand the words it uses. Don't let legalese upset you. Insist that the bill's sponsors and drafters explain each word with which you have difficulty.

3. **Analyze each section** by asking, ***Who*** does ***What?*** Under ***what limits*** or circumstances? ***When?***

4. **Disentangle the 'technical' sections by interpreting them as commands,** especially to government officials about how to fit the bill into the existing body of law.

5. Complete the outline you started in step 1 by putting each of the commands related to one of the subsystems into a separate group. Where, as frequently happens, the bill says nothing about a whole subsystem, ask whether another law will work to provide for that function. (For example, in the absence of a specific dispute settlement system, ask, will your country's court system adequately settle disputes arising under this bill?)Having completed those five steps, you should understand the bill well enough to decide whether it merits your support – that is, you are at last in position to *assess* the bill. This manual's first chapters built a theoretical basis to enable you to understand a bill and the criteria for assessing it. This chapter has emphasized that you should ask more detailed questions about: the bill commands prohibits or permits ***who/whom,*** to ***do what;*** and the nature and consequences of the ***limits*** it imposes on those prescriptions.

DOS AND DON'TS IN THE FORM OF A BILL

CRITERIA FOR ASSESSING A BILL'S FORM

As legislator, you must determine whether a bill's form will contribute to changing the institutions – the problematic behaviors – that block transition and development in the public interest. Three criteria – completeness, accessibility, and usability – suggest detailed questions as to whether a bill's form will likely lead to effective implementation.

A C K N O W L E D G E M E N T S

Legislation is one of the foremost responsibility of parliamentarians and it was direly required to develop an easy to understand a simplest curriculum for trainings on assessing legislations for social change.

In this context, Mr Muhammad Rashid Mafzool Zaka, had developed a 121 page comprehensive module on Assessing Legislation for social change in 2008. *The detailed module was shared among key members of Institute's Legislative Drafting Networks including Mr Hidayat Ullah, Assistant Secretary, Provincial Assembly of Khyber Pakhtounkawa, Mr Syed Mohsin Abbas, Director, department of law, Government of Punjab and Mr Sohail Ansari, Advocate, Balohistan High Court, who studied and made invaluable contribution in it. Ms Eleanor Valentines, Project Director, Pakistan Legislative Strengthening Project, also reviewed and suggested inputs in the module.*

This shorter abridged version of the module has been conceived and developed by Mr Muhammad Rashid Mafzool Zaka, Director (Research and Information Technology), Pakistan Institute for Parliamentary Services, *initially in 2010. It was designed by Mr Zane Asher Green, Instructional Design Specialist. The Module was pretested and found exceptionally invaluable in PIPS trainings with women MPAs in all provinces as well as the MNAs who are member of the Young Parliamentarians Forum, under the patronage of Honorable Deputy Speaker Mr Faisal Karim Kundi and the President ship of MNA Dr Donya Aziz.*

The Module was also translated into Urdu by Professor Muhammad Akhlaq Khan, one of the members of the 50 member PIPS cadre of researchers, in May 2010 and it was recently updated by PIPS Research and Legislation Wings in August, 2012 for a series of Orientation Workshops with parliamentarians and parliamentary functionaries from the Senate of Pakistan, National Assembly of Pakistan and the four Provincial (state) Assemblies in 2012-13.

We are grateful to the German Foundation, the Konrad-Adenauer-Stiftung, KAS, a close partner of the Institute, for supporting PIPS in publication of the PIPS Modules on Drafting and Assessing Legislation.

We welcome any feedback and suggestions by the participants and readers of the module at: research@pips.org.pk

Research and Curriculum Wing
Pakistan Institute for Parliamentary Services

DISCOVERING THE BILL'S SUBSTANCE

After you have pealed back the layers of legalisms in which drafters couch their bill's commands, after you understand its various prescriptions and its 'technical' provisions, you should find it easier to ***assess*** the bill as an integrated whole. Its prescriptions may aim either to change an existing institutional structure or, more rarely, to create a whole new institutional structure.

The bill's text gives you no direct information to enable you to determine whether or how the new law, once enacted, will function. To make an estimate of the bill's probable social consequences, you must understand the bill's substantive core, the central purpose and thrust of all its commands. If, in the context of existing law, the relevant actors behave as the new law's rules prescribe, they will ***create or change eight different kinds of interrelated institutional sub-systems –*** an entire legislative system – embodied in the existing legal order.

Whether the new law will prove effectively implemented and achieve its stated purposes depends on whether and how each of those subsystems affects and becomes affected by the relevant actors' prescribed new behaviors. A complete legislative scheme prescribes behaviors that institute eight subsystems. It consists of rules addressed to:

1. Primary role occupants
2. Principal implementing agencies
3. Sanctioning agencies
4. Dispute-settlement agencies
5. Funding agencies
6. Monitoring and evaluation agencies
7. The agency that makes regulations under the law
8. The personnel who keep the corpus of the law in order

By identifying the who, what, where and when, you can explain what this horribly written statute means. Redrafted, it might read like this:

"(1) **Payment of reward.**

(a) The Commissioner of Narcotics ***(the who)*** may pay a reward to a person who provides Information concerning a violation of a United States narcotics law ***(the what).***

(b) The Commissioner may make that payment only if the information leads to a seizure of contraband narcotics.

[The remainder of the bill might specify the ***Where*** and the ***When,*** that is, the ***limits*** on the powers granted to the Commissioner]

(2). **Amount of reward.** Without taking into consideration an award which some other law may allow to the person providing the information, the Commissioner may pay the reward mentioned in (1) in an amount that the Commissioner determines.

(3). **Payment made in a foreign country.**

(a) If paid to a person in a foreign country, the Commissioner shall pay the reward mentioned in (1) through a United States consul or vice consul stationed in that country.

(b) The Commissioner shall accompany the Commissioner's report of a payment made pursuant to 3(a) with a certificate by the consul or vice consul that the consul or vice consul made that payment in the amount, to the person, and at the place and time stated in the report.

(4) **Source of funds.** The Commissioner shall pay an award pursuant to section 1 out of funds appropriated for the enforcement of the narcotic laws of the United States." *Note: the bill makes no provision for accounting for rewards paid to informers in the United States — an omission that only becomes clear when one breaks the bill down into more manageable sections.*

These four questions – the Who? the What ? and (where relevant) the Where? and the When? – focus attention on a section as a single prescription. Once you understand a bill's formal structure of sections, chapters and parts, and what the individual words and sentences mean on their face, the answers to these four questions will give you a grasp on the meanings of about 95 per cent of that bill's substantive commands.

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- The ***object*** of the verb: "[Under specified circumstances] a person may cast ***a paper ballot.***" This limits the ***object*** (the kind of ballot the voter may cast).
- A ***condition*** states ***what*** must happen ***before the rule comes into force:*** "If an individual has passed that individual's eighteenth birthday, that individual may vote in a national election." (Usually the words '***if***' or '***where***' precede a condition.)
- In the ***exception,*** the prescription states a general rule applying to the whole domain, and then carves a portion out of it – the ***exception*** – limiting the prescription to only that part of the whole domain not excepted. "Except when an individual's eighteenth birthday has not passed, an individual may vote in a national election." (Usually, the word '***except***' precedes the 'exception'.) All three forms tell the reader the circumstances in which the permission granted (that is, to vote in a national election) comes into effect.



SMALL GROUP EXERCISE
DISENTANGLING A BADLY-DRAFTED SECTION

Use the four key questions — Who? What? When? and Where? – to unpack the following statute:

"**ACT OF JULY 3, 1939** 40 STAT. 850 (1031) [U.S.A.]
"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Narcotics is authorized and empowered to pay to any person, from funds now or hereafter appropriated for the enforcement of the narcotic laws of the United States, for information concerning a violation of any narcotic law of the United States, resulting in a seizure of contraband narcotics, such sum or sum of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law: Provided, That all payments under authority of this Act to any informer in any foreign country shall be made only through an accredited consul or vice consul of the United States stationed in such country; and every such payment must be supported by a voucher with an accompanying certificate of the said consul and vice consul that the payment of the amount stated on the voucher has been made to the informer named, and at the place and time specified on said voucher."

STRUCTURE OF A SECTION

As a bill's basic building block, a section constitutes a single rule, a ***prescription.*** Sometimes that prescription seems hidden behind a thicket of dense language. As you analyze a section's words, keep in mind that you need to identify the behaviors they prescribe. ***With very few exceptions (usually less than 5 per cent) each section of a well-drawn bill commands, prohibits or permits a social actor to behave as it prescribes.***

Always ask, does a section properly tell the reader, ***Who? What? When? And Where?***

1. **To answer the question, '*Who?*'** look for the person whose behavior the section prescribes. A language expert would tell you to identify the sentence's ***subject.*** (Mistakenly using a passive voice, a drafter may fail to specify the rule's ***subject.*** Take a legislative sentence that states, "The accounts of the Small Claims Court shall be audited at least twice a year." Does it state ***Who*** will audit the accounts?) ***If you cannot discover the subject of a sentence, insist that the drafter redraft it.***

2. **The question, '*What?*'** tells you to look at how the sentence commands the person (the 'subject') to behave. A language expert would tell you to look at the sentence's ***verb.*** Does the section's prescription command, prohibit, or permit a subject to 'behave' as the verb indicates? For that, language experts would tell you to look at the section's ***auxiliary verb:*** by convention in English, drafters use '***shall***' (in some jurisdictions, 'must') for a command; '***may not***' (or 'shall not') for a prohibition; and '***may***' for a permission. If a bill's section does not limit the prescription, it applies at all times and under all conditions.

3. **Most sections do specify *where* and *when*** the command, prohibition or permission goes into effect. A section may limit the behavior prescribed – the *When?* and *Where?*— by stating a *case,* a *condition,* or an *exception.* i. A ***case*** modifies either:
   - A ***subject:*** "An individual who has passed that individual's eighteenth birthday may vote in a national election." This sentence ***limits*** the ***subject*** to an individual ***who has reached 18 years of age.***
   - A ***verb:*** "[Under specified circumstances, a person] may vote *by* ***absentee ballot.***" This sentence limits the ***verb, 'to vote,'*** to voting by an absentee ballot.

G O A L

Participants will understand the importance of lawmaking as well as the intricacies involved in assessing legislation to facilitate social, political and economic transformations in the public interest.

O B J E C T I V E S

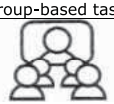
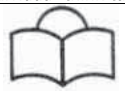
By the end of the workshop, participants will be able to:

1. Appreciate the importance of lawmaking and describe their role as a legislator
2. Describe the general uses of legislative theory and the four steps of its problem-solving methodology

D U R A T I O N

- Three days

KEY TO ICONS

		
Group-based task	Pair-based task	Individual-think task
		
Video Presentation	Facilitator-led discussion	Self-study
		
Lecturette	Reference task	Three-member task

Session 1

INTRODUCTION TO LEGISLATIVE DRAFTING

Legislative drafting is different from other legal drafting like conveyancing and, writing of pleading etc. It is a science rather than a literature. Legislative drafting is a subject which has very little scope for theoretical discussion. Like all skills and crafts, legislative drafting cannot be learned completely from a book. No fixed theory can be advanced nor any hard and fast rules are laid down for the purpose. It is an art which can only be acquired by constant practice and experience.

Precedents are therefore more useful than any treaty or literature on the subject of drafting. There is a practical suggestion which will help most in preparing legislative drafts. For drafting every clause of a Bill, including definition, rule making and repeal clauses etc try to follow the precedents both in respect of language and form. Unnecessary innovation in legislative drafting is fraught with great risk.

A little research will give you exactly what you want in our earlier laws/statutes all allied subjects and the statutes/laws of other countries, particularly of the Commonwealth countries. What you need is an intelligent adaptation keeping in view the requirements of your draft.

3. **Definitional clauses:** Frequently, a statute begins with a section entitled 'Definitions.' In a long statute, the definition section may go on for pages. Bills include definitions for either of two reasons:
   - First in some statutes, drafters must use many, sometimes even a long list, of words to describe a complex concept. **Using the word(s) as defined in the bill's definitions section throughout the statute avoids tedious repetition and increases the bill's readability.**
   - Second, a definition helps to avoid the vagueness inherent in every word

   Example: *Consider the word 'vehicle' in a municipal ordinance that states "A person may not drive a motor vehicle in a city park." Plainly, the ordinance prohibits a person from driving an automobile in a city park. Yet reasonable speakers of English could disagree as to whether the bill prohibited motor-driven wheelchairs. To avoid disagreement, a drafter could expressly define the word 'vehicles' to* ***exclude*** *'wheelchairs.'*
   Occasionally, a drafter may intend a bill's reader to construe a word to include in its meaning items that, in ordinary language, that word might exclude. To avoid misunderstanding, the drafter should define the word in the bill, for example, by defining 'animals' ***to include*** *whales and other sea mammals.*

By using the word as defined in the bill's definition section, the drafter avoids lengthy repetitions throughout the bill.

This section peeled back a second layer of confusion about a bill – that of language. The next peals back a third layer –– **that a bill prescribes specified social actors' behavior**

THE LAW'S LANGUAGE

In most of the world, drafters write a strange, convoluted, unfathomable language. Some call it 'legalese'. Complex legal words fall into two categories. Some reflect the requirements of law's specialized subject-matter. Others merely obscure plain meanings.

1. **Law's specialized vocabulary:** Like most professions, law sometimes requires elements of a specialized vocabulary. To understand some bills' specific subject-matter, you have to learn the relevant specialized vocabulary. ***If you do not understand the words used, ask!***

   example: In different relationships, a person may promise to do something: To pay a debt, to complete a building pursuant to a contract, to deliver some promised goods. Another person may promise to perform if the first promisor does not. The ***law of guarantees*** uses specialized words for elements common to all those kinds of promises: 'Principal' means the debtor who promises to pay or to perform some other duty; 'surety' means a person who promises to pay the debt or perform the duty if the principal defaults.

2. **'Legalese'.** Often, however, drafters use unnecessarily complicated words, and long, tortuous sentences. **Insist that they re-write them in plain language.** If you recognize a bill's underlying pattern, however, you can understand it even when written in the densest legalese. To discover a bill's pattern, try to decode the words the drafter used to write it.

   In England, historical circumstances encouraged drafters to use legalese. Before England established a central drafting office in 1869, ministers hired conveyancers to draft bills. Conveyancers (long paid by the word to write deeds and wills for landed interests) used the same language to draft bills. Central drafting office drafters adopted the same form and style. They taught it to drafters in the colonies, where obscure vocabulary and convoluted legalese gave colonial officials and judges broad discretion to rule pretty much as they wished. Unfortunately, many post-colonial and transitional government drafters still use hard-to-understand legalese.

   Example: Words like 'said', 'such', 'heretofore', 'hereinabove', 'whereas', or 'provided that', serve no function useful to the law. In many *legalese* phrases – 'to have and to hold', 'null and void', 'give, devise, bequeath, grant and bequest,' 'building or structure', 'lot, tract or parcel of land' – two words mean the same thing. The drafter could easily delete one.

   If you do not understand a word in a bill, **ask what it means.** If, like 'surety' it constitutes a **technical term, insist that the bill define it in lay terms.** If a word like 'said' or 'hereinbefore' **seems meaningless, insist that the drafter use plain English.** If a bill includes **redundant words or phrases, insist that the drafter use one or the other, not both.**

Lawmaking and Your Role as a Legislator

OBJECTIVES	By the end of this session, participants will be able to: ▪ Appreciate the importance of Law Making ▪ Describe their role as a Legislator



DEFINITIONS AND KEY CONCEPTS

CONSTITUTION OF PAKISTAN 1973

"existing law" has the same meaning as in clause (7) of Article 268.

"Federal law" means a law made by or under the authority of [1][Majlis-e-Shoora (Parliament)];

"Provincial law" means a law made by or under the authority of the Provincial Assembly;

"Amendment" means a motion to amend an earlier motion before that earlier motion is put to the Assembly for its decision;
"Article" means Article of the Constitution;

"Constitution" means the Constitution of the Islamic Republic of Pakistan;
"Gazette" means the Gazette of Pakistan; **"Government"** means the Federal Government;

"Motion" means a proposal made by a member or a Minister relating to any matter, which may be discussed by the Assembly and includes an amendment;
"Orders of the Day" means the list of business to be brought before the Assembly on any day;
"Resolution" means a motion for the purpose of discussing and expressing an opinion on a matter of general public interest and includes a resolution specified in the Constitution;
"Schedule" means a schedule appended to these rules;
Amending Act: an act of assembly whose sole purpose is to modify an other Act or Acts.

Finance Bill: The bill introduced in each Year to give effect to the financial proposals of the Government for the next financial year, and includes a bill to give effect to supplementary. Financial Proposals for any period.

Private Member's Bill – is a proposed law introduced by a private member;
Proceedings – the actions taken by the Assembly or by a committee, the most important parts of the proceedings are the decisions that are taken;
Prorogue – it ends a session of Assembly, but does not dissolve it;

form similar to that of any outline:

Part I
Chapter 1
Section 1
Section 2
Subsection (1)
Subsection (2)
Section3
Chapter 2
Section 4
Section 5
Part II
Chapter 3 Section 6 Section 7

Bills everywhere follow that outline form, but different jurisdictions' drafting conventions assign different names to the outline's various levels. (The names of a bill's levels should conform to your country's practice.)

1. "**Sections**" **(some jurisdictions call them Articles):** These constitute a bill's basic building blocks. A section should contain no more than one 'legislative' concept, that is, a ***single*** rule (see Section C below).

2. "**Chapter**" **(or "Division"):** Some jurisdictions call a group of sections within each part, 'Chapters,' while others use 'Divisions'. Most jurisdictions number chapters (or divisions) consecutively throughout a bill. Many simple bills include no level higher than chapters, and even simpler ones, no level higher than sections.

3. "**Part**"**:** Conventionally, usually numbered consecutively by a Roman numeral ("I" or "II") , Parts constitute a bill's largest divisions. If a bill

   contains a large number of parts, each of which might stand alone, you should consider whether its sponsors tried to resolve too many diverse problems in one law (called stuffing a bill).

4. "**Title**"**:** Only a few jurisdictions use the word "Title" to mark a division in a single bill. Historically, law-makers published statutes in the order of the dates of their promulgation. Today, some jurisdictions **codify** their laws, putting them together in a single giant compilation. (Those who can put them in a computerized form). They insert each new law into that compilation, and use the label "Title" to cover all the laws concerning a particular subject, like "Education," "Transportation," or "Prisons." Understanding the bill's numbering system should help you to peel back the bill's first layer.

The language in which drafters expresses commands in each section may appear as a second impenetrable layer.

UNDERSTANDING A BILL

A bill's printed pages ***look different*** from those of novels, magazines, or history and science texts. Most sentences begin with a number or letter. Some sentences seem to stop in the middle, followed by a new numbered subparagraph. They seem written in a strange language, with many almost unrecognizable words. Some appear so tangled that you can only try to puzzle them out. To assess whether a bill will **serve the public interest –** and at what economic **and social** cost — you must **read and understand the bill on its face.**

THREE ESSENTIAL POINTS YOU MUST SEEK CLARIFICATION FOR

As you examine a bill on its face, keep in mind three essential points:

1. **Seek Change in Behaviour:** For historical reasons, people used to believe that judges constituted the law's only important readers. Today, especially for development, transformatory law must change behaviors. Drafters must draft so that the people whose behaviors the law aims to change can read and understand what the bill says. If you do not understand a bill, neither will its addressees; the drafter has drafted it badly.

2. **Language of the bill should be simple:** Do not listen to the drafter who says that, for 'legal' reasons, a bill requires hard to- comprehend words or sentences. If drafters cannot explain a section in simple terms, they themselves probably do not know its meaning. *Nothing* in the law defies explanation in simple terms. If a bill's addresses could not readily understand it, send it back for redrafting.

3. **Remember your people:** Your constituency elected *you* – not the drafters. Government drafters should provide the information you need to exercise your legislative power wisely.

ELEMENTS OF A BILL

A law prescribes how a primary role occupant and designated implementing agency officials should behave. It consists of a series of ***rules.*** Each ***legislative sentence*** specifies what someone ***must, may not or may do.*** You might think of a bill as an onion. To get at its core meaning, you must peel back layer after layer. To help you peel back those layers, you must know its formal elements:

In a bill, numbers or letters denote titles, parts, divisions (or chapters), and sections. A bill's numbering system identifies the separate commands that together make up that bill. Drafters number sections (articles) so that, in legislative debates or in court, lawmakers and judges can refer to particular ones. Drafters group sections that deal with a single issue into a Chapter, and Chapters that have some common attribute into a Part. A bill's formal structure follows the

INSTITUTIONS

"Institution" means a set or interrelated sets of repetitive patterns of social behaviours.

Defining an 'institution' as its constitutive sets of repetitive patterns of social behaviours focuses attention on the central problematic of this module.

Through their society's repetitive patterns of behaviour – their institutions – people shape the uses of their country's resources. Banks, schools, courts, family structures, prisons, farms, social clubs, legislatures, industries, welfare systems: these and a myriad of other institutions make up your country's political, social and economic system.

INSTITUTIONS AND GOVERNANCE

A country's institutions shape, not only its resource allocations, but the quality of that country's governance. The *institutions of governance* define a government's capacity to manage social and economic resources to facilitate development or transition. *Poor governance* consists of ineffective, *arbitrary* government decision-making processes – that is, ineffective decision-making by non-transparent, non-accountable, non-participatory (and frequently corrupt) processes. Your country's institutions play two most central roles:

- Institutions determine the relative wealth and income levels of your country's population, and of the groups and classes within it.
- They also determine the quality of its governance.

Historically-shaped institutions define a country. Their institutions and how they work distinguish the United States from Uruguay, Norway from Nepal, Canada from Kazakhstan.

THE CONCEPT OF 'GOOD GOVERNANCE'

a. **The World Bank (1989) defined good governance as** "the manner in which power is exercised in the management of a country's economic and social resources for development."

b. **The Bank's General Counsel identified governance with** ". . . 'good order', not in the sense of maintaining the status quo by the force of the state (law and order) but in the sense of having a system, based on abstract *rules* which are actually applied and on functioning *institutions* which ensure the rules' application. Reflected in the concept of 'the rule of law,' this system of rules and

institutions appears in different legal systems and finds expression in the familiar phrase, 'government of laws and not of men.' These characteristics reduce to two: *effective government* and *decisions that emerge from a non-arbitrary decision-making process*. Four elements characterize those processes:

i. ***Governance by rule*:** Decision-makers decide, not pursuant to the decision-maker's intuition or passing fancy, but according to agreed-upon norms *grounded in reason and experience*;
ii. ***Accountability**:* Decision-makers justify their decisions publicly, subjecting their decisions to review by recognized higher authority, and ultimately by the electorate;
iii. ***Transparency***: Officials conduct government business openly so that the public and particularly the press can learn about and debate its details; and
iv. ***Participation***: Persons affected by a potential decision — the stakeholders — have the maximum feasible opportunity to make inputs and otherwise take part in governmental decisions."

Together, these characteristics tend towards maintaining the rule of law, and ensuring ***representativeness and predictability*** in state action.

CORRUPTION

Transparency International (TI) has chosen a clear and focused definition of the term: *Corruption is operationally defined as the misuse of entrusted power for private gain. (*http://www.transparency.org/news_room/faq/corruption_faq#faqcorr1 dated Jan 9, 2008.*).*

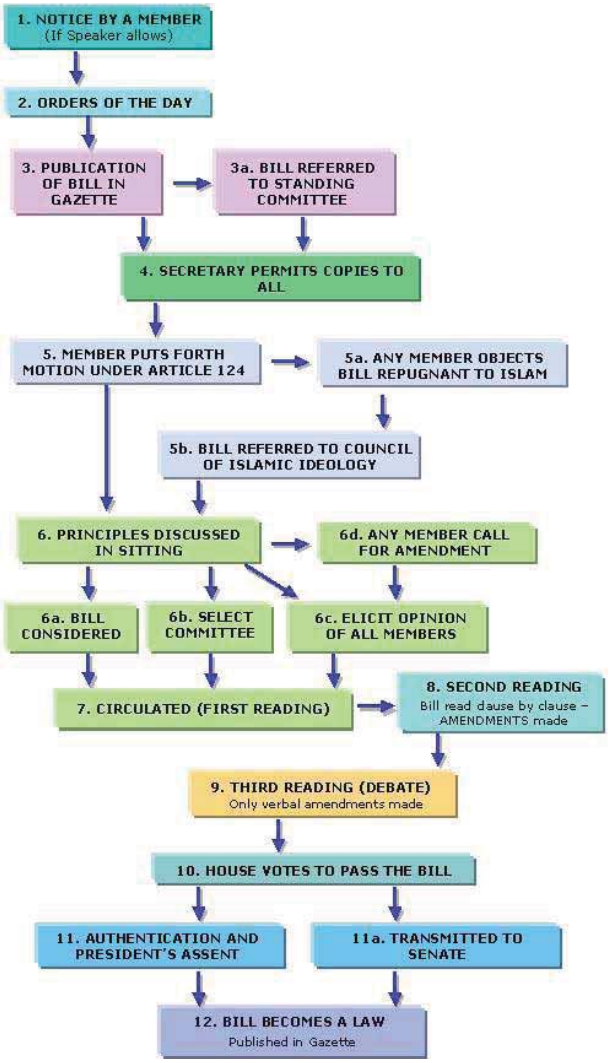
Corruption typically indicates poor governance. In all its forms, corruption violates the Rule of Law, and hinders effective development. Widespread corruption does not persist merely because of weak individuals or a 'culture of corruption'. It persists mainly as a result of weak *institutions* – that is, institutions that give officials opportunities and capacities to behave corruptly.

LAW

A law means a rule *promulgated by the state* and *implemented by state officials.* A *law* may take many forms: statutes, local ordinances, subsidiary legislation, ministerial rules, administrative regulations, a military junta's decrees.

LEGAL ORDER

It means the entire normative system in which the state has an involvement. It includes, not only the laws themselves, but also the institutions that make the laws (legislatures, independent agencies, ministries and courts) and that implement the laws (courts, ministries, the police).



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PROBLEM IDENTIFICATION AND LAW MAKING

During and after the 1950s, a common perception evolved across indigenous leaderships that state power could transform a former colony into a modern, prosperous state. In this context, independence movements focused on gaining control over the same. A half-century later, as the new millennium dawned, both in the former colonial countries and the former Soviet Union, populist forces ruled yet all else did not follow.

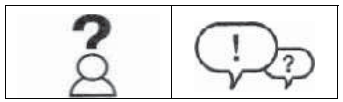
Tyranny's fall did accomplish important improvements in human dignity; in South Africa, blacks could attend schools that earlier had barred them, in Pakistan as in Czechoslovakia, a newspaper columnist could criticize the government of the day, in India "***dalits***" and the laborers could formulate unions.

Prosperity and good governance, however, still eluded almost all new nations. Some 80% of the world's population received less than 20% of the world's output of goods and services.

In poor countries, a wealthy few waxed rich and powerful while majority – especially women, children, old folk, the disabled and ethnic minorities – lived o n survival's edge. For many, the quality of life – even life expectancy – actually declined from its level at Independence. Diseases (especially HIV/AIDS), ethnic conflicts, and civil wars engulfed much of the developing and transitional worlds.

Despite winning the political control, most of the world's people remained poor, vulnerable, and subject to execrable governance. It is noteworthy that *country's institutions which define a country's relative poverty and vulnerability, but also the quality of its governance.* In the critical race between the old institutions and the new populist governments, by and large the old institutions won.

In the decisive race to change the institutions that define your country's poverty, vulnerability and governance, you as a lawmaker play a crucial role. You and your colleagues can facilitate change by enacting laws that create the appropriate enabling institutional development. Properly designed, those laws can induce people to behave in ways likely to foster institutional changes that benefit the entire nation.

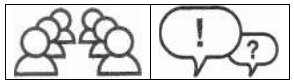


ACTIVITY
IDENTIFYING SOCIAL PROBLEMS IN PAKISTAN

What do you consider the most important social problems that confront the people in Pakistan?

2. ***Which stakeholders should participate in analyzing the causes and finding legislative solutions to particular social problems in your country?***

- That the bill's economic and social benefits will likely outweigh its costs; and
- Ensure that a responsible agency will monitor and evaluate the bill's implementation and social consequences.



SMALL GROUP EXERCISE
STAKEHOLDER PARTICIPATION IN THE RESEARCH

In the lawmaking or law-implementing process, someone – usually a ministry official, occasionally a fellow-legislator or a non-government organization's staff member – has evidence about an existing problem. To fulfil your duty as a lawmaker, you must ask a bill's sponsors to demonstrate that they grounded the bill's details, not only on logic, but also *facts.* The trick lies in knowing what questions to ask these knowledgeable people.

By the late 20th Century, community activists and growing numbers of professional evaluators recommended engaging the stakeholders – those affected by the law, especially the poor and vulnerable – in drawing on their own experiences to make suggestions for improving legislative programs. As an elected legislator, you can help the stakeholders among your constituents to use the problem-solving methodology to gather and analyze the relevant facts as the basis of new rules. In the process, they may also figure out ways to improve their own uses of their own resources to better their lives.

QUESTIONS

1. ***Compare the advantages and disadvantages of asking stakeholders (a) only to state their claims and demands compared to (b) engaging them in an analysis structured by problem-solving four steps.***



SMALL GROUP DISCUSSION
EFFECTIVENESS OF PAKISTAN'S LAWS

Discuss the following in your group for the next 15 minutes:

In connection with development and transition, how effective have Pakistan's laws proven? Identify at least one law in Pakistan of which one might say, "It is a good law, but badly implemented":



ROLE OF A LEGISLATOR

The success of a Parliamentarian who ensures legislative oversight and adequate public representation primarily rests on his pro active role as a Legislator who transforms promises into policies, policies into effective laws and their implementation that induce a purposeful social change felt by institutions as well as the people.

As an elected legislator working with your colleagues, this module aims to help you to use your constitutionally-granted power to enact laws in the public interest. After you have read these modules and completed the exercises it contains you will have increased your capacity to exercise the legislative power that is to undertake the following tasks as a Legislator:

- ***To read and understand*** bills presented to your legislature;
- ***To assess*** whether those bills will advance the public interest;
- ***To ask questions to get the facts you need*** to debate whether those bills' detailed provisions will serve the public interest;
- ***To oversee the administration of the laws*** in order to ensure that the laws as enforced advance the public interest; and
- ***To communicate meaningfully with your constituents*** about the kinds of laws they need to improve the quality of their lives.

DEBATING AND VOTING ON, AND (SOMETIMES) INITIATING BILLS

The central legislative task imposed on the holders of the legislative power – yourself and your fellow lawmakers – consists in enacting (or refusing to enact) a bill. To legislate wisely you must assess the evidence about how earlier legislation works. You have two channels for acquiring that information.

Important transformatory laws should include built-in devices to ensure more direct feedback. Some of the recognized monitoring devices include

- **A reporting requirement** that a responsible officer (frequently the Minister) report periodically to a legislative committee on the new law's operation. In most countries, Ministers already, almost ritually, comply with laws' requirements that they report to Parliament'– but experience shows that, too often, little comes out of this process. This underscores that, for important bills, additional monitoring devices appear essential.

- **A sunset clause** (i.e., the new law stipulates its own limited life, so that it will only continue if people become convinced that it should continue. That may stimulate those for or against the bill to investigate its performance in some detail). * A requirement that, after a stated period, an official appoint an evaluation commission; and/or

- **A provision for a referendum** at some fixed future time on whether to continue the new law.

OBTAINING THE FACTS: THE ADVANTAGES OF A RESEARCH REPORT

Just as a court must ***justify*** its judicial decisions by stating the reasons that underpin them, so you might consider a rule to require sponsors of an important bill to provide a written ***justification*** for its detailed provisions. In the legislative process of Pakistani National and Provincial Assemblies, in case of a private member bill, a member needs to justify that the intended bill is accepted for consideration in the House and in addition most bills undergo scrutiny of the respective Standing Committee. To ensure the adequacy of that justification, there is a need that being the sponsor of the bill you must structure the justification of putting forth a legislation by organizing the available facts logically. Thus there is dire need to undertake an objective research to compile a report justifying a proposed legislation. The Report can be developed with the help of Researchers at the Assemblies, Parliamentary Research services, resource centres, think tanks and CSOs working on the issue as well as your self as a Parliamentarian or member of a Parliamentary Committee:

- Describe the social problem, and whose and what behaviors comprise it (including those of the responsible implementing agency);
- Explain the legal and non-legal causes of those behaviors, i.e undertake ROCCIPI analysis.
- Show – ROCCIPI solutions
  - The alternative solutions considered;
  - That the bill's detailed provisions seem likely to overcome the identified causes; and

Typically, these, too, differentially affect the quality of life of society's historically disadvantaged groups. How to measure the impact on a poor family's life of a government decision to demolish their house in order to build a road through their property? Of building a school or a hospital in a high-income area rather than a low income area? Of permitting timber companies to chop down swaths of natural forest, which, over time, will likely contribute to increased water run off and flooding? Of increased spending on education so that many years later the community's poorest citizens may enjoy new employment and income opportunities?

Good governance calls for greater participation in the development process by the poorest, most historically disadvantaged segments of the population. How to measure the social costs and benefits of their participation? This makes it especially important for government to hear from the poor about the law's impact upon them.

Frequently, the intangibles comprise a law's most important development impacts. You should ask the relevant ministries to provide the best estimates they can — including an explanation of how they reached those estimates. Then do your best to evaluate the bill.

MECHANISMS FOR LEARNING ABOUT A NEW LAW'S EFFECTS – MONITORING AND EVALUATION

The difficulties involved in estimating a proposed law's probable social costs and benefits — only one of the many places where, no matter how hard the law-makers try, legislation necessarily proceeds with less than exact information — underscores the importance of incorporating in important bills an adequate monitoring and evaluation mechanism. This, problem-solving fourth step, should provide information to determine whether the law actually does induce the behaviors it prescribes, and their anticipated impact (If it does not, you may decide to amend or even repeal the law).

You should ascertain whether the bill contains provisions making it easy for the legislature to learn how well the new law has succeeded in reducing the original perceived social problem, and at what actual economic and social cost.

In the largest sense, democracy itself constitutes a gigantic, if somewhat unsystematic, monitoring and evaluation system. Constituents whose toes a law's implementation may pinch can and frequently do complain to you and your colleagues as their elected representatives. You have a constitutional responsibility to listen and respond. Many legislative committees oversee the work of particular ministries. This system, however, does not always ensure reliable monitoring.

THE OVERSIGHT FUNCTION

In exercising their oversight responsibilities, deputies usually may summon government ministers before the full house for questioning. In some countries, legislative committees may do so. (If legislative committees do not exist, or lack the power to do so, you may wish to consider enacting regulations to create them, and empower them to require ministry officials to answer more detailed questions).

MAINTAINING TWO-WAY COMMUNICATIONS CHANNELS WITH CONSTITUENTS

As a second channel for learning how the laws work, you learn from your constituents. As part of your *representative* function, you need to inform them about the implications of new legislation. As part of your *oversight* function, you must solicit facts from them as to how the laws affect their lives.

- Initiating, assessing, amending and debating bills;
- Overseeing executive implementation of the laws; and
- Building and maintaining two-way communication channels with the members of civil society – the 'stakeholders'.

THREE KINDS OF LEGISLATIVE ARGUMENTS

To enact a bill that you support, you must win the votes of fellow legislators. To do that, legislators make three kinds of arguments, based on consensus, interest contestation, and reason informed by experience.

1. ***Consensus: arguments based on 'core values'***

   Assuming that all the citizens of a political unit agree on their core values, a representative should support legislation based on that core value-consensus. Values, however, vary widely. In Nigeria, a Fulani nomad on the Sahara's edge lives in a completely different world from that of an Oxford-trained civil servant in Lagos. Both may speak Hausa and worship in mosques, but their webs of life – and with them, their 'domain assumptions,' their core values – fundamentally differ. If no 'core values' exist, arguments appealing to them cannot reliably persuade a bill's opponents. Argument addressed to non-existent 'core' values rank with the other arguments of power. They do not appeal to the rational sceptic; they do not invoke facts and logic.

2. ***Interest contestation: arguments based on power***

Interest contestation theorists agree that no core values exist. At the same time, they hold, 'facts' and 'values' occupy different universes; we cannot measure or compare 'values.' As Schumpeter put it, "no such thing (exists) as a uniquely determined common good that all people could agree on. . . by the force of rational argument."

Interest contestation theorists come in two varieties: pluralist and public choice. *Pluralist* theorists hold that, as interest group representatives, legislators enact into laws the bargains they make with each other. *Public choice* theorists assert that, bent on re-election, elected officials 'auction' off laws to the highest bidders. Especially where parties nominate 'lists' of candidates, legislators typically vote as agents for their parties. Both sets of theorists argue that a lawmaker has no choice but to act as an interest-group agent. For that, lawmakers make arguments resting, not on facts and logic, but power. You reach agreement not by *persuading* the other side, but by *compromising* with them. You assess a bill only in terms of what it will do for your preferred constituency.

3. ***Problem-solving: arguments based on facts and logic***

Unlike pluralism, problem-solving rejects the divide between 'facts' and 'values'. Arguments about what the law *ought to be* properly flow, not from prolonged contemplation of one's 'values', but logic reflecting on the available evidence, that is, reason informed by experience. In this mode, you appeal to the rational sceptic through appeal to reason, not emotion.

You assess bills on the same basis.

Governments also pay harder-to-estimate indirect costs. If, for example, a proposed product liability law relies on individual litigation as its principal implementation measure, government revenues must cover additional expenditures to enable courts to deal with the resulting law suits.

The private sector may also bear economic costs due to a law's effect on existing enterprises' employment, wages, or present or future profits. Those costs may appear in the form of tax increases (the impact of which depends on whether the taxes fall more heavily on the high or low income groups). Some of these economic costs may only appear over time.

It frequently proves difficult (sometimes, impossible) to obtain accurate quantitative measures of a bill's economic and social costs and benefits. Request a separate analysis of the factors included in efforts to make such estimates.

2. **Economic benefits:** The economic benefits generated by a bill's authorization of government spending usually only appear over time. This makes them even harder to estimate than economic costs. For example, current government expenditures on infrastructure to stimulate new business may generate increased future government revenues as a result of expanded private sector employment and profits — but who can say by how much? Government investments may also produce more government income in the form of profits, increased fees for services or interest on government loans — but these future returns remain difficult to predict.

   New legislation may also bestow differential economic gains on various private sector groups. Laws initiating new government development projects may stimulate increased profits, employment and wages, but with different impacts on different social groups. Uncertainty concerning many interrelated factors render these potential gains difficult to estimate. Sometimes, politicians claim reduced taxes constitute a private sector gain.

   Which social group will benefit depends on the particular taxes reduced, as well as who will lose when reduced revenues force the elimination of services. Reducing the education or health budget will likely most seriously impact the poor, who have no alternatives on which to fall back. A shift from income or profits taxes to higher taxes on value added or consumer goods sales usually reduce the poor's real incomes, since they pay a greater share of their income than do the rich to buy consumer necessities.

3. **'Guesstimating' social costs and benefits:** Social costs and benefits generally prove even more difficult to compare and assess than economic costs and benefits. They affect intangible items like the quality of life (jobs and incomes, housing, recreational facilities), human rights, and environmental conditions.

taxpayers. A regulation requiring that the police commissioner appoint as policemen only people six feet tall or taller discriminates against women.

Those with power and privilege always have channels to communicate their objections to political movers and shakers. As an elected representative, ask for the necessary facts to assess how a bill's detailed provisions will likely impact on the poor, women, children, the elderly and disabled, and, in many countries, minority ethnic groups – all typically underrepresented in the halls of power.

2. **"For the public interest":** You should also ask how proposed laws may differentially affect at least three sets of areas of common concern too often neglected by those in power: The environment, human rights, and good governance. (Note: In a particular country, people may also value other special concerns).

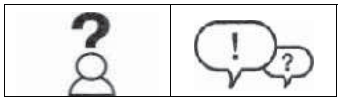
   - *The environment*: Although almost every bill affects the environment, it too seldom has strong protectors in government. As a minimum, ask for the facts about a bill's likely environmental impact.

   - *Human rights:* In some cases — as when a proposed bill gives officials the power to detain persons without trial, or imposes political controls over the press — the negative consequences for human rights may seem obvious. You should also ask questions about how other bills may affect human rights in less obvious ways. Does a legislative proposal for new roads raise issues of human rights if it takes private lands inhabited by poor people who cannot afford to move elsewhere? Does a proposal to build a hospital to serve an ethnically powerful, wealthy group — which already enjoys access to a developed health delivery system — raise issues of discrimination against neglected poorer communities? Does a bill to provide high-tech skills neglect to ensure equal opportunity for well-qualified women applicants?

   - *Good governance:* Increasingly, people have come to value good governance. This requires you to ask: Does the bill provide for transparent, accountable, participatory decision-making? Does the bill contain built-in defenses against corrupt behavior?

B. Estimating costs and benefits

1. **Economic Costs:** By 'economic costs and benefits' we mean the costs a hardnosed accountant would include. The costs include government's out-of-pocket direct expenditures for personnel, buildings, equipment and services required to implement a law. Government usually pays these out of current revenues, or, over time, in the form of the principal and interest on loans. Unanticipated factors like inflation or shortages may make estimates of these direct economic costs problematic.



ACTIVITY

EXERCISING YOUR CONSTITUTIONALLY DELEGATED LEGISLATIVE POWER IN THE PUBLIC INTEREST

1. ***Make a list of the various tasks you have done in the last week in connection with your various roles as a member of the legislature:***

2. ***Which ones involve exercise of your constitutionally delegated legislative power in the public interest?***

SESSION 2

RELEVANT ARTICLES OF THE CONSTITUTION OF PAKISTAN

The Constitution being basic fundamental law of country must be looked into for general legislative powers and its requirements. Following are the Articles/provisions in Constitution which should be kept in view while preparing a draft legislation:

Article 142

(a) Majlis-e-Shoora (Parliament) shall have exclusive power to make laws with respect to any matter in the Federal Legislative List;

(b) Majlis-e-Shoora (Parliament) and a Provincial Assembly shall have power to make laws with respect to criminal law, criminal procedure and evidence;

(c) Subject to paragraph (b), a Provincial Assembly shall, and Majlis-e-Shoora (Parliament) shall not, have power to make laws with respect to any matter not enumerated in the Federal Legislative List;

(d) Majlis-e-Shoora (Parliament) shall have exclusive power to make laws with respect to all matters pertaining to such areas in the Federation as are not included in any Province.

Article 143

If any provision of an Act of a Provincial Assembly is repugnant to any provision of an Act of Majlis-Eshoo (Parliament) which Majlis-e-Shoora (Parliament) is competent to enact, then the Act of Majlis-e-Shoora (Parliament), whether passed before or after the Act of the Provincial Assembly, shall prevail and the Act of the Provincial Assembly shall, to the extent of the repugnancy, be void.

Article 144

If [one] or more Provincial Assemblies pass resolution to the effect that Majlis-e-Shoora (Parliament) may by law regulate any matter not enumerated in [the federal Legislation List] in the Fourth Schedule, it shall be lawful for Majlis-e-Shoora (Parliament) to pass an Act for regulating that matter accordingly, but any act so passed may, as respects any Province to which it applies, be amended or repealed by Act of the Assembly of that Province.

well those solutions worked. Unless the proponents of the bill have considered alternatives, you cannot assure yourself that their solution constitutes the most appropriate one.

'REVERSE ROCCIPI'

Ask the proponents to demonstrate that their preferred solution addresses the earlier identified causes of the problematic behaviors that constitute the social problem addressed. Unless it does, the new solution may not succeed in changing those behaviors and thus fail to ameliorate the social problem. When considering explanations, you used the ROCCIPI categories to generate hypotheses to explain existing behaviors. Now use it to ***predict*** what behaviors a bill will induce.

Example: If the bill before you proposes to create a new agricultural finance bank to supply credit to small farmers, ask, for example: Will the new bank have the **Capacity** to make the many small loans required of such a bank? will it have **Opportunity** to do so? will the responsible bank officers have sufficient incentives ('**Interest**') to make the loans? do the bank's **Processes** tend to ensure accountability, transparency, and participation by stakeholders in bank decision-making?

WEIGHING A PROPOSED BILL'S PROBABLE COSTS AND BENEFITS

In particular, you should ask for facts you need to weigh the relative social and economic benefits and costs of implementing the alternatives as compared to the drafters' bill. No matter how effective a bill, unless its anticipated social and economic benefits exceed the anticipated costs, you should vote it down. To make that decision, ask for the facts about its probable impact, as well as its estimated benefits and costs compared to those of the leading potential alternatives — including the current law.

A. A Bill's likely differential impact

1. **On various social strata:** No law impacts all society's diverse social groups equally. Even a seemingly simple new law that requires drivers to change from driving on the right instead of the left side of the road imposes massive costs on the owners of existing automobiles, whose right-hand-drive cars suddenly lose much of their value. In the United States, where an income tax law requires that the rich pay a somewhat higher percentage of their income as tax than the poor, a recent seemingly equitable 10 per cent across-the-board tax cut in reality gave 62 per cent of the proposed tax saving to the wealthiest 10 per cent of

CATEGORIES AND EXPLANATORY HYPOTHESES

We reiterate: Given the pressure of legislative work, you do not have much time in which to ask questions of Ministers or other officials. To make the best use of your limited time, you need a guide to formulate hypotheses as a basis of questions about relevant facts likely to help identify the causes of problematic behaviors. Broadly construed, legislative theory's seven categories, captured as "ROCCIPI", may help you to make useful 'educated guesses' about each set of problematic behaviors' causes.

For example, to explain an official's arbitrary decision-making, the category 'Rule' might 'spark off' an hypothesis that the law grants that official unlimited discretion; the category, 'Capacity'; might suggest another hypothesis; the category, 'Process', a third. No matter which category inspires useful hypotheses, the ROCCIPI agenda served its function if it inspired you to consider all the likely possible causes.'

The ROCCIPI categories help you to ensure that — given the facts available as to your country's circumstances – a bill's drafters have identified all the probable causes of the relevant actors' problematic behaviors. (That includes the behaviors of implementing agency officials). That lays the essential foundation for assessing whether the bill's detailed provisions logically seem likely to overcome the causes of the specified problematic behaviors, and thus to induce those actors to behave more appropriately.

DESIGNING A DETAILED LEGISLATIVE SOLUTION

Having incorporated the causes of problematic behavior, you must enquire about the adequacy of the solution – the proposed bill. That calls for four sets of questions:

1. Have the bill's proponents canvassed the possible alternatives?
2. Have they tested the preferred solution – the bill – against the ROCCIPI categories?
3. Have they identified in the bill the most ***socially*** cost-efficient solution?
4. Does the bill provide a method for monitoring and evaluating its implementation?

CANVASSING ALTERNATIVE POSSIBLE SOLUTIONS

The first step in assessing a bill requires that you enquire of the bill's proponents what alternative solutions they considered. One can gather ideas for alternative solutions from a variety of sources: from the professional literature on the subject; from comparative law and experience; and from one's own ideas. As we have emphasized, from foreign law there is nothing to copy, but much to learn. Mainly, you can learn what others have tried to solve analogous social problems, and how

Federal Legislative List

Federal Legislative List comprises two Parts -Part I and part II. Part 1 contains 59 entries. Part II has 18 entries. The defence, external affairs, citizenship, import, export, international treaties, duties of customs and taxes on income etc are included in Part I and Railways, electricity and the regularities authorities established under a Federal Law are included in part II. On all the subjects included in Part 1 or Part II, the Parliament can legislate. But according to Article 154 of the Constitution, the Council of Common Interest is tasked to formulate and regulate policies in relation to matters in part II, every legislation involving policy matters with regard to these subjects should first be placed before the Council of Common Interest for consideration and decision before it is further processed. The Council of Common Interest is a representative body of Federation as well as Provinces. All the Chief Ministers of Provinces are its members. The Council is headed by the Prime Minister.

Article 8 of the Constitution places limitation n the power of the legislature to make a law which is inconsistent with or is in derogation of fundamental rights given in the constitution. Any law so made shall be void to the extent of inconsistency. Article 12 and 13 give protection against retrospective punishment and double punishment, respectively, while drafting a penal law these articles should be kept in view.

Ordinances (Article 89)

The President under Article 89 of the Constitution enjoys legislative powers to promulgate Ordinances co-extensive with the Parliament subject to time limit of one hundred and twenty day extendable for another such period under a Resolution of the House. In case of a Money Bill the Ordinance is to be laid before the National Assembly and in other cases before both the Houses of the Parliament.

Regulations for Tribal Areas (Article 247)

Legislation for (FATA and PATA) is regulated through Regulations made by the President or Governor, as the case may be, under Article 247 of the Constitution. The Acts of Parliament and the Provincial Assembly can also be extended likewise through a Regulation by the President or the Governor, as the case may be.

Effect of Repeal (Article 264)

Article 264 of the Constitution deals with effect and consequences if a law is repealed under or by virtue of the Constitution. This Article is paramateria to section 6 of in General Clauses Act which deals with effect of repeal of an ordinary law.

LEGISLATIVE PROCEDURE IN THE CONSTITUTION

Article: 70 Introduction and passing of Bills

[70. Introduction and passing of Bills.--- (1) A Bill with respect to any matter in the Federal Legislative List may originate in either House and shall, if it is passed by the House in which it originated, be transmitted to the other House; and, if the Bill is passed without amendment by the other House also, it shall be presented to the President for assent.

(2) If a Bill transmitted to a House under clause (1) is passed with amendments it shall be sent back to the House in which it originated and if that House passes the Bill with those amendments it shall be presented to the President for assent.

(3) If a Bill transmitted to a House under clause (1) is rejected or is not passed within ninety days of its laying in the House or a Bill sent to a House under clause (2) with amendments is not passed by that House with such amendments, the Bill, at the request of the House in which it originated, shall be considered in a joint sitting and if passed by the votes of the majority of the members present and voting in the joint sitting it shall be presented to the President for assent.

(4) In this Article and the succeeding provisions of the Constitution, "Federal Legislative List" means the Federal Legislative List in the Fourth Schedule.]

Article: 72 Procedure at joint sittings

72. Procedure at joint sittings.- (1) The President after consultation with the Speaker of the National Assembly and the Chairman, may make rules as to the procedure with respect to the joint sittings of, and communications between the two Houses.

(2) At a joint sitting, the Speaker of the National Assembly or, in his absence, such person as may be determined by the rules made under clause (1), shall preside.

(3) The rules made under clause (1) shall be laid before a joint sitting and may be added to, varied, amended or replaced at a joint sitting.

(4) Subject to the Constitution, all decisions at a joint sitting shall be taken

P for Process: How do the actors decide to behave as they do?

Especially with respect of complex organizations (and that includes ***all*** implementing agencies), focus your attention on the ***process***, the criteria and procedures by which the relevant actors decide whether or not to obey the law. Usually, if the relevant actors comprise individuals, the 'Process' category yields few useful explanatory hypotheses; individuals usually decide on their own whether or not to obey the rules. In contrast, 'Process' may constitute ROCCIPI's most fruitful category for inspiring hypotheses to explain the problematic behaviors of actors who work in complex organizations: corporations, non-government organizations (NGOs), schools, trade unions, cooperatives, and especially implementing agencies — police, courts, ministries, agencies, departments, local government, bureaus.

I for 'Ideology' (values and attitudes): What goes on in an actor's head that helps explain behavior?

Many social scientists turn to 'Ideology' to explain problematic behaviors. 'Ideology' here refers to matters of belief, encompassing values, attitudes, tastes, myths about the world, religious beliefs, more or less well-defined political, social and economic ideologies. Some people try to subsume most other explanations under 'Ideology,' leading, as does a similar expansion of' 'Interest,' to the neglect of solutions aimed at other causes.

For example, in a particular country, to blame coal mine accidents solely on the managers' culture of profits over workers' safety may ignore the managers' lack of technology to prevent accidents, or even the absence of a law seeking to ensure mine safety.

in decentralized government affairs? Does a law designed to protect women and children against domestic violence include a provision to inform them about it?

More generally, you might consider legislative provisions for wider communication of all laws enacted, in newspapers, radio and television programs, as well as for direct announcements to affected communities.

I for Interest: What incentives exist to induce relevant actors to behave as they do?

The category, 'Interest' (or incentives) refers to the actors' own perceptions as to how the existing law's costs and benefits affect them and people close to them. These may include material benefits, like increased cash or fringe benefits. They may also include non-material incentives, like power or their family members', friends' and associates' esteem.

In considering how particular interests influence an actor's behaviors, exercise caution. Too often law-makers propose laws that, implying that 'Interest' constitutes the main cause of problematic behaviors, merely impose heavy punishments to deter violations, or, sometimes, grant rewards as incentives for compliance.

In reality, few actors take into account a law's paper penalty. Drivers on major highways, for example, may worry less about the speed limit than whether a radar-equipped police car hides around the next bend in the road. That suggests the need, not for greater penalties, for more police patrols.

Some theorists expand the 'Interest' category to subsume all the other categories of explanation. In that view, for example, farmers fail to increase production only because they do not receive sufficient profits from the venture — never mind that no road leads from their farms to market; or officials do not obey a law to write an explanation for their decisions because they receive no punishment for their failure — never mind that they remain illiterate.

To expand any of the ROCCIPI categories so broadly destroys their usefulness for specifying detailed explanatory hypotheses. Without detailed explanations, warranted by facts, as to all the probable causes of problematic behavior, you have no basis in logic or facts for assessing a bill's detailed prescriptions.

by the votes of the majority of the members present and voting.

Article: 73 Procedure with respect to Money Bills

73. Procedure with respect to Money Bills.— [1][(1) Notwithstanding anything contained in Article 70, a Money Bill shall originate in the National Assembly :

Provided that simultaneously when a Money Bill, including the Finance Bill containing the Annual Budget Statement, is presented in the National Assembly, a copy thereof shall be transmitted to the Senate which may, within fourteen days, make recommendations thereon to the National Assembly.]

(1A) The National Assembly shall, consider the recommendations of the Senate and after the bill has been passed by the Assembly with or without incorporating the recommendations of the Senate, it shall be presented to the President for assent.

2) For the purposes of this Chapter, a Bill or amendment shall be deemed to be a Money Bill if it contains provisions dealing with all or any of the following matters, namely:—

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the borrowing of money, or the giving of any guarantee, by the Federal Government, or the amendment of the law relating to the financial obligations of that Government;

(c) the custody of the Federal Consolidated Fund, the payment of moneys into, or the issue of moneys from, that Fund;

(d) the imposition of a charge upon the Federal Consolidated Fund, or the abolition or alteration of any such charge;

(e) the receipt of moneys on account of the Public Account of the Federation, the custody or issue of such moneys;

(f) the audit of the accounts of the Federal Government or a Provincial Government; and

(g) any matter incidental to any of the matters specified in the preceding paragraphs.

(3) A Bill shall not be deemed to be a Money Bill by reason only that it

provides–

(a) for the imposition or alteration of any fine or other pecuniary penalty, or for the demand or payment of a license fee or a fee or charge for any service rendered; or

(b) for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(4) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the National Assembly thereon shall be final.

(5) Every Money Bill presented to the President for assent shall bear a certificate under the hand of the Speaker of the National Assembly that it is a Money Bill, and such certificate shall be conclusive for all purposes and shall not be called in question.

74. Federal Government's consent required for financial measures:

74. Federal Government's consent required for financial measures.-A Money Bill or a Bill or amendment which if enacted and brought into operation would involve expenditure from the Federal Consolidated Fund or withdrawal from the Public Account of the Federation or affect the coinage or currency of Pakistan or the constitution or functions of the State Bank of Pakistan shall not be introduced or moved in 1[Majlis-e-Shoora (Parliament)] except by or with the consent of the Federal Government

75. Presidents Assent to bills.—(1) The when a bi los presented to the president for assent the president shall within ten days.

a) assent to the bill

b) in the case of a bill other than a money bills return the bill to the MAjilise-e shora (Parliament) with a message requesting that the bill or any specified provisions thereof, be reconsidered and that any amendment specified in the message be considered.

(2) When the President has returned a Bill to the Majlis-e-Shoora (Parliament), it shall be reconsidered by the Majlis-e-Shoora (Parliament)[a*][****] and, if it is again passed, with or without amendment, by the Majlis-e-Shoora (Parliament), [b*][in accordance with article 70] it shall be deemed for the purposes of the Constitution to have been passed by both Houses and shall be presented to the President shall give his assent within ten days failing which such assent shall be deemed to have been given..

O for *Opportunity: Do circumstances facilitate the problematic behaviors?*

First, do the circumstances create an ***opportunity*** for the relevant actor to misbehave? If so, the new law should try to change the environment to make that behavior more difficult.

For example, if customs officials, in an out-of-sight field post, take bribes, the law might require monitoring by hidden cameras, or inspectors making unannounced visits. If mining inspectors come to a mine, see only the manager in private, and then, despite dangerous conditions, give the mine a clean bill of health, an effective legislative provision might forbid the inspector from conversing with the mine manager without a representative of the labor union representing the mine workers within easy earshot. Second, do the relevant actors have an opportunity to behave as the law prescribes? For example, if a small farmer has no access to a market for a crop, that farmer may not grow it even if the law aims to encourage all farmers produce it.

C for Capacity: Do the relevant actors possess the necessary knowledge, skills, and resources they need to behave differently than they do now?

For example, to explain low farm productivity, ask: Do farmers have access to necessary new technology and the skills to operate it? To explain non-accountable decision-making: do officials have the skill and resources to publish written explanations for their decisions?

CAPACITY? IF I CAN'T DO IT MYSELF, IT WON'T GET DONE.

C for Communication: Do the actors know and understand the existing rules?

A person cannot consciously obey a law without knowing that it exists, and understanding the behaviors it prescribes. A country's channels for communicating information about laws often reflect, and in some cases foster a skewed social structure. In most jurisdictions, laws only appear in a government Gazette (or its equivalent) that appears in very few copies to which few people have access. This may seriously erode the rule of law. Local media may publish reports on the most important laws, and ministries usually inform their officials about new laws, especially those responsible for enforcing them. Urban elites, especially formal-sector businessmen, usually learn from their lawyers or business associations about laws likely to affect their affairs. In contrast, unless the responsible ministries make special efforts to inform them, the poor – especially the rural poor – seldom learn about new laws, even those supposedly designed to help them better their own lives.

Ask: Do a bill's provisions ensure that the poor and vulnerable will learn about the law, new laws that give them access to credit, or aim to facilitate their participation

HOW EXISTING LAW MAY HELP EXPLAIN BEHAVIOR: AN EXAMPLE

Suppose that, despite a law forbidding it, people pollute the rivers. On its face, the law's provisions may suggest several explanations for that behavior. ***First***, the existing law's provisions may not forbid the dumping, or may not require an agency to act to prevent it. ***Second,*** the rule's wording may grant the polluters or the implementing officials broad discretion to decide how to behave, leaving them scope to respond to inappropriate motivations. ***Third,*** the law's provisions may permit or even authorize the implementing officials to use non-transparent, unaccountable decision-making processes that make it easier for them to permit polluting behaviors (think corruption). ***Fourth,*** ambiguous or confusing language may leave polluters unclear as to the law's requirements. ***Fifth,*** other rules may exist that in effect make compliance impossible. For instance, a rule may require companies to get rid of waste without providing an alternative place for waste disposal.

Ask four kinds of questions about the precise wording used in existing laws to discover how they may help to explain problematic behaviors. Do the existing laws' detailed provisions:

1) Prescribe or expressly ***permit*** the problematic behaviors?
2) Expressly or by vague or ambiguous wording grant ***discretion*** to its addressees to decide how they should behave?
3) Specify ***criteria and procedures*** likely to ensure that implementing agency officials make decisions using non-arbitrary — i.e., transparent, open, accountable, and participatory — processes?
4) Prescribe the required behaviors of the relevant role occupants (including implementing agency officials) in words that leave them ***unsure*** about what they must or may do?

The answers to these four questions may help you to decide whether the existing law itself, on its face, helps to explain the problematic behaviors at issue. In addition to examining the existing cage of rules, the remaining ROCCIPI categories suggest that you should ask questions about non-legal causes embedded in your country's unique realities. Since the bill should alter or eliminate the causes of the behaviors that constitute the social problem the bill addresses, the answers may suggest possible additional detailed provisions in the bill.

(3) When the President has assented or is deemed to have assented to a Bill, it shall become law and be called an Act of Parliament."

(4) No Act of Parliament, and no provision in any such Act, shall be invalid by reason only that some recommendation, previous sanction or consent required by the Constitution was not given if that Act was assented to or deemed to have been assented to in accordance with the Constitution".

Article: 76 Bill not to lapse on prorogation, etc

76. Bill not to lapse on prorogation etc.-(1) A Bill pending in either House shall not lapse by reason of the prorogation of the House.

(2) A Bill pending in the Senate which has not been passed by the National Assembly shall not lapse on the dissolution of the National Assembly.

(3) A Bill pending in the National Assembly, or a Bill which having been passed by the National Assembly is pending in the Senate, shall lapse on the dissolution of the National Assembly.

Article: 77: Tax to be levied by law only

77. Tax to be levied by law only.-No tax shall be levied for the purposes of the Federation except by or under the authority of Act of 1[Majlis-e-Shoora (Parliament)].

Ordinances

Article: 89. Power of President to Promulgate Ordinances:

89. Power of President to promulgate Ordinances.—(1) The President may, except when the [1][Senate or] National Assembly is in session, if satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an Ordinance as the circumstances may require.(2) An Ordinance promulgated under this Article shall have the same force and effect as an Act of [Majlis-e-Shoora (Parliament)] and shall be subject to like restrictions as the power of [Majlis-e-Shoora (Parliament)] to make law, but every such Ordinance–

(a) shall be laid –

(i) before the National Assembly if it [3][contains provisions dealing with all or any of the matters specified in clause (2) of Article 73], and shall stand repealed at the expiration of [4][one hundred and twenty days]from its promulgation or, if before the expiration of that period a resolution

disapproving it is passed by the Assembly, upon the passing of that resolution[4][:]

[4][Provided that the National Assembly may by a resolution extend the Ordinance for a further period of one hundred and twenty days and it shall stand repealed at the expiration of the extended period, or if before the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution:

Provided further that extension for further period may be made only once.]

(ii) before both Houses if it [5][does not contain provisions dealing with any of the matters referred to in sub-paragraph (i)], and shall stand repealed at the expiration of [6][one hundred and twenty days] from its promulgation or, if before the expiration of that period a resolution disapproving it is passed by either House, upon the passing of that resolution.

Provided that either House may by a resolution extend it for a further period of one hundred and twenty days and it shall stand repealed at the expiration of the extended period, or if before the expiration of that period a resolution disapproving it is passed by a House, upon the passing of that resolution:

Provided further that extension for a further period may be made only once; and]

(b) may be withdrawn at any time by the President.

[(3) without prejudice to the provisions of clause (2),---

(a) an Ordinance laid before the National Assembly under sub-paragraph (i) of paragraph (a) of clause (2) shall be deemed to be a Bill introduced in the National Assembly; and

(b) an Ordinance laid before both Houses under sub-paragraph(ii) of paragraph (a) of clause (2) shall be deemed to be a Bill introduced in the House where it was first laid.]

Article: 128. Power of Governor to Promulgate Ordinances.

128. Power of Governor to promulgate Ordinances.—(1) The Governor may, except when the Provincial Assembly is in session, if satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an Ordinance as the circumstances may require.

(including implementing agencies) do in fact behave as the bill prescribes, with the expected consequences.

Problem-solving's second step, explaining the causes of the behaviors that comprise the problem, proves crucial. If a bill's design does not logically alter or eliminate the causes of problematic behaviors, it will not likely induce the new behaviors needed to help resolve the problem. Legislative theory suggests a set of categories to help identify all the plausible explanations for the problematic behaviors the bill addresses.

LEGISLATIVE THEORY'S GUIDE TO FINDING PROBLEMATIC BEHAVIORS' CAUSES AND SOLUTIONS

Ask about the facts concerning possible causes suggested by each category in turn. Together, these categories serve to focus your questions on the facts you need to validate the likely ***causes*** of each set of problematic behaviors the proposed bill's details aim to alter. Unless the bill's detailed measures logically seem likely to overcome the existing problematic behaviors' causes revealed by those facts, you probably should call for alternative legislative solutions more likely to succeed.

ROCCIPI

Institutionalist legislative theory builds on the premise that no single factor causes behavior. It suggests seven broad categories to help generate all the likely hypotheses as to the causes of a relevant set of social actors' behaviors: ***R****ule,* ***O****pportunity,* ***C****apacity,* ***C****ommunication,* ***I****nterest,* ***P****rocess and* ***I****deology.* (The first initials of these categories make the acronym, ***ROCCIPI*** . The order of the categories has no significance. The acronym aims to help you remember the categories.)

R for the *Rules*

The model on page 15 focuses on the question, why do people behave as they do in the face of a rule of law? In reality, people behave as they do, not in the face of *a* rule, but of a whole *cage* of laws.

recommends that, at each of four logically-connected steps, you ask specific questions :

STEP I: *IDENTIFYING THE SOCIAL PROBLEM*

To understand the nature and scope of the social problem the bill proposes to address, you must ask two questions. **First,** you need country-specific information about its surface appearance: What facts can the bill's supporters provide to support their descriptions of its nature and scope? S**econd,** because laws can only address behaviors, ask questions to discover who constitute the relevant social actors**,** including the implementing agents, and what they do that creates or exacerbates that social problem. Unless you know exactly ***whose and what behaviors*** constitute that social problem, you cannot meaningfully assess the bill's likely effect.

Once you get the facts about a law's actual impact, you may want to revise and improve it. Your job as lawmaker does not end with the enactment of a bill. Like life itself, lawmaking involves solving one problem after another.

STEP II: *PROPOSING AND WARRANTING EXPLANATIONS*

To help resolve the problem, the proposed law must alter or eliminate the ***causes*** (that is, the explanations) of the relevant social actors' problematic behaviors. Ask the bill's proponents to explain those behaviors, and demonstrate that their explanations prove consistent with the facts.

STEP III: *PROPOSING A SOLUTION*

Once convinced that the facts justify the explanations of the existing problematic behaviors, you can assess whether logically the bill's prescriptions — especially the implementation provisions — seem likely to alter or eliminate those causes, and induce more desirable behaviors. Always ask the bill's proponents to describe the alternative solutions they have considered, and the costs and benefits of those alternatives as well as of the bill before you. Especially, ask them to describe the bill's probable impact on groups and interests typically poorly represented in the halls of power: women, children, the poor, minorities, human rights concerns, environmental protection matters.

STEP IV*: MONITORING AND EVALUATING THE NEW LAW'S IMPLEMENTATION*

Finally, ask questions about the monitoring and evaluation mechanism that the bill prescribes. No law ever works exactly as anticipated. Prior to enactment, pressures to pass legislation quickly often preclude adequate research. Constantly changing circumstances inevitably accompany transformation. After a law's passage and implementation, you and your colleagues can only carry out your oversight tasks if you have adequate information to determine whether people and organizations

(2) An Ordinance promulgated under this Article shall have the same force and effect as an Act of the Provincial Assembly and shall be subject to like restrictions as the power of the Provincial Assembly to make laws, but every such Ordinance—

(a) shall be laid before the Provincial Assembly and shall stand repealed at the expiration of [1][ninety days] from its promulgation or, if before the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution [1][:]

[1][Provided that the Provincial Assembly may by a resolution extend the Ordinance for a further period of ninety days and it shall stand repealed at the expiration of the extended period, or if before the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution:

Provided further that extension for a further period may be made only once.]

(b) may be withdrawn at any time by the Governor.

(3) Without prejudice to the provisions of clause (2) an Ordinance laid before the Provincial Assembly shall be deemed to be a Bill introduced in the Provincial Assembly.

RELATIONS BETWEEN FEDERATION AND PROVINCES

DISTRIBUTION OF LEGISLATIVE POWERS

Article: 141 Extent of Federal and Provincial laws

141. Extent of Federal and Provincial laws.-Subject to the Constitution, 1[Majlis-e-Shoora (Parliament)] may make laws (including laws having extra territorial operation) for the whole or any part of Pakistan, and a Provincial Assembly may make laws for the Province or any part thereof.

Article: 142 Subject-matter of Federal and Provincial laws

142. Subject-matter of Federal and Provincial laws.—Subject to the Constitution—

(a) [1][Majlis-e-Shoora (Parliament)] shall have exclusive power to make laws with respect to any matter in the Federal Legislative List;

[(b) Majlis-e-Shoora (Parliament) and a Provincial Assembly shall have power

to make laws with respect to criminal law, criminal procedure and evidence.]

[(c) Subject to paragraph (b), a Provincial Assembly shall, and Majlis-e-Shoora (Parliament) shall not, have power to make laws with respect to any matter not enumerated in the Federal Legislative List.]

[4][(d) Majlis-e-Shoora (Parliament) shall have exclusive power to make laws with respect to all matters pertaining to such areas in the Federation as are not included in any Province.]

Article: 143 Inconsistency between Federal and Provincial laws

[143.---Inconsistency between Federal and Provincial law.--- If any provision of an Act of a Provincial Assembly is repugnant to any provision of an Act of Majlis-e-Shoora (Parliament) which Majlis-e-Shoora (Parliament) is competent to enact, then the Act of Majlis-e-Shoora (Parliament), whether passed before or after the Act of the Provincial Assembly, shall prevail and the Act of the Provincial Assembly shall, to the extent of the repugnancy, be void.]

144.Power of [Majlis-e-Shoora (Parliament)] to legislate for [one] or more Provinces by consent.

(1) If one or more Provincial Assemblies pass resolutions to the effect that [Majlis-e-Shoora (Parliament)] may by law regulate any matter not enumerated inthe Federal Legislative List in the Fourth Schedule, it shall be lawful for [Majlis-e-Shoora (Parliament)] to pass an Act for regulating that matter accordingly, but any act so passed may, as respects any Province to which it applies, be amended or repealed by Act of the Assembly of that Province

Special Provisions

Functions and Rules of Procedure: Article 154-

154. Functions and rules of procedure.— [(1) The Council shall formulate and regulate policies in relation to matters in Part II of the Federal Legislative List and shall exercise supervision and control over related institutions.]

(2) The Council shall be constituted within thirty days of the Prime Minister taking oath of office.

(3) The Council shall have a permanent Secretariat and shall meet at least once in ninety days:

THE FUNCTION OF LEGISLATIVE THEORY

This manual does not offer a treasure chest, but a tool box. Its legislative theory (including the model explaining why people behave as they do in the face of a rule of law, and the problem-solving methodology, below) offers you a guide for analyzing how a law will likely affect relevant social actors' *behaviors*.

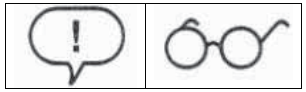


That theory rests on the fact that all ***social*** problems reflect repetitive patterns of behavior; that is, by definition, ***institutions***. Only by re-channeling dysfunctional behaviors can law help resolve those problems. The model on LEGAL SYSTEM purports to explain why, given existing laws and conditions, people behave as they do. That constitutes an essential tool for finding and evaluating the evidence necessary to assess whether a bill will likely induce new behaviors to resolve a specified social problem.

Effective law must build, not on dreams and visions, but on concrete, real circumstances. To assess whether a bill's detailed provisions rest on real-world foundations, institutionalist legislative theory offers a methodology that, at every step, guides the search for the necessary time and place specific facts.

USING LEGISLATIVE THEORY'S PROBLEM-SOLVING METHODOLOGY

The problem-solving methodology aims to use ***reason informed by experience*** — facts and logic — to assess whether a bill's prescriptions will likely lead to effective implementation and achieve that bill's stated objectives. To determine whether in your country's unique circumstances a bill's provisions will likely overcome the causes of a particular social problem, legislative theory's problem-solving methodology



A PROBLEM-SOLVING METHODOLOGY: A GUIDE FOR ASKING QUESTIONS AND ASSESSING BILLS

To realize democracy's promise, you and your colleagues must exercise the legislative power in the public interest. What theory and methodology can best guide you in assessing whether proposed legislation will solve a social problem effectively and at least social cost? This section explores the use of theory in the search for facts, and the logic of the four steps required by institutionalist legislative theory's problem-solving methodology.

Implicitly or explicitly, a law rests on educated guesses about what behaviors constitute the social problem it aims to help resolve (***descriptive*** hypotheses), and about the causes of those behaviors (***explanatory*** hypotheses). To induce behaviors more likely to solve that problem, the law's detailed prescriptions logically must alter or eliminate those causes. To test these hypotheses, you must ask questions – mainly, questions about the facts that might *falsify* them. If the hypotheses prove consistent with the facts, and the solution logically addresses the causes those hypotheses reveals, the proposed law has some probability of ameliorating the social problem at which it aims. Thus legislative theory guides the search for relevant facts.

An hypothesis helps to limit the area of facts which researchers must try to discover. Someone whose hypothesis reflects a personal 'vision' will likely limit their search to facts that conform the hypothesis, and thus coincide with that person's subjective values. To overcome the universal tendency to find only confirming facts, conscientiously search for facts to ***contradict*** your hypothesis. A law has a better chance of helping to resolve a social problem — that is, to ***work*** — if it rests on hypotheses grounded, not on how you would like the world to be, but on how it actually ***is***.

Provided that the Prime Minister may convene a meeting on the request of a Province on an urgent matter.]

(4) The decisions of the Council shall be expressed in terms of the opinion of the majority.

[(5)] Until [3][Majlis-e-Shoora (Parliament)] makes provision by law in this behalf, the Council may make its rules of procedure.

[(6)] [3][Majlis-e-Shoora (Parliament)] in joint sitting may from time to time by resolution issue directions through the Federal Government to the Council generally or in a particular matter to take action as [3][Majlis-e-Shoora (Parliament)] may deem just and proper and such directions shall be binding on the Council.

(7) If the Federal Government or a Provincial Government is dissatisfied with a decision of the Council, it may refer the matter to [Majlis-e-Shoora (Parliament)] in a joint sitting whose decision in this behalf shall be final.

Amendment of Constitution

238. Amendment of Constitution.-Subject to this Part, the Constitution may be amended by Act of 1[Majlis-e-Shoora (Parliament)].

Article: 239 Constitution amendments Bill.

1[239. Constitution amendment Bill.-(1) A Bill to amend the Constitution may originate in either House and, when the Bill has been passed by the votes of not less than two-thirds of the total membership of the House, it shall be transmitted to the other House.

(2) If the Bill is passed without amendment by the votes of not less than two-thirds of the total membership of the House to which it is transmitted under clause (1), it shall, subject to the provisions of clause (4), be presented to the President for assent.
(3) If the Bill is passed with amendment by the votes of not less than two-thirds of the total membership of the House to which it is transmitted under clause (1), it shall be reconsidered by the House in which it had or originated, and if the Bill as amended by the former House is passed by the latter by the votes of not less than two-thirds of its total membership it shall, subject to the provisions of clause (4), be presented to the President for assent.

(4) A Bill to amend the Constitution which would have the effect of altering the limits of a Province shall not be presented to the President for assent

unless it has been passed by the Provincial Assembly of that Province by the votes of not less than two-thirds of its total membership.

(5) No amendment of the Constitution shall be called in question in any Court on any ground whatsoever.

(6) For the removal of doubt, it is hereby declared that there is no limitation whatever on the power of the Majlis-e-Shoora (Parliament) to amend any of the provisions of the Constitution.

RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE SENATE 2012

Bills originating in the Senate - Introduction of bills

Private Members' Bills

94. Notice of private members' Bills.— (1) A private member may move for leave to introduce a Bill after giving to the Secretary ten working days' written notice of his intention to do so.

(2) Three copies of the Bill together with the Statement of Objects and Reasons signed by the member shall accompany the notice.

(3) The Chairman shall decide the question whether the Bill does or does not require the consent of the Government or previous sanction of the President.

(4) If the Bill requires, under the Constitution, the consent of the Government or previous sanction of the President for its introduction, the Secretary shall cause a copy of the Bill to be transmitted to the Ministry of Law, Justice and Parliamentary Affairs for obtaining orders of the President or the Government thereon, and shall on receipt of such orders from that Ministry intimate the same to the member concerned.

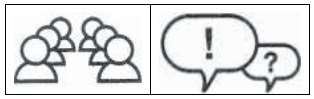
(5) The Senate shall render possible assistance to the member so that Bill is not rejected on technical grounds.

95. Introduction of private members' Bills.— (1) Motion for leave to introduce private members' Bill shall be set down in the Orders of the Day for a day meant for private members' business and copies of the Bill shall be circulated alongwith the Orders of the Day.

Session 4

An Introduction to Legislative Theory & Methodology

OBJECTIVES	By the end of this session, participants will be able to: ▪ Describe the general uses of legislative theory and the four steps of its problem-solving methodology ▪ Discuss the range of possible causes of the problematic behaviours that comprise a dysfunctional institution ▪ Appreciate the importance of weighing the social and economic costs and benefits of the logical alternative legislative measures ▪ Explain why they should require the bill's sponsors to accompany an important bill with a research report



SMALL GROUP DISCUSSION

PRIORITIZING LEGISLATIVE PROPOSALS FOR DRAFTING

Discuss the following in your group for the next 15 minutes:

Describe the steps by which, in Pakistan, the relevant authorities decide how to prioritize legislative proposals for drafting:

(2) When the item is called, the member-in-charge may move for leave to introduce the Bill.

(3) If the motion for leave to introduce the Bill is not opposed, the Bill shall stand introduced and referred to the Standing Committee concerned with the subject matter of the Bill.

(4) If leave to introduce the Bill is opposed, the Chairman shall allow the mover and the Minister or the member who raised the objection to make a brief statement and thereafter shall put the motion to the vote of the House. If the majority of the members present vote in favour of the leave, the Chairman shall announce that the leave is granted.

(5) After leave is granted, the member-in-charge shall introduce the Bill which after introduction shall stand referred to the Standing Committee concerned. If the leave is refused, the Bill shall stand rejected:

Provided that when the item is called and the member- in-charge is absent, the Bill shall be treated as dropped.

Government Bills

96. Notice of Government Bills.— (1) A Minister shall give notice in writing to introduce a Bill.

(2) The notice shall be accompanied by a copy of the Bill, together with a Statement of Objects and Reasons signed by the Minister, if it is a Bill which under the Constitution requires previous sanction of the President or the Government for its introduction, the notice shall be accompanied by such sanction. A certificate whether it is Money Bill or not shall be also attached with the notice. Copy of the Bill shall be supplied to the members on its introduction.

(3)If a question arises whether a Bill does or does not require previous sanction of the President or the Government, the question shall be decided by the Chairman.

(4) The introduction of the Bill shall ordinarily be included in the Orders of the Day for a day meant for Government business and copies of the Bill shall be circulated along-with the Orders of the Day. If the Bill involves amendment to an existing law, the Secretary shall also supply a relevant extract of the section or sections of the original Act which the Bill seeks to amend.

(5) When the item is called, the Minister shall introduce the Bill.

(6) For the purpose of this rule, an Ordinance first laid before the Senate under paragraph (b) of clause (3) of Article

89, read with sub-rule (1) of rule 145, shall be deemed to be a Bill introduced in the Senate on the day it is so laid and it shall also contain Statement of Objects and Reasons.

Publication Of Bills

97. Publication of Bills.— (1) The Secretary shall cause every Bill that has been introduced to be published in the Gazette as early as possible.

(2) The President may order the publication of any Bill, together with the Statement of Objects and Reasons accompanying it, before its introduction and if it is so published it shall not be necessary to publish it again after its introduction.

Consideration Of Bills

98. Reference of Bills to Standing Committees.— Upon introduction, a Bill shall stand referred to the Standing Committee concerned with the subject matter of the Bill:

Provided that the member-in-charge may move that the requirement of this rule be dispensed with and, if the motion is carried, the provisions of rule 99 shall apply to the Bill as if it were received back from the Standing Committee on the day on which the motion is carried.

99. Time for consideration of Bills.— (1) When a Bill has been received back from the Standing Committee, or when the time fixed for the Standing Committee to send it back has expired, the Secretary shall cause copies of the Bill, as introduced, together with modifications, if any recommended by the Standing Committee, to be supplied to each member within seven days after the receipt back or, as the case may be, expiry of time and shall set down the Bill on the Orders of the Day. If it is a private members' Bill for a day fixed for private members' business and if it is a Government Bill then for a day meant for Government business for a motion under rule 100.

(2) At least two clear days shall intervene between the day of supply of copies of the Bill to members and the day for setting down of the Bill for a motion under rule 100.

Provided that it shall not be necessary to supply copies of the Bill, where

- Increase the production of goods and services to meet the basic needs of the majority of the population?
- Increase equity? How? In the short-, medium-, or long-term, who will win, who will lose?

You should also ask:

- Do the bill's detailed provisions seem do-able? At what cost? With what possible unintended social consequences?
- What constitute the bill's likely social costs and benefits?
- In light of available drafting resources, how difficult and how long a drafting task does the bill seem likely to present?
- What other proposed legislation competes for priority?

Critically Review Lawmaking Process

A country's law-making institutions shape the prioritization process. You and your colleagues should critically review and, if necessary, restructure your country's law-making processes to ensure prioritization of legislation in the public interest.

Identify Priority Areas: Ensure Benefits Outweigh Cost

In general, give precedence to legislation likely to strengthen the institutions required to ensure good governance, as well as the socio-economic institutions that shape the population's employment opportunities and quality of life. Be sure that the available facts demonstrate that the expected benefits of proposed institutional changes will likely outweigh their probable costs.

Based Judgement On Facts Of Your Own Country

When assessing the relative priority of legislation likely to affect your country's economic institutions in the fields of agriculture, industry, the informal sector, trade and finance:

- Base your decisions, not on abstract models or theories, but on the facts of your own country's specific circumstances; and
- Think carefully about the questions you should ask to assess their likely social impact, not only on the growth in the 'national pie', but on the people's productive employment opportunities and quality of life.

Every country has its own issues, problems and needs. Laws to enhance strong Parliamentary democracy with rule of law, good governance, social welfare and provincial autonomy of course deserve high priority; so do laws aimed at strengthening your country's economic foundations. Thus no matter at prioritizing stage, you likely have relatively little information; Working with whatever information you have, give high rank to those proposals with the greatest net social and economic benefits; ask for and weigh the facts as to a law's probable socio-economic costs and benefits.

Prioritization

This requires *comparing* the claims of the many bills that clamor for legislative attention. The principal legislative opportunity to do that occurs where government presents its annual legislative program to the legislature for approval. (Not all governments do that, but they should.) In most (if not all) Commonwealth countries, for example, the Head of State reads out the annual legislative program at the opening of the first session of Parliament for the year.

Whatever committee controls the legislature's agenda should require a bill's proponents to provide sufficient information to enable the appropriate legislative committee wisely to determine its relative priority. That could take the form of a memorandum that describes the social problem the bill will address, a timetable for the drafting, and a guesstimate of the order of magnitude of resources required to formulate and implement its provisions. That memorandum should also specify the criteria, facts and logic that the proponents believe justify granting their bill priority status; and suggest the composition of the drafting committee, and the form for consulting stakeholders.

In ranking proposed bills, the prioritization body performs a planning function. Like all plans, its initial prioritization decisions should remain flexible. If, in the course of a year, a new social problem emerges that seems to require new legislation, the law-makers may decide – in light of the available facts and reasons, and clearly pre-defined, well publicized criteria – **to alter the priority list.**

Criteria for Prioritization

For prioritizing proposed legislation in a given country at a specific time, no one can provide a blue print. In 1994, as its first task immediately after its first democratic elections, South Africa's new government appropriately abolished state-enforced apartheid. In many countries, land reform held first place. In Afghanistan after the Taliban's ouster, laws to establish the new government, to ensure security and protect women's rights, demanded immediate attention. No one size fits all. Reason and experience, however, do suggest guidelines for questions you should ask ministers as to which bills to rank for legislative action first; that is, what criteria to use in assigning legislative priority.

Public Interest First

In prioritizing as in all law-making processes, the discourse of power inevitably also presses for your attention. As throughout this manual we here focus only on considerations of *the public interest* as determined by *logic and facts*.

Getting Information for Prioritizing Legislation: To prioritize proposed legislation, you need to ask will a proposed bill:

- Improve the quality of governance? How?
- Increase employment opportunities?

the requirement of rule 98 has been dispensed with or where the Standing Committee has not recommended any modification in the Bill or where the Standing Committee has failed to send back the Bill before the expiry of the time for it to send it back.

(3) In case of urgency, if the Chairman permits, the member-in-charge may move that the requirement of sub-rule (2) be dispensed with and, if the motion is carried the provisions of that sub-rule shall stand suspended in regard to that Bill and the member-in-charge may forthwith make any of the motions in rule 100.

100. Motions to be made by member-in-charge.— (1) On the day for which a Bill is set down under rule 99, or on any subsequent day to which the matter might have been adjourned, the member-in-charge may make any of the following motions in regard to his Bill, namely:-

(a) that it be taken into consideration at once; or

(b) that it be taken into consideration on a date to be fixed forthwith; or

(c) that it be referred to a Select Committee; or

(d) that it be circulated for the purpose of eliciting opinion thereon.

(2) Any member may move an amendment to a motion moved under sub-rule (1) by the member-in-charge.

(3) The member-in-charge shall explain the purpose of his moving the motion mentioned in sub-rule (1) and thereafter the member shall move his amendment to the said motion and shall speak in support of his amendment and thereafter the Chairman shall put it to the vote of the House and the House shall decide either in favour of the motion moved by the member-in-charge or in favour of the amendment moved by a member.

(4) If the motion moved by the member-in-charge is carried and the amendment of the member is rejected the Bill shall be considered by the House under rule 104.

(5) If the amendment moved by a member is carried then the Bill shall be dealt with as decided by the House.

(6) Where a motion that a Bill be referred to the Select Committee is carried the Bill shall be referred to the said Committee to report within a specified period and after the receipt of the report the House may consider it

under rule 104.

(7) Where a motion or amendment that a Bill be circulated for the purpose of eliciting public opinion thereon is carried and the Bill is circulated in accordance with that direction and opinions are received thereon the member-in-charge if wishes to proceed with his Bill thereafter may move a motion that the Bill be referred to the Standing Committee concerned or Select Committee or that it be taken into consideration.

101. Procedure after presentation of report.— (1) Where a Bill has been referred to a Select Committee, the member-in-charge may, after the presentation of the final report by the Select Committee, move,-

(a) that the Bill as reported by the Select Committee be taken into consideration; or

(b) that the Bill as reported by the Select Committee be referred to the same Committee again either-

(i) as a whole, or

(ii) with respect to particular clauses or amendments only, or

(iii) with instructions to make some particular or additional provision in the Bill, or

(c) that the Bill as reported by the Select Committee be circulated or re-circulated for the purpose of eliciting opinion or further opinion thereon.

(2) If the member-in-charge moves that the Bill as reported by the Select Committee be taken into consideration, any member may object to its being so taken into consideration, if a copy of the report of the Select Committee has not been made available for use of the members at least two days before the motion is made, and the objection shall prevail unless the Chairman allows the report to be taken into consideration. If it is allowed the procedure laid down in rules 103 to 115 shall be applicable.

102. Bills repugnant to the Injunctions of Islam.— (1) If a member raises the objection that a Bill is repugnant to the Injunctions of Islam, he may move a motion and if it is supported by not less than two-fifths of the total membership of the Senate the question shall be referred to the Council of Islamic Ideology for advice as to whether the Bill is or is not repugnant to the Injunctions of Islam. Such a motion can not be raised

STEP 2: *PRIORITIZATION OF LEGISLATION*

Every day, you hear demands for new laws. Government never seems to have enough resources for drafting, enacting and implementing them all. To avoid wasting time and money on relatively unimportant bills, **you as law-makers, the executive and the legislature, working together** must determine the order in which to draft, debate and enact transformatory legislation – that is, you must **prioritize** them. Developing and transitional countries' processes for deciding priorities of proposed legislation often seem haphazard. In reality, too often, those processes permit the beneficiaries of the *status quo* to press for unimportant, incremental measures that leave intact the institutional causes of a growing 'have-have not' gap. That seems to reflect the skewed nature of the prioritizing institutions.

The institutions for prioritizing drafting: An overview

In most countries, most bills originate in the executive branch, mainly in the ministries, as government bills. While implementing existing laws, ministry officials frequently identify new problems that call for new legislation. Occasionally, parliamentary committees or staff members or a legislator prepare a bill's initial draft. Ministries usually submit their proposed legislative projects to some body that prioritizes all the country's drafting proposals. In some countries, ministries submit their projects to a Cabinet Committee on Legislation, composed of senior ministers, which determines priorities. In others, ministries simply forward them to the central drafting office, which allocates its scarce resources to bills its staff considers important. In effect, then, the office determines the bill's priority.

Whatever the institutional structure, in practice prioritizing frequently seems completely haphazard. Taking advantage of the unsystematic prioritizing process, political leaders not infrequently press hardest for bills supported by powerful interest groups. Those with the best channels to decision-makers **– almost everywhere, those with power and privilege** – usually win priority for bills that advance their interests.

How to improve the prioritizing institutions?

Lawmakers must answer that question in light of their country's special circumstances. By setting the law-making agenda, prioritization decisions ***shape the direction of government's exercise of state power***. As an important task, make sure your country's prioritization institutions give you and your colleagues an opportunity to assess and approve the government's legislative program. Here, we suggest a few factors that you might consider:

STEPS OF ASSESSING LEGISLATION

STEP 1: *YOUR UNDERSTANDING OF WHY PEOPLE BEHAVE AS THEY DO IN THE FACE OF A RULE OF LAW?*

To estimate a new Law's probable outcome you must investigate the law's potential impact on society. 'Out there,' in the real world, lie uncountable 'facts.' To assess a new law's probable social impact, which should you examine? Save with respect of the simplest bills, without a guide about what facts to investigate – that is, ***what detailed questions to ask –*** you cannot know where to begin.

Legislative theory holds that, confronted by a law, social actors behave within time – and place-specific constraints and resources of the environment within which they live and work. Among these, the law (and its threats of punishment and promises of rewards) constitute only one.



Legislative theory's model of the legal system shows that, faced by a rule of law, a person – a role occupant – behaves in response to (1) the rule's words, (2) the relevant implementing agency's expected behavior, and (3) all the non-legal constraints and resources that characterize that person's specific environment. (This manual discusses these factors in much greater detail in Session 3 and 4). By investigating those three categories, you can make a more or less reliable prediction of a law's social consequences. That is the necessary predicate for using law as an instrument of social change.

Learning to use legislative theory and methodology becomes a condition for using the legislative power wisely in the public interest – and thus for winning the critical race.

after the commencement of the motion for consideration of the Bill.

(2) Notwithstanding a reference under sub-rule (1), the Senate may at any time proceed with the Bill, if it considers that in the public interest the passage of the Bill should not be postponed until the advice is furnished.

(3) The advice of the Council of Islamic Ideology on a question referred to it under sub-rule (1) shall on receipt be circulated amongst the members and shall also be laid on the Table of the House.

(4) If the advice of the Council of Islamic Ideology is furnished after the Bill referred to in sub-rule (2) has been enacted and is to the effect that the law is repugnant to the Injunctions of Islam, the Minister concerned shall, within seven days of the laying of the advice on the Table, move that the law be reconsidered and further action thereon shall be taken in accordance with the provisions of this chapter as if the law were a Bill referred to the Standing Committee under rule 98.

FIRST READING OF THE BILL

103. Discussion on principles of Bills.— (1) On the day on which any of the motions referred to in rule 100 is made or on any subsequent day to which discussion thereof is postponed the principles of the Bill and its general provisions may be discussed, at this stage amendments to the Bill may not be moved but any member may give notice of any amendment.

(2) Notwithstanding anything contained in this rule, a Minister or a member at any stage of the Bill may move that it be circulated for the purpose of eliciting opinion thereon. Where this motion is carried and the Bill is circulated in accordance with that direction and opinions are received thereon, the Minister may, if he wishes to proceed with the Bill thereafter, move that the Bill be referred to the Standing Committee concerned or that it be taken into consideration at once.

SECOND READING OF THE BILL

104. Consideration of the Bill clause by clause.— (1) On conclusion of general discussion on the principles of the Bill and its general provisions the motion for consideration of the Bill shall be put to the House. If the motion is carried the Bill shall be taken up clause by clause.

(2) At this stage any member may move an amendment to the Bill subject to the provisions of these rules.

105. Notice of amendments.— (1) When a motion that a Bill be taken into

consideration is carried, any member may propose an amendment to the Bill. If notice of an amendment has not been given two working days before the day on which the relevant clause of or schedule to the Bill is to be considered, any member may object to the moving of the amendment and such objection shall prevail unless the Chairman allows the amendment to be moved.

(2) The Secretary shall cause a list of admitted amendments of which notices have been received to be made available for the use of every member.

106. Conditions of admissibility of amendments.— The following conditions shall govern the admissibility of amendments:-

(i) An amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates.

(ii) An amendment shall not be inconsistent with any previous decision of the Senate on the same question.

(iii) An amendment shall not be such as to make the clause which it proposes to amend unintelligible or ungrammatical.

(iv) If an amendment refers to, or is not intelligible without, a subsequent amendment or schedule, notice of the subsequent amendment or schedule shall be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole:

Provided that in order to save time and repetition of arguments a single discussion may be allowed to cover a series of interdependent or identical amendments.

(v) The Chairman shall determine the place at which an amendment shall be moved;

(vi) The Chairman may refuse to propose an amendment, which is, in his opinion, frivolous or meaningless;

(vii) An amendment may be moved to an amendment, which has been already proposed by the Chairman;

(viii) An amendment shall not be moved which has merely the effect of a negative vote; and

(ix) In respect of any amendment of the Bill under consideration of the

iii) Write in short sentences and in short sections or sub- sections.

iv) Use simple and natural language.

v) As for as possible discretionary provisions should provide guidelines.

vi) The precedents should be the guiding principle.

Unnecessary innovation in drafting may lead to difficulties.

vii) Last but not least the draftsman (DM) should cultivate an attitude of self-criticism as the draft which may look perfectly clear to him may not be equally clear to .

Parliament or in most cases the respective Standing Committees with regard to legal and constitutional issues.

1. The draftsman may ensure that:

   I. Whether inter-division consultation of the necessary departments has been made, if it relates to finances the consultation with of Finance Division is necessary;

   ii. Whether previous sanction of the Government where necessary has been obtained; whether

   iii. Whether approval of Cabinet in principle in case of Government Bills has been obtained.

2. The Draftsman should ensure that the Bill is within the competence of the legislature and is not in violation of any Fundamental Right in the Constitution.

3. The Draftsman should fully understand the contents of the Bill and read it again and again to assess as to how the scheme of proposed law would work. For this purpose he should consult his colleague, as well as seek clarifications where required from the Division administratively concerned with the legislation.

4. While drawing an Act of Parliament the Draftsman (OM) must ensure that it is free from vagueness, anomalies, contradictions and in the words of Mr. Thring the first of the Parliamentary Counsel, in his book "Practical Legislation, it should be clear in all respects, which should be the main object to be aimed at. Similarly, Justice Stephen said that it is not enough to attain to a degree of precision that a person reading in good faith can understand, but it is necessary to attain, if possible, that degree of precision, which a person reading in bad faith cannot misunderstand. It is all the better if he cannot pretend to misunderstand it.

5. The Draftsman may follow the following guidelines:

i) The Principal Provisions should be separated from the subordinate Provisions, the former coming first.

ii) As far as possible the matters of detail should be covered by the subordinate legislation such as Rules and Regulations but always keeping in mind that excessive delegation is not desirable.

Senate, the Chairman shall have the power to select one of the several identical or substantially identical amendments to be proposed or may club together the identical amendments.

107. Order of amendments.— (1) Amendments shall be arranged in the order in which notices thereof were received and shall be considered in the order of the clauses of the Bill to which they respectively relate and in respect of any such clause a motion shall be deemed to have been made: "That this clause stands part of the Bill".

(2) Amendments shall be moved by the member only who has given notice thereof.

(3) A member may give notice of at least one working day to move an amendment to amendment and after the original amendment is moved the member giving notice of an amendment to amendment shall move his amendment and it shall be considered and decided first and in case the amendment to an amendment is carried the original amendment shall become out of order and in case the amendment to amendment is rejected then the original amendment shall be discussed and put to the vote of the House.

108. Withdrawal of amendments.— An amendment moved may, by leave of the Senate, but not otherwise, be withdrawn, at the request of the Minister or the member moving it. If an amendment has been proposed to an amendment, the original amendment shall not be withdrawn until the amendment proposed to it has been disposed of.

109. The disposal of amendments.— The Chairman may call each clause separately and, when the amendments relating to it have been dealt with, shall put the question : "That this clause or that this clause as amended stands part of the Bill".

110. Postponement of clause.— The Chairman may, if he thinks fit, postpone the consideration of a clause.

111. Schedule.— The consideration of the schedule or schedules, if any, shall follow the consideration of clauses. Schedules shall be put from the Chair, and may be amended, in the same manner as clauses, and the consideration of new schedules shall follow the consideration of the original schedules. The question shall then be put: "That this schedule or that this schedule as amended do stand part of the Bill".

112. Clause one, preamble and title of the Bill.— Clause one, the preamble,

if any, and the title of a Bill shall stand postponed until the other clauses and schedules including new clauses and new schedules have been disposed of and the Chairman shall then put the question: "That clause one, or the preamble or the title or that clause one or the preamble or the title as amended do stand part of the Bill.

THIRD READING OF THE BILL

113. Passing of Bills.- (1) When clause by clause consideration of the Bill has taken place and no amendment of the Bill is made, the member-in-charge may at once move that the Bill be passed.

(2) If any amendment of the Bill is made, any member may object to a motion being made that the Bill be passed at once, and such objection shall prevail, unless the Chairman allows the motion to be made.

(3) Where such objection as aforesaid prevails, a motion that the Bill be passed may be made on a subsequent day.

(4) At this stage no amendment to the bill may be moved, excepting verbal amendments which are of a formal or consequential nature.

114. Scope of debate.—The discussion on a motion that the Bill, or the Bill, as amended, be passed shall be confined to the submission of arguments either in support of the Bill or for the rejection of the Bill. In making his speech a member shall not refer to the details of the Bill further than is necessary for the purpose of his arguments which shall be of a general character.

115. Withdrawal of Bills.— The member-in-charge of a Bill may, at any stage of the Bill, move for leave to withdraw the Bill, and if such leave is granted, no further motion shall be made with reference to the Bill.

116. Corrections of formal nature in the Bill.— When a Bill is passed, with or without amendment, the Secretary may, if necessary,-

(a) correct punctuations or grammatical or printing errors;

or

(b) make incidental, consequential or verbal alterations; or

(c) re-number or re-letter the provisions of the Bill.

117. Transmission of Bill to Assembly.— When a Bill is

(vi) **Length of sections.-** Use of long sections should be avoided. The convenient way is to break up the elements and to state them in several sub-sections. Separate sections should be used for separate provisions.

(vii) **Punctuation.-** Punctuation should be done very carefully.

(viii) Constitutionality. No provision of the Bill should be inconsistent with or ultra vires of any provision of the Constitution.

(ix) **Consistency.** One provision of the Bill should not contradict any other provision unless one is a qualification or limitation of the other

(x) **Inconsistency with existing** laws.-If any provision of the Bill is inconsistent with any provision of any existing law which is not proposed to be repealed, it should be made clear which of the provision would prevail.

The following common rules for interpretation should be borne in mind while writing a Bill:

(i) An Act has to be read as a whole and consequently the language of one section may affect the construction of another.

(ii) An Act may be interpreted by reference to other Acts dealing with the same or a similar subject. Therefore, the meaning attached to a particular expression in one Act may be attached to that expression in another and variation of language may be construed as indicating change of intention.

(iii) The special provision controls the general provisions.

(iv) The legislature does not intend to oust or limit the jurisdiction of superior courts except to the extent it expressly declares.

(v) Unless expressly declared, a statute does not have retrospective operation.

Functions and Responsibilities of a draftsman

The Draftsman has a pivotal role to play in the legislative business before as well as after it is introduced in the Parliament by assisting individual Members of the

10. If a Bill transmitted to a House is rejected or is not passed within ninety days of its laying in the House or a Bill sent to a House with amendments is not passed by the House with such amendments the Bill, at the request of that House in which it originated, shall be considered in a Joint Sitting and if passed in the Joint Sitting it shall be presented to the President for assent.

11. If a Bill transmitted to other House is passed with amendment it shall be sent back to the House in which it originated and if that House passes the Bill with those amendments it shall be presented to the President for assent.

12. A Money Bill shall originate in the Natio'1al Assembly and simultaneously when a Money Bill, including the Finance Bill containing the Annual Budget Statement, is presented in the National Assembly, a copy thereof shall be transmitted to The Senate which may, within fourteen days, make recommendations thereon to the National Assembly. The National Assembly shall, consider the recommendations of the Senate and after the Bill has been passed by the Assembly with or without incorporating the recommendations of the Senate, it shall be presented to the President for assent.

13. When the President has assented to a Bill, it becomes law and is called an Act of Majlis-e-Shoora (Parliament).

PRINCIPLES/RULES OF LEGISLATIVE DRAFTING

While drafting a law the following Principles/Rules should be observed: -

(i) **Language.-** Language should be clear and precise. Economy of words is a rule. But brevity should not be at the cost of clarity.

(ii) **Tense.** Present tense should be used because law regarded as speaking in the present and continuously.

(iii) **Voice.** Generally active voice should be used. In the provision conferring powers or privileges or imposing duties, use of active voice helps to avoid vagueness.

(iv) **Choice of words and expression.-** Short, familiar words and phrases that best express the intention should be used. Use of synonym and pair of words having the same meaning should be avoided. Different words should not be used to express the same meaning nor should the same words be used in different sense.

(v) **Proviso.-**No rule should be stated by way of proviso. A proviso should be used only to qualify or create an exception to the rule. A proviso excepts something which but for it would have been within the rule.

passed by the Senate, it shall be transmitted to the Assembly for consideration with a message to that effect.

Bills originating in the assembly and transmitted to the senate

118. Bills originating in and passed by the Assembly and transmitted to the Senate.— When a Bill originating in the Assembly has been passed by it and is transmitted to the Senate, the Secretary shall, as soon as may be, cause it to be circulated among the members.

119. Notice.— At any time after the Bill has been so circulated, any Minster, in the case of a Government Bill and, in any other case, any member, may give notice of his intention to move that the Bill be taken into consideration.

120. Motion for consideration. — On the day on which the motion for consideration is set down in the Orders of the Day which shall, unless the Chairman otherwise directs, be not less than two working days from the receipt of the notice, the Minister or, as the case be, the member giving notice may move that the Bill be taken into consideration.

121. Reference to Standing Committee.— Any member may move as an amendment that the Bill be referred to the Standing Committee and if such motion is carried, the Bill shall stand referred to the Standing Committee, and the rules regarding Bills originating in the Senate and referred to the Standing Committee shall then apply.

122. Discussion.— On the day on which such motion is made or on any subsequent day to which the discussion is postponed, the principles of the Bill and its general provisions may be discussed but the details of the Bill shall not be discussed further than is necessary to explain its principles.

123. Consideration and passing.— If the motion that the Bill be taken into consideration is carried, the Bill shall be taken into consideration clause by clause and the provisions of these rules regarding consideration of amendments to Bills and the subsequent procedure in regard to the passing of Bills shall apply.

124. Bills passed without amendment.— If the Bill is passed without amendment a message shall be sent to the Assembly to this effect.

125. Bills passed with amendment or rejected.— If a Bill passed by the Assembly and transmitted to the Senate is rejected or is not passed within ninety days of its laying in the

Senate or is passed with amendment it shall be returned to the Assembly with a message to the effect.

Bills Passed By Senate And Amended, Rejected Or Not Passed By Assembly

126. Bills amended, rejected or not passed by Assembly.— (1) If a Bill passed by the Senate and transmitted to the Assembly is rejected or is not passed within ninety days of its laying in the Assembly, or is passed with amendment by the Assembly, the Secretary shall immediately communicate the fact to the members and also cause copies of the Bill to be supplied to them.

(2) At any time after the Bill passed by the Assembly with amendment has been so circulated, any Minister, in the case of a Government Bill, or, in any other case, any member may, after giving two working days notice, move that the Bill be taken into consideration.

(3) The Secretary shall forthwith cause the notice so received to be circulated among the members.

(4) When the motion for consideration is moved, any member may move as an amendment that the Bill be referred to the Standing Committee and if the motion is carried the Bill shall stand referred to the Standing Committee. The provisions of rule 121 shall *mutatis mutandis* apply:

Provided that the Standing Committee shall only examine the amendment made by the Assembly.

(5) If a motion under sub-rule (2) is carried, the provisions of these rules regarding passing of the Bills shall, so far as may be, and with the necessary modifications apply.

(6) After all the amendments made by the Assembly are disposed of, the member-in-charge shall move that the Bill be passed.

(7) If a Bill transmitted to the National Assembly is rejected or not passed within ninety days of its laying in the National Assembly, or is passed by the National Assembly with amendment but not passed by the Senate with such amendment, any Minister, in the case of a Government Bill, or, in any other case, any member may, after giving two days notice, move that the Bill be considered in a joint sitting.

(8) When a Bill, as amended by the Assembly, is passed by the Senate an authenticated copy thereof signed by the Chairman shall be

5. Policy determination and contents of the proposed legislation requires careful research the result of which should be embodied in memorandum. It is very important stage which forms basis for the drafting of the Bill. It is such a memorandum that is required to be sent under sub-rule (2) of rule 27 of the Rules of Business to the Law and Justice Division while asking it to draft a Bill to enable it to gasp the exact intention of the Division concerned and the full scope of the proposed legislation. In preparing the memorandum great care has to be taken because this should not only enunciate legislative policy but a so furnish the entire material for the drafting of the Bill. Preparation of the memorandum is the first of the three fundamental steps in legisl3tive drafting. It should explain the necessity of the legislation and the objects sought to be achieved specifying in the form of series of propositions the provisions required to be made. After a memorandum has been prepared the next step is the formulation of the legislative scheme. It is at this stage that the actual drafting of a Bill begins. After having got the entire picture of the scope of the law the draftsman has to settle in his own mind the arrangement of the provisions of the Bill. No hard and fast rules can be laid down for such arrangement. The nature of the Bill may necessitate variation in individual cases.

6. Apart from giving shape to the draft legislation, the Law and Justice Division shall advise the Division concerned as to the competence of Majlis-e-Shoora (Parliament) to make a law on the subject t which the proposed legislation relates and whether any legal requirements are to be complied with before the Bill is introduced in the National Assembly or the Senate.

7. The Division concerned shall then submit the c se to the Cabinet for approval of the draft Bill. After approval of the Cabinet, the Division concerned shall forward to the Law, Justice Division the draft legislation in its final form with a statement of objects and reasons duly signed by the Minister-in-Charge. The Law and Justice Division, after satisfying itself that all legal requirements have been complied with for the introduction of the Bill in the National Assembly or, as the case may be, the Senate, transfer the Bill along with the statement of objects and reasons to Parliamentary Affairs Division for arranging its introduction in the appropriate House.

8. Non-Official Bills.-The Division concerned is responsible for assessing the administrative implications of the proposed legislation and for consulting the other Divisions concerned, including the Finance Division, where necessary.

9. The Government Bill can be introduced in a House by th Minister after giving notice to the Secretary of the House. A private member's Bill can also be introduced by giving a like notice by the member concerned. Upon introduction a Bill, other than a Finance Bill shall stand referred to the Standing Committee co 1Cerned. On the day for which the Bill is set down for consideration it has to pass through three stages, namely, first reading, second reading and third reading. After the Bill is passed by the House in which it originated, be transmitted to he other House; and, if the Bill is passed without amendment, by the other House also, it is presented to the President for assent.

BILL DRAFTING PROCESS

The Constitution of the Islamic Republic of Pakistan provides for legislative institutions or authorities namely, (i) the parliament consisting of National Assembly and the Senate, (ii) the President, (iii) the Provincial Legislatures and (iv) the Governors of the Provinces. The President and two houses known as a National Assembly and the Senate constitute the Parliament. Within its own sphere the Parliament is supreme. The Concurrent Legislative List has since been abolished by the Constitution (18th Amendment) Act, 2010, and except criminal law, criminal procedure and evidence (see Article 142 b]), almost all the subjects of the Concurrent Legislative List have been transferred to the Provinces and now fall within their exclusive dominion. It need be mentioned that criminal law, criminal procedure and evidence as aforesaid are the subjects on which both Parliament and Provincial Assemblies can make laws. But in case of inconsistency, the Federal law would prevail as Article 143 of the Constitution is still intact. The Parliament has exclusive power to make laws on the subjects enumerated in the Federal Legislative list in the Fourth Schedule and the residuary subjects fall wit 1in the legislative competence of the Provincial Assemblies.

2. The President has also legislative powers co-extensive with that of the Parliament but subject to the restriction that he can legislate in the form of Ordinances which are subject to one hundred and twenty days duration extendable for an other period of one hundred twenty days under Resolution of a relevant House.

3. Howa legislation is initiated and processed before it becomes a law of the land? The legislative measures can be divided into two broad categories, namely, (1) measures which are enacted as Acts of the Parliament and (2) those which are not so enacted, such as, Ordinances and Regulations. The first category can again be divided in to two classes, namely, (i) measures initiated by a private member and introduced in either house of the parliament as Private Member's Bills and (j') measurers initiated by Government and introduced as Government Bills in the National Assembly or Senate by a Minister. The procedure regarding consideration and passage and the assent of the President is the same both in respect of Private Member's Bills and Government Bills.

4. How the Bills are prepared before they are introduced in a House? The Division administratively concerned with the subject matter determines the policy, suggests the contents of the proposed legislation and to consult other Divisions (including Finance Division) where necessary and obtains the approval of the Cabinet under rule 16(1)(a) of the Rules of Business, 1973, to the issues involved, before asking the Law and Justice Division to draft the Bill. The subjects with which the respective Divisions are concerned are set out in Schedule 11 to the Rules of Business. For example, if the proposed legislation relates to imports and exports, the Commerce Division and if it relates to Finances of Federal Government the Finance Division formulates the policy.

transmitted to the President by the Secretary for assent under Article 75 of the Constitution.

(9) When a bill transmitted by the Assembly under clause (1) of Article 70 is passed by the Senate without amendment, a message shall be sent to the Assembly to this effect.

127. Reference of Bill to the joint sitting.- When a motion made under sub-rule (7) of rule 126 is carried, the Chairman shall refer the Bill to a joint sitting or, if a joint sitting is not in session, request the President to summon a joint sitting for consideration of the Bill.

128. Authentication and submission of a Bill for assent.— When a Bill transmitted by the Assembly is passed by the Senate, without amendment, an authenticated copy thereof signed by the Chairman shall be transmitted to the President by the Secretary for assent under Article 75 of the Constitution.

129. Bills assented to by the President.— When a Bill is assented to by the President under Article 75 of the Constitution, the Secretary shall immediately cause it to be published in the Gazette as an Act of Majlis-e-Shoora (Parliament).

130. Money Bill transmitted to the Senate under Article

73.- When a copy of Money Bill, including Finance Bill containing the Annual Budget Statement, is transmitted to the Senate, it shall be laid on the Table by a Minister;

(1) After a copy of the Money Bill, including the Finance Bill containing the Annual Budget Statement, has been laid on the Table, the Minister shall move that the Senate may make recommendations thereon to the National Assembly. After the motion, the Senate shall commence its debate on the Bill;

(2) Unless the Chairman otherwise directs, a member may, within three days of the motion, give notice of a proposal for making recommendations, together with the statement of reasons for such proposal, in writing to the Secretary:

Provided that a member shall not give notice of a proposal for making recommendations to the Annual Budget Statement which relates to the expenditure charged upon the Federal Consolidated Fund under clause (1) of Article 82 of the Constitution;

(3) If such notice is admitted by the Chairman, the Secretary shall cause a

list of proposed recommendations to be made available for the use of every member;

(4) The provisions of rules 106, 107 and 108 shall, *mutatis mutandis*, apply in respect of a notice of a proposal for recommendations;

(5) The proposed recommendations so received shall immediately be sent to the Standing Committee on Finance which shall examine them and present its recommendations to the House within a period of ten days;

(6) When such a Bill is transmitted to the Senate, it may within fourteen days make recommendations, if any, thereon to the National Assembly;

(7) The Chairman may if he considers it necessary, or on a motion moved by a Minister or member, allot time for discussion on the Bill and for this purpose the Chairman may suspend or vary the rules to the extent necessary;

(8) A question relating to a proposed recommendation shall be decided by a majority of the members present and voting in the manner laid down in rule 239; and

(9) No other business, except with the permission of the Chairman, shall be transacted on a day when any such Bill is discussed for making recommendations thereon to the National Assembly.

CONSTITUTION AMENDMENT BILL

131. Constitution amendment Bill.— (1) In respect of a Bill seeking to amend the Constitution, the provisions of this rule shall apply in addition to the rules contained in rules 118 to

125, 128 and 129 of this Chapter in so far as they are not inconsistent with any provision of this rule or Article 239 of the Constitution.

(2) Each clause or schedule, or clause or schedule as amended, as the case may be, shall be put to the vote of the Senate separately and shall form part of the Bill if it is passed by the votes of not less than two-thirds of the total membership of the Senate.

(3) Amendments to clauses or schedules shall be decided by a majority of members present and voting in the same manner as in the case of any other Bill.

Provided that no such order shall be made after the expiry of a period of three years from the date on which this Act comes into force.

12. Overriding Clause

The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being enforce.

13. Rule making Clause

The Federal Government may, by Notification in the official Gazette, make rules for carrying out the purposes of this Act.

Note: Where rules are to be made subject to previous publication, the clause should contain that condition also.

14. Repeal and saving

(1) The ---------- Act, ---, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of his Act.

15. Statement of Objects and Reasons

It has now become uniform practice to append to every Bill a Statement of Objects and Reasons" and the Rules Procedure of the both Houses of the Parliament make it as a necessary accompaniment. In case of a Government Bill it is signed by the Minister and in to case of nonofficial Bill it has to be signed by member-in-charge. The purpose is to highlight the underlying purposes and objective of the Bill when it is introduced in the Parliament.

Illustration

The Bill is designed to make provisions for free competition in all fields of commercial and economic activity with a view to enhance economic efficiency and to protect consumers from anti-competitive elements and to establish Competition Commission of Pakistan for the aforesaid purposes.

8. Definition Clause

"In this Act, unless there is anything repugnant in the subject or context-

(a) "Authority" means the National Highway Authority establishes under section 3;

Note: Where the definition is to be restrictive, the word "mean" is used. When it has extended connotation, the word "includes" is used, But the expression "means and includes" should be avoided.

9. Proviso

Proviso should not be used to state a general rules but only be used to qualify or create an exception to a general rule or statement, a proviso excepts out of earlier part of the section or sub-section which contains it something which but for it would have been within enacting part.

Illustration

The officer in-charge of a police station shall complete the investigation and forward directly to the special court a report under section 173 of the Code within fourteen days in respect of a case triable by such court:

Provide that special court may extend the time within which such report is to be forwarded in case where good reasons are shown for not being able to do so within the time specified in this sub-section.

10. Penal Clause

Whoever controversies any provision of this Act shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

11. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of difficulty:

(4) If the motion in respect of such Bill is that the Bill or as the case may be, the Bill as amended, be passed, then the motion shall be deemed to have been carried if it is passed by the votes of not less than two-thirds of the total membership of the Senate.

(5) Voting shall be by division whenever a motion has to be carried by the votes of not less than two-thirds of the total membership of the Senate.

(6) If the result of the voting shows that not less than two- thirds of the total membership of the Senate is in favour of the motion, the Chairman shall, while announcing the result, say that the motion is carried by the votes of not less than two- thirds of the total membership of the Senate.

(7) If a Bill passed by the Assembly is passed by the Senate, without amendment by the votes of not less than two- thirds of the total membership of the Senate it shall, subject to the provisions of sub-rule (9) be presented to the President for assent under clause (2) of Article 239 of the Constitution.

(8) If a Bill passed by the Senate and transmitted to the Assembly is passed by the Assembly with amendment, it shall be reconsidered by the Senate in the manner provided in sub- rules (2) to (6) and, if the Bill as amended by the Assembly is passed by the Senate by the votes of not less than two-thirds of the total membership of the Senate it shall, subject to the provisions of sub-rule (9) be presented to the President for assent under clause (3) of Article 239 of the Constitution.

(9) If a Bill to amend the Constitution which would have the effect of altering the limits of a Province shall not be presented to the President for assent unless it has been passed by the Provincial Assembly of the Province by the votes of not less than two-thirds of its total membership.

(10) When the Bill is assented to by the President, the Chairman shall immediately cause it to be published in the Gazette as an Act of Majlis-e-Shoora (Parliament).

NATIONAL ASSEMBLY RULES 2007

INTRODUCTION OF GOVERNMENT AND PRIVATE MEMBERS' BILLS PRIVATE MEMBERS' BILLS

118. Notice of private members' Bill.- (1) A private member shall give ten clear days written notice to move for leave to introduce a Bill, to the

Secretary.

(2) Three copies of the Bill along with a Statement of Objects and Reasons signed by the member shall accompany the notice.

(3) If the Bill requires, under the Constitution, the consent of the Government or previous sanction of the President for its introduction, it shall also contain a request to obtain such consent or as the case may be, previous sanction, through the Ministry of Parliamentary Affairs. On receiving the consent of the Government or sanction of the President from the Ministry, the member shall be intimated accordingly.

(4) The Speaker shall decide the question whether an amendment does or does not require the consent of the Government or the previous sanction of the President.

(5) The National Assembly Secretariat shall render possible assistance to the members so that the Bills are not rejected merely on technical grounds.

119. Introduction of private member's Bill.- (1) Motion for leave to introduce private members' Bill shall be set down in the Orders of the Day on private members' day.

(2) If a motion for leave to introduce a private member's Bill is opposed, the Speaker may without further debate put the question. When the leave is granted, the member-in-charge shall move to introduce the Bill forthwith, and the Bill shall stand introduced. Copy of the Bill shall be supplied to the members:

Provided that when the Bill is opposed at its introduction, the Speaker may permit a brief statement to the mover and the Minster opposing it.

(3) Subject to these rules, the procedure adopted for the Government Bills shall also be followed for the private members' Bills.

GOVERNMENT BILLS

120. Notice of Government Bill.- (1) A Minister shall give a notice to introduce a Bill.

(2) The notice shall be accompanied by a copy of the Bill, along with a Statement of Objects and Reasons signed by the Minister, if it is a Bill which under the Constitution requires previous sanction of the President for its introduction, the notice shall be accompanied by such sanction. A certificate

expedient to establish "National Highway Authority for planning, development, operations and maintenance of National Highways and strategic roads and to provide for matters connected therewith or incidental thereto".

In case of amendment it would read "WHEREAS it is expedient to amend (or further to amend) -------

3. Enacting formula Would read	It is hereby enacted as follows",
4. Short title to read:	"This Act may be called the Pakistan Institute for Parliamentary Services Act, 2008…",
5. Extent Clause:	"It extends to the whole of Pakistan", In case of exception it may read. It extends to the whole of Pakistan, except the areas specified in the Schedule" or the areas to be excluded may be stated in the clause itself. Note: The extent clause need not be mentioned in an Amending Bill.
6. Instances of Commencement Clauses:	(i) It shall come into force at once," (ii) In case Act is to commence from future date, it shall read "It shall come into force on the 23rd day of March, 2012", (iii) In case the Act is to given effect from back date it may read "It shall come into force at once and shall be deemed to have taken effect on and from the first day of August, 2012", (iv) If it is to come into Force through a Notification it shall read "It shall come into force on such date as the Federal Government may by Notifications in the official gazette, specify."
7. Duration Clause	"It shall remain in force for a period of three years".

Session 3
LEGISLATIVE DRAFTING

A PLAN TO DRAFT A BILL

The primary task to commence drafting a Bill for a drafter remains to develop expertise of all aspects of the subject-matter of the Bill; undertaking study of prevailing laws on the subject and develop clear idea of problems or defects to be cured. The aims, instructions and policy of the proposed legislation should be clearly grasped and understood.

The first task of a Draftsman is to workout the arrangement or tentative outline of the various provisions of the Bill. Think out its arrangement, the order in which ideas will appear. The provisions should follow one another in a logical order, one emerging out of the other. The key and principal provisions should come first followed by administrative and general provisions. Whereas all matters of detail may be left out to be catered for in the rules/ regulations.

It is foremost for a parliamentarian and his or her drafter to assess the implications of the proposed legislation and discuss complex and unclear provisions with the different stakeholders, fellow legislators as well as officials/institutions and functionaries concerned with the proposed legislation. The tables and diagrams are useful tools for planning a draft.

Outline and Constituents/Parts of a Bill with Illustrations

1. Long title	This title (often referred to as long title) is prefixed to the Bill. For example "A Bill to establish a National Highway Authority" In case of amendment it would read. "A Bill to amend (or further to amend the"..... "
2. Pre-amble:	A pre-amble for instance would read "WHEREAS it is

whether it is a Money Bill or not shall be also attached with the notice.

(3) If a question arises whether a Bill does or does not require the previous sanction of the President, the Speaker shall decide the question whose decision shall be final.

(4) When the item is called, the Minister shall move to introduce the Bill, thereupon the Bill shall stand introduced.

(5) Copy of the Bill shall be supplied to the members on its introduction.

(6) For the purpose of this rule, an Ordinance laid before the Assembly under sub-rule (1) of rule 170 shall be deemed to be a Bill introduced in the Assembly on the day it is so laid and, if the Ordinance is one which, if it were to be introduced as a Bill, would have required previous sanction of the President for its introduction, it shall also be accompanied by such sanction, when it is laid before the Assembly. It shall also contain Statement of Objects and Reasons and a certificate whether it is a Money Bill or not.

PUBLICATION OF BILLS

121. Publication of Bills.- (1) The Secretary shall cause every Bill that has been introduced to be published in the Gazette as early as possible.

(2) The Speaker may order the publication of any Bill together with the Statement of Objects and Reasons accompanying it before its introduction and, if it is so published, it shall not be necessary to publish it again after its introduction.

CONSIDERATION OF BILLS

Reference of Bills to Standing Committees.- Upon introduction, a Bill, other than a Finance Bill, shall stand referred to the Standing Committee concerned with the subject matter of the Bill:

Provided that the member-in-charge may move that the requirement of this rule may be dispensed with and, if the motion is carried, the provisions of rule 123 shall apply to the Bill as if it were received back from the Standing Committee on the day on which the motion is carried.

Explanation.- In this rule " Finance Bill" means the Bill introduced each year to give effect to the financial proposals of the Government for the next following financial year and includes a Bill to give effect to the supplementary financial proposals for any period during the financial year.

123. Time for consideration of Bills.- (1) When a Bill has been received back from the Standing Committee, or when the time fixed for the Standing Committee to send it back has expired, or Bill is deemed to have been received back from the Standing Committee as a result of suspension of requirement of rule 122, the Bill shall be set down on the Orders of the Day for a motion under rule 124. The Secretary shall cause copy of the Bill, as introduced to be supplied to each member.

(2) At least two clear days in a session shall intervene between the day of supply of copies of the Bill to the members and the day for setting down of the Bill for a motion under rule 124:

Provided that the provision of this sub-rule shall not apply when the Bill is being considered without the report of the Committee.

124. Motions to be made by Member-in-charge.- (1) On the day for which a Bill is set down under rule 123 or any subsequent day to which the matter might have been adjourned, the member-in-charge may make any of the following motions in regard to his Bill, namely:-

(a) that it be taken into consideration at once; or

(b) that it be taken into consideration on a date to be fixed forthwith;

or

(c) that it be referred to a Select Committee; or

(d) that it be circulated for the purpose of eliciting opinion thereon.

(2) Any member may move as an amendment that the Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the amendment.

125. Bills repugnant to the injunctions of Islam.- (1) No law shall be enacted against Holy Quran and Sunnah as enshrined in Article 227 of the Constitution.

(2) If a member raises the objection that a Bill is repugnant to the Injunctions of Islam, the Assembly may, by a motion supported by not less than two-fifths of its total membership, refer the question to the Council of Islamic Ideology for advice as to whether the Bill is or is not repugnant to the Injunctions of Islam.

(3) Notwithstanding a reference under sub-rule (1), the Assembly

The Relevant Laws And Procedures

The General Clause Act, 1897

The purpose and object of a General Clause Act, 1897, is to place in one single statute different provisions as regard definitions and interpretation of words and legal expressions which would otherwise have to be defined and interpreted separately by in different statutes. The importance of the General Clause Act can thus can not be overemphasized which is aimed at to secure uniformity of language and constructions in legislative enactments. For example: -"person" include any company or association or body of individuals whether incorporated or not: "section" means a section of an Act or regulation in which the word occurs; "singular" includes "plural" and "masculine" includes the feminine (thus the word "he" to be used instead of "he or she". Section 6 of the General Clauses Act would apply where an Act is repealed. The General Clauses Act is rightly described as Draftsman's Act.

Rules of Business, 1973

The Rules of Business, 1973, were made in exercise of powers conferred by Articles 90 and 99 of the Constitution. They lay down procedures for the allocation and conduct of business of the Federal Government. The procedure for legislative business (Official and Non-Official Bills) is laid down in rule, 27 and 28. Under rule 27 after determining the contents of the proposed legislation, the division concerned shall seek approval of the Cabinet in principle before asking law and justice division to draft the Bill. Rule 28 prescribes procedure regarding non-official Bills. The procedure is almost the same as for official Bills. This in short is the introduction to legislative business concerning official and non-official Bills as how they are initiated and processed at Government level before they are introduced in the Parliament. Further details are given under the topic "Legislative Procedure".

be complied with and whether the Bill is one which cannot be introduced under the Constitution without the consent or recommendations of the Federal Government or previous sanction of the President.

(3) The Division shall then obtain--

(a) the instructions of the Cabinet regarding the provisions of the Bill;

(b) the decision of the Cabinet as to which of the following motions in the Assembly is to be supported--

(i) that it be taken into consideration by the Assembly either at once or at some future date to be specified;

(ii) that it be referred to a Select Committee;

(iii) that it be circulated for the purpose of eliciting opinion thereon; and

(iv) that it be opposed; and

(c) the signature of the Prime Minister on the consent or recommendation, or of the President on the previous sanction, where required to the introduction of the Bill in the Assembly or the Senate.

(4) The Division shall include in the brief prepared for the use of the Minister-in-Charge the directions which the Cabinet has given regarding the line of action to be adopted with regard to the Bill.

29. Official and non-official amendments to Bills.-- The procedure regarding official amendments shall be the same as for official bills and that for non-official amendments the same as for non-official Bills.

30. Ordinances.--(1) The provisions of rule 27 shall apply mutatis mutandis when the proposed legislation is an Ordinance. The Law, Justice and Parliamentary Affairs Division shall promulgate the Ordinance and in due course arrange to lay it before--

(i) the Assembly, if it contains provisions dealing with all or any of the matter specified in clause (2) of Article 73;

(ii) both Houses, if it does not contain provisions dealing with any of the matters referred to in clause(i).

(2) When an ordinance is to be withdrawn the approval of the President shall be obtained by the Division concerned through the Prime Minister

may at any time proceed with the Bill, if it considers that, in the public interest, the passage of the Bill should not be postponed until the advice is furnished.

(4) The advice of the Council of Islamic Ideology on a question referred to it under sub-rule (1) shall, on receipt be immediately laid on the Table and if the Assembly is not in session at that time, it shall be laid on the Table on the first day of its next session.

(5) If the advice of the Council of Islamic Ideology is furnished after the Bill referred to in sub-rule (2) has been enacted and is to the

effect that the law is repugnant to the Injunctions of Islam, the Minister concerned shall, within seven days of the laying of the advice on the Table, move that the law be considered and further action thereon shall be taken in accordance with the provisions of this chapter as if the law were a Bill referred to the Standing Committee under rule 122.

126. Discussion on principles of Bill.- (1) On the day on which any of the motions referred to in rule 124 is made or on any subsequent day to which discussion thereof is postponed the principles of the Bill and its general provisions may be discussed but the details of the Bill shall not be discussed further than is necessary to explain its principles.

(2) At this stage amendments to the Bill may not be moved, but if the member-in-charge moves that the Bill be taken into consideration or referred to a Select Committee, any member may move as an amendment that Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion.

(3) Where a motion that a Bill be circulated for the purpose of eliciting opinion thereon is carried and the Bill is circulated in accordance with that direction and opinions are received thereon, the member-in-charge may, if he wishes to proceed with his Bill thereafter, may move that the Bill be referred to the Standing Committee concerned or a Select Committee or that it be taken into consideration.

127. Person by whom motions in respect of Bills may be made.- No motion that the Bill be taken into consideration or be referred to a Select Committee shall be made by any member other than the member-in-charge and no motion that the Bill be circulated for the purpose of eliciting opinion thereon shall be made by any member other than the member-in-charge except by way of amendment to a motion made by the member-in-charge.

128. Procedure after presentation of report.- (1) Where a Bill has been

referred to a Select Committee, the member-in-charge may, after the presentation of the final report by the Select Committee, move-

(a) that the Bill as reported by Select Committee be taken into consideration; or

(b) that the Bill as reported by the Select Committee be referred to the same Committee again either-

(i) as a whole,

(ii) with respect to particular clauses or amendments only,

iii) with instructions to make some particular or additional provision in the Bill; or

(c) that the Bill as reported by the Select Committee be circulated or re-circulated for the purpose of eliciting opinion or further opinion thereon.

(2) If the member-in-charge moves that the Bill as reported by the Select Committee be taken into consideration, any member may object to its being so taken into consideration, if a copy of the report of the Select Committee has not been made available for the use of the members at least two days before the motion is made and the objection shall prevail unless the Speaker allows the report to be taken into consideration.

(3) If the member-in-charge moves that the Bill as reported by the Select Committee be taken into consideration any member may move as an amendment that the Bill be referred to the same Committee again or be circulated for the purpose of eliciting opinion thereon.

129. Notice of amendments.- (1) When a motion that a Bill be taken into consideration is carried, any member may propose an amendment to the Bill. If notice of an amendment has not been given one clear day before the day on which the relevant clause of or Schedule to the Bill is to be considered any member may object to the moving of the amendment and such objection shall prevail unless the Speaker allows the amendment to be moved.

(2) If the amendment is an amendment which under the Constitution requires the consent of the Government or previous sanction of the President before it is moved, the notice shall be accompanied by a request that such consent or, as the case may be, sanction may be obtained and the Secretary shall cause a copy of the amendment to be transmitted to the Ministry of Parliamentary Affairs for obtaining orders of President or the Government thereon and, on receipt of such order from that Ministry, intimate the same to

already been given by the Prime Minister in the meeting of the Cabinet; and

(c) obtain the signature of the Prime Minister on the consent or recommendation, or of the President on the previous sanction, where required to the introduction of the Bill in the Assembly or the Senate; and return the Bill to the Law, Justice and Parliamentary Affairs Division for further action in terms of sub-rule (8).

(5A) The Cabinet may, in an appropriate case, while according approval to the proposed legislation under sub-rule (1), dispense with the requirements of clause (a) of sub-rule (5) regarding submission of the case to the Cabinet for approval of the draft bill.

(6) The Division concerned shall include in the brief prepared for the use of the Minister-in-Charge the direction which the Cabinet has given regarding the line of action to be adopted with regard to the Bill.

(7) Legislation relating to the codification of substantive law or for the consolidation of existing enactments or legislation of a purely formal character, e.g., repealing and amending Bills and short title Bills, may be initiated in the Law, Justice and Parliamentary Affairs Division. It shall, however, consult the Division concerned, if any, which shall consider the draft legislation from the administrative point of view and send their views to the Law, Justice and Parliamentary Affairs Division.

(8) After taking action in terms of sub-rule (5) the Division concerned shall forward to the Law, Justice and Parliamentary Affairs Division the draft legislation in its final form with a statement of objects and reasons duly signed by the Minister-in-Charge. The Law, Justice and Parliamentary Affairs Division, after satisfying itself that all legal requirements have been complied with for the introduction of the Bill in the Assembly or, as the case may be, the Senate, transfer the bill alongwith the statement of objects and reasons to the Law, Justice and Parliamentary Affairs Division for arranging its introduction in the appropriate House.

28. Non-Official Bills.--(1) The Division concerned shall be responsible for assessing the administrative implications of the proposed legislation and for consulting the other Divisions concerned, including the Finance Division, where necessary.

(2) Thereafter the Division concerned shall consult the Law, Justice and Parliamentary Affairs Division who shall, apart from advising the Division concerned on the legal implications of the proposed legislation and the competence of the Majlis-e-Shoora (Parliament) to make a law on the subject to which the Bill relates, advise it as to whether any legal requirements are to

Rule. 30. Ordinances.

27. Official Bills.-(1) The Division concerned shall be responsible for determining the contents of the proposed legislation, for consulting the other Divisions concerned (including the Finance Division) where necessary, and for obtaining the approval of the Cabinet under rule 16(1)(a), to the issues involved, before asking the Law, Justice and Parliamentary Affairs Division to draft the Bill.

Provided that where the proposed legislation involves only a verbal or formal amendment of an existing law, it shall not be necessary to obtain approval of the Cabinet before asking the Law, Justice and Parliamentary Affairs Division to draft it.

(2) When referring the approved legislation to Law, Justice and Parliamentary Affairs Division for drafting, the Division concerned shall send the relevant papers along with a memorandum indicating the provisions which are intended to be incorporated in the draft Bill and giving the objects of and reasons for those provisions to enable the Law, Justice and Parliamentary Affairs Division to grasp the exact intention of the Division concerned and the full scope of the proposed legislation.

(3) Apart from giving shape to the draft legislation, the Law, Justice and Parliamentary Affairs Division shall advise the Division concerned as to the competence of Majlis-e-Shoora (Parliament) to make a law on the subject to which the proposed legislation relates and whether any legal requirements are to be complied with before the Bill is introduced in the Assembly or the Senate.

(4) Whenever consent or recommendations of the Federal Government or previous sanction of the President is necessary for the introduction of a Bill it shall be drafted by the Law, Justice and Parliamentary Affairs Division along with the Bill.

(5) The Division concerned shall then--

(a) submit the case to the Cabinet--

(i) for approval of the draft Bill;

(ii) for deciding any issue that may still be outstanding;

(b) obtain the approval of the Prime Minister on the decisions of the Cabinet on the points mentioned in clause (a) where the approval has not

the member concerned.

The Speaker shall decide the question whether an amendment does or does not require the consent of the Government or the sanction of the President.

(4) The Secretary shall, as far as practicable, cause a list of admitted amendments of which notices, have been received to be made available for the use of every member.

130. Conditions of admissibility of amendments.- The following conditions shall govern the admissibility of amendments, namely:-

(a) an amendment shall be within the scope of the Bill relevant to the subject matter of the clause to which it relates;

(b) an amendment shall not be inconsistent with any previous decision of the Assembly on the same question;

(c) an amendment shall not be such as to make the clause which it proposes to amend unintelligible or ungrammatical;

(d) if an amendment refers to, or is not intelligible without, a subsequent amendment or schedule, notice of the subsequent amendment or schedule shall be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole:

Provided that in order to save time and repetition of arguments a single discussion may be allowed to cover a series of interdependent amendments;

(e) the Speaker shall determine the place at which an amendment shall be moved;

(f) the Speaker may refuse to propose an amendment which is, in his opinion, frivolous or meaningless;

(g) an amendment may be moved to an amendment which has already been proposed by the Speaker;

(h) an amendment shall not be moved which has merely the effect of a negative vote; and

(i) in respect of any amendment of the Bill under consideration of the Assembly, the Speaker shall have the power to select one of the several identical or substantially identical amendments to be proposed.

131. Order of amendments.- (1) Amendments shall be considered in the order of the clauses of the Bill to which they respectively relate, and in respect of any such clause a motion shall be deemed to have been made: "That this clause do stand part of the Bill".

(2) The member who has given its notice shall move amendment.

132. Withdrawal of amendments.- An amendment moved may, by leave of the Assembly, but not otherwise, be withdrawn at the request of the Minister or Member moving it. If an amendment has been proposed to an amendment, the original amendment shall not be withdrawn until the amendment proposed to it has been disposed of.

133. Submission of a Bill clause by clause.- Notwithstanding anything contained in these rules, the Speaker may, when a motion that a Bill be taken into consideration has been carried, submit the Bill, or any part of the Bill, to the Assembly clause by clause. The Speaker may call each clause separately, and when the amendments relating to it have been dealt with, he shall put the question: "That this clause (or, as the case may be, that this clause as amended) do stand part of the Bill".

134. Postponement of clause.- The Speaker may, if he thinks fit, postpone the consideration of a clause.

135. Schedule.- The consideration of the schedule or schedules, if any, shall follow the consideration of clauses. Schedules shall be put from the Chair, and may be amended, in the same manner as clauses, and the consideration of new schedules shall follow the consideration of the original schedules. The question shall then be put: " That this schedule (or, as the case may be, that this schedule as amended) do stand part of the Bill".

136. Clause one, preamble and title of the Bill.- Clause one, the preamble, if any, and the title of a Bill shall stand postponed until the other clauses and schedules (including new clauses and new schedules) have been disposed of and the Speaker shall then put the question: "That clause one, or the preamble or the title (or as the case may be that clause one or the preamble or the title as amended) do stand part of the Bill".

PASSING OF BILLS

137. Passing of Bills.- (1) When a motion that a Bill be taken into consideration has been carried and no amendment of the Bill is made, the Minister may at once move that the Bill be passed.

assent unless it has been passed by the Provincial Assembly of the Province by the votes of not less than two-thirds of its total membership.

(10) When the Bill is assented to by the President, the Secretary shall immediately cause it to be published in the Gazette as an Act of Majlis-e-Shoora (Parliament).

FIRST SCHEDULE- NOMINATION PAPER FOR ASCERTAINMENT OF THE MEMBER COMMANDING THE CONFIDENCE OF THE MAJORITY OF MEMBERS

SECOND SCHEDULE- PROCEDURE FOR RECORDING OF VOTES

THIRD SCHEDULE- PROCEDURE FOR DETERMINING RELATIVE PRECEDENCE OF PRIVATE MEMBERS' BILLS AND RESOLUTIONS

FOURTH SCHEDULE -FORM OF COMMUNICATION REGARDING ARREST, DETENTION, CONVICTION OR RELEASE OF A MEMBER

FIFTH SCHEDULE-PROCEDURE REGARDING VOTING BY DIVISION.

FEDERAL GOVERNMENT RULES OF BUSINESS 1973

The following relevant rules may be kept in mind:

Rule. 27. Official Bills,

Rule. 28. Non-Official Bills,

Rule. 29. Official and Non-official amendments to Bills & Rule.

the rules relating to Bills, other than a Finance Bill, in so far as they are not inconsistent with any provision of this rule or Article

239.

(2)Each clause or schedule, or clause or schedule as amended as the case may be, shall be put to the vote of the Assembly separately and shall form part of the Bill if it is passed by the votes of not less than two-thirds of the total membership of the Assembly. Voting shall be by rising of the members in their seats.

(3) Amendments to clauses or schedules shall be decided by a majority of the members present and voting in the same manner as in the case of any other Bill.

(4) Voting shall be by rising of the members in their seats, whenever a consideration motion has to be carried by the votes of not less than two-thirds of the total membership of the Assembly.

(5) If the motion in respect of such Bill is that the Bill or, as the case may be, the Bill as amended, be passed, then the motion shall be deemed to have been carried if it is passed by the votes of not less than two-thirds of the total membership of the Assembly and the voting shall be by division.

(6) If the result of the voting shows that not less than two-thirds of the total membership of the Assembly is in favour of the motion, the Speaker shall, while announcing the result, say that the motion is carried by the votes of not less than two-thirds of the total membership of the Assembly.

(7) If a Bill passed by the Senate is passed by the Assembly,

ithout amendment, by the votes of not less than two-thirds of the total membership of the Assembly it shall, subject to the provisions of sub- rule (9) be presented to the President for assent under clause (2) of Article 239.

(8) If a Bill passed by the Assembly and transmitted to the Senate is passed by the Senate with amendment, it shall be reconsidered by the Assembly in the manner provided in sub-rules (2) to (6) and if the Bill as amended by the Senate is passed by the Assembly by the votes of not less than two-thirds of the total membership of the Assembly it shall, subject to the provisions of sub- rule (9), be presented to the President for assent under clause (3) of Article 239.

(9) A Bill to amend the Constitution which would have the effect of altering the limits of a Province shall not be presented to the President for

(2) If an amendment of the Bill is made any member may object to a motion being made that the Bill be passed, and such objection shall prevail unless the Speaker allows the motion to be made.

(3) Where such objection as aforesaid prevails, a motion that the

Bill be passed may be made on a subsequent day.

(4) At this stage, no amendment to the Bill may be moved, except verbal amendments, which are of a formal or consequential nature.

138. Scope of debate.- The discussion on a motion that the Bill be passed shall be confined to the submission of arguments either in support of the Bill or for the rejection of the Bill. In making his speech, a member shall not refer to the details of the Bill further than is necessary for the purpose of his arguments, which shall be of general character.

139. Withdrawals of Bills.- The Minister may, at any stage of the Bill, may withdraw the Bill with the consent of the Speaker and no further motion shall be made with reference to the Bill.

140. Transmission of Bills other than Money Bills to the Senate.- When a Bill other than a Money Bill is passed by the Assembly it shall be transmitted to the Senate for consideration with a message to that effect.

141. Transmission of Money Bills to the Senate.- (1) When a Money Bill including the Finance Bill containing the Annual Budget Statement is presented in the Assembly, a copy thereof shall be transmitted to the Senate by the Assembly.

(2) If a Bill transmitted to the Senate is returned to the Assembly with recommendations, the Secretary shall immediately cause the recommendations to be circulated amongst the members.

(3) When a Bill is taken up clause by clause, the recommendations made by the Senate shall be considered in the order of the clauses of the Bill to which they relate and the provisions of rules 131 and 133 shall *mutatis mutandis* apply to the recommendations made by the Senate.

142. Authentication and submission of Money Bills.- (1) When a Money Bill is passed by the Assembly an authenticated copy thereof, signed by the Speaker, shall be transmitted to the President, by the Secretary for assent under Article 75.

(2) Every Money Bill presented to the President for assent shall bear a certificate under the hand of the Speaker that it is a Money Bill, and such certificate shall be conclusive for all purposes and shall not be called in question.

143. Money Bills assented to by the President.- When a Money Bill is assented to by the President under Article 75, the Secretary shall immediately cause it to be published in the Gazette as an Act of Majlis- e-Shoora (Parliament).

BILLS ORIGINATING IN THE SENATE AND TRANSMITTED TO THE ASSEMBLY

144. Bills originating in, and passed by, the Senate and transmitted to the Assembly.- When a Bill originating in the Senate has been passed by it and is transmitted to the Assembly, the Secretary shall, as soon as may be, cause it to be circulated among the members.

145. Notice.- At any time after the Bill has been so circulated, any Minister in the case of a Government Bill or, in any other case, any member may give notice of his intention to move that the Bill be taken into consideration.

146. Motion for consideration.- On the day on which the motion for consideration is put down in the Orders of the Day which shall, unless the Speaker otherwise directs, be not less than two days from the receipt of the notice, the Minister or, as the case may be, the member giving notice may move that the Bill be taken into consideration.

147. Discussion.- On the day on which such motion is made or on any subsequent day to which the discussion is postponed, the principles of the Bill and its general provisions may be discussed but the details of the Bill shall not be discussed further than is necessary to explain its principles.

148. Reference to Standing Committee.- Any member may move as an amendment that the Bill be referred to the Standing Committee and, if such motion is carried, the Bill shall stand referred to the Standing Committee, and the rules regarding Bills originating in the Assembly and referred to a Standing Committee shall then apply.

149. Consideration and passing.- If the motion that the Bill be taken into consideration is carried, the Bill shall be taken into consideration clause by clause and the provisions of these rules regarding consideration of amendments to Bills and the subsequent procedure in regard to the passing of Bills shall apply.

150. Bills passed without amendment.- If the Bill is passed without amendment a message shall be sent to the Senate to this effect.

151. Bills passed with amendment or rejected.- If the Bill is rejected or is not passed within ninety days of its receipt or is passed with amendment, it shall be returned to the Senate with a message to this effect.

152. Authentication and submission of Bills for assent.- When a Bill is passed by the Assembly, without amendment, an authenticated copy thereof signed by the Speaker shall be transmitted to the President, by the Secretary for assent under Article 75.

153. Bills assented to by the President.- When a Bill is assented to by the President under Article 75, the Secretary shall immediately cause it to be published in the Gazette as an Act of Majlis-e-Shoora (Parliament).

BILLS PASSED BY THE ASSEMBLY AND AMENDED, REJECTED OR NOT PASSED BY THE SENATE

154. Bills amended, rejected or not passed by the Senate.- If a Bill passed by the Assembly and transmitted to the Senate is rejected or is not passed within ninety days of its receipt or is passed with amendment by the Senate, the Secretary shall immediately communicate the fact to the members.

155. Reference of Bills to the Mediation Committee.- (1) Any Minister, in the case of a Government Bill, or, in any other case, any member may, after giving two days notice, move on any working day that the Bill referred to in rule 154 be referred to the Mediation Committee.

(2) Where a Bill is referred to the Mediation Committee under clause (2) of Article 70, the Mediation Committee shall, within ninety days, formulate an agreed Bill which is likely to be passed by both Houses of Majlis-e-Shoora (Parliament) and place the agreed Bill separately before each House in accordance with the Mediation Committee Rules made under clause (4) of Article 71.

(3) A Bill submitted by the Mediation Committee, shall be considered by the Assembly and the procedure will be followed as if it is received back from the Standing Committee.

CONSTITUTION AMENDMENT BILL

156. Constitution amendment Bill.- (1) In respect of a Bill seeking to amend the Constitution, the provisions of this rule shall apply in addition to