



PAKISTAN INSTITUTE OF PARLIAMENTARY SERVICES
DEDICATED TO PARLIAMENTARY EXCELLENCE

Understanding Parliamentary Media Relations and Legislation

Participant's Handbook IV



November, 2014



PAKISTAN INSTITUTE OF PARLIAMENTARY SERVICES
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Participants' Handbook
on
UNDERSTANDING
PARLIAMENT-MEDIA
RELATIONS
AND
LEGISLATION

November 2014



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"The power of the press is really great, but you must remember that this power, which you are wielding, is a trust. Look upon it as a great trust and remember that you are guiding honestly and sincerely the progress and welfare of your nation".

Addressed to the Bombay Provincial Muslim Journalist Association on March 12, 1947

ARTICLE 19

"Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence."

The Constitution of the Islamic Republic of Pakistan

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FOREWORD



PAKISTAN INSTITUTE FOR PARLIAMENTARY SERVICES

Islamabad, November 25, 2014

FOREWORD

The Pakistan Institute for Parliamentary Services (PIPS), is mandated to conduct seminars, workshops and organise events to assist honourable parliamentarians in apprising the public about working of the Parliament and how they can engage with their representatives to contribute in the national development in line with the aspirations of the people of this most beautiful land of 1.8 million resilient Pakistanis.

The Institute has taken it as a priority area to engage seasoned facilitators and professionals for its National Workshops on key parliamentary disciplines such as oversight, committee effectiveness, understanding legislation, budget analysis and parliamentary research.

We acknowledge that close and vibrant Parliament-Media relations are an asset in a parliamentary democracy, which connects Members of the Parliament with their constituents to ensure sustainable and developed future of the state. It is why, PIPS is holding a National Workshop on Understanding Parliament-Media Relations and Legislation with Honourable Parliamentarians and Chairpersons of Standing Committees not only from the National Parliament as well as four provincial assemblies of Balochistan, Khyber Pakhtunkhwa, Punjab and Sindh and legislative assemblies of AJK and Gilgit Baltistan.

We are pleased to share this Handbook on Understanding Parliament-Media and Legislation with the kind participants of the Workshop, media men as well as all readers and stakeholders. It is aimed at equipping Members of the Parliament and Chairpersons with the key concepts of Parliamentary-Media relationships, orientation to essentials of legislation and characteristics of good governance. It is easy to carry booklet on absorbing tips and skills for effective engagement by MPs with the media, which remains of immense importance to apprise people of Pakistan on day to day achievements and legislative agenda of the Parliament of Pakistan and the provincial assemblies.

We extend our special thanks to the German Foundation, the Konrad Adenauer Stiftung, KAS, a close partner of the Institute, for supporting publication of this handbook.


Mahmood Salim Mahmood
(Executive Director)

ACKNOWLEDGEMENT

Islamabad, 25th November, 2014

Parliament, defined in the simplest of terms, is the forum in which the elected representatives of the people meet, plan, deliberate upon and review the government of the State and its endeavours for perpetual emancipation of its citizens. Legislature according makes laws and provides guiding frameworks for the effective and efficient conduct of the State. Task of government has become more complex as populations grew and maintenance of a sustainable society with appropriate provision of food, shelter, health, education and a secure environment became arduous.

MPs are expected to play the key role in provision of abovementioned necessities and to liberate people from the shackles of poverty through the reaffirmation of the fundamental values of freedom, equality, solidarity, tolerance, and respect for the planet and shared responsibility. Parliamentarians are committed to make laws for the benefit of the people; keep a vigilant oversight over the executive to ensure the growth of a harmonious society and to effectively represent their constituents by highlighting the plight of the community. In this context, public representatives are always in the limelight. They are subject to public scrutiny 24 hours, seven days a week and 365 days by ever expanding electronic, print and social media. With over 1500 newspapers and news magazines, over 50 satellite channels and around 100 AM and FM radio channels in addition to increased accessibility of social media the challenge to remain abreast to national needs and to keep the people informed about MPs role and achievements has increased manifold.

We are pleased to share this handbook on UNDERSTANDING PARLIAMENT-MEDIA RELATIONS AND LEGISLATION 2014, at the NATIONAL workshop on November 27-29, 2014 at the Pakistan Institute for Parliamentary Services. It extensively focuses on MPs orientation with regard to dynamics of Pakistani media and **norms of quality legislation and good governance** and how MPs dynamic role can be projected by media among the masses regarding their achievement regarding both. This is the fourth in series of parliamentary handbooks produced by PIPS. It is a compilation by the PIPS Research and Information Services Wing based on excerpts and presentations by former National Assembly Joint Secretary Justice S.A Rabbani, PLSP-USAID colleagues Mr Daud ur Raheem Malik, Ms Nadia Batool and Mr Zane Asher Green during various PIPS training sessions in 2010-2013. Ms Tehseen Khalid, Senior Research Officer, PIPS, has designed the title and contributed in chapter on good governance. Mr Muhammad Aslam Waseem, Additional Director (legislation) has added notes on drafting while Mr Muhammad Faisal Israr, Research Associate (Publications and Outreach), PIPS, has edited the Handbook in the supervision of Mr Muhammad Rashid Mafzool Zaka, PIPS Director Research and I.T.

The handbook will provide Members of the Parliament with essential insights regarding practical tips on Parliament-Media Relations, understanding the structure of legislation and principles of drafting as well as the model of good governance.

We are grateful to our long standing partners Konrad Adenauer Stiftung (KAS), in Pakistan for supporting PIPS publication of this handbook. We welcome any feedback and suggestions by the participants and readers of the handbook at: research@pips.gov.pk

Research and I.T Wing
Pakistan Institute for Parliamentary Services

GOAL

The workshop will help the participants viz a viz understanding of what is legislation and its structure, principles of good governance and tips to Parliamentarians to put forth their ideas, priorities, commitment and performance on media to reflect their efforts for the people. Participants will learn how to deal with the media as well as how to secure effective media coverage.

OBJECTIVES

1. Discuss the nature, variety and coverage of the print and broadcast media in Pakistan
2. Discuss the general importance of the media
3. Explain important characteristics and facts about the media
4. Implement different strategies for securing a strong and lasting relationship with the media
5. Support better media coverage to promote lasting media relations
6. Apply time-tested tips for dealing effectively with journalists
7. Appreciate the fact that image makes a difference
8. Avoid the most common mistakes that people make while dealing with the news media
9. Secure effective media coverage
10. Describe the different types of radio and television interview formats
11. Apply the tips for different radio and television interview formats to get their message across successfully
12. Understand the process of legislation and its purpose
13. Go through the Structure of a Bill
14. Learn certain good practices regarding drafting a legislation
15. How to understand reading a legislation
16. Familiarise MPs with Model of Good Governance so that they can analyse any state policy or issue on established pattern of governance.

DURATION

Three Days

PAKISTAN'S MEDIA LANDSCAPE

News Agencies:

- Associated Press of Pakistan
- Pakistan Press International
- Wire Services
- Online
- News Network International
- Foreign News Wires also have a strong Presence in Pakistan

Print: (2000)

- More than 1,500 newspapers and journals exist in Pakistan, in English, Urdu, and in regional languages;
- Print media includes:
 - 424 dailies, 718 weeklies,
 - 107 fortnightlies, and
 - 553 monthlies.

TV: (2007)

- 6 state-run channels under the banner of PTV;
- More than 50 privately-owned satellite channels.

Radio: (2006)

- AM: 31
- FM: 68 (23 are state-owned i.e. by PBC)

Internet:

- Internet hosts: 164,067 (2007)
- Internet users: 12 million (2006)

Cell Phones: (2008)

88 million users

FAMOUS TALK SHOWS

- Bolta Pakistan
 - Capital Talk
 - Live with Talat
 - Columnkar

SESSION ONE

MEDIA'S ROLE IN A DEMOCRACY?

i. HOLDING GOVERNMENT ACCOUNTABLE

- Brings transparency through watchdog function
- Supports the rule of law, thereby creating stability
- E.g. Tehelka.com report involving BJP President Bangaru Laxman...Wikileaks and US Pentagon

Write Your examples and discuss them in planery?

ii. PUBLICIZING ISSUES

- **Lack of public engagement undermines security and economic growth:** Media provides the much needed connect between people and their representatives. It helps MPs visualize the needs and aspirations of masses and at the same time provides parliamentarians the opportunity to inform their constituents regarding his or her stance on key matters of national significance, plans and actions as well as contribution of legislator on floor of the House/Assembly for the people. The connect feel people more secure and public confidence in economic growth enhances and so does productivity as people are inspired by their leaders and they choose to increase their efforts to contribute in national development.
- **Media helps MPs to involve Stakeholders regarding a new legislation, an amendment in existing law or a new policy** shift under discussion in Cabinet and being reviewed at the Parliament and provincial assembly.
- **Scope of debate broadened** as masses openly give suggestions and ask questions from the public representatives regarding key issues as well as local challenges and needs.
- “Let the people know the facts and the country will be safe.” - *Abraham Lincoln*

iii. EDUCATING CITIZENS

- Helps citizens understand and access governments
- Educates citizens on governance

iv. CONNECTING PEOPLE

- A larger community formed (Benedict Anderson's book Imagined Communities)
- Civic information---fuel of democracy
- Safety Valve--- a forum for diverse voices

IMPORTANCE OF THE MEDIA

1. The media maintains a strong and active two-way information and communication link between the public and the Parliament.
2. The media provides the members of the country's parliamentary bodies the best vehicles to communicate their thoughts, viewpoints and ideas to the public.
3. The media has great power to influence public opinion and as such the public rely on the media to:
 - Scrutinize the actions of their representatives in the national and provincial parliaments and
 - Search out the truth of events and stories.
4. Members of the Parliament rely on most of the raw material for questions, motions and debates generated from the media.

RESPONSIBILITY OF THE MEDIA

The media's true responsibility is to accurately inform the public on:

1. The details of the parliament's decisions;
2. How they were made, the factors that entered into them; and
3. The positions and statements of individual members.

MEDIA - THE FOURTH ESTATE

- Burke said: "There were Three Estates in Parliament; but, in the Reporters' Gallery yonder, there sat a Fourth Estate more important than they all. It is not a figure of speech, or a witty saying; it is a literal fact... Printing, which comes necessarily out of Writing, I say often, is equivalent to Democracy: Invent Writing. Democracy is inevitable... Whoever can speak, speaking now to the whole nation, becomes a power, a branch of government, with inalienable weight in law-making, in all acts of authority. It matters not what rank he has, what revenues or garnitures: the requisite thing is that he have a tongue which others will listen to; this and nothing more is requisite." – Carlyle
- "Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter." - Thomas Jefferson

FREE MEDIA SHAPES PUBLIC OPINION

The **free press shapes the opinions, attitudes and perceptions** of the vast majority of people about their representatives in the national and provincial parliaments. *For example:*

- **Reporters and journalists covering a parliamentary body report** to the public about its activities on a daily basis.
- **Editorial writers and commentators offering comments and criticism** on which many citizens rely to help them form their opinions.
- **Newspapers, radio and television providing citizens with information** about the parliament's plenary sessions, its committee meetings and hearings, and proposed legislation under its review.
- **Media coverage of parliamentary activities providing members with a venue** to explain their decisions and actions to the citizens.

SESSION TWO

WHAT PARLIAMENTARIANS MUST KNOW ABOUT

MEDIA?

- I. MEDIA IS A Two-Edged Sword: We should be aware that Media is a partner in projecting the contributions and achievements of parliamentarians as individual public representatives as well as the Parliament and Government as an institution. Media is a watchdog with an oversight role of public scrutiny and to be a whistle blower in case an improvement is required. This two-edged nature all the more requires day to day Parliament-Media relations which contribute appreciably in promoting the democratic culture of pluralism through involvement of all stakeholders as well as close oversight of legislators' performance.
- II. Media is a Hungry Business as everyone is after BREAKING A NEW before then the other.
- III. A Limiting Factor
- IV. Know Your Audience
- V. Targeting the Journalists – prefer the principled objective ones rather than biased and labelled.
- VI. What is News, What is a Possible Feature?
- VII. Know the Journalists' Needs and empathize their expectations and responsibilities as well as problems.
- VIII. Know thy Journalist
- IX. The Relationship between Newspapers, TV and Radio
- X. News Agencies
- XI. 'Finding Fame' In Your Local newspapers help you built connection with constituency and your people.

EFFECTIVE PARLIAMENTARIANS-MEDIA RELATIONS

- a. Respect the media for the **essential role it plays in the democratic process**
- b. In times of scant public attention, parliamentarians should:
 - i. Critically **review their relationship**
 - ii. Enhance their **communication skills**
 - iii. Work **closely** with the media to sort out different problems
- c. Always assume that everything said to reporters is **“on the record”**
- d. Develop **cordial personal relationships** with the media and seek opportunities for **regular briefings and interactions**

- e. Treat each journalist and reporter as an **individual** and should learn as much as possible about them.
- f. Never **overreact to a critical or unfavourable story**
- g. Project a **confident and knowledgeable image** while answering questions posed by journalists and reporters and offer a brief response to irrelevant questions
- h. Ensure Parliament's activities are **newsworthy and properly communicated**

THINGS THAT CAN BE CONTROLLED

- Appearance and attitude
- Words
- When and where you'll participate
- With whom you'll participate

When dealing with journalists:

- a. Be realistic!
- b. Be straight!
- c. Be reliable!
- d. Be helpful!
- e. Be considerate!
- f. Be proactive!
- g. Go beyond the usual media!
- h. Be accessible!

MISTAKES THAT PEOPLE MAKE WHEN ON MEDIA

- 1. Not believing that it's your interview as well
- 2. Giving in too easily to the media instead of standing up for yourself
- 3. Agreeing to instant interviews instead of making sure you allow enough time for proper preparation
- 4. Believing every word in the journalist's questions
- 5. Being far too polite if you're asked impertinent or ill-mannered questions
- 6. Forgetting your bridging phrases and sitting there with an open mouth and blank mind
- 7. Know party manifesto and current position on issue at hand
- 8. Failing to have key messages and delivering them
- 9. Not injecting some "entertainment value" into the interview
- 10. Not being passionate about your messages
- 11. Not understanding the limitations of radio and TV compared with print

SESSION THREE

PREPARING FOR MEDIA/ INTERVIEW

RIGHTS AND RESPONSIBILITIES:

PARLIAMENTARIAN is expected to be familiar with following for an effective interaction on/with media:

1. **Constitutional Knowledge:** MPs should be aware of key Constitutional Provisions. Especially such provisions that define parliamentary authority, basis of Pakistan's state as envisaged by the Preamble – i.e Pakistan is a federal, Islamic, Parliamentary Democratic and Welfare state. You must know the fundamental rights of people and the Principles of Policy of State given in initial two chapters of the Constitution. It ll help you analyse to what extent a government is delivering with regard to people's rights.
2. **Parliamentary Rules:** Always master the Rules of Procedures of your House that empower you so that you can be prepared on media. MPs can easily be held accountable and they can respond about what different tools of parliamentary business are being utilised by them, e.g Question Hour, Adjournment Motion, Calling Attention Notice and Parliamentary Committees, etc to highlight their priorities and aspirations of people they represent.
3. **Utilize Research Support to Prepare Yourself on Current Issues In and Outside Parliament:** Utilizing the research support available at the Secretariat and the Research wing of the Pakistan Institute for Parliamentary Services, (PIPS), MPs must be well read or familiarize with Current Parliamentary Agenda and Issues of debate at a time, e.g energy crisis, electoral reforms, IDPs, Pak China Relations, Indo Pak border skirmishes, Kashmir Issue after Modi's arrival as Indian PM, Privatization, Provincialism, etc.
4. **Always know your Manifesto and latest party position on the current matters of national and provincial importance.**
5. **Know the Model of Good Governance:** It can help you two fold when interacting with media. If you are an MP on treasury benches you can objectively project the government's performance on parameters of good governance. In case you sit on opposition benches, same parameters can help you gauge and criticize government policies and implementation as well as priorities and neglects.

The Model is briefly discussed as under:

What is Governance: To manage a country's businesses, governance is usually applied to regulate its political, administrative and economic affairs as it is mandatory for political stability, social harmony, public order, economic prosperity and for future. Governance is

thus a process of decision-making and the method by which decisions are executed. Citizens and groups articulate their interests, use their legal rights, meet their obligations and mediate their differences through the mechanisms and procedures included in governance.

“Good governance” is standardized idea of the values and subcategory of governance according to which the act of Governance is realized, and the method by which groups of social actors interact in a certain social situation. It generally emphasizes on the formal and informal actors which are involved in decision-making and implementing the decisions made by the government. It also includes the formal and informal structures set in place to reach at and implement the decision wherein public resources and problems are managed effectively, efficiently and in response to critical requirements of society.

Good Governance and the society

Establishment of Rule of law is the preliminary condition of good governance superseding the rule of whims and caprice of the power that be. Good governance stresses that government must be representative and responsive to the fundamental needs of the society. A strong sense of responsiveness and commitment to serve the governed ensures efficient delivery of services to the people. Hence good governance aims at the spirit of an organized and responsible democratic society and makes available moral legitimacy, apart from constitutional validity, and credibility to the goals as well as instrumentalities of government. Good governance holds within itself all sections of governance and society. It depends upon variety of factors such as developmental stage of the country, administrative capacity as well as external state of affairs. Every institution and organization in the society ranging from the family to the state is a part of good governance. It deals with all methods - good and bad - that societies use to distribute power and manage public resources and problems.

Goals of Good Governance are¹.

1. Improving effective and efficient administration;
2. Improving quality of life of citizens;
3. Establishing legitimacy and credibility of institutions;
4. Making administration responsive, citizen-friendly and citizen-caring;
5. Ensuring accountability;
6. Securing freedom of information and expression;
7. Reducing cost of governance;
8. Making every department result-oriented;
9. Improving quality of public services;

¹Meetika Shrivastav (2009) Good governance-concept, meaning and features: A detailed Study

10. Improving productivity of employees;
11. Eradication of corruption to re-establish credibility of government;
12. Removal of arbitrariness in exercise of authority; and
13. Use of IT base services to de-mystify procedures and improve the citizen-government interface.

Principles of Good Governance

Good governance is very important aspect of governance as it is participatory, transparent and accountable. It is also effective and impartial, and promotes the rule of law. It guarantees that political, social and economic priorities are based integrity and consensus in society. It also ensures that the allocation of resources is deemed upon voices of the poorest and the most helpless masses.

8 major characteristics: Participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive; follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society.

Fig 1: Characteristics of good Governance³

1. Participation



Participation by both men and women is a key foundation of good governance which could be either direct or through legitimate intermediate institutions or representatives. However representative democracy does not necessarily mean that the concerns of the most vulnerable in society would be taken into consideration in decision making. There is a need

of organized and well informed participation which means that there should be freedom of expression and association as well as an organized society.

The principle of participation derives from an acceptance that people are at the soul of progress and development as they act as the mediators and the ultimate beneficiaries of development. They act through groups or links (e.g., chambers of commerce, nongovernmental organizations, political parties) and as individuals (e.g., voting, via letters to newspaper editors, contributing in radio and television talk shows) and influence the Policy- making, prioritization of issues, services as well as allocation of resources. Since for the developmental process, the people must access to the institutions that promote it (e.g., representative organizations).

Generally, there are three pillars of public involvement:

1. Access to information-Actively or directly from government organizations due to procedural rights of public information or passively upon request
2. Participation in decision making process
3. Access to justice

The aforementioned pillars are also known in environmental law parlance as *third generation human rights* or *environmental rights*. They are also part of the basic principles of good governance. Public involvement have various dimensions as from a human rights dimension, people have the right to know, to be informed and participate in decisions that affect them as well as seeking redress while from a legal, ethical and moral dimension, citizens and government officials are obliged to ensure good governance. It has been argued that government processes are improved through public involvement.

Participation is often linked to accountability as in representative democracies, public officials are made accountable to the electorate via citizens who participate in government through the electoral process. Benefits of this participatory approach include improved performance and sustainability of policies, programs, and projects.

2. Rule of law

Fair legal frameworks comprising laws, regulations and codes to enforce impartiality and full protection of human rights, particularly the minorities are the necessities of Good governance. Independent judiciary and an unbiased and incorruptible police force are vital for impartial enforcement of laws. In good governance availability of information is critical for the promotion of procedural rights where accountability and enhanced delivery could improve the institutional changes. An accurate diagnosis of poor governance could effectively eliminate the factors for poverty reduction and improve sustainable development organization/ institution.

3. Transparency

In transparency decisions are taken and enacted in such a way that they follow rules and regulations. Transparency refers to the availability and access of information to those who will be affected by those decisions and their enforcements. The government rules, regulations and decisions are made clear to all stakeholders to ensure transparency which promotes openness in government actions and decision making process.

Good governance is often compromised by lack of transparency and weak accountability. Transparency is neglected when generator of information limits the access to timely and accurate information which is necessary to strengthen the citizens and society. Free flow of information and government policies could be vital for making economic decisions in government and private sector. Government institutions, civil society and external institutions scrutinize this information to counteract corruption because it diverts the resources from meeting the needs of the poor and benefits do not reach the intended beneficiaries.

Transparency in government decision making and public policy implementation lessens uncertainty. Easy to handle, simple and straightforward rules and regulations are adopted than to those that provide discretionary powers to government officials or organizations. However sometimes it is necessary to place limits on transparency to protect the most confidential information such as information related to defense and security of a country. Similarly in order to encourage innovation and invention, intellectual property rights may need to be protected but decision making on the establishment of intellectual property and rights should be transparent.

4. Responsiveness

The fundamental requirement of Good governance is that institutions and processes try to serve all stakeholders within a reasonable timeframe.

5. Consensus oriented

In a given society, there are several stakeholders and opinions. To reach broad consensus good governance requires mediation of the different interests in a society on what is in the best interest of the whole community and how this can be achieved. Wide-ranging and long-term perspective is needed to know what the requirement for sustainable human development is and how the goals of such development could be achieved. An understanding of the historical, cultural and social contexts of a given society or community is the only way to achieve this goal.

6. Equitable and Inclusive

All members of a society including men and women particularly the most susceptible one's have opportunities to improve or maintain their well-being realizing them that they are an imperative part of the society and not to feel exempted from the mainstream of the society.

7. Effectiveness and efficiency

Good governance means that by the best use of resources the processes and institutions produce results that meet the needs of society which ultimately leads to the effective public delivery system and quality outputs. The idea of efficiency refers that minimized cost is involved and sustainable use of natural resources and the protection of the environment is ensured.

8. Accountability

Accountability is the prerequisite of good governance. Generally, an organization or an institution is accountable to those who will be affected by its decisions or actions. It sets criteria to assess the performance of public officials and supervise mechanisms to ensure that the goals are achieved and standards are met. Governmental institution, private sector and civil society organizations must be accountable to the public and to their institutional stakeholders. The accountability is usually determined by the internal or external decisions of an organization, which determine who is responsible to whom and why. Accountability has a strong bond with transparency, information sharing and rule of law. One cannot enforce accountability without access to proper information. Transparency is a precondition for accountability without which one cannot have access clear, up-to-date and accurate information and it is difficult to judge whether standards have been met or not. It makes public officials answerable and responsive for their actions to the public and is achieved differently in different countries or political system, depending on the history, cultural background, and value systems involved.

A state's credibility, as an economic partner is reduced due to lack of accountability as it weakens the capacity of governments to sustain the long-term business confidence essential for growth enhancing private sector investment. In private sector the evaluation of economy and financial performance is usually facilitated by accountability.

Governance, Transparency and Accountability-The Interlinkage

The concept of good governance is often used in political science, public administration, development management, human rights, and sustainable development. It possesses eight elements. It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It requires transparency and accountability in different organizations/ government agencies. Conceptually, transparency, and accountability in governance tend to be mutually supportive and reinforcing. Accountability requires transparency, both function best where laws are sound and widely

supported. Accountability, and Transparency are technical and legal issues at some levels, but also interactive to produce government that is legitimate, effective, and widely supported by citizens, as well as a civil society that is strong, open, and capable of playing a positive role in politics and government.

At political level transparency and administration are needed for policy making. Good governance is easily achieved in multi-party system rather than in mono-party system. It ensures free and fair elections by limiting the state powers. Community is the key element under the chain of accountability and is represented by the members elected in the parliament. Thus parliament represents the community neither the executive nor its ministers. Executive government is then assigned responsibility as a representative or trustee who further assigns duties and discretionary powers through administration, policy and regulations to the managers of the public sector organizations/ institutions. These managers can discharge their accountability functions effectively and efficiently if they know to whom they are accountable and for what. Likewise, they can hold others accountable only if they understand who is accountable to them and for what. Similarly a transparent government makes it clear what is being done, how and why actions take place, who is involved, and by what standards decisions are made. In the absence of accountability to affected groups, even predictable decision making of autonomous government agencies may result in the latter placing agency interests above those of the former.

Similarly, transparency and information openness cannot be assured without legal frameworks that balance the right to disclosure against the right of confidentiality, and without institutions that accept accountability. A transparent system facilitates governmental accountability, participation, and predictability of outcomes.

Interview subjects have the right to:

- i. Know the interview topics in advance
- ii. Know the identity and affiliation of the reporter
- iii. Ask about who else will be interviewed for the story
- iv. State their key points and, if appropriate, restate them
- v. Have some control over the interview environment
- vi. Bring up relevant topics and points not specifically asked for in questioning
- vii. Know how the material will be used, and who else is being interviewed for the story.
- viii. Respond to accusations
- ix. Correct misstatements and misinformation
- x. Finish responses without interruption

- xi. Restate obscure or lengthy questions

Journalists/Anchor conducting interviews have the right to:

- i. Reasonable access to legitimate news sources
- ii. Have the reporter's deadlines and logistical needs considered
- iii. Receive concise direct answers to relevant questions
- iv. Receive a timely response to an inquiry
- v. Conduct follow-up inquiries where needed for clarification
- vi. Request and receive printed or visual material to flesh out interview information
- vii. Receive correct information if incorrect information is inadvertently given
- viii. Redirect the discussion to the subject under investigation
- ix. Evaluate and report the story as the reporter sees it
- x. The interviewer is also entitled to same kind of courtesy and respect

SESSION FOUR

INTERVIEW FORMATS AND RELATED TIPS

INTERVIEW FORMATS

1. *Face-to-face pre-tape for radio and TV*

- a. This taped interview is done in person, edited and aired later, sometimes as part of a report, sometimes in its entirety.
- b. Be prepared with key messages and special quotes.
- c. Speak clearly but naturally. Vary the pace and inflection of your voice.
- d. Sit comfortably. Avoid jargon, technical terms, statistics, and too many facts.
- e. Speak conversationally and avoid being verbose - don't read notes.
- f. Be careful of shuffling paper noises.
- g. Use short anecdotes and examples that enhance your "story."
- h. If the reporter's tone turns nasty, don't match it.
- i. Don't be afraid to make the same main point a few times throughout the interview.

2. *Live in-studio or telephone interview*

- a. No editing here, this kind of interview goes on the air live. Remember, message, message, message!
- b. Arrive in advance so you don't sound out of breath. If you are nervous, take three deep breaths.
- c. It's a conversation. Try to enjoy it (you can use humour if it's appropriate).
- d. Turn off your cell phone.
- e. Remember that you are talking to the program's listeners, not the host.

3. *Live or pre-tape with other guests*

- a. With this format, the reporter interviews a group of experts, each of whom represents different points of view on the topic at hand. Be ready for confrontation or controversy.
- b. Know what key messages/points you want to make, and look for opportunities to insert this information during the conversation.
- c. Avoid a dogfight on air. Deliver your argument clearly and conversationally.

4. *Live call-in for radio*

- a. After a brief discussion with the reporter, listeners will call in with questions for you. Be ready to answer difficult questions.
- b. Be prepared with your key messages and some illustrative examples and/or anecdotes.
- c. Be prepared with messages and stories in case callers are slow to call.
- d. Respect the caller. Be polite.

- e. You can insert comments such as “That’s a good point but in practice (and then move to your key message).
- f. Always keep your tone friendly. You might want to say: “I guess we’ll just have to agree to disagree.” or “I’m sorry I can’t persuade you, but here are some facts that show another picture....”

5. *Radio news interview*

- a. Probably the shortest interview type; clips of an interview with you will be put into short radio news items. You will want to prepare messages in 20-second (maximum) clips.
- b. Be prepared in advance with one or two strong ‘quotable quotes’ (your main messages condensed down to single sentences) and don’t be afraid to repeat these.
- c. Reporters will look for sound clips that offer emotion, controversy, and gripping examples. Typically, they will paraphrase any facts you present, and use clips of you saying your ‘quotable quotes.’
- d. Never say anything is “off the record” as it never is.

6. *Documentary interviews for radio and TV*

- a. Longer interviews with great messaging opportunity.
- b. Documentary producers are also looking for good clips. Be prepared with anecdotes or short stories that illustrate your key points.
- c. If you feel tired etc., take a break. If you don’t, you may share information you did not mean to share.

7. *Live TV interview*

- a. No editing here ... Message, message, message!
- b. Arrive in advance so you don’t sound out of breath. If you are nervous, take three deep breaths.
- c. It’s a conversation. Try to enjoy it (you can use humour if it’s appropriate).
- d. Turn off your cell phone!

TIPS TO PREPARE FOR RADIO INTERVIEWS

- Prepare and do Evaluate yourself
- Focus on your key message(s)
- Speak conversationally
- Make the medium work for you
- Sit comfortably
- Avoid nervous habits
- Avoid saying ‘No comment’
- Avoid confrontation

WANT TO GET QUOTED? SAY IT IN A SOUND BITE

It's the single most effective way of transmitting a message. In this age of headline news, you must appeal to people with short attention spans and limited time. So regardless of what you have to say, say it quickly and with impact.

1. Write down your main points - and limit the number to just three or four
2. Say your main points over and over
3. Be prepared to give a closing statement

TIPS TO PREPARE FOR TELEVISION INTERVIEWS

1. Confirm Details
2. Focus on your key message(s)
3. Prepare

Make Yourself Comfortable - Follow Best Interview Practices

1. Be yourself. Be natural.
2. Speak in lay terms. Don't use any technical language or industry jargon.
3. Assume that you will be on the air for every second of the program. (Don't make a gesture or say something you don't want broadcast.)
4. Assume that anything you say to the reporter could be brought into the interview, even if it's a casual remark made during a pre-taping chat.
5. Keep the real, at-home audience in mind.
6. Direct your remarks to them.
7. Look at the reporter, not the camera.
8. Limit your answers to about three sentences.

Avoid Bad Interview Practices

Try to avoid the following:

1. Don't look at the monitor during the interview.
2. Don't speak for someone who isn't present.
3. Don't let any misleading statements trap you.
4. Avoid nervous habits.
5. Never fill in 'dead' time; that's the interviewer's job.

TIPS for TV INTERVIEWS

1. Remember that TV is pictures

- a. Unlike radio, TV is a medium of images. Your visual appearance can help with the success of the interview; a few simple things can make a big difference.
- b. Wear neat, comfortable clothing:
 - It should be something that makes you feel good about yourself & helps get your message across.

- Bright, solid colours look best on camera.
 - Avoid small, busy patterns or shiny fabrics.
 - Don't wear overpowering scarves or ties.
 - Avoid wearing large, dangling, shiny jewellery.
 - Wear formal dress
- c. Makeup, powder, and lipstick will help you avoid looking "washed out" by the bright lights.
 - d. Comb your hair.
 - e. Check your appearance on the TV monitor beforehand, if possible

2. ***Avoid confrontation***

- a. Don't get into an argument.
- b. If the reporter's tone turns nasty, don't match it. Stick to positive statements and messages.
- c. Never become defensive or angry. Maintain your composure at all times
- d. Keep to your own agenda by answering each question with a direct factual statement followed by a relevant key message.
- e. Don't be afraid to admit mistakes. A useful phrase is: "What I can tell you is..."

3. ***Never say Never***

- a. Never say "no comment."
- b. Never offer any information "off the record" or "just between you and me."

4. ***Evaluate yourself***

FREE PRESS – THE SHAPER OF PUBLIC OPINION

Article 19 of the Pakistan Constitution recognizes and establishes the principle of a free press:

Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press...

Free press shapes the opinions, attitudes and perceptions of the vast majority of people about their representatives in the national and provincial parliaments.

For example:

- **Reporters and journalists covering a parliamentary body report** to the public about its activities on a daily basis.
- **Editorial writers and commentators offering comments and criticism** on which many citizens rely to help them form their opinions.
- **Newspapers, radio and television providing citizens with information** about the parliament's plenary sessions, its committee meetings and hearings, and proposed legislation under its review.
- **Media coverage of parliamentary activities providing members with a venue** to explain their decisions and actions to the citizens.

- Without free press, the public will simply not have enough information to hold their elected representatives accountable for their actions.

HOW CAN PARLIAMENTS AND PARLIAMENTARIANS SUPPORT BETTER COVERAGE?

(Source: Adapted from Parliament and the Media – Securing an Effective Relationship, Nixon K. Kariithi, Rhodes University, South Africa, A Report on the proceedings of the Indian Ocean Rim Conference on Parliament and the Media, 14-18 April 2002, at the Parliament of South Africa, Cape Town)

To support better coverage, Parliaments and Parliamentarians must:

1. Realize the **significance and importance of media** in contributing towards a **knowledgeable and well-informed society**.
2. Acknowledge the fact that the media gives **expression to public grievances and difficulties**.
3. Appreciate the fact that it is through the press and other mass media that the parliament **enjoys so much publicity** and it is through them that the parliament **gathers information**, which helps it to **supervise and control the Executive** effectively.
4. Be sufficiently **aware** about the **needs, requirements, aspirations and expectations of the people**.
5. Provide **timely, comprehensive and factual information** to the news media. Be **as accommodating as possible to media deadline requirements** so as to get the desired coverage of a plenary session, committee meeting or hearing, or an interview with a reporter. Therefore,
 - a. Deliver **parliamentary speeches promptly** to the media.
 - b. Respond to **journalists' and reporters' questions** for information and assistance **as honestly as possible**.
 - c. Discuss the **vital issues of the day** in the Parliament without wasting any time on trivial issues.
6. **Open the committee proceedings** to the media. The committee leaders should provide journalists and reporters with **written agendas in advance** of the meetings. They should also encourage newspaper reporters to ask their newspapers to **print the committee's meeting and public hearing schedules**.
7. Encourage the **television and radio stations** to provide **live coverage of plenary sessions**.
8. Provide the necessary **facilities** to the parliamentary reporters so that they can do their work effectively:
 - d. Allocate **seating areas** for journalists and reporters in the **meeting chambers**.

- e. Provide **full access to the parliamentary library and online information services.**
- 9. Help the journalists and reporters to develop an **in depth understanding of the complexities and intricacies of the parliamentary process.**
- 10. Launch **special training programmes** for media practitioners to equip them with **special skills and techniques on parliamentary reporting**
- 11. Take steps to raise the standard of parliamentary debate by:
 - a. Striving to **elect high-calibre candidates;**
 - b. Enhancing **research support;** and
 - c. Discouraging **unruly behaviour, abusive language and personal attacks** in the Chamber, which inevitably lead to adverse media coverage.
- 12. Urge Ministers and Members to **deliver important statements and reports within the Parliament.**
- 13. Know how to **humour and befriend** the press and refrain from maintaining **adversarial relations** with the media.
- 14. Be **honest and open** in all their dealings with the media.

Take **full advantage** of the benefits offered by the **cutting-edge information communications technology.**

SESSION FIVE

UNDERSTANDING LEGISLATION

STRUCTURE OF A BILL

1. Introductory formalities

- a. **The Long Title:** The long title of an Act is an introduction of the Act to strangers. It should, therefore, summarize very briefly the main provisions of the Act. The long title appears at very beginning of the Act. It is not given the form of a section, and is placed before the preamble. It usually begins with words “**An Act to provide for...**”
- b. **The Preamble:** A Preamble is usually inserted to serve as a preface to an Act. It indicates the reasons that weighed with the Legislature in passing the Act. Care must be taken to see that there is consistency between the preamble and the body of the Act. The preamble helps the courts in solution of doubtful points in interpretation of an Act and to unlock the mind of its makers. A preamble need not be inserted in purely formal enactments. It usually begins with the word: “**Whereas...**”
- c. **Enacting Clause:** The enacting clause is not given the form of a section. It is placed immediately before first section of the bill, and after the preamble.

It is usually in any of the following forms:

“Be it enacted by the Parliament of Pakistan as follows:”

“Be it enacted that...”

“It is enacted as follows:”

“It is hereby enacted as follows:”

The last one is in use in our country but it is better to use “It is enacted as follows:” to avoid legalese like “hereby”.

d. General and Substantive Provisions

e. Short title:

Purpose of short title: A short title is the label of the Act. It is used to supply a convenient way of citing a cohesive body of law that deals comprehensively with the subject. Short titles are appropriate for major Acts but should not be used to make otherwise routine bills look important. Draft a short title section in this form:

Section 1. Short Title. This Act may be cited as the Agriculture Pesticides Act, 1991.

Practices to Avoid: It is generally wise to avoid:

- (i) Including “the” as the first word of a short title*;
- (ii) Using “Pakistan” in a Short title – it is superfluous;

(iii) Using a Short title for a chapter or other part of an enacted code or other statute that itself already has a short title; or

(iv) Using a short title for a purely amendatory Act.

Requirement of short title:

1. It must not be too long.
 2. It must not be too short. It must serve as good sign-board for the Act.
 3. It must not be misnomer. It should not mislead the reader by concealing or by understanding or overstating the description of the Act.
- f. **Commencement and Extent Clauses:** A Law passed by the Parliament is applicable throughout the country except where the statute itself expressly provides otherwise.

An extent clause may be unnecessary in an Act which indicates the areas to which it applies, or denotes persons who are subject to it, or signifies things which come under its purview e.g. the Mussalman Wakf Validating Act, the North West Frontier Province Act, or the Government Saving Certificate Act.

The practice is to place the short title, the extent clause and the commencement clause in a single section divided into sub-sections.

The commencement clause in statutes usually runs as follows:

“This Act shall come into force on...”

If the intention is to give retrospective effect to an enactment, the form usually adopted is –

“This Act shall be deemed to have come into force on...”

The general rule is that in the absence of any express provision to the contrary an Act comes into force on the day it receives the assent of the President. An Act intended to take effect at once need not, therefore, have a commencement clause. As the printing and publication of the Act is likely to take some time, the commencement clause should not be drafted so as to make the Act come into force “at once”, as in such cases, sometime would be left between the commencement and the publication, and public might be unaware of the Act even though it has come into force before publication.

In such cases, the commencement clause should be worded as follows:

“This Act shall come into force on its publication...”

The words “from... day” should never be used. Use of the word “from” normally excludes the day specified, and the document takes effect only on the next day.

Sometimes instead of commencement of the entire Act in the whole country on one date, it may be necessary to provide “partial” commencement. Commencement of an Act may be partial in respect of:

1. Parts of an Act;
2. Area
3. Subjects; or
4. One or more of these matters

(a) Different parts of an Act may be brought into force at different times. A sample of the commencement clause in such a case is given below:

“Part ... of this Act shall come into force on ... and the remaining provisions of this Act shall come into force on such date as the Government may, by notification in the official Gazette, appoint”.

(b) An Act may be made to commence at one time in area, and at another time in another area. In that case, the form may be:

“This Act shall come into force on such date as the Government may, by notification in the official Gazette, appoint”.

(c) An Act may, in relation to different areas and for brought into force at different times Sample:

“This Act shall come into force at once; but chapter... shall take effect only from such date as the Government may, by notification in the official Gazette, appoint in this behalf, and Chapter... shall take effect in a particular Province only from such date as the Government may, by like notification, appoint in this behalf”.

The law does not generally take into account the fractions of a day, although sometimes it is important. The hour of commencement of an Act is not mentioned.

g. Definitions:

1. ***Role of Definitions.*** Definition is very useful tool of a drafter. It can assist him in a number of ways. It avoids repetition and reduces the number of words. It avoids inconsistency by defining the word only once. It aids in precision by not leaving it up to the reader to define the word.

A definition should be used only to explain the meaning that a term is intended to carry. It should be used only when necessary. The main use of definition in legal instruments is to achieve clarity and consistency without repetition.

2. ***Location of Definitions.*** Definitions should be placed where they can be found most easily. A term that is used only in one section should be defined in that section. A term used only in one chapter should be defined at the beginning of that chapter. A term that is used throughout the Act should be defined at or near the

beginning of the Act. The practice is to place definitions in a section after short title, commencement and extent clauses.

3. ***Form of definition section:*** The definitions are arranged in alphabetical order and normally they are not given serial number. Each definition starts with a capital letter and is complete sentence with a full stop. A definition section should be in the following form, if it is for the whole Act:

Section 2. In this Act:

“Department” means the Fisheries Department

“Oath” includes affirmation

“Vehicle” does not include roller skates

Principles to be kept in mind:

- i. Use a definition only when meaning of a word is important and it is used more than once.
- ii. A definition should say that a word either ‘means’ or ‘includes’ the remainder of the words used in the definition.
 - a. If the definition is intended to be exhaustive and exclude everything not included in the definition, use ‘ means’.
 - b. If the definition is intended to be only partial and permit the word to be applied to things not included in the definition, use ‘includes’
 - c. Never use the ambiguous expression “means and includes”
 - d. Do not define a word to mean something it is not usually understood to mean. Do not define “dog” to include “cat” or “solid” to include “liquid”.
- iii. Do not include a substantive provision in a definition.
- iv. Do not include the word defined in the definition.
- v. Avoid definitions that recite the obvious.
- vi. Use indicative and not imperative mood in the definition.

Don’t say: In this Act “explosive” shall mean...”

Say : In this Act “explosive” means...

4. Adoption of definition by reference

- i. When it is desired that a term have the same meaning when used in separate but related laws, it may be useful to include a definition in the second law that adopts by reference the definition in the first law. For example:

34.001. Definition. In this Act “driver’s license” has the meaning assigned by Section... of the ... Act.

- ii. The incorporation by reference of a statute sometimes raises a question of whether the legislature intends for the incorporation to include future

amendments of that statute or merely means to refer to the incorporated text as it exists on the date of incorporation. In most contexts, given the principle that a law “speaks” when read, not just when enacted, intent to include future amendments will be evident, but if doubt exists, the drafter can adopt the particular provision, “including any amendment or revision of that provision”.

- iii. A drafter should use adoption of a definition by reference only when it is desired to maintain parallel meaning and not merely to save words; in the later circumstance, the future amendment of the adopted definition could produce unforeseen and unfortunate consequences.

h. Principal Operating Provisions:

- i. **Types of provisions:** Most statutory provisions may be classified into four major categories:
 1. **General Provisions:** Such as short titles, commencement and extent sections, and definitions, which relate primarily to the text of the statute rather than to persons or agencies.
 2. **Administrative Provisions:** Which relate to the creation, organization, powers, and procedures of the governmental units that enforce or adjudicate the law.
 3. **Substantive Provisions:** Which give to or impose on a class of persons rights, duties, powers, and privileges.
 4. **Enforcement Provisions:** Which provide a particular kind of enforcement that is in addition to the remedial powers of the governmental units.

** The second and third of these categories comprise the principal operative provisions.*

Not all bills will have all these types of provisions. Many will contain only one or two of them, relaying by implication on the operative provisions of existing law. For example, a bill creating a penal offence will rely on other law to create courts and to empower police officers to arrest offenders. It is generally best to organize a new law so that the operative provisions appear in the order indicated by this sub-section.

- ii. **Organizing operative provisions:** Sorting the operative provisions of a bill into the categories indicated does not complete task of organization: within each category, individual sections (and even smaller units) should be organized in a logical order to make the proposed statute as readable and easy to use as possible. The following general principles should be followed in organizing any draft:
 1. Assume that provisions will be read in the order in which they appear. Avoid arranging a bill in such a way that a provision makes no sense until a subsequent provision is read.

2. Provisions should appear in the order of their importance, beginning with the most important. General provisions should precede special ones; the general rule should precede an exception.
 3. To the extent possible, provisions dealing with the same subject should be grouped together.
- iii. **Heading for Parts of Bill:** Heading may be given to parts of a bill denominated as titles, sub-titles, chapters, articles, or sections, but not for similar units. The use of heading occurs most frequently in tandem with a section or an article. It generally is printed in boldfaced type and precedes the word “section” or follows the word “article”.

Auxiliary verbs, adverbs, adjectives, and the parts of speech known as articles are usually excluded from headings to promote brevity and pithiness. If more than one central idea is expressed in the unit of text for which a heading is brought composed, phrases may be linked by semicolons. If several major thoughts are included in the unit of text, however, the unit probably should be divided.

Headings are only a helpful guide to the relative location of the contents of a bill and do not merit a greater amount of concern. A drafter may dispense with headings altogether although statute publishers will supply them at the time of publication. When inserting a new section or article into an existing body of law, it is certainly advisable to conform to the precedent regarding headings that has been set in the law being amended. If headings are used, they should be used for all sections.

i. **Enforcement Provisions civil or criminal:**

The purpose of the law is to govern conduct. This is often accomplished by announcing a rule, which may be a mandate of prohibition, and prescribing a punishment for noncompliance or a reward for compliance.

- a. The announcement of a rule is referred to as a “substantive provision” and the prescribing of consequence is called an “enforcement provision”. It is with the latter type of provision that this section is concerned.
- b. Not every statute neatly segregates substantive from enforcement provisions. A law that provides that “A person who slanders the king shall be hanged” is equivalent to the substantive provision “A person who violates this law shall be hanged.” It is usually better organization, however, to separate substance and enforcement in all but simple statutes.
- c. The following discussion focuses on some of the more common types of enforcement provision, both civil and criminal. The suggestion of a variety of enforcement alternatives should assist the drafter who is called on to suggest an appropriate means of enforcing a rule of conduct.

1. ***Criminal Enforcement:*** Before creating a criminal offence, first determine whether the conduct sought to be prohibited is already proscribed by any existing law. Some Acts contain penal provisions that duplicate offence contained in the Penal Code or other law. Creating an offence that duplicates an existing one is not merely wasted legislative effort, but it may impliedly repeal or otherwise impair the effectiveness of existing law.

Another thing to consider when creating an offence is whether to place the new provision in the Penal Code. Do not include in the code an offence that, based on its subject matter, could logically be placed in another code or statute.

Competent drafting of penal provision requires at least a working knowledge of substantive criminal law and, particularly, familiarity with the Penal Code. The preferred format for defining a criminal offence is that used by the Penal Code.

2. ***Civil Penalties:*** A civil penalty is an enforcement mechanism by which a wrongdoer is made civilly liable to the state or a political subdivision for an amount of money. Although the penalty resembles a fine, the fact that it is civil rather than criminal obviates the strict burden of proof required to establish criminal responsibility.
3. ***Private Enforcement:*** The creation or extinguishment of civil liability between private parties may be used to create an enforcement mechanism that requires no governmental intervention other than the ordinary operation of the judicial process.

In cases in which liability already exists but is seldom enforced, enforcement may be made more attractive by such means as enhancing the measure of damages, creating favorable presumption, authorizing extraordinary remedies or providing for the award of advocate's fee.

4. ***Creation of Liability:*** A provision creating a cause of action is usually relatively uncomplicated, consisting of a description of the conduct creating liability, a statement of the remedy, and in some cases, treatment of defences or evidentiary rules.
5. ***Extinguishment of Liability:*** Sometimes the harm sought to be remedied is the existence of liability the legislature considers to be contrary to the public interest. By extinguishing this liability and thereby denying the use of the courts to enforce it, an enforcement mechanism is created that requires no governmental action at all.

j. Statement of Object and Reasons:

At the end of a bill, a statement of object and reasons is appended. This explains ‘why’ of the bill. The statement is intended to tell the legislators, the reasons that necessitated the legislation intended through a bill. This is not a part of the bill and is not to be voted upon by the Legislature. A bill contains a statement of object and reasons but an Act does not. It is not published with the Act.

Outline and Constituents/Parts of a Bill with Illustrations/examples

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 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** It is hereby enacted as follows",
Would read
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".

**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:

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.

SESSION SIX

BILL DRAFTING AND ASSESSING PROCESS

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 within 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. How a 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') measures 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.

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 grasp 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 also furnish the entire material for the drafting of the Bill. Preparation of the memorandum is the first of the three fundamental steps in legislative 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 to 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 case 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 the 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.

10. Upon introduction a Bill, other than a Finance Bill shall stand referred to the Standing Committee concerned. Parliamentarians need to empower themselves with the skills to assess a legislation in order to substantially contribute in development of a legislation that serves the purpose of instigating intended behavioural change in the society. **A famous Problem Solving Theory and model of assessing legislation is discussed later in the session.**

ASSESSING LEGISLATION - UNDERTAKING RESEARCH TO ASSESS LEGISLATION

Function of Legislative Theory

Assessing Legislation is at the heart of legislative research as many times the Honorable Members and Senators would like to have quick analysis of a bill. It would include its intended impact analysis as well as the public opinion on the same. It is thus desirable that a legislative researcher is well equipped with the modern legislative theory so as to flag the pros and cons of a bill tabled in the House.

Legislative 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.



An 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, legislative theory offers a methodology that, at every step, guides the researcher to gauge a bill objectively and identify its pros and cons accordingly.

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 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.

1. **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?
2. **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 legislative researcher does not end with the enactment of a bill. Like life itself, lawmaking involves solving one problem after another and thus legislative research is required before, during and after the enactment of a law.

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 (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.

How to flag 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: *Rule, Opportunity, Capacity, Communication, Interest, Process and Ideology*. (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.

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 ROCCPI 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.

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 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.

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.

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 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 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. 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.

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. 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 ROCCPI analysis.
- Show – ROCCPI solutions
 - ☐ The alternative solutions considered;
 - ☐ That the bill's detailed provisions seem likely to overcome the identified causes;
 - ☐ 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.

GROUP ACTIVITY: ANALYSE A GIVEN BILL ...APPLY THE ROCCIPI MODEL AND WRITE DOWN KEY FINDINGS...QUALITIES AND SHORTCOMINGS OF THE BILL:

[illegible]

[illegible]

11. 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 the other House; and, if the Bill is passed without amendment, by the other House also, it is presented to the President for assent.

12. 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.

13. 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.

14. A Money Bill shall originate in the Natio'lal 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.

15. 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.
- (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:

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

- (i) 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.
- (ii) The special provision controls the general provisions.
- (iii) The legislature does not intend to oust or limit the jurisdiction of superior courts except to the extent it expressly declares.
- (iv) Unless expressly declared, a statute does not have retrospective operation.

PAKISTAN INSTITUTE FOR PARLIAMENTARY SERVICES

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