

Lawmaking and Stages of Legislative Procedure

Legislative bodies pay three broad overlapping roles; *they legislate, they represent, and exercise oversight of the executive*. *Representation* has two dimensions: legislators act as intermediaries for constituents in dealings with government agencies; and they act individually or collectively to represent constituent interests in the policy-making process. *Oversight* is the legislature holding the executive accountable for its actions and spending and includes the process whereby the legislature and executive work together to ensure that laws are operating as designed. The *legislative function* refers to the process of introducing, considering and enacting laws. This function is generally less important in parliamentary systems than in presidential ones.

Each legislature develops a series of steps through which legislation proceeds to the "floor" of the legislature to ensure that the proposed legislation is sufficiently considered and deliberated upon. In most legislatures, bills, or proposed legislation, are first introduced formally to the parliament or the "floor" of the house. The proposed "bill" is then referred to a specialized committee for more thorough consideration. In some legislatures, committees have the power to prevent unwanted legislation from being further considered, in others; the committee stage may be merely a formality. Following the committee review proposed bills are then reported back to the floor for further debate and voting. Below is a brief description of the legislative process. (For more information on a legislature's roles in initiating and amending legislation, **The Legislative Function: Who Formulates, Initiates and Amends Legislation?** under **Governing Systems and Executive-Legislative Relations.**)

Preparation: In most legislatures, particularly those with parliamentary systems, the majority of bills are researched, developed and drafted by the executive branch (i.e. the Prime Minister and his or her cabinet initiate legislation). In presidential systems, executive departments too play a prominent role in initiating legislation because of their power and expertise. But in some presidential systems, and in a smaller portion of parliamentary systems, committees possessing sufficient resources also initiate their own studies and conduct public hearings on public policy issues.

Non-governmental organizations, interest groups or experts may be consulted during this stage. In some countries, study commissions are formed (which often consist of outside experts) to review a major bill or collection of bills. The commissions' reports are usually then submitted for public comment.

In some legislative bodies, the right and capacity of individual members to introduce legislation is in transition. The Parliament of Zimbabwe, for example, only recently adopted changes to recognize the right of members to introduce private member measure. Even where this right exists, exercising it often requires help in researching and in drafting legislation.

Introduction on the Floor: In a parliamentary system, this includes a brief speech by the Prime Minister, a formal announcement to the parliament and written notice in a printed transcript. In a presidential system, bills can be and often are introduced by individual members. They are introduced on the floor by the chamber's presiding officer.

Referral to Committee and/or Second Reading: In the presidential system, bills are immediately referred to the permanent committees without debate. In systems with large volumes of proposed

measures to consider, this is the stage at which most proposals fail. In some presidential systems, it is within the individual committee's discretion to filter out bills and decide which ones will be considered (usually a small fraction of those actually submitted.). In others, legislation submitted by the executive must be considered and acted on by the legislature, and the executive may even set a deadline for the legislature to act. This is the case in Chile, where the executive determines the "urgency" of legislation, setting a timetable for legislative action.

In a Westminster system, bills are typically held on the floor for a second reading, during which debate and a vote "in principle" on the bill takes place. The bills are subsequently referred to committee, where the task of the committee members is to work on technical details and amendments. In some parliamentary systems, the committees do substantively amend bills at this stage but cannot prevent them from being reported back to the plenary for a possible future vote.

Legislatures differ dramatically in the degree to which the public is granted access to the legislative process. Zimbabwe until recently had rules that forbade public access to committee deliberations, while Uganda's committees are, with few exceptions, open to and covered by the press. Some legislative bodies require both that most committee and other legislative meetings be open to the public, and that meetings and agendas be published in advance so that interested parties may attend.

Scheduling Floor Debate: For measures to be considered by the whole legislative chamber, there are systems of rules specifying how much time will be allocated on the floor of the chamber for consideration of bills and when and how votes will occur. Complicated or controversial issues require more time. Legislative party leaders often make these decisions, with majority parties and governing coalitions having the most influence over the process. In systems with large volumes of legislation, the failure to schedule a floor debate constitutes an important power of legislative leaders.

Reconciling Legislation in a Bicameral System: The stages of legislative procedure described above may go on simultaneously in two chambers in a bicameral system. (Each chamber usually devises its own rules for processing legislation.) When two chambers participate in the legislative process, the legislature must devise methods for reconciling different versions of bills and/or processes for consultation. Pieces of legislation on the same subject may be very different in each house, reflecting the fact that each chamber collectively represents different constituencies.

Most bicameral legislatures use a shuttle system, whereby a bill is sent from one chamber to another for review and amendment until an agreement is reached. Under this system, one chamber presents its version of a bill to the other, who can accept the bill, reject the bill or counter with an amended bill. This process can go on until both houses agree on one version, one house prevails (because rules or constitutional guidelines give it the final say under particular circumstances), the bill dies or parliament is dissolved.

Further Reading

1. Inter-Parliamentary Union, Parliaments of the World, Geneva, IPU. (see website below)
2. Kurian, George Thomas, ed., World Encyclopedia of Parliaments and Legislatures, Volume II, 1998.
3. National Democratic Institute for International Affairs, *Committees in Legislatures: A Division of*

Labor, Legislative Research Series, Paper # 2, 1996.

4. Ogle, David B., *Management and Organization of Representative Assemblies*, National Council of State Legislatures, 1997.
5. Olson, David M., *Democratic Legislative Institutions*, Armonk, New York and London, M.E. Sharpe, Inc., 1994.

Websites

www.parliament.ge – official website of the parliament of Georgia.

www.thomas.loc.gov/home/lawsmade – how laws are made in the US Congress.

www.ipu.org – Parline database links to sites of parliaments/legislatures, some of whom include briefs on legislative processes.