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4.6 POLICY MAKING PROCESS
CHAPTER-IV

VARIOUS POLICY MAKING AGENCIES IN INDIA

CONSTITUTIONAL FRAMEWORK FOR POLICY MAKING

Policy-making in India is shaped within the framework of the Constitutional system, of which four features stand out most prominently.

4.1 DEMOCRATIC AND SOVEREIGN REPUBLIC

Firstly, India is a democratic and sovereign republic. All Governments, whether central, state or local, derive their power from the people. The people are sovereign. The sovereignty of the people has come to mean that the final authority which determines the policies for country lies with the people's will. The people elect their representative to run the Government at different levels. The elected representatives of the people form the Government and hold office at the people's will.

The Indian System of Government is fundamentally democratic. The requirement for it is that the wishes of the people are reflected in the policy decisions of governments. There are basically two requirements, according to Dorothy Pickles, which must be fulfilled for a democratic system of Government. It must, first, be able to elicit as accurately as possible the opinion of as many people as possible on who shall be their representatives and how the country ought to be governed. Second, it must
provide ways of ensuring that those chosen for the public do in fact do what the electorate wants them to do or that they can be replaced if they do not, even between elections.¹

Democracy in our country is thought to be representative and responsive government. In this sense the people may be thought to be politically sovereign, transmitting their will and opinion to the government. The people in a democratic set up initiate the process of legislation and policy making by voting for candidates whose opinions and intentions they know and understand. In India the Government is dependent on the support of the parliament or the state legislature for its existence. Through the legislature, the representative of the people frame laws and decide policy by a majority vote. The outstanding feature of policy making in government is characterised by accommodation and settlement. Being a multiparty system, certain national policies are modified at times, as a result of discussion in Parliament. In determining policy and in order to resolve conflict on policy issues, majoritarianism is adopted because the alternative would be authoritarianism. The majority decision is a convenient decision when values are given equal weights. However, the constitutional provisions and laws prevent any above of the powers which derive from a majority position. The courts in India further guards against tyranny of the majority by providing for an impartial judiciary which will arbitrate free from any bias towards the interests of those in authority.
4.2 PARLIAMENTARY SYSTEM

India is a Parliamentary system with cabinet Government. Its main features are:

(a) All ministers are members of one or the other House of parliament or the state legislature.

(b) The Government, both at the centre and the states, is responsible for its actions to the parliament and legislature respectively. Responsibility refers to both the collective actions of Government and the acts of omissions of Individual ministers and their departments. Governments are answerable to the legislature and must resign of their policies prove unacceptable, and losing them the confidence of the legislature. Under the concept of Individual responsibility ministers are required to answer for their own acts and the conduct of their departments. That is, if a minister or civil servant makes an error, it is the minister who is answerable to the legislature and should resign from the office if found guilty. All ministers have to appear before the legislature to explain and justify their activities. New policies are also announced in the legislature.

(c) The term, "Government" implies administration and the employment of civil servants organised for efficient and effective discharge of their duties in executive departments. Parliament is of great importance in most civil
servants lives. Much of the time of senior administrators is spent in advising ministers regarding their performance in the House. Civil Servants are required to observe the principle of political neutrality, impartiality and anonymity. Responsible government is designed to prevent democracy from falling a prey to an over-dominant bureaucracy.

It presupposes that politicians, not civil servants, are to be blamed for executive action. It is an essential requirement of parliamentary democracy that the executive should be accountable to the elected representatives of the people. The responsibility of government in India may also be seen according to its responsiveness to public opinion. The link between representative and responsible government is to be found in the fact that the accountability of the executive to the legislature ensures that the government is both responsive and respectable."

4.3 THE FEDERAL STRUCTURE

Thirdly, the parliamentary democracy combines broadly a Unitary form of Government with a dominant central Government with many federal features containing a large area of Governmental autonomy and even a degree of independence to the states of the Indian Union. A conscious effort has been made to define and demarcate clearly the areas of policy formulation between the central Government and states" Governments by listing subjects in the central list (97 subjects) the state list (66
subjects) and the concurrent list (52 subjects). The disputes between the central government and the states are to be decided by the supreme Court which is thought to be an Independent body under the Indian Constitution.

Nevertheless, the Constitution provides for the creation of a powerful central Government. Parliament is authorised under Article 249 to enact legislation on any subject in the state list and Under Article 312 to create new all India services, provided the Rajya Sabha by a two third majority empowers it to do so. Again, Articles 256 and 257 place a state Government under an obligation to comply with the union laws and direction issued by the Central Government. Article 200 and 201 empower the Governor of the state to reserve a bill passed by the state legislature for the consideration of the president who has the power to veto it without giving any reasons.

a) the security of the country is threatened,

b) there is the failure of the constitutional machinery in a state, or

c) there is a threat to the financial stability of any state

d) finally, under Article 3, the parliament can also form a new state, increase or diminish its area.

The central Government has enjoyed wide powers for the formulation of policies in the developmental sectors of the economy. In many cases the implementation of the programmes and policies involves both the Union and the State Government and
the two have jointly to share responsibility for results. The central Government often subsidises many schemes and has used the concurrent list to develop many new administrative institutions in respect of agriculture, social welfare and community development and many other programmes. Thus the process of policy making has to contend with the federal form of the country's polity.

4.4 SOCIO ECONOMIC PHILOSOPHY

Fourthly, Public policies must conform to the provisions of the Indian constitution, such as those laid down in the preamble; the fundamental rights and directive principles of the state policy, the Articles of the constitution dealing with the fundamental rights and Directive Principles have been the subject of Public debates and disputes amongst the political parties regarding their importance and place in the Indian Policy. The current judicial thinking is that the fundamental rights and the Directive Principles are complementary to each other, since they are mutually reinforcing in nature. Now both Levels of Government are under an obligation to formulate public policies, taking into account the Directive Principles. Yet the policy options offered by these principles are many before any government and a government has enough to pick and choose from these depending on its own priorities.3

4.5 INSTITUTIONAL FACTORS

In addition to these four constitutional factors: the democratic and sovereign republic, the parliamentary system, the federal character of the constitution and a broad
kind of socio-economic philosophy, these are other factors that govern policy making in India.

Policy making can not be properly understood apart from the environment in which it is conditioned. Demands for policy actions are made on the political system by various constituents of the society - citizens, pressure groups, political parties, etc. At the same time the environment place constrains upon what can be done by policy makers. Included in the environment are such geographical characteristics as natural resources and topographical factors as population size, age and sex; and other socio-economic variables. Our focus is on the factors that shape policy making in the Government.

Policy making is a collective effort in which many institution participate. In India some of the important institutions are as follows:

(i) **The Legislature**

Parliament in India is the supreme public policy making body. It reigns supreme because the council of ministers headed by the prime minister is dependent upon the support of a parliamentary majority to remain a force. It enacts laws which will being the policies into effect. It also legitimates the policy decisions of the government.

In reality, however it does not really reign supreme. It does not determines policy except in a constitutional term. It influence public policies through general discussions and debates. Much of the legislation in India is prepared within the
executive and introduced by a responsible minister. The executive is assured of a legislative majority for the policy proposals it represents. Any control which the parliament might be said to exercise over the executive is obviously indirect. Consequently, the role of parliament in policy making can be more correctly understood if parliament is considered to be a "constitution procedural device" for approving the decisions of the Government rather than an independent policy making institution. The passage of Muslim Act 1986 by the Parliament in India in the face of stiff nationwide opposition is an example that has been mentioned earlier of the executive controlled status of the people's elected body, that is, parliament.

Power as such does not reside in parliament but in the council of ministers which is able to create a majority within the parliament and thereby succeeds in making policy decision.

(ii) The Executive

It is the constitutional task of the executive to decide the policies which are to be submitted to parliament. The executive in India consists of the president of India, Council of Ministers and the machinery of the Government. The president, being head of the state, exercises his powers on the advice of the council of ministers (Article 74). The main bodies engaged in policy formulation in the executive are:
(a) *The Cabinet*

The real executive is the council of ministers consisting of the prime Minister, Cabinet Ministers, Ministers of State and the deputy Ministers. It is well known that the council itself hardly meets and all the policy functions are performed by the cabinet, functioning on the principle of Unity. It is the top policy making body in the Government, but only major proposals are taken to it for its decision; other matters of less significance are disposed of by the minister concerned.

For facilitating its work, the business rules provide for the constitution of standing committees of the cabinet to ensure speedily decisions on the issues of national importance and other vital matters. The number as well as the tasks for which the cabinet committees are appointed vary and occasionally adhoc committees are appointed for specific purposes. Two important cabinet committees are the political Affairs committee and Economic Affairs Committee, both presided over by the prime minister.

The cabinet is serviced in its policy role by the 'cabinet secretariat' headed by the cabinet secretary. As the head of the civil service, he presides over the chief secretaries conference and committees of the secretaries. He attends all the meeting of the cabinet and its committees. The cabinet secretary often prepares the agenda for the cabinet meetings, takes minutes, circulates decisions and follows them up to see that action has been taken in the departments. The role of the cabinet secretary is crucially important in the policy making process.
(b) The Prime Minister and His Office

The prime minister is thought to exercise control over the cabinet decision making process. In the areas of external affairs, defence and economic affairs, he takes personal interest. But the cabinet as a whole has to be persuaded of the rightness of most decisions. In other areas of policy, especially domestic, where he rarely takes initiative, his views in cabinet will be of vital significance. It is, therefore, correct to say that cabinet decisions are taken by the prime minister together with the responsible minister. However, this is not always true. While the prime minister can exert exceptional influence over policy decisions through the assistance of the cabinet secretariat, it is now widely accepted that prime minister has to obtain the support of his colleagues for his decisions and cannot obstruct a discussion on matters which a minister wishes to bring before the cabinet.

The Prime Minister is assisted by his office which was set up in 1947. Since 1965, the Prime Ministers secretariat has become of critical importance. It is headed by a secretary and consists of about 15 senior officials and other personnel. It advises the prime minister on matters of importance and follow up issues as necessary. Its responsibilities include dealing with papers that are received in it, preparing notes on various issues, contacting ministers concerned and handling such matters as required the attention of the prime minister. Although the prime minister’s secretariat has been performing most of the important functions, including developing policy alternatives, all cabinet matters must go through the cabinet secretariat.
The interaction between the prime minister and his colleagues, the roles of the cabinet secretariat and the prime ministers office, the usefulness of the cabinet committees, respectively depend, on the personal style of the prime minister and the political strength of the ruling party.

(c) Secretariat Department and Ministry

The secretariat is an administrative organisation to assist the Government in the discharge of its parliamentary responsibilities. It is a complex of departments or ministries whose administrative heads are known as secretaries and whose political heads are ministers.\(^5\) The secretary acts as the Chief advisor to the minister. He assists the minister in the formulation of public policies. As policies can be framed only on the basis of availability and adequacy of data, the secretariat makes relevant information available to the minister, thus helping him to formulate policy. It frames the legislations rules and regulations. It exercises supervision and control over the execution of policies and programmes by the executive departments.

Further, it functions as the channel of communication between the states and other agencies such as the Planning Commission the finance commission, etc. In the arrangement of policy making, the secretary to the Government of India is the highest policy official in the field of which he has charge. He is assisted by additional secretaries, the joint secretaries, deputy secretaries and other civil servants.
In the 1970s, the central government set up some types of policy Planning units in key departments and ministries. Generally separate from budget formulation, this unit ideally provides the importers for effective policy making among the various programme elements of a department/ministry, so that it functions as one organisation and moves in a consistent direction. This policy unit is generally further designed to encourage policy and operational evaluation by the various programme units. All have important roles to play in enabling the department or ministry to carry out its policy responsibilities. Most of these units have become more of research units with little impact on policy planning in the central government.

Mention may be made here of the advisory committee attached to, and advising the machinery of the central Government at the national level. A considerable number of these standing committees formed for a specific purpose are composed either exclusively and/or predominantly of experts. Others are representative in essence and tend to reflect democratic principles in policy making. Some of these committees also represent the federal character of the polity and allow for representation of the states. However, they play a limited role in comparison to those committees attached to ministries which deal with subjects within the centre’s sphere of direct responsibility. As a general rule, the influence of an advisory committee on policy formation remains indeterminate.

Here, it is also important to underline the theory of political administrative relationships. According to democratic norms, a government should be political, not
bureaucratic. Civil servants are employed in theory to serve political leaders by carrying out their decisions. Ministers decide on policies and their civil servants take the necessary executive actions to implement them. In reality, the civil servants exercise much more power in the formulation of public policies than the formal description of their responsibility. As already mentioned, senior civil servants have an increasingly important advisory role in policy making. Since public policy making has to rely more and more on the technical advice of specialists and on the administrative experience of generalists, their advice has been given more and more weight by the ministers. Indeed, the way in which senior civil servants collect the data necessary for policy decisions, analyse the problems involved and present the pros and cons of selected policy options, has a considerable influence on the final policy decisions. Ministers often find it even more difficult to resist the choice of policy options pressed on them if they are based on a better analysis of the needs of the future.

The administrative apparatus, which is supposed to implement the policies, imposes its own limitations in the making of policies which may have some reasonable prospects of successful implementation. On the implementation aspect, Appleby has stated that administrators are continuously determining what the law is, what it means in terms of action, what the right of parties are with respect to both the transactions in process and transactions in prospect. The success and failures of most public policies adopted since India’s independence, may be seen to be related to this factor.
(d) **Established Institutions:**

Apart from these normal institutional arrangements, certain functional institutions have been established, and have specific and related advisory roles. These include the Reserve Bank of India, the Monopolizes and Restrictive Trade practices commission, University Grant Commission, the Agricultural prices and costs commission etc.

In addition there area a large number of institutes and bodies which have an important role to play in policy planning. Some of these are : the Indian Institute of Public Administration, Indian statistical Institute the national council of Applied Economic Research, the council of Scientific and Industrial Research, the Indian Council of Medical Research etc.

Besides, there are several bodies outside the Government which attempt to exert influence on the Government policy as and when their interest are involved. Mention may be made of bodies such as the federation of Indian chambers of Commerce and Industry Associated Chambers of Commerce, the Indian National Trade Union Congress and Indian Medical Association.

(e) **Planning Commission and the N.D.C.**

The Planning Commission and the National Development Council are two other institutions exercising much influence over the policy making process in India.
Although an advisory body, the planning commission which was established in March 1950 has emerged as an important policy making organ in the socio-economic development of the country. Because of its distinct composition, and more importantly its allocative role in resource deployment, the commission in often called a super-cabinet. Functions such as ‘formulating plan’ ‘determining and allocating resources in the plan of the commission clearly delineates its policy making roles. The planning commission works in consultation with union ministries as well as state governments, prepares the five year plans and recommends the adjustments of policy measures that its progress appraisal may show.

The National Development Council established in 1952, comprises the prime minister, a few union ministers, chief and members of the planning commission. The Council is adjoined to meet twice in every year but in practice has met much more often. It makes its recommendations to both the central and state governments. The secretary of the planning commission acts as the secretary to the council and causes a memorandum to be prepared on each item on the agenda suggested by planning commission the central ministers/the state governments.

Its terms of reference expect it to review the working of the national plan, ‘consider important questions of social and economic policy, and ‘recommend measures for the achievement of the aims and targets set out in the national plan. The functioning of the NDC since its inception has revealed that there is hardly any matter of importance which is not competent to discuss. HM Patel, an administrator and writer, observes: The
NDC is a body obviously superior to the planning commission. It is indeed a policy making body and its recommendations can not be regarded as policy decisions and not merely as advisory suggestions.9

K. Santhamam also deserves: "The position of the NDC has come to approximate to that of a super cabinet of the entire Indian federation, a cabinet functioning for the Government of India and Governments of all the states."10 Thus NDC is the apex policy making institution in the country.

(iii) The Judiciary

The judiciary in India also plays a constructive role in shaping and influencing public policies in two ways: by its power of judicial review and judicial decision.

The constitution entitles the supreme court and High Courts at the state level to exercise a judicial review of legislation. Judicial review is the power of the courts to determine the constitutionality of actions of the legislature and the executive. If such actions are found to be conflict with the constitutional provisions, the courts can declare them null and void. They are not only specifying the governments limits with regard to certain action but also stating what it must do for the public interest. Besides their activism in dreams of economic regulation, the courts have ventured into new areas of social and political concerns. The functioning of public institutions such as hospitals, jails and schools, and the location of public facilities are receiving the attention of the courts.
Thus the role of judiciary in responding to administrative action has been to protect the rights of the citizens against growing state power. The increasing governmental interference in citizens lives, the failure of governmental action on social and economic problems, the willingness of the judiciary to play a more constructive role all tend to ensure a continuation of judicial activism in policy formation.

(iv) Non-Governmental Institutions

The Policy making environment, besides comprising people and institutions like the legislature, executive, judiciary and bureaucracy, includes some non-governmental organisation such as the political parties, pressure groups, media and citizenry. Their view and influence are of critical value to the policy making process.

(a) Political parties

The pressure exerted by pressure groups and political parties is an important factor in making of policies. The political parties provide impetus to policies by enlisting proper support at the time of elections. But the pressures are so various and so constantly changing that some times the process appears to be diluted without giving any sense of direction. However, parties in India are largely brokerage organisations committed to winning public offices rather that advancing policy positions to social conditions.

The Indian political system is characterised by a multiparty system. Parliamentary representation includes both the national and major regional parties. The
largest political party is the ruling congress party which has been in government at the centre and in most states since India’s Independence except for short intervals. Being a multi party system, most socio-economic policies are modified as a result of a debate in parliament. The political expression of the people is largely confined to electing a popular government. When in power, the political party tends to retain governmental office in the face of every kind of opposition. This it self adds its own. Uncertainties to the process of formulating rational and sound policies.

(b) Pressure groups

The exercise of political influence through organised or interest groups is a dominant feature of our democratic government. For the individual citizen, the interest group is an important channel of communication. They communicate more effectively than individual citizens with public officials on policy issues. They strive to influence the decisions of the government without attempting to occupy political offices. Often, these groups are found to have conflicting values on a particular policy issue, and policy makers are faced with the problem of having to choose between conflicting demands. Obviously, well organised and active pressure groups have more influence than groups whose membership is poorly organised and inarticulate.

(c) The Individual Citizen

In our country parliament exercises the supreme legal power in policy making. The government is dependent on the support of the legislature for its continuance. Thorough the legislature the representative of the people frame laws and decide policy
by majority vote. In this sense the people may be thought to be politically sovereign, communicating their will to the government through electoral process. The people initiate the process of legislation and policy making by voting for candidates whose opinions and values they know. A democratic government is supposed to reflect the wishes of the people yet in reality citizens participate in policy making is very negligible. Acting alone, the individual citizen of a country of one billion people is rarely a significant political force. Many people in our country do not exercise their franchise or engage in party politics. Only a very small percentage of the population exercise any influence on the selection of public policies.

(v) **External Influencing Agencies**

Public policies are everywhere being conditioned by the external environment. It is impossible to separate the external environmental factors as they invariably influence the political process and policy outcomes. The influence, being brought to bear on socio-economic problems of our country by agencies such as the United Nations and its allied agencies, WHO, ICO, UNEP, UNDP, etc), the world Bank, the International Monetary fund, the organisation of Economic Cooperation and development and the European/Asian Bank for Reconstruction and Development, etc, is of critical importance in shaping policy outcomes. India has started implementing IMF supported programmes macro-economic stabilisation. It is crucial that these programmes are complemented by Structural reforms, such as privatising and restructuring state owned enterprises, and increasing competition.
4.6 POLICY MAKING PROCESS

Policy making is an area which, because of its obvious importance, has attracted much attention in recent years. It is a vital function at all levels of government. In one way or another, each of us has the task of helping our Government to determine its goals and objectives. As we do this, we try to develop policies which may be described as purposive courses of action taken in pursuit of the country's goals. Our lives in the country are vitally affected by what we able to achieve in the policy making field. Over the past thirty to thirty five years, our country has struggled a great deal with the problem of effective national policy-making and implementation. There have several successes as well as figures for a variety of reasons.

The policy making process beings with the ideas people have about the actions they want the Government to undertake. In other words, they are demands or proposals made by interest group or by other actors, private or official upon the political system for action or inaction on some perceived problem. People with demands which may be either supported or supposed by interest groups, seek to achieve some commitments from Government to put their ideas into action when the government undertakes such a commitment, it has the legal authority to do something that individuals can not do. A Governmental decision may be made on the demands of the people. The Governmental and administrative process comprise a vast mass of decision made almost daily. Some of these have an effect immediately. Other may involve further line of action, and/or further continuum of decision making coming from that first decision. How can one
distinguish a policy decision from other. Policy making involves decision making but every decision is not a policy decision. For policy making is the making of decisions, as much as are all other decisions that are made by individual ministers, the council of ministers or by administrators. A policy decision involves action by some line official or body to reject, alter or accept a preferred policy alternations of a legislation or the issuance of an executive order.

For the conduct of Government business certain rules have been framed under Article 77(3) of the constitution. The Rules of Business Govern the procedure for decision making and within the ambit of these rules, policy decisions are taken by the council of ministers, particularly by the cabinet. But now here in the rules does there seem to be any distinction drawn between those decisions which are concerned with policy and those that are not. Policy and administration are intimately related and are an integral part of executive government. For the convenience a treatment only, it may be said that policy decisions are decisions made by public officials that authorise or give direction and content to public policy actions. A decision may be taken formally or informally if it is to be implemented. For example, the central Government recently announced the new sugar policy which retained the minimum economic capacity of 25000 tones crushing per day for the issuing fresh licences. It did not impost any maximum limit on such capacity for the issue of licence. This policy decision was not placed before parliament for approval. Indeed, it may be said that some important decisions on policy are often taken informally. The prime minister or a particular
colleagues, if he is confident of being able to early a particular policy through, may announce a decision, either in parliament or in public. However, this is not frequent, especially in a coalition government.13

The cabinet makes use of the committee system to facilitate decision making in specific areas. Depending upon the membership of any cabinet committee, its decision is either final on behalf of the government, or its decision may be placed before the full cabinet-committee, the full cabinet to be ratified. A vast number of decisions are of course, taken by individual ministers within the ambit of her rules for the business of the Government and these are fully authoritative decisions on behalf of Government. It often depends upon the personality and political image of a minister as to what matters he will decide, and what he will refer to the prime minister or to the cabinet. But the cabinet as a whole has to be persuaded of the rightness of most decisions.

Technically speaking, most of the decision in various matters involving policy issues of less importance are taken by the administrative secretaries or committee of secretaries some of which service a cabinet committee. The secretary to government in the particular ministry, civil servant in the particular ministry, civil servant of the ministry, heads of government department and other officials at levels below the departmental heads are vested; in particular matters, with delegated authority, for the conduct of government business, these are large values of departmental rules of procedure and of guidance in the making of decision in each particular agency. Where
a matter is seen to be of concern or interest to a ministry or department other than one in which it is being considered, it is incumbent upon the former to consult the affected ministry or department at the appropriate levels.

The policy making process has, to a large extent, been regarded as a "black box" which converts demands into policies but whose structure is seen to be known and inaccessible to observation.

Policy making is "an extremely complex analytical and political process to which there is no beginning and, boundaries of which are most uncertain". Somehow, complex set of forces engage in 'policy making', and taken as a whole, produce effects called policies. The parliament is charged by the Indian constitution with the function of representing the people in making policy through the passing of laws. The legislative process is a fundamental mechanism for expressing public policy. In India, all basic policies have to be determined by the legislative enactment, although legislation also permits more specific policy by the executive branch of the government within the legislative and constitutional framework, and the review functions of the judiciary.
REFERENCES


4. The decision on declaration of Emergency in 1975 was made outside the cabinet and the cabinet was informed after the event.

5. In the year 1987, the central secretariat as a whole consisted of 68 departments including ministries. Most departments have field agencies around the nation.


7. ibid, p.192.


11. For example, in September 1991, India succeeded in negotiating with the IMF for a loan for Rs. 1650 crore under the Compensatory and Contingency financing facility.


13. Thus, the economic policy pronouncements of 1948 and 1956 were authored by the late prime minister Jawaharlal Nehru while the new industrial policy declared by the central government through one of its cabinet ministers in 1991 was clearly the end result of considerable consultation amongst the members of the council of Ministers and others.