

Relationship between Law-Making Procedures and Bureaucracy in Modern India

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Abstract

The study sheds light on bureaucracy and law-making procedure of India which is a developing country. The concept of bureaucracy refers to the administrative policy making group and non-elected government officials who contributed in creating laws and legislations in a country. Law making procedure is an important part of parliament which includes some specific steps for creating a particular law against some aspect. Several legislative proposals are brought to the parliament as bills based on which laws and legislations are created. It is important to receive approval for all the legislative proposals from the houses of parliament and the president of India for passing a law. Investigating the relationship between law making procedure and bureaucracy of India is the main focus of this following article.

Secondary sources such as articles, journals, government reports and official government insights have played a crucial role in conduction of this research article. These sources help to collect more and more relevant information about the law-making process and bureaucracy in India. A few themes are created under which all the findings are evaluated with proper citation maintaining all the ethics. As a result, it is identified that bureaucrats play different crucial roles in law making procedures such as enforcing rules, implementing laws, setting disputes and others.

Keywords

Bureaucracy, Bureaucrats, Indian Laws, Law Making Procedure, Legislations.

INTRODUCTION

Background of the Research

Bureaucracy can be defined as a governmental system where government officials are responsible for developing vital decisions. India is a democratic country and regarding this, “elected representatives” are regarded as being responsible for maintaining legal procedures including the formation of laws and policies. On the other hand, the enactment procedure of laws is considered to be the responsibility of the bureaucratic system in the modern legal framework of India [1]. In addition, the modern legal system of India consists of several strict regulations for penalising bureaucrats for creating conflicts in law-making or implementing procedures. On the other hand, the “rule of Law” rank of India has been identified to be 77 out of a total of 140 countries in 2022 and the “parliamentary democracy” of this country is regarded to be the largest democracy throughout the world [2]. Several “penal actions” and “law-breakers” has been developed and adopted by the Indian judiciary system.

The Indian legal system has provided the responsibility of enacting and implementing laws and legal policies to the “bureaucratic system” and not fulfilling the responsibilities can cause legal actions and penalties. On the other hand, Indian democracy consists of a strong police force to maintain “law and order”. The Indian bureaucratic system has been identified to have several types of issues and conflicts due to high diversification and stereotypes regarding caste, religion and corruption [3]. These aspects indicate that the “bureaucratic system” of India requires immediate improvements in order to increase the efficiency and effectiveness of law and policy making.

Aim and Objectives

The main purpose of this research is to assess and elaborate on the correlation between bureaucracy and law-making procedures in modern India

Objectives

- To identify and assess the correlation between bureaucracy and law-making procedures in modern India
- To evaluate the importance of bureaucracy in the formation of law and legislative policies
- To assess the risk factors associated with bureaucracy in India and potential solutions for improving

Scope of the study

The following study has been focused on evaluating the correlation between bureaucracy and law-making in modern India and has provided effective insights. Several relevant and important aspects associated with the research subject

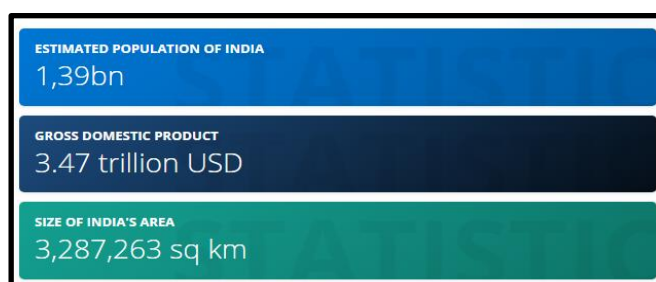


Figure 1: Population and GDP of India[2]

including the correlation and importance of bureaucracy as well as the risk factors associated with bureaucracy has been illustrated. In addition, efficient methods have been chosen to use in this study for ensuring rigour and quality along with providing efficient insights. Hence, it can be stated that this research has provided significant insights and has opened a new dimension for understanding the importance of bureaucracy in legislative procedures such as law and policy making. Various risk factors and issues associated with the "bureaucracy system" of India has been assessed and evaluated and it has been observed that preventing these risks can upgrade the entire judiciary framework of India.

MATERIAL AND METHODS

Research Design

The Methodology section consists of the comprehensive procedures and techniques selected by the researcher and it consists of various methods including research design, research philosophy and research approach. The research design is regarded as the entire framework consisting of the procedures and methods and in this study; an *exploratory design* has been selected. Using an exploratory design helps to explore and illustrate a phenomenon more effectively [4]. On the other hand, the research approach involves the steps and stages of the procedures leading to the development of knowledge and an inductive research approach has been selected for collecting relevant data and developing effective insights.

An inductive research design has been chosen for gathering reliable and relevant data associated with the connection between bureaucracy and law-making procedures. Furthermore, using this research approach enables the researcher to gain effective implications about the research phenomenon. Additionally, an interpretivism research philosophy has been chosen to interpret the connection between bureaucracy and the development of laws and legal policies. Using these particular methods and techniques will help to collect reliable data and assess and interpret the data effectively.

Research Type

A secondary qualitative data collection method has been chosen to follow in this study. Reliable and valid journals, websites and newspaper articles will be explored in order to gather relevant data associated with the relationship between law-making and bureaucracy. Secondary data is regarded to be the specific type of data primarily collected and published by someone else [6]. This method is among the most popular and widely used methods of data collection due to its effectiveness and cost-efficiency.

Inclusion and exclusion criteria

Inclusion criteria

- Journals, websites and newspaper articles published on or after 2018 have been used for the data collection
- Reliable and valid journals published only in the

English language have been included

Exclusion criteria

- Websites, newspaper articles and journals published before 2018 have not been used for data collection
- Journals published in other languages rather than English and consisting of irrelevant data have not been used

Data Analysis

The data analysis process involves assessing, interpreting and illustrating the gathered data in order to attain effective insights. In the following study, a secondary qualitative data collection method has been followed and in order to assess the gathered data, a thematic analysis has been chosen to conduct. Thematic analysis is considered to be among the most effective methods of evaluating experiences and providing effective descriptions [7]. Considering these aspects, this particular method has been chosen for analysis and illustration of the gathered data.

RESULTS

Correlation between bureaucracy and law-making in modern India

Bureaucracy means arranging people who are required to work together, bureaucracy means "rule by the officer". Bureaucrats are playing a major role in law making in India and bureaucrats are important in Indian policy implementation [7]. The major role of bureaucrats is to facilitate the working of government departments. There are different roles of bureaucrats that make law making more effective in India. Improving the information base, knowledge and experience and advisory expertise are the most important information roles of bureaucrats in India. In India, bureaucrats are working under politicians who are holding the law-making power in India. Generally, bureaucrats are identifying different public problems which help them to make various laws in India. Under the Indian constitution, the civil servants are making an information base about the public which helps the lawmakers of the country. The secretaries and civil servants are giving advice to the ministers to take decisions on public matters [8].

They are involved extensively in preparing explanatory matters for lawmakers on the operation of existing laws and policies. Higher civil servants, basically the secretaries give advice to the ministers to make effective policies and laws for the people. The civil servants and secretaries have a huge knowledge about the people and societies that helps them to formulate the laws and effective policies for the people [9]. The bureaucrats have derived knowledge from their education qualification and their experience in the society. Huge experience about society and knowledge about the people's daily affairs help them to argue with policy makers to make effective laws and policies for the people. Bureaucrats or civil servants are "*think tanks of the government*", for collecting data from society and analysing

the underlying problems of the society before advising the lawmakers about policy making for the people.

Positions of bureaucrats are permanent but the position of lawmakers is not permanent in the parliamentary system of India. Therefore, it is problematic for lawmakers to understand the trending public issues and problems present in the society. Bureaucrats are more connected with the common people in India which enable them to formulate perfect policies for the common people of India [10]. According to the Indian context, law making should be effective; otherwise, the development of people can be affected. In order to make effective laws, advisory expertise plays a significant role which means there should be a perfect advisory body for advising lawmakers to make effective laws for the people. Bureaucrats in India are away from the mainstream politics of the country which enables them to think about people without any political influence and it is beneficial for the people to get government assistance effectively.

The civil servants of India are giving factual data to the lawmakers about the social issues and that is most important to make effective laws and policies about the public interest. However, it is true that bureaucrats are not making laws but they are influential in making public laws effective.

Role of bureaucracy in policy formulation and implementation

Bureaucracy is the bridge and the effective social instrument between the public and policy makers of any country. Bureaucracy in India plays a significant role to improve public life and they are also important in the development of the country. Laws and policies are made by the politicians in India but civil servants and bureaucrats have an effective role in policy formulation and implementation [11]. Policy formulation is a non-linear process, it is incremental and subjected and exerted by a wide range of actors. Formulation of policies depends on learning and gaining knowledge about the people and society. The bureaucracy is divided into two levels in India one mid-level bureaucrat and another one top-level bureaucrats. Both levels of bureaucrats are involved in policy formulation and implementation.

Mid-level bureaucrats are keeping connections with the common people to understand their needs and problems in social life and then give information to the higher authorities to analyse and formulate the policies. The role of top-level bureaucrats is also significant in the Indian context. Top-level bureaucrats include the secretaries and the advisory bodies of ministries. They advise the ministers to make laws and policies about public needs after analysing the information of mid-level bureaucrats [12]. Besides policy formulation, policy implementation is also important to give the public benefits of policies. Public policies are implemented by the mid-level bureaucrats in India by order of top-level bureaucrats.

Policy implementation includes different steps and the first step is to understand the policy statement which is made for

the people. This step helps to determine the importance of the policy for the public. The policy implementation should be the fact finding and the problem-tracing exercise. Policy implementation in India is a complex process, bureaucrats have to make different decisions by themselves and for different decisions, and they have to rely on ministerial approval. Therefore, bureaucrats have to analyse prominently before making any decisions. Important step for giving the public the benefits of legislation is policy monitoring. Besides policy formulation and implementation, the civil servants have to monitor the ongoing policies on a time to time basis [13]. They have to organise different public meetings to understand whether people are getting the benefits or not. Hence, in the Indian context, the bureaucracy and civil servants are the most important for policy formulation, implementation and observing the policies.

Bureaucracy in public administration

The civil service system or bureaucracy in India originated during the British colonial period through the government of India Act of 1858 but it is still present in India and that helps the government to maintain public law and order and administration [14]. Public administration is a discipline that is concerned with the formulation, implementation and monitoring of policies about public health, social development and their welfare. After British rule the public administration totally depends on the bureaucrats and civil servants such as the police and other civil servants. General healthcare of the public, educational improvement, and social welfare and maintaining law and order in public are the most important aspects of public administration. In the Indian context, bureaucrats are analysing public requirements to give them proper policies and implement them. The important objective of public administration is to focus on the transportation, community development and economic development of common people [15].

Public servants and bureaucrats keep connections with the people to understand their community and economic-related issues to make proper policies for them. The public administration also includes emergency management and disaster response. When disasters and other environmental calamities occur civil servants and bureaucrats respond quickly to rescue [16]. The bureaucratic system of India is well organised and powers are divided among the bureaucrats that facilitate and promote specialisation which is most important to maintain public law and order. Bureaucrats are not influenced by any political powers and they are the permanent body in the governance system. The bureaucrats are the quasi-judicial body which helps make effective coordination between the different government institutions and the public which is an important aspect to maintain public administration.

Bureaucratic indecision and associated risk factors in India

The bureaucratic system of India suffers from the bureaucratic indecision and risks those results in coordination

failure, poor perception, deterioration in the quality of public service delivery and process overload. The main risk factors of bureaucratic indecision are financial obstacles, policy implementation delay and unintended consequences [17]. Bureaucratic indecision can be the cause of financial obstacles in policy-making and it affects public policy development. Due to financial obstacles different welfare policies, healthcare initiatives and social development policies get affected and it stops public development in the country. The bureaucratic indecision also affects the policy implementation and that affects the public life negatively. Common people of the country of India will not get proper governmental support in their social life.

Another risk factor in India that is associated with the indecision of bureaucracy is increasing corruption in the country [18]. When bureaucratic mismanagement occurs, it increases the corruption level in the country. The benefits of government policies will not reach the needy people of the community and it obstructs public welfare. The bureaucracy in India also obstructs the policy making procedure and effects negatively on the public development of the country. In the Indian context, bureaucrats play a major role in the policy making of the country. Due to the inappropriate bureaucratic procedure and functions, the ministries will fail to make policies for the people and it affects the community development and overall development of India. After the British raj, the bureaucrats played a significant role to maintain public administration and law and order. The bureaucratic mismanagement will be the cause of poor public administration in India. The people of the country will fail to get different governmental benefits and it affects their everyday life.

Due to the indecision in the bureaucratic system, India can face the problems when the uncertain environmental calamities happen. The disaster management will fail due to the poor bureaucratic system and it may be the cause of death in common people [19]. The bureaucratic indecision can be the cause of political power change in India. The public policies and their implementation are depending on the bureaucrats in India. Therefore, due to the bureaucratic failure and indecisions, the common people of the country will be unable to get governmental assistance and it may be the cause of their dissatisfaction towards the government and it leads them to vote for other parties to get government assistance in their social welfare.

Standard operating procedure of bureaucracy in India

The standard operating procedure is the written instructions which describe the step by step procedure to perform any activity. In India, the standard operating procedures of bureaucracy were created by the British raj and it was modified many times after the independence. India is following the federal bureaucratic procedure that performs three primary tasks in government including policy implementation, administration and regulation. The federal system of Indian bureaucracy holds different features. Bureaucrats are permanent in India and they hold the policy

formulation, and implementation function of the country that makes policy making and implementation procedures easier and more effective. A bureaucratic system is a hierarchical process that helps the government to make effective policies, the hierarchical system of bureaucracy helps to formulate new policies for the people and it makes policy implementation easier.

India is the country where the bureaucrats are recruited by the toughest exam of the country which is the civil service examination and the expert class training makes the bureaucrats capable of maintaining the law and order of India [20]. Bureaucrats are not policy makers of the country they are working under the ministries and they have to assist the government in different public affairs. Therefore, civil servants of India are not influenced by any political party and that makes them unbiased. The unbiasedness of bureaucrats is beneficial for the common people and it helps them to get good governmental support. India is a class divided into different communities and classes. The bureaucrats of India are more class-conscious; they attain each and every person with the same attitude. The class-conscious bureaucratic attitude is important for any country to develop the common people of the country.

DISCUSSION

Bureaucracy is the system of government that assists the government to make laws, and policies in public interest and it also plays a major role in the implementation of the policies. Bureaucrats in India also play a significant role in the public administration and law order maintenance of the country. India is a country where bureaucrats are working under the government and they assist the government to make laws and policies [21]. In order to make public friendly policies, civil servants derive knowledge from the social community to make policies which can improve public life. Bureaucrats analyse the communities and their basic needs that help them to suggest the government proper schemes and policies for the people. Mid-level civil servants make good connections with the community to know their requirements and they inform them of their hierarchy. The top-level civil servants in India such as secretaries and the advisory bodies play significant roles in policy making also. They analyse the information from the mid-level civil servants and formulate the perfect policies for the people. The top-level civil servants also suggest to the government different drawbacks of the policies that help the government to improve the social life of the people.

“Bureaucracy” involves a group of hierarchical personnel of the government who have not been elected, but rather involve the implementation of rules and laws. It has been observed that “bureaucrats” maintains engagement with various potential areas of the political framework [22]. The main types of “bureaucracy” are coercive and enabling and the main source of “bureaucratic” power has been identified to be its size and importance. On the other hand, “bureaucracy” consists of a major relation with “public

administration” as it is regarded to be the most efficient mechanism of the administration. The Indian “bureaucracy” has been identified to suffer various issues and conflicts regarding indecision [23]. Failure of collaboration, “process overload”, motivational conflicts and the high influence of caste and religious factors pose vital influences on the “bureaucracy system” and induce risk factors.

These risk factors have been identified to be caused by conflicts in organisation framework, norms and policies along with political factors. Political factors are the main influencing factors that shape the work and responsibility of the "bureaucratic system". In this context, policy failure, financial conflicts and delays in procedures have increased. Licensing has emerged as a major risk factor in the Indian political system [24]. Hence, it can be stated that the Indian political framework does not only influence, rather it also creates barriers and conflicts for the "bureaucracy system". In this context, the efficiency of the law-making procedure has been highly impacted and lacks flexibility. The "standard operating procedure" involves increasing clarity and providing opportunities for governmental systems and organisations. The "bureaucratic" system has been observed to play a vital role in developing and enacting policies and laws. Thus, it can be stated that improving the risk factors and issues of the system is highly required for upgrading the legal system of India and it will also help to enhance the flexibility of the procedures.

CONCLUSION

The following study has been carried out to evaluate and analyse the connection between bureaucracy and procedures of law-making and a secondary data collection approach has been followed. Reliable and relevant data has been gathered from various journals, websites and newspaper articles and the results indicate that in the Indian judiciary system, bureaucracy has a direct correlation with law enactment and implementation. Politicians have been observed to have a major influence on the works and responsibilities of bureaucrats and they are regarded to be civil servants with the responsibility of managing various complex matters associated with law-making and implementation.

Bureaucrats are the officials of the government sector who contribute in executing specific laws and legislations within a country. The particular characteristics of bureaucracy in India indicate that bureaucrats follow standard policies for approving legislative proposals as well as passing a law within the country. It is immensely important to get an approval for the legislative proposals regarding any aspect from the bureaucrats in order to pass a law or bill. Therefore, it can be stated that there is a crucial connection between bureaucracy and the law-making process of India.

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