International Journal of Innovative Research in Engineering and Management (IJIREM)
ISSN: 2350-0557, Volume-9, Special Issue-9, September-2022
Innovative Projects 2022
Organized by Presidency University, Bangalore, India

Analysis of Law making in Commercial sector

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ABSTRACT

Commercial lawmaking is very important for establishing a corporate climate and guaranteeing honest and open conduct. This research looks at the important players in the commercial lawmaking process, the variables affecting legislative choices, and the effects of commercial laws on enterprises and the economy. This research intends to provide insights into the intricacies and difficulties involved with lawmaking in the business sector by examining case studies and legal frameworks.

KEYWORDS

Business Environment, Commercial Sector, Economy, Legislation, Stakeholders.

I. INTRODCUTION

The organizations, methods, and body of laws that make up our present English legal system have been shaped by more than 900 years of history. Each generation imprints its wants on the law, which is a living construct that reflects the requirements of the community it serves. 6Over the ages, the pace of legal development has fluctuated substantially. Up until the end of the 18th century, English law evolved at a rather slow rate nevertheless, as Britain entered the industrial period, the rate of legal change accelerated. At the dawn of the twenty-first century, both life and the pace of legal change are frantic. Law no longer stands motionless for very long. A climate that is steady is ideal for commercial operations. However, the legal structure that controls corporate activity is always changing. Utilising professionals, like as an accountant or attorney, to provide advice on the most recent changes in fields like tax or company law may help to relieve the strain of staying current.

The businessman must nevertheless stay current on any broad legislative developments that may have an impact on how he does business on a day-to-day basis. If he has workers, he must be informed about things like workplace health and safety, employee rights, and his obligations as an employer. He must be informed of changes in consumer protection legislation if he sells items directly to consumers. The law will regulate almost every part of his operation, and it may alter at any time [1]–[3] According to the reasons behind them, there are two major groups for legal reforms. The first kind of legal modification occurs from the law adapting to societal developments. Laws ultimately change as a result of political, social, and economic changes, technical developments, and shifting moral convictions. In fact, if the law is to continue to be respected, it must adapt to changing situations and attitudes. The necessity to maintain the law in excellent operating condition leads to the second form of legal change. Like any complex piece of equipment, the legal system has to be kept clean and organised, regularly maintained, and repaired when required.

Legal Change and the Changing World

Think about the changes our planet has undergone in the last 100 years. The impressive scientific and technical advancements of the previous century, such as the development of automobiles, aeroplanes, the telephone, radio, and television, computers, and genetic engineering, are likely the first to spring to mind. Every new development generates a desire for a change in the law. Take into account, for instance, the extensive body of legislation that has developed around the motor vehicle: there are rules covering things like the design and upkeep of motor vehicles, how drivers should behave on the road, and even where cars may be parked. Indeed, the usage of motor vehicles is directly connected to approximately half of the criminal cases heard by magistrate's courts. The growth

in traffic accidents brought on by the relentless amount of traffic on the roads has also prompted changes in civil law, particularly in the fields of insurance and tort law. Over the years, particularly since the Royal Commission on Civil Liability in 1978, more radical modifications to the system of compensating auto accident victims have been proposed. Its suggested no fault compensation scheme, funded by a tax on fuel sales, was never put into action.

While science and technology have advanced significantly over the last century, other, less significant developments have also occurred. For instance, the elected governments position and responsibilities have changed significantly. The laissez-faire principle of minimal involvement in people's lives defined nineteenth-century governance. The restricted functions of the government were to protect the nation from outside dangers, advance British interests overseas, and preserve internal harmony. Governments began to assume more responsibility for the social and economic well-being of people in the 20th century. It goes without saying that the political parties have different views on how to solve the nation's problems. With each change in administration, fresh ideas are tested. To bring about the desired political, economic, and social changes, the law is utilised. As succeeding administrations pursue their divergent political goals, the evolution of the legislation on certain difficult subjects sometimes resembles a pendulum in motion. The pendulum effect is best shown by the 40-year evolution of the legislation governing trade union privileges and rights.

The Conservative government passed the Industrial Relations Act in 1971 in an effort to limit what it perceived as the unions destructive influence by submitting them to more stringent legislative oversight. The trade union movement vehemently opposed the measures. The effort to overhaul the legislation governing labour relations all at once failed miserably. When the Labour Party won power in 1974, one of their first acts was to repeal the Industrial Relations Act of 1971 and give unions their former legal advantages. When the Conservatives regained control in 1979, they did not make the same errors as their previous administration from 1970 to 1974. Instead, they took a step-by-step approach to trade union reform and introduced more legal control over unions and their activities via a series of Acts. The Employment Relations Act of 1999, passed in the wake of the May 1997 election of a Labour administration, introduced further changes to trade union legislation. The UKs admission to the European Community EC in 1973 was one of the most contentious recent reforms. The economic and social advantages that were anticipated to result from joining the EC were obviously the governments motivation.

The traditional sovereignty of the Westminster Parliament has been questioned, our courts are now subject to the decisions of the European Court of Justice, and some of our substantive law has been redesigned to comply with European standards, such as company and employment law. However, membership also brought about significant legal changes [4]–[6]. Legal reform may be influenced significantly by shifting moral convictions and societal attitudes. The rules controlling personal morality have undergone significant change in the last 40 years or more, including the legalisation of abortion, the relaxation of restrictions on homosexuality, and increased access to divorce. Over the last century, societys perception of womens roles has undergone significant change. In addition to legislation like the Sex Discrimination Act of 1975, the courts have also improved womens rights through how they handle issues like the entitlement to the marital home in the event of divorce.

The law is a flexible being that can adjust to the intricate changes happening all around it. But sometimes, in the middle of all this upheaval, the more complex legal provisions—also referred to as lawyer's law can be disregarded. To prevent these crucially essential, though less glamorous, areas of law from deteriorating, a reformation campaign is required. One of the benefits of the system of judge-made law is its adaptability judges may modify the common law or equity rules to take into account new information or situations. There is a limit to what can be accomplished, despite the fact that contemporary judges have shown a willingness to embrace the work of keeping case law current with the times in a daring manner. Judicial law reform is likely to result in legislation changes that are chaotic and unorganised. The likelihood that an appropriate case will come up in court and result in change becomes a determining factor in whether laws will change. Furthermore, examining the anticipated effects of amending the law is not best done using our adversarial trial system. Judges are not allowed to conduct impartial study or engage relevant organisations to determine the impact of the proposed modification.

II. DISCUSSION

Official Law Reform Agencies

The Law Commission, which was created by the Law Commission Act of 1965, is the primary force behind legal change in England and Wales. Four more Commissioners, who may be judges, solicitors, barristers, or academic lawyers and may be appointed for up to five years, make up the Commission. The Chairman is a high court judge

who may be appointed for up to three years. The Commissions responsibility is to continuously assess the law as a whole with an eye towards its systematic improvement and revision. Its statutory obligations include codifying the law, eliminating anomalies, repealing unneeded and dated legislation, obtaining a decrease in the number of distinct enactments, and simplifying and modernising the law [7], [8].

The Lord Chancellor, who is also the Secretary of State for Justice, approves each item on the Law Commissions work schedule before it becomes a project. The full-time legal team of the Commission then creates a working paper with different reform ideas. The Commission delivers a final report on a strong reform proposal together with a draught bill after consulting with the legal community, government agencies, and other interested parties. The Lord Chancellor must provide his or her approval to the Law Commissions work schedule. A Ministerial Committee of the Law Commission advises the Lord Chancellor on the planned programme of the Law Commission, keeps track of the delivery of the programs progress, and evaluates the responses made by government agencies to Law Commission Reports.

The Civil Justice Council, another institution for law reform, was established under the Civil Procedure Act of 1997 as a result of suggestions made by Lord Woolf in his 1996 report, Access to Justice. Those qualified to represent the interests of specific types of litigants, such as businesses or employees, must be included in the Councils membership, along with members of the judiciary, members of the legal professions, civil servants involved in the administration of the courts, people with experience and knowledge in consumer affairs, and the lay advice sector. The Council has a responsibility to monitor the civil justice system, think about ways to make it more accessible, fair, and effective, advise the Lord Chancellor and the judiciary on how the civil justice system is developing, refer requests for changes to the civil justice system to the Lord Chancellor and the Civil Procedure Rules Committee, and make requests for research.

Government Departments

Every government agency is tasked with maintaining an ongoing assessment of the laws pertaining to their respective areas of expertise. Ministers may decide to organise a departmental committee to look into matters requiring policy consideration rather than technical law change rather than delegating the task to the Law Commission. On the recommendation of a minister, the Crown may decide to establish a Royal Commission in relation to particularly significant or contentious issues. A Royal Commission typically has a dozen or more members who represent a balance of expert, professional, and lay views. They work part-time and sometimes take many years to adequately research an issue and provide advice.

The Benson Commission on Legal Services 1979 and the Philips Commission on Criminal Procedure 1981 are two examples of royal commissions. The lack of royal commissions and departmental committees throughout the 1980s was remarkable. Following many high-profile incidents of injustice, a Royal Commission on Criminal Justice was established in 1991, signalling a change from the preceding decades practise. Certain royal commissions function as permanent advisory bodies. For instance, the Royal Commission on Environmental Pollution, created in 1970, continues to report on specialised research themes current studies include adjusting to climate change and artificial light in the environment.

Political Parties and Pressure Groups

The political parties fight for our votes during election season by promising to implement a set of social and economic changes if elected. The winning party is presumed to have the authority to carry out the policies specified in its election platform.

However, a governments legislative plan includes more than just the obligations made in a manifesto. There must be room for other legislative time requests that conflict. For instance, legislation could be necessary in relation to our EU membership, to implement a Law Commission or Royal Commission recommendation, or even just to handle an unanticipated emergency. As pressure from Westminster or the nation at large results in policy changes, the governments claims on the length of Parliament will fluctuate over its term in power. Pressure-group activity is one of the most important extra-parliamentary impacts on the creation and implementation of governmental policy. In order to influence or alter government policy, pressure groups are structured groupings of individuals who do not themselves aspire to create a government.

Some pressure organisations speak for local groups with particular objectives. Business interests are represented by organisations like the Confederation of British Industry CBI, whilst other advocacy organisations are created to focus on a particular subject. For instance, the Campaign for Nuclear Disarmament CND focuses primarily on the issue of nuclear disarmament. In order to advance their goals, pressure organisations use a number of strategies, from conducting public protests to more overt efforts to win the favour of MPs referred to as lobbying. Pressure-group activity can be either negative, such as organising opposition to a proposed government measure, or positive, such as trying to convince the government to include a particular proposal in its legislative programme or influencing a backbench MP in the hopes that he will support private member's bills.

Law-Making Processes

We have so far discussed the primary drivers of legal change. We will now look at how change works. The different methods in which law might be created are often referred to as sources of law. Today, legislation Acts of Parliament, case law judicial precedent, and EU law serve as the primary sources of law.

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Legislation

Acts of Parliament, often known as statutes, are the primary type of legislation that the Queen enacts in Parliament. The House of Commons and the House of Lords are the two houses of Parliament. The Commons is made up of 646 elected Members of Parliament MPs who each represent a constituency, or part of the nation. The political party with the most Commons votes forms the government, and its leader is appointed as prime minister. To lead the different government agencies, the prime minister appoints ministers. The Cabinet, which is in charge of creating government policy, is comprised of the most significant ministers. In contrast, the House of Lords is a non-elected body. It has undergone reform in recent years, including changes to its membership and an examination of its role, responsibilities, and powers. The majority of hereditary peers ability to sit and vote in the House was removed as part of the first round of reform.

The House of Lords is now made up of 605 life peers, 92 hereditary peers of whom 17 were royal or elected office holders and 75 were elected by their peers, 23 Law Lords, and 26 spiritual peers the Archbishops of Canterbury and York and 24 bishops of the Church of England. These changes were brought about by the House of Lords Act 1999. In September 2003, the government released its recommendations for the next phase of the House of Lords reform, but in March 2004, it said that it would not be moving through with legislation to put the recommendations into effect. Under the Constitutional Reform Act of 2005, the Lord Chancellor continued to be a government minister at Cabinet level with responsibility for the judiciary and court system however, his judicial functions were transferred to the President of the Courts, and the government did move forward with its plans to reform the role

of the Lord Chancellor and to establish a Supreme Court to replace the system of Law Lords hearing appeals as a Committee of the House of Lords In Chapter 3, the Supreme Courts founding will be discussed in further depth.

The government presented a White Paper outlining its recommendations for a second chamber reform in July 2008.In 2007s free parliamentary elections, the Lords chose an entirely appointed House, while the Commons chose a second house that was entirely or mostly 80% elected. The Commons votes and the results of following cross-party discussions form the basis of the White Paper.The construction of a second chamber with members who are chosen directly is one of the main ideas. The chamber may be made up of 100% elected members or an 80/20 split between elected and appointed members. The voting method should also be given more thought the choices include a list system, alternative vote, single transferable vote, and first-past-the-post. Members should hold office for a lengthy period of time, such as a single 12- to 15-year non-renewable term.

A third of the new members would be chosen during general elections. If an appointed element were present, appointments would be made by an Appointments Commission, which would solicit applications and nominations.

A person's capacity, willingness, and commitment to participate in the entire spectrum of work would be taken into consideration while making an appointment. If there was an appointed element, Church of England Bishops and retired Law Lords as well as future Supreme Court justices would still hold their seats. To guarantee a strong independent Crossbench element would be the primary goal of having an appointed element. The three additional tranches of members would be introduced gradually over the course of three election cycles. Members would be compensated. The connection between a peerage and a parliamentary seat would be severed. Hereditary peers would no longer be permitted to participate in Parliament or cast votes. The new parliament would be much smaller than the existing House of Lords, and members would not be granted peerages [9]–[11].

III. CONCLUSION

A crucial activity that influences the corporate environment and assures fairness and openness is lawmaking in the commercial sector. Effective law may promote economic expansion and safeguard the rights of corporations and consumers. To be successful, these objectives must be carefully balanced against a number of criteria, such as stakeholder interests, transparency, and response to changing dynamics. Policymakers may provide a legislative framework that promotes a thriving and sustainable business sector by acknowledging these complexities and encouraging inclusive and informed decision-making.

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