



*Session 10*  
*Changes in law*

## *Factors*

Legal changes are the reflection of societal change i.e. demographic change, technological change, value change and national emergencies.

ACTIVITY: class to be divided in four teams to discuss, summarize and present issues (2004: 5-7) under the following headings.

Demographic change:

Technological change:

Value change:

National emergencies:

# *Factors*

activity - suggestions:

- Demographic change: change in rural/urban proportions, employment habits, working conditions
- Technological change: change in jurisdiction and technological evolution (e.g. broadcasting)
- Value change: change in how people perceive actions (e.g. drinking and driving)
- National emergencies: change in social arrangement when facing threat (e.g. war measures, income tax)

## *Conditions*

For change to occur in an orderly fashion, the following conditions must be in place:

- Rule of law: 1) in that there is the general recognition that law is necessary in and for an orderly society, 2) law applies equally to everyone, 3) one's rights are not restricted unless in accordance with the law.
- Democratic government: in terms of the possibility that people have to change the state for an arrangement that is considered better.
- Independent justice system: to balance and check the workings of the executive and the legislative branches of the state, at every level.

## *Change in practice*

The most common means of changing the law is to challenge its constitutionality in courts.

For the case to be won, it must not, in principle conflict with fundamental rights; if the case *is* won, the parliament has to set up new legislation in a manner that it does not conflict with the fundamental rights and if it does change is likely to be undermined.

ACTIVITY: read the brief on Sue Rodriguez (2004: 17-18) to establish the extent to which assisted suicide can become law.

The case shows how difficult it is to conceive of laws that go against fundamental rights.

# Change

Change can occur following

- personal action;
- collective action: lobby groups (ad hoc or national organizations building public support whereupon the state appoints a Royal Commission – Senatorial or Parliamentary commissions in other nation-states, as the board of inquiry to report on the issue) – in the US: class actions;
- scholarly research;
- political demonstrations (protest rallies, civil disobedience).