

Role of the speaker in Indian parliament: A review

Dr. BVV Bala Krishna

Course Coordinator, Department of Political Science, Adikavi Nanayya University, Rajahmendravaram, Andhra Pradesh, India

Abstract

The Speakership has been described as the heart of the parliamentary system, and (poetically) "the linch-pin of the whole chariot." Apart from reflecting the prestige and authority of the position, these descriptions point to the key role the Speaker plays in the healthy functioning of parliamentary democracy. This purpose is woven into the tenets of the Speakership, and is evident in the Speaker's role as Presiding Officer of the House. This paper tries to explain the role of the speaker in India.

Keywords: anti-defection law, business advisory committee, treasury benches, participative citizenry, deliberative democracy, constitutions amendment

Introduction

The role of the Speaker is pivotal in Indian parliamentary democracy. As the presiding officer, he is at the helm of affairs in the Lower House where the government has to prove its majority. It is in the Lower House that no-confidence motions are fought and most often, where the Prime Minister sits. It is the Speaker's duty to ensure that the business of the House is conducted in an orderly manner in accordance with parliamentary rules and procedures. His decisions cannot be easily challenged and he cannot be asked to review them. He decides the length of speeches and debates, and can discipline members and even override decisions by committees. He represents the collective voice of the House, and is the sole representative of the House in the international arena.

Recently, there has been much talk about the Indian parliamentary system being imperilled, primarily in light of continued disruptions in Parliament that have reduced the productivity of the House. Such despondency associated with Parliament's effectiveness suggests the need to systematically study the performance of various facets of parliamentary functioning. Towards that end, this paper attempts to evaluate the role and performance of the office of the Speaker. I argue that there are means for the Speaker to improve the efficiency and representative nature of parliament through effective use of discretionary powers conferred on the office, while working within the framework of the Rules of Procedure and guided by larger principles of democratic governance.

The Speaker's powers and functions can be carved into three broad categories. First, the Speaker facilitates the business of the House. The Speaker has to be a political and cannot participate in the discussions in the House. However, when he presides over different sessions of the House's business, he is actively involved in them. While the members, through the Business Advisory Committee, decide the business of the House, the Speaker decides the permissibility of different motions such as adjournment motions and motions for short duration discussions. He assists members in holding the executive accountable by selecting members who may ask supplementary questions and compelling Ministers to make statements before the House. Thus, through his decisions, the

Speaker facilitates the parliamentary function of representing the electorate and holding the government accountable.

Second, in order to maintain decorum in the House, the Speaker takes on the role of a disciplinarian. In case of disorder, he is empowered to suspend members, or ask them to withdraw from the House. He can make such directions to members as well as persons in the gallery. In case of gross disorder, he may also adjourn the House. In order to ensure that decorum is maintained in the House, the Speaker may interrupt members to withdraw their statements if they are un-parliamentary. He may also require expunction of statements of an un-parliamentary nature.

The Speaker also performs a quasi-judicial role. In matters of defection, the Speaker decides on the petition alleging defection. Defection from one party to another is a ground for disqualification of a Member from Parliament. Members of Parliament may make a petition to the Speaker alleging that members have defected and are liable to be disqualified. Thereafter it is the onus of the Speaker to determine the facts of the case and determine if the members had in fact defected.

When the speakers set the norms

"The most important aspect of the Parliamentary system is the office of the Speaker; the tradition and the norms that he sets really set the tone and temper of Parliament and I must say that a remarkable role was played by Vithalbhai Patel who was the President of the Central Legislative Assembly as it was called then. The most significant contribution he made was that he brought out a complete separation of the executive and the legislature. Even in the days of British rule when he was the presiding officer of the Legislature, through his rulings he set wonderful standards." says Madhu Dandavate in an interview. "To recall one such thing, Bhagat Singh and his colleagues were sitting in the gallery; they did not want to hurt any member of Parliament but when the debate on the Public Safety Bill - the most tyrannical Bill destroying the edifice of the Parliamentary system - was taking place just to express the discontent of the people, he threw a bomb in the well of the House and the House was adjourned." "When the House met on the next working day and the Speaker looked up the

gallery, he found a uniformed English police officer sitting there. Raising his voice he said, 'How dare this man from the executive occupies the gallery without my consent.' The then Home Member (Home Minister) angrily got up from his seat and said, 'Sir, with my permission he is there'. Vitalbhai shouted at him, 'Hold your tongue and re-strain yourself: otherwise I will have to send you out of this House'. He took his seat and the officer ran away never to return to that gallery."

"Then, if you come to Mavlankar." Dandavate continues, "As a Speaker, he was cowed down neither by the weight of the Treasury Benches nor the pressure of the Opposition. He believed that the Speaker must keep a distance from the highest executive."

"On one occasion, the Prime Minister, Pandit Nehru, sent a note to the Speaker, stating, 'I have some urgent work with you; can you come to my chamber?' On the same note, in his handwriting, Mavlankar wrote, 'According to the norms and Parliamentary conventions, the Speaker does not go to any executive's chamber but if you have any urgent work, you are welcome to my room.' And, again on the same note, Pandit Nehru wrote, 'Inadvertently, I had committed a great blunder, I give my apologies and I am coming to your chamber.'"

"Then there was another instance involving N.C. Chatterjee, a Lok Sabha member then from the Hindu Mahasabha (father of Somnath Chatterjee). Once while addressing a conference in Madras, he commented on the Special Marriage Bill that was passed by the Rajya Sabha. He said, 'A pack of urchins have passed the Bill.' There was a privilege motion against him in the Rajya Sabha for having committed contempt and the Secretary sent a notice to him. Chatterjee, fully conversant with the rules, gave a counter privilege motion against the Secretary of the Rajya Sabha in his capacity as a Lok Sabha member. Mavlankar got up to inform the Lok Sabha of this notice from Chatterjee; Pandit Nehru, raving with anger, said, 'He has the temerity to bring a privilege notice and the arrogance to insult the entire Rajya Sabha' and asked the Speaker not to admit the privilege motion. Mavlankar got up and said, 'Mr. Prime Minister, take your seat. So long as I am the Speaker of this Lok Sabha, I will never allow the member to be submitted to the jurisdiction of the other House.'

Dandavate goes on : "Strangely enough, I myself had become a victim...in the famous Indira Gandhi Prathiba Prathistan involving A.R. Antulay, there was a discussion on me in the Maharashtra Legislative Assembly and this was sent to the Lok Sabha Speaker as a privilege motion against me, at that time, Balram Jakhar was the Speaker. He did not take a decision for almost one year. One day I got up and said, 'Mr. Speaker sir that privilege motion against me from the Maharashtra Assembly is still pending with you for your ruling. Please give the ruling before the dissolution of the Lok Sabha or before my death, whichever is earlier...' Anyway he disposed of the notice the next day."

Will you say something about the members of Parliament, the vigilant members...?

"I am coming to that. In 1957, Feroze Gandhi had raised the Mundra scandal; some newspapers had made the allegation that Mundra had sold fraudulent shares to the LIC and Feroze Gandhi raised the issue."

"Some member said, 'You cannot rely on newspapers and journals'. So he said, 'Mr. Speaker sir (Ananthasayanam Ayyangar), they want a more reliable evidence; so will you

allow me to lay on the table of the Lok Sabha the confidential correspondence between the Principal Finance Secretary and the Finance Minister. T.T.Krishnamachari, which I have in my pocket."

"Many members objected to this but Ananthasayanam Ayyangar gave a historic ruling which myself, Jyotirmoy Basu and many others relied on several times; I remember the ruling verbatim; 'So long as any honourable member of this House is willing to take full responsibility of the confidential document he is seeking to lay on the table of this House, even if it is brought by stealth, I will allow him to lay it on the table of the House'. So that correspondence was laid by Feroze Gandhi on the table of the House."

"It was such a clear evidence that on the basis of that the then Prime Minister, Pandit Nehru, appointed a one-man commission of inquiry which indicted Mundra and he was punished and T.T. Krishnamachari resigned."

Role of Speaker on Anti Defection Law

The Anti-Defection Law was passed in 1985 through the 52nd Amendment to the Constitution, which added the Tenth Schedule to the Indian Constitution. The main intent of the law was to combat "the evil of political defections". There are several issues in relation to the working of this law which need to be discussed. Does the law, while deterring defections, also lead to suppression of healthy intra-party debate and dissent? Does it restrict representatives from voicing the concerns of their voters in opposition to the official party position? Should the decision on defections be judged by the Speaker who is usually a member of the ruling party or coalition, or should it be decided by an external neutral body such as the Election Commission?

In this note, we summarise the main features of this law and interpretation by the Courts and the presiding officers. We also see which other democracies have similar provisions.

Main Features of the Anti-Defection Law

Disqualification

- a) If a member of a house belonging to a political party:
 - Voluntarily gives up the membership of his political party, or
 - Votes, or does not vote in the legislature, contrary to the directions of his political party.

However, if the member has taken prior permission, or is condoned by the party within 15 days from such voting or abstention, the member shall not be disqualified.
- b) If an independent candidate joins a political party after the election.
- c) If a nominated member joins a party six months after he becomes a member of legislature

Power to Disqualify

- a) The Chairman or the Speaker of the House takes the decision to disqualify a member.
- b) If a complaint is received with respect to the defection of the Chairman or Speaker, a member of the House elected by that House shall take the decision.

Exception Merger

A person shall not be disqualified if his original political party merges with another, and:

- He and other members of the old political party become members of the new political party,
- He and other members do not accept the merger and opt to function as a separate group.

This exception shall operate only if not less than two-thirds of the members of party in the House have agreed to the merger.

**Recommendations of various bodies on Anti-defection law
Recommendations of various bodies on reforming the
Body/ Committee Main reforms suggested/ recommended**

Dinesh Goswami Committee on electoral reforms (1990)	Disqualification should be limited to cases where (a) a member voluntarily gives up the membership of his political party, (b) a member abstains from voting, or votes contrary to the party whip in a motion of vote of confidence or motion of no-confidence. The issue of disqualification should be decided by the President/ Governor on the advice of the Election Commission.
Halim Committee on anti-defection law (1998)	The words ‘voluntarily giving up membership of a political party’ be comprehensively defined. Restrictions like prohibition on joining another party or holding offices in the government be imposed on expelled members. The term political party should be defined clearly.
Law Commission (170th Report, 1999)	Provisions which exempt splits and mergers from disqualification to be deleted. Pre-poll electoral fronts should be treated as political parties under anti- defection law. Political parties should limit issuance of whips to instances only when the government is in danger.
Election Commission	Decisions under the Tenth Schedule should be made by the President/ Governor on the binding advice of the Election Commission.
Constitution Review Commission (2002)	Defectors should be barred from holding public office or any remunerative political post for the duration of the remaining term. The vote cast by a defector to topple a government should be treated as invalid.

In many states the speakers are fails to control the defections.

Summary

Indian parliamentary history is rich and offers many solutions to the current problems faced by the House and the Speaker. Over the years, processes have developed and some conventions have become relatively stronger than others, even though they may not necessarily further representative and deliberative democracy. The turn of the decade has seen the rise of an aware and participative citizenry.

- 1) The aim of increasing representativeness should permeate Speaker’s decisions on matters where he is vested with discretionary powers. In debates and during question hour, attempts should be made to not only give members time as per party strength, but to also accommodate members who wish to convey different grievances or views, and bring to the House relative expertise – such as committee membership, professional engagement, constituency or historical experience. Such steps would improve the quality of the debate by ensuring representation of a greater variety of opinions and reducing rhetoric.
- 2) Speakers must take steps to encourage members to develop their niche interests. This would benefit the members and the House as a whole. Small party members would get a higher chance to participate and members would be

allowed room to develop expertise in areas of their interest. The House would benefit from an informed discussion and decision. The political party too would have experts it can wield to counter the government Ministers in prospective debates who can then go on to become Ministers when the party comes to power.

- 3) One mechanism to increase efficiency and trust in the Speaker is to increase transparency in his decision making process. For instance, decisions by Speakers should be made available to the public.
- 4) Greater understanding of parliamentary procedures and constraints faced by Speakers, coupled with transparency in the Speaker’s decision making process would help dissipate mistrust and allegations of partiality against the Speaker. Since the Speaker’s office is receptive to public reason, it is imperative that the public itself is familiarised with the concerns that constrain the Speaker.
- 5) The Speakers’ reluctance to take action against disorderly members could potentially be reduced if an atmosphere is created whereby public opinion is informed and clearly views misconduct by members of the House as undesirable. Such public opinion can be created where the media plays a constructive role in highlighting instances of disorderly conduct and the adverse impact such conduct has on the performance of the House and the health of Indian democracy.

References

1. Subhash Kashyap C. Office of the Speaker and the Speakers of Lok Sabha (Delhi: Shipra Publications, 1991).
2. Kaul MN, Shakhdar SL. Practice and Procedures of Parliament (Delhi: Lok Sabha Secretariat, Metropolitan, Fifth Ed. 2001).
3. Mavalankar GV. The Office of the Speaker. Journal of Parliamentary Information. 1956; II(1):33.
4. Subhash Kashyap C. Parliamentary Procedure - The Law, Privileges, Practice and Precedents, New Delhi: Universal Law Publishing Company, 2003, I-II.
5. Kaul MN, Shakhdar SL. Practice and Procedures of Parliament: with particular reference to Lok Sabha, G.C Malhotra, ed. (New Delhi: Lok Sabha Secretariat, Meteropolitan Book Co. Pvt. Ltd.)
6. Achary PDT. Speaker Rules Delhi: Jainco Art India. 2001.
7. Lok Sabha Secretariat. The Speaker Speaks: Selected Speeches of Speaker Balayogi. New Delhi: Jainco Art India, 1999.
8. Harsimran Kalra. Public Policy Scholar, Decisional Analysis and the Role of the Speaker, The Hindu Centre for Politics and Public Policy. 2013.