



सत्यमेव जयते

PARLIAMENT OF INDIA RAJYA SABHA

HOW TO BE AN EFFECTIVE LEGISLATOR





“BOOKLETS IN THIS SERIES”

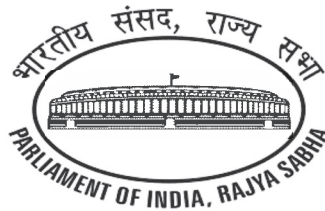
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RAJYA SABHA**

**HOW TO BE AN
EFFECTIVE LEGISLATOR**



**RAJYA SABHA SECRETARIAT
NEW DELHI**

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PREFACE

This booklet is part of the series of booklets brought out for the benefit of the newly elected Members of Rajya Sabha. It briefly covers different aspects that help a Member become an effective legislator. For detailed information, original sources may be referred to.

It is intended to serve as a handy guide for ready reference. I hope the Members will find the booklet useful.

New Delhi
July, 2020

DESH DEEPAK VERMA
Secretary-General

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INTRODUCTION

The need to make the institution of Parliament more effective in the discharge of its representative, legislative and oversight functions can hardly be over emphasized. Parliament is a body composed of the elected representatives of the people. Its strength and effectiveness as a representative body, therefore, depends to a great extent, on the conduct and performance of its Members.

A legislator, in fact, is a representative of her/his constituency, a member of the Legislature, sometimes a Minister, a member belonging to a political party and often a member or spokesperson of a particular interest or a community – all rolled into one. Her/his obligations are many and not always easy to reconcile. She/he owes loyalty to her/his constituents that return her/him to the Legislature, the party to which she/he belongs, and above all, to the nation as a whole.

PARTICIPATION IN THE WORK OF THE LEGISLATURE

The most important task before a new legislator is to familiarise herself/himself with the House proceedings. Though the House may be polite to a new entrant to its ranks, it is never too friendly. In order to play her/his role effectively, a legislator must make full use of all the available opportunities and participate actively in the business before the House. To this end, a number of procedures have been developed, some traditional and some new. A Member can ask questions, raise half-an-hour discussions, short duration discussions, give notices for adjournment motions,¹ calling attention, no-day-yet-named motions and Private Members' resolutions, etc. She/he can also raise a matter through Special Mention [Rule 180(A) to 180(E)] in the Rajya Sabha.² In addition, the Members can raise matters of recent and urgent public importance on the floor of the House by Zero Hour Submissions (Matters raised with permission of the Chair). A Member can also make meaningful contribution to the proceedings of the House by participating in the debate on the Motion of Thanks on the President's Address and on the Budget.

A Member cannot effectively raise a matter in the House and follow it up unless he has done a good deal of home work and is equipped with information on the subject. The study of economic, political and social journals along with different informative documents, published through

¹ Adjournment Motions are admissible only in the Lok Sabha.

² In the Lok Sabha, Members raise matters of public importance under Rule 377 of the Rules of Procedure and Conduct of Business in the Lok Sabha.

Government or non-Government agencies and print/electronic media are useful in this regard.

According to her/his interest, a Member may also develop specialisation in one or two fields, besides having interest in a number of subjects. Domain specific knowledge and expertise help a Member make her/his mark as a serious legislator.

Though in the present context, the responsibility for sponsoring legislation mainly rests with the Government, a Member can wield enormous influence in the shaping of legislation and also initiate Bills as Private Member. So far, 14 Private Members' Bills have been enacted of which 5 Bills were initiated by Members of Rajya Sabha³. Besides these, two (Private Members' Bills) Bills namely the Aligarh Muslim University (Amendment) Bill, 1977 and the Rights

³ (1) The Muslim Wakfs Bill, 1952; (2) The Code of Criminal Procedure (Amendment) Bill, 1953 (Amendment of section 435); (3) The Indian Registration (Amendment) Bill, 1955 (Amendment of section 2 etc.); (4) The Proceedings of Legislature (Protection of Publication) Bill, 1956 [Title changed to "The Proceedings of Parliament (Protection of Publication) Bill, 1956" when the Bill was passed by the Lok Sabha]; (5) The Women's and Children's Institutions (Licensing) Bill, 1954; (6) The Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Bill, 1954; (7) The Hindu Marriage (Amendment) Bill, 1956 (Amendment of section 10); (8) The Code of Criminal Procedure (Amendment) Bill, 1957 (Amendment of section 198); (9) The Orphanages and other Charitable Homes (Supervision and Control) Bill, 1960; (10) The Marine Insurance Bill, 1963 (Introduced in the Rajya Sabha as the Indian Marine Insurance Bill, 1959); (11) The Hindu Marriage (Amendment) Bill, 1963; (12) The Salaries and Allowances of Members of Parliament (Amendment) Bill, 1964 (Amendment of sections 3 & 5); (13) The Indian Penal Code (Amendment) Bill, 1967 (Amendment of sections 292, 293 etc.); (14) The Enlargement of the Appellate (Criminal) Jurisdiction of the Supreme Court Bill, 1968 [Title changed to "The Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill, 1970", when passed by the Lok Sabha and the Rajya Sabha].

of the Transgender Persons Bill, 2014 were also passed by the Rajya Sabha on 2 March 1979 and 24 April 2015 respectively. However, the Aligarh Muslim University (Amendment) Bill lapsed on dissolution of the Sixth Lok Sabha while the Rights of Transgender Persons Bill was removed from the register of pending Bills by the Lok Sabha on 28 December 2018, as a substantially identical Government Bill, namely the Transgender Persons (Protection of Rights) Bill, 2018 was passed by the Lok Sabha on 17 December 2018.⁴ Although, Bills sponsored by Private Members mostly fail to become laws but they often serve a useful purpose in sensitising the Government to enact legislation on specific issues highlighted in such Bills.

⁴ Rajya Sabha : The Journey Since 1952, Rajya Sabha Secretariat, 2019, p. 106.

SCRUTINY OF GOVERNMENT'S PERFORMANCE

The preponderance of the Executive in the affairs of the Legislature is a common feature of modern parliamentary systems. The Legislature oversees the enormous power and resources held by the Executive to ensure that these are properly and judiciously used. A vigilant Member of Legislature can elicit information and focus attention on specific aspects of governmental policies or activities and other important matters of public concern by making use of various procedural devices available to her/him under the Rules of Procedure. Moreover, a Member can also keep a close and continuous vigil on governmental activities through her/his participation in the deliberations of the Parliamentary Committees.

MAINTENANCE OF PARLIAMENTARY DECORUM

On the floor of the House, legislators are required to follow various rules and guidelines which are necessary for orderly and smooth transaction of the business and upholding the dignity and decorum of the House. These rules and guidelines are outlined in different sources such as the Constitution, the Rules of Procedure and Conduct of Business, the Handbook for Members, etc. There are also numerous customs and conventions and other parliamentary etiquette based on past precedents, Rulings by the Chair and even unrecorded traditions, which have to be observed by the legislators. If a Member feels aggrieved in the House and wants to convey his feelings, she/he can convincingly do so within the framework of rules without resorting to indiscipline or use of unparliamentary language. Further, a Member must be conscious of the time available to her/him and use every minute most economically and purposefully. The maintenance of parliamentary decorum and discipline is integral to the duty of a Member.

ELOQUENCE IN LEGISLATURE

Oratory is an important skill set that helps a Member to become an effective legislator. This helps a Member to give a good account of herself/himself to the electorate and successfully play the role expected of her/him by her/his constituents and party. An eloquent legislator can give a different dimension to any issue and can turn the course of the debate. A Member can present a very common idea in the most effective way and can successfully persuade the House to view the issue from her/his angle. This is amply proved by several instances in the history of parliamentary institutions in our country and across the world. One may wonder, whether it is possible for a legislator, however eloquent she/he may be, to carry the House with her/him in modern parliamentary democracies where Members are expected to vote according to party policy and party whip, irrespective of their own personal convictions. But parliamentary history is replete with instances of stalwarts with erudition and eloquence commanding influence and respect in the House. Such gifted legislators by the sheer force of their erudition can draw the attention of the Government to their points of view.

A legislator enjoys immunity from legal consequences for anything she/he may speak in the House. This privilege enables her/him to express freely without fear or hesitation. There are, however, certain restrictions also. A Member has to speak within the purview of her/his party's policies. Further, even if the Member catches the eye of the Chair,

there will always be time-limit within which the Member has to put forth her/his case. To be effective, the legislator should remain present in the House and follow what others speak so that when her/his turn comes she/he avoids repetition of points already made, and where she/he disagrees with views expressed by a Minister or a colleague earlier, she/he explains her/his stand with reasons therefor. Within these constraints, a successful legislator has to combine the charismatic appeal of a leader with the argumentative skill of a lawyer and the expository ability of a lecturer.

LEGISLATORS: A LINK BETWEEN THE CITIZENS AND THE GOVERNMENT

A legislator is the accredited representative of her/his constituency. She/he, on the one hand, is responsible for the well-being of her/his constituents and on the other hand, she/he is one of the law-makers also. This representative status of the legislators accords them a special position which makes them eminently suited to play the role of an intermediary between the people and the Government. A legislator has to articulate the aspirations of the people before the Government and also to convey the viewpoint of the Government to the people.

Serving the constituency to which a legislator belongs, is an essential duty of a legislator. She/he must combine in herself/himself the attributes of a social worker, orator and a politician. A Member must be imbued with a spirit of service and a sense of sacrifice. The constituency, being the centre of her/his activities, should be her/him first concern and her/his the success or failure as a legislator will depend largely on the faith that the people of constituency have in her/him. A Member must be thoroughly conversant with the problems of her/his constituency, the hopes and aspirations of the people and should have a clear grasp of the means by which she/he can meet the genuine demands of her/his constituents. In fact, the common man look up to a legislator for help and very often she/he on their behalf take up their problems with the public functionaries for finding appropriate solutions. While she/he has to tackle the problems to the best of her/his

ability and understanding, a line has to be drawn where self-interest ends and national interest or community interest begins. Nothing can be more gratifying or fulfilling for a legislator than the satisfaction of being able to contribute constructively to the welfare of the people.

By virtue of their special position as leaders of the community, legislators are placed in a unique position to mould public opinion and influence the Government. They can provide the valuable inputs/feedback based on the ground realities that help in formulation of public policies and programmes catering to the felt needs of public. In a country like ours, legislators can also make a real contribution to the process of development and social transformation by enlightening and mobilizing the masses. Developmental activities offer legislators plenty of opportunities to work for the all-round development of their constituencies and help in the nation building.

It is a part of the duty of a legislator to educate her/his electorate and in order to be able to do that she/he has to educate herself/himself first. Once she/he is elected, even though by a thin majority from a constituency, the legislator must consider herself/himself as the representative of the whole electorate. She/he must not make any distinction between the people who supported her/him and the people who did not because as public representative, she/he is elected to serve the entire electorate. A Member should regularly interact with her/his constituents on various issues that may crop up from time to time. Even though, for instance, a particular piece of legislation has resulted in hardship to a certain section of the people, the legislator must explain why and how that legislation was necessary in the overall interest

of the country or the State. It should be the first and foremost duty of a legislator to enlighten the people about their civic duties and responsibilities, the need for discipline and restraint in public life. A Member should also make concerted and conscious efforts to eradicate social evils.

CONFLICTING DEMANDS

One of the challenges faced by a legislator results from a clash between her/his loyalties towards the nation and the party. Such situation is not regular, but when it happens, it puts a severe strain on the legislator. While on the one hand, the party discipline requires that a legislator should support a measure which her/his party is committed to and her/his own conscience may goad her/him to oppose it. Sometimes a legislator may be having an uneasy feeling that her/his constituency is hostile to a measure and she/he would be failing in her/his duty if she/he supported it. Edmund Burke gave his classic answer to this major dilemma in a representative democracy in the following words:

It ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinion, high respect; their business, unremitting attention. It is his duty to sacrifice his repose, his pleasure, his satisfactions to theirs; and above all, ever and in all cases, to prefer their interest to his own. But his unbiased opinion, his mature judgement, his enlightened conscience, he ought not to sacrifice to you, to any man or to any set of men living... Your representative owes you, not his industry only, but his judgement; and he betrays, instead of serving you, if he sacrifices it to your opinion⁵.

⁵ Edmund Burke, Speech to the Electors of Bristol, 3 November, 1774
(<http://press-pubs.uchicago.edu/founders/documents/v1ch13s7.html>)

While voting inside the Legislature, a Member has to follow the directions issued by the party to which she/he belongs otherwise she/he may face disqualification from membership on grounds of defection. However, disqualification on grounds of defection shall not apply in case of merger of her/his party with another party (when not less than two-thirds of the Members of the party have agreed to such merger). In resolving other conflicting demands, she/he has to take decisions to the best of her/his understanding, keeping national interest uppermost in mind.

CONCLUSION

The Legislature as a representative institution, performs a crucial role as the central institution in a democratic polity. If the conscience of the community is to find voice and assert itself democratically, it can be done only in a Legislature by the people's representatives. Who else can rightfully espouse and uphold the cause of the poor and the downtrodden? The very objective of the privileges and immunities, which legislators enjoy, is to enable them to perform these tasks freely and fearlessly. The people's representatives, work as the guarantor of the overall good of the community, and as a guardian of public interest. Thus the role of a legislator in our democratic polity is indispensable for deepening the roots of democracy in the society.

A legislator has to uphold moral values and ethical conduct in public life, promote civility, graciousness and a sense of fair play in interpersonal dealings. A Member has to set an example for the people as their role model. To sum up, what Sir Winston Churchill had said in the context of Great Britain could be true in case of India as well. He said:

The first duty of a Member of Parliament is to do what he thinks in his faithful and disinterested judgement is right and necessary for the honour and safety of Great Britain. His second duty is to his constituents, of whom he is the representative but not the delegate... It is only in the third place that his duty to party organisation or

programme takes rank. All these three loyalties should be observed, but there is no doubt of the order in which they stand under any healthy manifestation of democracy⁶.

⁶ Sir Winston Churchill on the Duties of a Member of a Parliament. (<http://www.publications.parliament.uk/pa/cm200607/cmselect/cmmodern/337/33706.html>)

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