

Gist of EPW November Week 3, 2019

Directly Elected Mayors

Significance of Urban Governance

- About 34% of India's population is now living in urban areas.
- Though the number of mega-sized urban clusters has remained constant, the number of smaller urban clusters has been increasing rapidly over the years.
- These urban centres are now more “happening places” with greater investments and increased opportunities leading to sizeable migration from rural areas.
- However, such fast transformation has come with a myriad of problems of unplanned and unregulated expansion of urban boundaries, and mounting pressure on infrastructure and community resources resulting in poorer quality of life in these urban centres.
- In India for all practical purposes, the municipal commissioner, a bureaucrat appointed by the state government, is the de facto head of the municipal body. Although the mayor is considered to be the political and executive head of the city, they hardly have any executive power.
- A result of such an arrangement is that often the elected representative ends up performing the role of the opposition, and where municipal commissioners are stronger, situations of gridlock occur.
- Reduced and less participation in municipal elections is an indication of citizen's faith and attitude towards ULBs. The ULBs often witness a lower turnout of voters than the state- or national-level elections.
- Such structural governance shortcomings have resulted in the mismanagement of Urban Local Bodies (ULBs) which in turn affect ordinary citizens every day.

Need for Directly Elected Mayors

- 1. Lack of effective leadership**
 - A civic leader to be successful has to work with different groups of stakeholders - from politicians to bureaucrats and other officials, etc.
 - Being elected representatives gives them the legitimate right to bring all stakeholders under the umbrella of formal governance and demand cooperation from all.
- 2. Frequent change of commissioners**
 - A recent survey reported that city corporations see a frequent change in commissioners, so much so that often a commissioner's tenure at a corporation is less than one year.
 - The uncertainty of the tenure and maximum level of control of the state make the nature of the commissioner's performance, barring few exceptions, routine, rather than imaginative and visionary.
 - In contrast, an elected mayor with a fixed tenure can be innovative and may take decisions breaking the limitations of a state-appointed bureaucrat commissioner.
- 3. Lack of co-operation between elected members and bureaucrat**
 - The existing municipal governance structure turns the entire democratically elected councillor against the chief executive, a state-appointed bureaucrat.
 - Such a relationship is fraught with severe consequences such as non-cooperation, mismanagement, continuous fight for hegemony and the most crucial - loss of face for the ULB.
 - Therefore, the realisation that the mayor is the democratically elected representative puts the onus on both commissioners and elected councillors to respect the citizens' mandate.

Recommendations of Second Administrative Reforms Commission 2007

- The functions of chairing the municipal council and exercising executive authority in urban local government should be combined in the same functionary i.e. Chairperson or Mayor.
- The Chairperson/Mayor should be directly elected by popular mandate through a city-wide election.
- The Chairperson/Mayor will be the chief executive of the municipal body. Executive power should vest in that functionary.
- The elected Council should perform the functions of budget approval, oversight and framing of regulations and policies.
- In municipal corporations and metropolitan cities, the Mayor should appoint the Mayor's 'Cabinet'.
 - The members of the Cabinet should be chosen by the Mayor from the elected corporators.
 - The Mayor's Cabinet shall not exceed 10 per cent of the strength of the elected Corporation or fifteen, whichever is higher.
 - The Cabinet will exercise executive authority on matters entrusted to them by the Mayor, under his overall control and direction.
- The Mayor should be the Chief Executive of the municipal body while the Commissioner should perform the functions delegated to him/her.
- The responsibility for selection and appointment of the Commissioner and other staff may be given to the Metropolitan Corporations within a period of two years. For other bodies, this may be done within three years.
 - States should, however, by law, lay down the procedure and conditions of such appointment.
 - For the duration that the Commissioner/Chief Officer continues to be drawn from the State Government, selection should be made by the Mayor from out of a panel of names sent by the State Government.
- The Directorates of Municipal Administration, wherever they exist, should be abolished. In case there are State-wide cadres of municipal employees, no fresh appointments to these may be made and the employees should be absorbed in municipal bodies through a due process.

Benefits of a Directly Elected Mayor

- **Community empowerment and promotion of local leadership:**
 - The current system of electing the leadership (indirect election of mayor) encourages a system of best among the equals from the elected councillors.
 - It is quite obvious that councillors would prefer those whom they believe will not become too popular or will not grow too big and hence, mediocracy is preferred.
 - Therefore, direct election of the mayor seems more pertinent as it gives the opportunity to local leaders to focus on those issues that are essential for most of the citizens.
 - Direct election of the mayor, which promotes strong visible leadership in cities, is an important source of recruitment of talent into public life and leadership development.
- **Impact on institutional design of local governance:**
 - Due to the prerequisite of getting elected by the ward residents, the existing mayors focus more on the work in their ward as compared to the municipality/city as a whole.
 - Thus, the focus on governance remains concentrated to a specific ward or area, rather than being equitable for the entire civic area as such.
 - Direct election of the mayor is likely to improve leadership, and quality, speed, and the process of decision-making of mayors.
 - Direct election changes the role of the mayor from a leader of the council to the leader of the city.
- **The relationship between the politician and officers:**
 - The directly elected mayor is expected to tap the support of bureaucrats by presenting himself as a people's representative of the city.
 - The direct election provides the required legitimacy to the mayor to interact, demand, and get work executed in the best interest of the city.

- Currently, there is lack of coordination between the elected representatives and the appointed officials since, the municipal commissioner, a bureaucrat appointed by the state government, is the de facto head of the municipal body.
- **Increased responsibility and competency to deliver:**
 - Direct election of the mayor makes the leader accountable for his/her decision, action, and performance.
 - Unlike the indirectly elected mayor who is dependent on the support of councillors, the directly elected mayor would be free to ask for help and support from the members of any group (political, bureaucratic, civil society, technocrats, business person) without thinking too much to keep councillors happy.

Challenges in implementing Direct Elections for Mayors

- The first challenge is the status quo itself and the vested interests it has entrenched. State governments do not wish to delegate more authority to city-level institutions.
- The second challenge is the post of municipal commissioner. Even if some powers are delegated to the municipality, the state governments have in place municipal commissioners to perform the executive functions, again cutting the mayor to size, the nature of mayoral election notwithstanding.
- It has to be ensured that the elected Mayor has autonomous authority and is not a mere puppet with a glorified title.
 - It means that the Mayor should have access to the city's budget, which implies that the state administration should step aside and not interfere in the governance and administration of the city.
- While electing a Mayor with considerable power (and responsibility) would be great, it could also result in an administration standstill, if the Mayor and the State Government are at disagreement on a particular issue, particularly if they don't belong to the same party.

Criticism of Direct Election

- India follows the ministerial or council system both at the central and state levels and directly elected mayoral system is considered equivalent to a presidential system of governance.
- The mayoral system restricts the flow of diverse ideas on governance as it limits the role of councillors.
- It is expected that the direct election will result in a more empowered and assertive mayor, and the elected councillors will feel losing some authority.
- Increased workload of the mayor because of his new overarching role is considered as one of the major weaknesses. Critics further add that it is not only the volume of work but types of work and expertise expected that will make the functioning of elected mayors difficult.
- If some notable personalities like sports, film, literature celebrities fight the election and win, then, it will be argued that those who never had experience in governance and those who never knew the nuances of a political process and local governance will be given the responsibility to run and manage the city.
- Concerns of wrongdoing and corruption are also related to power concentration in one pair of hands. It is said that centralisation of power and corruption go hand in hand.

A Plausible Model: The Outline

- To be successful, a model needs to be “feasible,” that is, possible acceptance or least resistance by all the stakeholders.
- The model considers the mayor as the political and administrative head of the municipality. The mayor would be directly elected by the citizens of the city.
- The election of the mayor and also that of the councillors will be held simultaneously, and the tenure of the municipality would be five years.
- A voter during the election will vote twice: one for the councillor and another for the mayor.

- The directly elected mayor can nominate another five to 10 eminent or reputed professionals as the councillors to the municipality.
- These councillors will have all rights and responsibilities of the councillors except that they cannot vote on any occasion.
 - The directly elected mayor can be removed by a provision called the right to recall (RTR).
- To execute the process of RTR, a resolution supported by minimum two-thirds of the councillors would be required. If the mayor loses the poll of the RTR, the city will go for a repoll.
- However, if the mayor sustains the election and wins the poll, all the councillors who had signed the resolution would have to resign and fight the election again.
 - Further, to give more power to the elected mayor, the elected mayor will be consulted while deciding about the municipal commissioner and other senior officials of the municipality.

Conclusion

- Although the directly elected mayor system is becoming popular across the globe with few exceptions, in Indian cities the logic driving the adoption of the “strong mayor” model is even more emphatic.
- It is important to mention that a private member’s bill was introduced in Parliament in 2016 seeking to amend the Constitution of India and provide, among other things, for a directly elected mayor.
 - Private members’ bill was introduced by Shashi Tharoor.
- It is high time that we make an honest beginning towards a genuinely democratic and decentralised governance of our urban areas.

Independence of the Speaker

Issue

- There are numerous instances in our polity where the Speaker of the Assembly has precipitated a political crisis by seemingly political decisions.
- In a parliamentary democracy, it is important that the legislature functions effectively and independently rather than being controlled by the government of the day.
- Theoretically, the government is answerable to Parliament, but, in practice, the government, which has a comfortable majority, controls Parliament through its sheer strength of numbers.
- There is a need for building up systematic neutrality to the Speaker’s position.

Who is the Speaker?

India’s Parliamentary system follows the Westminster Model of UK and the proceedings of the Lok Sabha/Legislative Assembly are headed by a presiding officer, who is called the Speaker.

About Speaker

- The Lok Sabha, which is the highest legislative body in the country, chooses its Speaker who presides over the day to day functioning of the House.
- Similarly, in the state, the Vidhan Sabha which is the highest legislative body of the respective state chooses its speaker.

- Electing the Speaker of the House is one of the first acts of a newly constituted House.
- The office of the Speaker is a Constitutional Office. The Speaker is guided by the constitutional provisions and the Rules of Procedure and Conduct of Business in the respective house.
- The Speaker is placed very high in the Warrant of Precedence in the country i.e. at rank 6 and the state speakers are placed at rank 14.
- Adequate Powers are vested in the office of the Speaker to help her/him in the smooth conduct of proceedings of their respective houses.

To read more about Speaker: [Click Here](#)

Historical Developments

- After the Tenth Schedule was inserted in our Constitution by way of the 52nd constitutional amendment in 1985, the Speaker was vested with the adjudicatory power in any case concerning defection.
- The vesting of adjudicatory power in the Speaker, far from enhancing the dignity of their office, has, in actual practice, made them more partisan.
- Since the Speaker is now vested with adjudicatory power, they must always act with detachment and be seen to be non-partisan all the time.

Read more about Anti Defection (10th Schedule) and Role Of Speaker: [Click Here](#)

Read about the recent case of Disqualification of 17 MLAs in Karnataka: [Click Here](#)

An Example of Neutrality of Speaker

- The only salutary example in the last few decades is the tenure of Somnath Chatterjee, the Speaker of the 14th Lok Sabha.
- There came a time when the duty of Chatterjee as a Speaker of the House and as a constitutional functionary conflicted with the dictate of his party, the Communist Party of India (Marxist) on the issue of the Indo-US Nuclear Treaty.
- But, Chatterjee rose to the occasion and ignored the dictate of his party and performed his constitutional duty with utmost distinction and neutrality for which he was expelled from his party, which effectively marked the end of his political career after he ceased to be a Speaker in 2009.
- The neutrality shown by Chatterjee becomes more remarkable in view of almost no precedent in which the Speaker acted completely independent of his party line by shedding his political affiliation.

Significance of Neutrality of Speaker

- Parliament is a forum for debate and discussion. The legislature is not only a legislative body, but is also a deliberative body.
- Without parliamentary approval, the government cannot pass the budget. The policies of the government should be subjected to close and minute scrutiny by the members of Parliament.
- This requires sturdy independence and non-partisan behaviours on the part of the Speaker. It is this neutrality which alone can inspire confidence in the office of the Speaker and impart dignity to the functioning of the august body.
- The opposition parties must have the confidence that they will receive a fair hearing from the Speaker at all times. The confidence in the impartiality of the Speaker is an indispensable condition for the successful working of Parliament or state legislature.

Challenges faced by Speaker to be Neutral

- **Election** - The position of the Indian Speaker is paradoxical.

- They contest the election for the post on a party ticket.
- Yet they are expected to conduct themselves in a non-partisan manner, while being beholden to the party for a ticket for the next election.
- **Political Aspirations** - The position is often used to woo the political parties by favouring them to harbour political ambitions.
- The need for re-election also skews incentives for the Speaker.
- The fear of losing the position in case of not favouring their political parties also pushes them to compromise neutrality.
- **Anti-Defection Law** - The absoluteness of the Speaker's decisions can also be an incentive for potential abuse.
- The determination of whether a representative has become subject to disqualification, post their defection, is made by the Speaker.
- This offers ample scope for Speakers to exercise discretion.

International practices with respect to neutrality of Speaker

- Ireland has a parliamentary system close to India.
- There the position of Speaker is given to someone who has built up credibility by relinquishing his or her political ambitions.
- The Westminster system considers it a taboo to induct a Speaker into the cabinet.
- No sitting Speaker of the House of Commons in Britain has lost his or her seat. This is because of the convention of not fielding candidates in the Speaker's constituency.
- In comparison, in India, there are many Speakers who have lost their seats in general elections.
- Also, Indian Speakers are not made members of the Rajya Sabha after they demit office.
- But the British Parliament automatically elevates the Speaker to the House of Lords.
- Only the U.S. allows the Speaker to openly engage in active politics.
- But this is compensated to an extent by their rigorous separation of powers between the judiciary, executive and legislature.

Conclusion

- Parliament can discharge its role as the watchdog of government policies and hold the government of the day to account for its policies only when its members, particularly those belonging to the opposition groups, are given the opportunity to raise issues, and that can be ensured only through the independent functioning of the Speaker.
- The first condition for the proper functioning of Parliament is to ensure order and that can be done only when the Speaker is seen to be above party lines at all times.
- If the minority groups have the confidence that the presiding officer will not allow the ruling party to override them without deliberations, the legislative business of the House can be conducted in a smooth manner and its decorum can be maintained.
- For achieving this, the first important step is to amend the Constitution by providing for the severance of the association of the Speaker with the party from which they are elected.