



UNPARLIAMENTARY LANGUAGE: POINT OF LAW OF THE REVISED STANDING ORDERS OF THE NATIONAL ASSEMBLY OF THE GAMBIA (2019)

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ABOUT US

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Introduction

Parliament is a forum where the views of a nation, through its elected (and where applicable, unelected) representatives, are freely expressed. It is generally recognized as the supreme legislative body in the country that makes and repeals laws for the common good, and exercises oversight of other arms of the state in the spirit of checks and balances. The members of Parliament could belong to a party, a coalition of parties, be independent candidates or, as in the case of The Gambia, some of them could be nominated by the President or other authority empowered by law to do so¹.

Using a comparative approach, this paper discusses the term “unparliamentary language” in the context of the National Assembly of The Gambia, drawing reference from various sources. It may be argued that for there to be peaceful coexistence and healthy debate in Parliament, boundaries and limitations must be set in the form of rules on the use of certain words and expressions. Furthermore, these words or expressions largely depend on the degree of their acceptance in the cultural context of a given society.

What constitutes unparliamentary language and when can one raise a red flag for its use in Parliament?

In its *Unparliamentary Language Handbook (2020)*, the Parliament of the republic of Zambia settles on the definition of unparliamentary language as any language that does not show good temper or moderation². This definition conforms with Erskine May³, which equally condemns the use of any language that tends to lower the dignity and integrity of the House. Thus, as Erskine May emphasizes, good temperament and moderation are fundamental comportment etiquette in a parliamentary debate. The UK Parliament defines unparliamentary language as a language that “breaks the rules of politeness in

¹ Constitution of The Republic of The Gambia. (1997). Section 88(b).

² *Unparliamentary Language Handbook*. (2020). National Assembly of Zambia. Retrieved on November 1, 2022, from https://www.parliament.gov.zm/sites/default/files/images/publication_docs/Unparliamentary%20Language%20BOOKLET%202020%20Edition%281%29.pdf

³ The “bible” of parliamentary procedures in Westminster

the House of Commons Chamber"⁴. According to P.D.T. Achary, a distinguished former Secretary General of (the 14th & 15th) Lok Sabha, Parliament of India, unparliamentary words are those that do not square with the dignity of the house and are, for this reason, expunged from the record of speeches (Hansard) by the presiding officer⁵. This is to say that when a word is deemed unparliamentary, the presiding officer directs that the records do not capture it as being said by the member; or where it is recorded, it is directed that it be expunged.

In The Gambia, the rules for the non-acceptance of unparliamentary language is provided for in standing order 29(4) of the National Assembly Standing Orders (2019), which states, "it shall be out of order to use offensive and insulting language about Members of the Assembly"⁶. Furthermore, standing order 21 (2) (d) directs that "[t]he Speaker or Chairperson may, after having called the attention of the Assembly or Committee to the grossly disorderly conduct of a Member who uses unacceptable language which he or she refuses to withdraw, order the Member to withdraw immediately from the Chamber during the remainder of the day's sitting."⁷

The Parliament of Zambia trades the notion that a word could be regarded as unparliamentary depending on the context in which it is used. The Parliament also notes that codifying unparliamentary language could be impractical as it is the context in which words or phrases are used that the presiding officer must consider when deciding whether they are offensive and, therefore, be withdrawn or otherwise. Therefore, "in dealing with unparliamentary language, the presiding officer takes into account factors such as the tone, manner and intention of the Member speaking; the person to whom the words at

⁴ Unparliamentary language. *UK Parliament*. Retrieved on November 1, 2022, from <https://www.parliament.uk/site-information/glossary/unparliamentary-language/>

⁵ Achary, P.D.T. (2022). Explainer: What Does it Mean for Certain Words to be Declared 'Unparliamentary'? *The Wire*. Retrieved on November 1, 2022, from <https://thewire.in/government/explainer-unparliamentary-words>

⁶ Revised Standing Orders of the National Assembly. (2019).

⁷ Ibid

issue were directed; the level of provocation; and whether or not the words created disorder.”⁸

In the UK House of Commons, it is part of the Speaker is empowered to ensure that Members of Parliament (MPs) do not use insulting or rude language, accuse each other of lying, being drunk or misrepresent each other's words. In most jurisdictions including the UK and Zambia, Parliament compiles the words and expressions that are deemed unacceptable to use, and therefore, sanctioned. Equally, in the Lok Sabha, the secretariats of Parliament compile and periodically update the compilations of unparliamentary words. These words and expressions are often declared unparliamentary by the central legislative assembly, the constituent assembly, provisional parliament, and the different legislatures of the Lok Sabha.

However, there is no such initiative by the National Assembly of The Gambia where words and expressions that are deemed unparliamentary are recorded and periodically updated and circulated to all the members of the Assembly. As such, the presiding officer, using his or her discretion, determines whether a word or expression as unparliamentary and the outcome invariably depends on the context.

In this regard, it must be reiterated that the presiding officer is obliged by standing order 21 (2) (d) to ensure that a member who uses unfriendly parliamentary language withdraws it or leaves the Assembly for the remainder of that day’s sitting. A member may also raise a point of order against a colleague who used language that could be considered profane, disrespectful or unparliamentary. That notwithstanding, the presiding officer must decide on the validity of that point of order in terms of the language used, including the context in which it is used. Even in the Parliament of India, the “decision to expunge words is the prerogative of the Chair”⁹

⁸ *Unparliamentary Language Handbook*. (2020). National Assembly of Zambia. Retrieved on November 1, 2022, from https://www.parliament.gov.zm/sites/default/files/images/publication_docs/Unparliamentary%20Language%20BOOKLET%202020%20Edition%281%29.pdf

⁹ Mathew, L. (2022). Explained: What are ‘unparliamentary words’ unfit for the House, and how are they compiled? *The Indian Express*. Retrieved on November 2, 2022, from <https://indianexpress.com/article/explained/explained-what-qualifies-as-unparliamentary-know-the-words-mps-cannot-use-in-the-house-8029082/>

It must be pointed out that before the presiding officer requests for the withdrawal of a member from a sitting of the Assembly or a Committee of the Assembly for using a word or expression that is deemed unparliamentary, the presiding officer must give the member in question the option of withdrawing the word or expression. Where a member refuses to withdraw as ordered, they may be asked to withdraw as requested, he or she can be made to withdraw from the Assembly voluntarily or by force if necessary by the Speaker, through the sergeant-at-arms.

There are a few instances where the Speaker sent out members from the Chamber during debate for using and refusing to withdraw, words that the Speaker deemed unparliamentary. For example, in February 2022, the Speaker sent out Hon. Majanko Samusa out of the Assembly when he referred to a statement made by a colleague as "rubbish and political"¹⁰. In October 2022, the Speaker requested Hon. Fatoumatta Njai to leave the Chamber upon her refusal to withdraw a statement that the Deputy Speaker "lied to the Assembly"¹¹.

There are also instances where members comply with the Speaker's request to withdraw comments deemed unparliamentary. For example, on 25th April 2022, Hon. Yaya Sanyang withdrew his words describing the Deputy Speaker as a "security threat to the country"¹².

The Speaker's decision to ban or sanction the use of a word or an expression in Parliament often generates controversy because members are loathe to restrict themselves to the extent of limiting their freedom of expression as guaranteed in the constitution. In the Lok Sabha, for example, a huge row erupted on 18th July, 2022, when a 50-page compilation of words deemed unfit for use in Parliament was released by the Secretariat,

¹⁰ Bojang, T. (February, 2022). Nominated Member Majanko Samusa sent out of parliament for 'abusing rules'. *Standard Newspaper*. Retrieved on November 2, 2022 from <https://standard.gm/nominated-member-majanko-samusa-sent-out-of-parliament-for-abusing-rules/>

¹¹ Banjul South NAM Walks Out Of Parliament, refuses to withdraw her statement. (27th Oct. 2022). *The Voice*. Retrieved on November 3, 2022, from <https://www.voicegambia.com/2022/10/27/banjul-south-nam-walks-out-of-parliament-refuses-to-withdraw-her-statement/>

¹² Jaiteh, B. (April 26, 2022). Seedy Njie is a security threat, says Hon Yaya Sanyang. *The Voice*. Retrieved on November 2, 2022, from <https://www.voicegambia.com/2022/04/26/seedy-njie-is-a-security-threat-says-hon-yaya-sanyang/>

with the opposition regarding the unparliamentary word list as a gag order meant to insulate the Narendra Modi government against criticism¹³.

Section 113 of the Constitution guarantees freedom of speech and debate in the National Assembly of The Gambia, whilst emphasizing that this freedom shall not be impeached or questioned in any court or place outside the Assembly. It is however questionable whether the Speaker's decision to restrict members from using words in the Assembly would conflict with this constitutional provision. Section 108(1) grants the National Assembly the power to regulate its own procedures and, in particular, make standing orders for the conduct of its own proceedings. In principle, if members of the Assembly make and adopt rules in this context, their freedom and debate in the Assembly is not infringed. According to one political commentator Liz Mathew, "whatever an MP says is subject to the discipline of the Rules of Parliament, the good sense of Members, and the control of proceedings by the Speaker". This is a cardinal principle in parliamentary law and practice, and the courts are in agreement that the proceedings of parliament cannot be inquired into, save it is in conflict with the constitution.

Conclusion

It is important to emphasise that documentation of rules helps in their enforcement. It could therefore be argued that Parliaments that already have a comprehensive list of words they sanctioned from use are less likely to generate controversy over the propriety of using certain words or expressions than Parliaments that do not keep a record of unparliamentary language. It is also important to emphasise that the degree to which words are culturally defined, the level of provocation from the member of parliament using them and the context in which they are used matter in the Speaker's determination of whether such language is unparliamentary.

¹³ Mathew, L. (2022). Explained: What are 'unparliamentary words' unfit for the House, and how are they compiled? *The Indian Express*. Retrieved on November 2, 2022, from <https://indianexpress.com/article/explained/explained-what-qualifies-as-unparliamentary-know-the-words-mps-cannot-use-in-the-house-8029082/>

Therefore, and as a matter of good practice, it is worth recommending that the Office of the Clerk of the National Assembly of The Gambia improves on the documentation of decisions and or rulings in the chamber for ease of reference.