

Parliamentary Privileges

Members of legislatures all throughout the world are given parliamentary privileges, which are extraordinary rights or advantages. The legislatures and their members so benefit from specific privileges in most democracies in order to perform well.

- Even though it is a part of the law of the state, Parliamentary privilege is, in some ways, an exception to the usual law. Privilege is to Parliament what prerogative is to the Crown; it would not be incorrect to state.
- The House of Parliament can exercise privileges without assistance from or interference from courts or Parliament, just as the King is free to exercise its rights and powers without interference from either. India is one of the few instances in history where representative institutions were slowly introduced and developed by a foreign authority.
- In conclusion, the totality of unique advantages conferred by each House independently and collaboratively that outweigh those held through other groups or individuals and without which they could not carry out their duties are the Parliamentary Privileges.
- While certain privileges are only subject to custom and parliamentary legislation, others are regulated by law.

History of Parliamentary Privileges in India

The Charter Act of 1833, which added a fourth member to the governor-council, general's marked the beginning of Parliamentary privileges in India. A new kind of legislative apparatus was created. This served as the basis for an organisation that eventually evolved into a full-fledged legislative body.

- After the Indian Council Act of 1909 established an indirect election to the legislature, the official opposition to the privileges of the senate was lessened.
- Freedom of speech was guaranteed by the Government of India Act 1935 in the legislative setting.
- There still are currently some legislation and procedure rules for the House, and a few of the privileges of the House, its representatives, and committees are outlined in the Constitution. However, other Parliamentary privileges are still reliant on the decisions of the House of Representatives.
- The primary articles of the Indian Constitution that deal with the privileges of Parliament are 105 and 122, while the articles for the states that deal with these same privileges are 194 and 212. There is freedom of speech in the Parliament, pursuant to the provisions of the Constitution and the rules and written instructions governing the procedure of Parliament, according to Article 105 (1) of the Indian Constitution.

Types of Parliamentary Privileges in India

In India, there are two types of parliamentary privileges: those that are recognised but not compensated and those that are explicitly listed and catalogued.

The first group consists of:

- Speech freedom in every Parliamentary chamber
- immunity from legal action on anything a member of parliament or a committee thereof says or votes.
- protection from responsibility with regard to the publishing of any document, statement, decision, or action by or with the consent of either House of Parliament.

All of the rights that were possessed by the House of Commons of the British Parliament, as well as its members and departments, at the time the Indian Constitution took effect and would remain in effect unless changed or specified by law by Parliament, fall under the second group. There are two categories of parliamentary privileges in India:

- Collective Privileges - Privileges that the Indian Parliament in its entirety may take advantage of.
- Individual Parliamentary Privileges - These are the benefits that are specifically granted to each member of parliament.

Collective Privileges:

- The capacity to both publish reports, discussions, and proceedings and to prohibit others from doing the same. Under press freedom, it may publish accurate judicial proceedings reports without the House's consent. This right of the media does not, nevertheless, apply in cases of secret House meetings.
- Keep outsiders away from the gathering and arrange secret meetings to discuss important subjects.
- Make regulations to control its own operations and business dealings, as well as to decide on such matters.
- A member has the right to be immediately informed of their arrest, detention, conviction, imprisonment, and release.
- Ask questions and demand someone's presence.
- The actions of a House or its committees cannot be looked at by the courts.

Individual Parliamentary Privileges:

- No member may be detained between the 40 days prior to the start of the session and the 40 days following its conclusion. This Parliamentary privilege is only available in civil cases; it is not available in criminal proceedings or instances involving preventive custody.
- Members of the legislature have the freedom to speak their minds. Any statements made or votes cast in the parliament or its committees are not subject to judicial review. The articles of the Constitution, as well as the conventions and procedures governing how Parliament conducts itself, place restrictions on this freedom.
- When Parliament is in session, members are exempted from jury service. They are free to testify in court without providing any proof.

Benefits of Parliamentary Privileges

It eases resentments, promotes amity, and promotes cooperation between the two branches of government: The parliamentary privileges include that this form of government encourages collaboration between the executive and legislative arms of government, which is advantageous.

- Quicker and more effective judgement: To enable quicker and more effective decision-making, the parliamentary system is integrated with the legislative and executive arms of government.
- Less employees and money are needed because the legislative and executive work together to administer a cabinet government system in a parliamentary system of government. Unlike a presidential government, where each branch of government is divided and staffed by a different group of individuals.

- The parliamentary system of government also encourages excellent administration for the effective management of the nation because it motivates all cabinet members to put in a lot of effort, thanks to the individual and collective duties granted to the parliament. Additionally, accountability and candour are guaranteed.

Issues with Parliamentary Privileges in India

The issue with the parliamentary privileges in India is that while a parliamentary system may seem to always favour effective governance, it can also breed too confident and strong lawmakers, which can abuse political power. The legal system will elevate and make invincible parliamentary members.

The prime minister is devoted to his party rather than to the nation's population since, in a parliamentary system of government, he is elected directly as the head of his party. He will therefore have greater loyalty to his party than to his people.

Measures to be Taken:

Need to Codify Parliamentary Privileges - As a result, it is imperative to codify the House's privileges, duties, and protections. It will eliminate current doubts and offer appropriate guidelines that should be followed. Free expression and the application of the law ought to be the rule rather than the exception in a democracy.

In the Spotlight case, Justice Subba Rao vehemently argued in favour of codifying privileges rather than according to custom. The constitution's creators believed that the House's Parliamentary privileges should not be drafted in a rush but rather be given time to develop and be nurtured before being codified.

Important Facts Related to the Parliamentary Privileges

The simple majority of the parliament may modify the clauses pertaining to the parliamentary privileges of the parliament (members and committees).

- Parliamentary privileges are not available to the president.
- The privileges and exemptions are not awarded to the parliamentary member without swearing an oath just before the Indian President.
- The privileges of Lok Sabha members and the committees of this chamber of parliament are protected by the Lok Sabha speaker.
- The speaker of the house of the Lok Sabha has the benefit of being appointed automatically to the position of chairman of the parliamentary committee he serves on.
- To reprimand a minister for violating parliamentary privilege, there is a movement called the "Privilege Motion."
- Token cut and adjournment motions cannot be used to bring up the issue of privilege.
- Only the Lok Sabha has the right to vote on grant requests.
- In the event that a member of one of the houses or an outsider violates a privilege, the parliament has the legal authority to penalise them.
- A committee with a semi-judicial role named the "Committee of Privileges" exists. It is in charge of assessing if the privileges were violated. The privileges committee for the Lok Sabha has 15 members, whilst the Rajya Sabha's committee has 10 members.
- The privileges of the Parliament are available to anyone who is permitted to speak during parliamentary sessions in either house. Attorney General of India as an example.

Committee on Privileges UPSC

There are 15 participants of this committee on Privileges, 10 of whom were appointed by the Speaker of the Rajya Sabha (Chairman in the case of Rajya Sabha).

- Its duty is to investigate any question involving a violation of the House's or a member's privilege that the House or the Speaker refers to it.
- It decides if a violation of parliamentary privilege is based on each case's specific facts and provides appropriate suggestions in its report.
- Additionally, it outlines the process the House must employ to implement the recommendations it makes.
- When the Speaker refers a privilege question to the Committee in accordance with rule 227, the Committee's report is delivered to the Speaker, who has the option of passing final verdict or ordering that it be set on the House's table.
- Any complaint concerning the disqualification of a member due to desertion may be referred to the Committee by the Speaker/Chairman, who will conduct a preliminary investigation and report back to him.
- In these situations, the Committee will proceed in much the same way as it does when dealing with questions of parliamentary privilege breach.

Conclusion:

In order for the parliament to function effectively, members are given parliamentary privileges. The foundation of democracy will be undermined if privileges are not awarded in compliance with fundamental rights, which are necessary to protect citizens' rights. It is the duty of the parliament to respect all other rights guaranteed by the constitution. They must always keep in mind that their powers do not make them corrupt. Because of this, it is often successfully decided that when deciding on parliamentary privileges, the parliament cannot start adopting a British equivalent but instead must decide and analyse if it matches Indian Democracy and doesn't insult the government's Republic feature.