

A CRITICAL STUDY OF PARLIAMENTARY PRIVILEGES IN A CONSTITUTIONAL DEMOCRACY

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Abstract

Parliamentary privileges are essential for the independent and effective functioning of the legislature. These privileges protect the members of Parliament and state legislatures from undue interference, allowing them to perform their duties freely and fearlessly. However, the exercise of these privileges often comes into conflict with fundamental rights, the principle of accountability, and the idea of constitutional supremacy. This paper critically examines the origin, scope, judicial interpretation, and challenges related to parliamentary privileges, particularly in the Indian context.

Keywords: Parliamentary Privileges, Legislature, Constitution, Immunity, Judiciary, Accountability, Indian Parliament.

1. Introduction

Parliamentary privileges are special rights, immunities, and exemptions enjoyed by members of Parliament and state legislatures. These privileges are vital for ensuring the independence and dignity of legislative institutions. However, they are not absolute and must be balanced with the fundamental principles of democracy and the rule of law.

2. Historical Background

Parliamentary privileges originated in the United Kingdom during the medieval period to protect the legislature from the monarchy. In India, these privileges were inherited from British parliamentary practice and are now embodied in **Article 105** and **Article 194** of the Indian Constitution.

- **Article 105:** Privileges of Parliament and its members.
- **Article 194:** Privileges of State Legislatures and their members.
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3. Nature and Scope of Parliamentary Privileges

Parliamentary privileges can be broadly classified into:

a) Individual Privileges:

- Freedom of speech in Parliament
- Immunity from legal proceedings for anything said or done in the House
- Exemption from attendance in court during session

b) Collective Privileges:

- Right to regulate internal proceedings
- Right to exclude strangers from the House
- Power to punish for contempt or breach of privilege

These privileges are not codified entirely and are claimed as necessary for legislative functioning.

4. Judicial Interpretation and Challenges

Indian courts have played a significant role in defining the limits of parliamentary privileges.

a) Keshav Singh's Case (1965):

The Allahabad High Court's decision to release a person held in contempt by the UP Assembly was overruled by the Speaker, leading to a constitutional crisis. The Supreme Court in a Presidential Reference (In re: Keshav Singh) held that the legislature's privileges are subject to judicial review.

b) Raja Ram Pal v. Lok Sabha (2007):

The Supreme Court upheld the expulsion of MPs in the "Cash-for-query" scam but reaffirmed that privileges are subject to constitutional principles, including judicial review in cases of illegality or irrationality.

5. Conflict with Fundamental Rights

One of the major criticisms of parliamentary privilege is its potential clash with **Article 14 (Right to Equality)** and **Article 21 (Right to Life and Liberty)**. Citizens affected by actions

of legislatures may have no remedy if privileges are claimed as a defense, raising serious constitutional questions.

6. Codification Debate

The privileges of Parliament in India remain largely uncoded, which gives rise to arbitrariness and lack of clarity. Several law commissions and jurists have suggested codifying them through legislation to ensure transparency and accountability. However, successive governments have shown reluctance.

7. Parliamentary Privileges vs. Media Freedom

There have been instances where media reporting of parliamentary proceedings was considered a breach of privilege. This raises concerns about the chilling effect on press freedom and the need to balance privileges with the **Right to Freedom of Speech under Article 19(1)(a)**.

8. Comparative Perspective

Countries like the UK, USA, and Canada have codified or clearly laid out privileges, offering clarity and judicial guidance. India could learn from these jurisdictions to reduce ambiguities.

9. Conclusion

Parliamentary privileges are indispensable for legislative independence but must be used responsibly and in conformity with constitutional values. Codification and judicial oversight are necessary to prevent misuse. Striking a balance between privilege and accountability is essential in a modern democratic framework.

10. Suggestions

- Codify parliamentary privileges through legislation.
- Establish a permanent Privileges Committee for transparent inquiry.
- Promote awareness among legislators to prevent misuse.
- Encourage judicial review in cases of abuse of privilege.

References

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