

7:00 Am Daily

21 September, 2023



DAILY NEWSPAPER EDITORIAL ANALYSIS

UPSC PRELIMS + MAINS

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2023 Daily News Analysis

Parliamentary privileges

Collective for Parliament

- 44th Amend. 1978 restored freedom of press to publish reports of parliament without prior. **But not of secret sitting**
- Exclude strangers from secret
- Make rules to regulate its own procedure
- Punish members/outsideers for breach of privileges / contempt (suspension or expulsion).
- Right to receive info. of the arrest, detention etc. of a member.
- Institute inquiries + order attendance of witnesses etc.
- Courts can not inquire into proceedings
- No member from proceedings can be arrested, without the permission of the presiding officer.

Individual to Members

- Can't be arrested during session of Parliament & 40 days before/after. (privilege NOT available in CRIMINAL cases)
- Freedom of speech in Parliament. (Not liable to anything said or vote given in Parliament + committees.
- **Exempted from jury service.** CAN refuse to give evidence and appear as a witness in pending case (if session going on)

विधानसभा सदस्य से बदसलूकी, सदन में पुलिसवालों को मिली सजा



What are the constitutional provisions related to parliamentary privileges?

According to the Constitution of India, **Articles 105 and 122** outline the privileges of Parliament, while **Articles 194 and 212** pertain to the privileges of state governments.

- **Article 105:** There shall be freedom of speech in Parliament. No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof.
- **Article 122:** The validity of any proceedings in Parliament shall not be called in question in court on the ground of any alleged irregularity of procedure.
- **Article 194:** There shall be freedom of speech in the State Legislature. No member of the State Legislature shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the State Legislature or any committee thereof.
- **Article 212:** The validity of any proceedings in the State Legislature shall not be called in question in court on the ground of any alleged irregularity of procedure.

Individual Privileges

- Members **cannot be arrested** during the session of Parliament 40 days before the beginning and 40 days after the end of a session.
- Members have **freedom of speech** in Parliament, and no member is liable to any proceedings in any court
- They are **exempted from jury service** when Parliament is in session.

Collective Privileges

- Right to **publish its reports**, debates, and proceedings.
- Right to **exclude strangers** from its proceedings
- Right to **make rules** to regulate its own procedure
- Right to **punish members** as well as outsiders for breach of its privileges
- The **courts prohibited** inquiring into the proceedings of a House.
- **No person can be arrested** without the permission of the presiding officer.

What are some of the important judgments related to parliamentary privileges?

- **No Parliamentary immunity for vandalism:** The Supreme Court recently observed that lawmakers cannot indulge in criminal acts on the Parliament or Assembly floors and then take cover behind the right to free speech.
- **K Anandan Nambiar case 1951:** The Supreme Court of India held that a Member of Parliament could claim no special status higher than that of an ordinary citizen and is as much liable to be arrested, detained, or questioned even during the session.
- **State of Kerala Vs. K. Ajith and Others 2021:** The Supreme Court has observed that “privileges and immunities are not gateways to claim exemptions from the general law of the land, particularly as in this case, the criminal law which governs the action of every citizen.”

How do other countries use parliamentary privileges effectively?

Australia: In Australia, the privileges of members of parliament are codified by Parliamentary Privileges Act 1987, and are subject to review by the courts. This helps to ensure that the privileges are used in a manner that is consistent with the rule of law and that they are not used to restrict the rights of citizens.

New Zealand: In New Zealand, The Parliamentary Privilege Act 2014 affirms and clarifies the nature, scope and extent of the privileges enjoyed by the House which are subject to review and amendment by the House itself. This ensures that the privileges are used in a manner that is consistent with the will of the House and that they are responsive to the changing needs of the legislature.

Q1The 'Powers, Privileges and Immunities of Parliament and its Members' as envisaged in Article 105 of the Constitution leave room for a large number of un-codified and un-enumerated privileges to continue. Assess the reasons for the absence of legal codification of the 'parliamentary privileges'. How can this problem be addressed? (2014) UPSC

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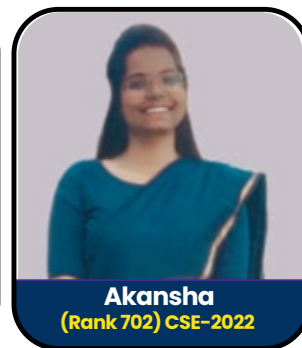
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