

QUESTION 04

संसदीय विशेषाधिकार प्रणाली का क्या महत्व है? साथ ही, इसकी व्याख्या और प्रवर्तन से उत्पन्न होने वाले मुद्दों पर भी चर्चा कीजिए। (10 अंक, 150 शब्द)

What is the significance of the parliamentary privilege system? Also, discuss the issues arising out of its interpretation and enforcement?

(10 Marks, 150 Words)

Thought Process (Pre-Writing Work)

- Parts of the question with expected marks criteria
- Directive Word(s)
- Topic Word(s)
- Limiting Words
- Writing Presentation
- Writing Interpretation

This section will be discussed in the Answer Discussion Class.

Description of the Answer Content

The parliamentary privilege system provides special rights and immunities to the legislature to ensure its independent and effective functioning. However, problems relating to interpretation and enforcement, which arise mainly from the lack of codification, challenge its legitimacy and the possibility of misuse.

Significance of parliamentary privilege

- **Ensures legislative independence:** Privilege protects the legislature from external influences and interferences by the executive or judiciary, upholding the separation of powers.
- **Facilitates free debate:** Members of Parliament (MPs) are granted freedom of speech within the House (Article 105 in India), allowing them to express views and scrutinize the government without fear of legal action.

- **Maintains authority and dignity:** The power to punish for contempt or breaches of privilege protects the house's and its members' honor and ensures orderly proceedings.
- **Strengthens accountability:** By protecting members from obstruction, privileges enable them to scrutinize government actions effectively.
- **Protects functioning:** Immunities, such as freedom from arrest in civil cases, ensure that lawmakers can perform their duties without disruption.

Issues arising from interpretation and enforcement

- **Uncodified nature:** In India, most privileges are not defined by law but are based on British parliamentary conventions. This lack of clear rules leads to ambiguity, making it difficult to determine what constitutes a breach.
- **Misuse of privilege (power)*:** The system can be exploited to shield members from legal accountability or suppress criticism from the media or public.
- **Conflict with fundamental rights:** The unwritten and vaguely defined privileges can clash with constitutional principles, such as a citizen's fundamental right to freedom of speech or equality before the law.
- **Questions of conflict of interest:** As legislators act as judges in their own cases, it raises questions of conflict of interest and violates the principles of natural justice.
- **Judicial vs. legislative supremacy:** The undefined nature of privileges often creates conflict and lack of clarity between the jurisdiction of the legislature and the judiciary, leading to ambiguity in interpretation.

The system of parliamentary privileges is vital to ensure the independence and effective functioning of the legislature in a democracy. However, its un-codification also creates ambiguities that can be misused for political purposes, thereby compromising transparency, accountability and fundamental rights.

If Aspirants have any doubts, kindly ask the Mentor in the Answer Discussion Class

The purpose of this explanation is to value addition only.

One Model Answer can be...

Significance of the Parliamentary Privilege System:

Parliamentary privileges are special rights and immunities granted to Members of Parliament and state legislatures under Articles 105 and 194 of the Constitution. These include freedom of speech in the House, immunity from legal proceedings for legislative actions, and the right to regulate internal proceedings. Their purpose is to ensure that legislators can perform their duties without fear or external interference, thereby upholding the independence and dignity of the legislature.

Issues in Interpretation and Enforcement:

- **Lack of Codification:** The privileges are largely uncodified, leading to ambiguity and misuse.
- **Judiciary-Legislature Conflict:** Courts and legislatures often clash over the limits of privilege and judicial review.
- **Misuse for Political Protection:** Privileges have occasionally been invoked to shield members from legitimate legal scrutiny.
- **Potential Violation of Fundamental Rights:** Arbitrary use may infringe on citizens' rights, such as free speech or due process.

While essential for legislative autonomy, clearer definition and accountability mechanisms are needed to prevent misuse and maintain a healthy balance between the legislature, judiciary, and citizens' rights.

Aspirants can use the brainstorming method to answer such information. Such method helps in avoiding unnecessary rambling and ensures that all the main points are covered within the word count.

Space for Answer Discussion

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