

"Protecting Parliamentary Privileges: Assessing Violations and Safeguarding Rights"

¹Dr. Anil Kumar Kaushik,² Tripti Paliwal

¹Dean of Faculty of Law & Arts, RNB Global University, Bikaner

²Assistant Professor, Faculty of Law and Arts, RNB Global University, Bikaner

Abstract

Parliamentary privileges are essential protections that guarantee the independence, efficiency, and honesty of legislative assemblies across the globe. These advantages give legislators the freedom, immunities, and authority to carry out their responsibilities without worrying about intimidation or hindrance.

This research paper explores the issues raised by the infringement of individual rights by parliamentary privileges, as well as their historical development and current relevance.

This study examines situations where parliamentary privileges have been compromised, resulting in violations of the rights of legislators and citizens alike, by looking at case studies from various democratic regimes. Violations of these privileges, whether via judicial meddling, presidential overreach, or internal disagreements, have undermined the democratic process and prevented representative bodies from operating as intended.

This study also investigates the consequences and ramifications of such violations, taking into account the wider influence on civil rights, public confidence in government, and the rule of law. It assesses the constitutional and legal structures designed to preserve parliamentary privileges and suggests ways to strengthen them against future intrusions.

This study aims to emphasise the crucial role that parliamentary privileges play in maintaining the democratic ethos through an interdisciplinary approach that incorporates legal, political, and historical perspectives. It also suggests ways to strengthen these protections. Through promoting a more profound comprehension of the importance of these rights and the ways in which they are violated, this study seeks to add to the current conversation about the maintenance of legislative independence and the protection of individual liberties in the context of parliamentary government.

What are parliamentary privileges?

The term 'Privilege' is derived from the 'privilegium', a law specially passed in favour of or against a particular person. In modern law, the word bears only the former sense. **Encyclopedia Britannica (1953), 521** According to the Oxford Dictionary, 'privilege' is a special right or advantage available only to a particular person or group of people. **Oxford Advanced Learner's Dictionary (Fifth Edition), P.920** It can be inferred from this sense of privilege that it is granted to a person or body for enjoying special status in the performance of duties or functions. The term privilege in relation to parliamentary privilege refers to immunity from ordinary law that is recognized by the Constitution or by the law as a right of the house and its members.

According to **Hilaire Barnett**, "the privileges of Parliament are those rules of both houses of Parliament, which are those rules of both houses of Parliament, which offer protection from outside interference- from whatever source to the houses collectively and to individual members."

A simple definition of privilege is that it is an exceptional right or exemption. In its legal sense, it means an exception from some duty, burden, attendance, or liability to which others are subject. In parliamentary language, however, the term applies to certain rights and immunities enjoyed by each House individually, without which they cannot discharge their functions.

Since the Indian Constitution has been drafted along the lines of the British system of government, we have adopted the traditions of the British system of government. We have adopted the traditions of the British Parliament almost entirely. Article 105 deals with state legislature, members, committees, etc. Hence, whatever is said for Art. 105 applies equally to Art. 194, which is an exact reproduction of Art. 105 and deals with state legislature, members, committees, etc.

An Interpretive Study of the Word "Privileges"

Semantic analysis attempts to elucidate meaning, especially that of important concepts. Absolute privileges, another name for parliamentary privileges, are a legal mechanism used by legislative bodies in nations whose constitutions are modelled after the Westminster system. A comparable mechanism in other legislatures is called parliamentary immunity.

The British King's advisors and attendants were also somewhat protected by the concept of privilege, which was a component of his peace for his safety. Over time, privileges established conventional rights for members of Parliament, and the Houses of Parliament were largely granted the prerogatives of royalty.

These protections and privileges, however, are the exclusive result of parliamentary customs rather than any provision of the British Constitution. They guarantee to the members of Parliament that they would not have been able to carry out their duties as members of Parliament with impunity."

Objectives of parliamentary privileges

The fundamental law states that all people, including members of Parliament, must be treated fairly in accordance with the law. Except for when they represent their deities in Parliament, they are subject to the same rights and obligations as other citizens. Members of Parliament are only eligible for privileges when and to the extent that they are carrying out their duties as representatives of the people in Parliament.

In no way do the privileges absolve the members from their regular societal obligations, which pertain to them just as much, if not more so, as they do to others. Additionally, the Constitution's allocation of certain privileges to its members has the sole aim of enabling them to serve the people without interference. Ideally, none of them should ever turn into a dispute between the rights of citizens and the privileges of members.

Any state's legislative branch is represented by its parliament. The primary duty of the Parliament is to enact laws or legislation; however, it also carries out other duties. It can talk about urgent motions, important public issues, etc.

Parliamentary privilege exists for the purpose of enabling the House of Parliament to carry out its functions effectively. In this way, the object of parliamentary privileges is to safeguard the freedom, authority, and dignity of Parliament. Privileges are necessary for the proper exercise of the functions entrusted to Parliament by the Constitution.

They are enjoyed by individual members because the House cannot perform its functions without unimpeded use of the service of its members, and by each House collectively for the protection of its members and the vindication of its own authority and dignity. The object of the protection is to enable members to speak their minds in Parliament and vote in the same way, freed of the fear of being made answerable on the account in a court of law. It is not enough that members should be protected against civil action and criminal proceedings, the cause of which is their speech or their vote.

To enable members to participate fearlessly in Parliamentary debates, members need the wider protection of immunity against all civil and criminal proceedings that bear nexus to their speech or vote.

The significance of Article 105

The Indian Constitution's Article 105 is an important clause that protects the idea of parliamentary freedom. It makes sure members of Parliament can carry out their responsibilities without worrying about outside repercussions. This protection is necessary to promote unrestricted discussions and debates within Parliament, allowing legislators to fairly reflect the interests of their constituents.

Part in Preserving Democratic Principles

A cornerstone of democracy, the protection afforded by Article 105 guarantees elected officials the freedom to express grievances, question policies, and stand up for the rights of their constituents without fear.

The privileges are available to the members only when and to the extent that they are functioning as representatives of the people in parliament and discharging their parliamentary responsibilities. The privilege does not, in any way, exempt the members from their normal obligations to society, which apply to them as much and perhaps more closely in that capacity as they apply to others. Also, the purpose of the people, through the constitution, is to grant members certain privileges only to enable them to serve the people without any hindrance.

Ideally, these should never be allowed to degenerate into a conflict between the privileges of members and the rights of citizens.

The parliament of any state is the legislative branch of that nation. The principal function of parliament is to pass laws or legislation. Parliament performs other functions besides legislative. it can discuss urgent motions, matters of public importance, etc.

Implications of privileges

Dr. Ambedker, the chairman of the drafting committee of the constitution, while mooted for a parliamentary system similar to the one obtained in England, noted that the concept of a parliamentary system similar to the one obtained in England is indeed one of graft, imported from England. The House of Commons, having been accepted by the constituent Assembly as the model of the legislature, the privileges of that house were transplanted into the draft constitution through articles 105 and 194. But it is a fact that the Constitution is the Supreme Law in India, which is beyond the pale of any controversy.

All organs of the state derive their authority, jurisdiction, and powers from the Constitution and owe allegiance to it. In the celebrated case of **Kesavananda Bharti v. State of Kerala, AIR 1973 SC 1461**, the Supreme Court found certain basic features of the Constitution that include, besides the supremacy of the Constitution, the republican and democratic form of government, and the separation of powers between the legislature, the executive, and the judiciary.

Therefore, **K.V. Rao** rightly narrated that in England, there is no separation of powers; the British Parliament is sovereign. It may be judged for its own cause. But in India, we have the supreme constitution and the written constitution. Hence, in India, such privileges will have to be in conformity with the other provisions of the Constitution."

Article 105 of the Constitution of India contained the provisions with respect to powers, privileges, and immunities of the Houses of Parliament and of the members and the Committee thereof, as follows:

1. Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.
2. No member of Parliament shall be liable to any proceeding in any court in respect of anything said or any vote given by him in Parliament or any Committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament or any report, paper, votes, or proceedings.
3. In other respects, the privileges and immunities of each House of Parliament and the members and committees of each House shall be such as may from time to time be defined by Parliament by law, and until so defined, shall be those of that House and of its members and committees immediately before the coming into force of Section 15 of the Constitution (Forty Fourth Amendment) Act, 1978.

The provisions of clauses (1), (2), and (3) shall apply in relation to persons who, by virtue of this Constitution, have the right to speak in or otherwise take part in the proceedings of a House of Parliament, as they apply in relation to members of Parliament.

The corresponding provisions relating to the powers, privileges, and immunities of the Houses of State Legislatures and of members and committees thereof are contained in Article 194 of the Constitution, which are in identical terms to those in Article 105 relating to Parliament. It is interesting to note that the language of Art. 105 is 'mutatis mutandis' the same as that of Art. 194, except for the expression 'Parliament' in Art. 105. The expression 'legislature of a state' is used in Article 194.

Section 15 of the Constitution (44th Amendment) Act, 1978, came into force with effect from June 20, 1979. Before that, clause (3) of Article 105 provided that, in other respects, the powers, privileges, and immunities of each House shall be such as may from time to time be defined by Parliament by law, and until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom and its Members and Committees at the commencement of the Constitution, i.e., on January 26, 1950.

Some of the more important privileges of each House of Parliament and of its members and Committees are as follows

- (i) Freedom of speech in Parliament (Article 105(1) of the Constitution).
- (ii) immunity to a member from any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committees thereof. (Article 105 (2) of the Constitution)
- (iii) Immunity to a person from proceedings of any court in respect of the publication by or under the authority of either House of Parliament of any report, paper, vote, or proceedings (Article 105 (2) of the Constitution);
- (iv) Prohibition on the courts to inquire into proceedings of Parliament (Article 122 of the Constitution);
- (v) immunity to a person from any proceedings, civil or criminal, in any court in respect of the publication in a newspaper or a substantially true report of the proceedings of either House of Parliament, unless the publication is provided to have been made malicious. This immunity is also available in relation to reports or matters broadcast by means of wireless telegraphy. (Article 361-A)
- (vi) Exemption of members from liability to serve as jurors;
- (vii) Prohibition of disclosure of the proceedings or decision of a secret sitting of the House;
- (viii) Rights of the House to receive immediate information of the arrests, detentions, convictions, imprisonment, and release of a member (Rule 229 and 230 of the Rules of Procedure and Conduct of Business in Lok Sabha, 9th edition)
- (ix) Prohibition of arrest and services of legal process within the premises of the House without obtaining the permission of the Speaker (Rules 232 and 233 of Procedure and Conduct of Business in Lok Sabha, 9th edition)
- (x) Members or officers of the House cannot give evidence or produce documents in courts of law relating to the proceedings of the House without the permission of the House. (First Report of Committee of Privileges of Second Lok Sabha, adopted by Lok Sabha on September 13, 1957)
- (xi) Members or officers of the House cannot attend as witnesses before the other House or Committee thereto or before a House of State Legislature or a Committee thereof without the permission of the House and they cannot be compelled to do so without their consent (Sixth Report of Committee of Privileges of Second Lok Sabha, adopted by Lok Sabha on December 17, 1958)
- (xii) All Parliamentary Committees are empowered to send for persons, papers, and records relevant to the purpose of the inquiry by a Committee. A witness may be summoned by a Parliamentary Committee who may be required to produce such documents as are required for the use of a Committee (Rules 269 and 270 of Procedure and Conduct of Business in Lok Sabha);

(xiii) A Parliamentary Committee may administer oath or affirmation to a witness examined before it (Rules 272 of the Rules of Procedure and Conduct of Business in Lok Sabha);

(xiv) The evidence tendered before a Parliamentary Committee and its report and proceedings cannot be disclosed or published by anyone until these have been laid on the Table of House (Rule 275 of Rules of Procedure and Conduct of Business in Lok Sabha)

In addition to the above-mentioned privileges and immunities, each house also enjoys certain consequential powers necessary for the protection of its privileges and immunities. These are as follows

- to commit persons, whether they are members or not, for breach of privileges or contempt of the House.
- to compel the attendance of witnesses and to send for papers and records
- to regulate its procedure and conduct of its business (Article 118 of the Indian Constitution)
- to prohibit the publication of its debates and proceedings (Rule 249 of the Rules of Procedure and Conduct of Business in Lok Sabha)
- to exclude strangers from the secret sittings of the House (Rule 248 of the Rules of Procedure and Conduct of Business in Lok Sabha)
- to regulate admission to and order withdrawal/removal of strangers from any part of the House (Rule 386, 387, and 387A of the Rules of Procedure and Conduct of Business in Lok Sabha)

The most important privilege for members of Parliament is freedom of speech. This privilege is embodied in clauses (1) and (2) of Article 105 of the Constitution. This privilege is based on Article 9 of the Bill of Rights, 1689 of the United Kingdom, whereby it was declared:-

“ Thus, freedom of speech, debate, or proceedings in parliament ought not to be impeached or questioned in any court or place of parliament.”

Thus, no action can be taken against a member of parliament in any court or before any authority other than parliament or any committee thereof. It would be a breach of privilege to institute any legal proceedings against a member in respect of anything said by him in parliament.

Privileges Under The Indian Constitution:

There is a widespread misconception that the Indian legislative system is a copy of the Westminster system, with its legislative procedure mirroring that of the British House of Commons. The Indian political system is not the British or Western model of parliamentary democracy, even though its policies and procedures were first based on the model, and there are still some broad concept similarities between the two systems.

The Constitution is the supreme law in this country and is beyond the pale of any controversy. All organs of the state derive their authority, jurisdiction, and powers from the Constitution and owe allegiance to it. In the celebrated case of **Kesavananda Bharti v State of Kerala**, the Supreme Court found certain basic features of the Constitution, including supremacy. The principle of supremacy of the Constitution has been reiterated by the Court post-Kesavananda Bharti in case after case, including, to name just some of them, *Indira Nehru Gandhi v. Raj Narain*, 1975 (suppl.) SCC 1. *Minerva Mills Ltd. v. Union of India*, AIR 1986 SC 2030 "In re (Gujrat Assembly Election matter)," *Kuldip Nayar v. Union of India*

In this context, a brief analysis of the crucial questions decided by the Supreme Court in **Keshav Singh's case**, popularly known as the UP Legislature case, is necessary to highlight. It is held, and it has been made clear that the Court has jurisdiction to determine the existence and extent of the privileges of the Legislature. The Supreme Court has held that Art. 21, which guarantees that no person shall be deprived of his life or personal liberty except according to procedure established by law, is not subject to the privileges of the Legislature and members thereof, and therefore, a person is entitled to move the Courts for enforcing that right by appropriate proceedings, and the Court can entertain it and deal with it.

A significant suggestion for framing a comprehensive law as to the privileges of Parliament, made by Subba Rao J. in *M.S.M. Sharma v. Shri Krishna Sinha*, lies not so much in that it makes clear the position of the individual vis-a-vis the Parliament as in putting beyond controversies and in its right place the fundamental rights guaranteed by Part III of the Constitution vis-a-vis the privileges of the Parliament. It is submitted that drawing attention to the 'vague' nature of the English law of privileges, P. Deshmukh and Naziruddin Ahmad argued in the Constituent Assembly that the provision be redrafted, limiting the residuary privileges to the law in India immediately before the commencement of the Constitution. But their argument was rejected at that time.

In this way, the Indian Constitution is the only written Constitution of a free republic to contain such self-inflicted wounds as Art. 105(3) and 194(3) incorporating by reference to the power and privileges of the British House of Commons.

That Art. 105(2) should not be used as a shield against corrupt practices of legislators, although it confers immunity upon them "in respect of anything said or any vote given by them in Parliament or any Committee thereof, the immunity protects them from being proceeded against in a Court of Law.

The parliamentary democracy in India, which is qualitatively distinct from the one in England, from which we have borrowed the Westminster model of government, is now well settled. In this context, we may quote the following observations of the Constitution Bench (7 Judges) in Special Reference No. 1 of 1964⁵¹

In dealing with this question, it is necessary to keep in mind one fundamental feature of the Federal Constitution. In England, Parliament is sovereign; and in the words of Dicey, the three distinguishing features of the principle of Parliamentary Sovereignty are that Parliament has the right to make or unmake any law whatever, that no person or body is recognized by the law of England as having a right to override or set aside the legislation of Parliament, and that the right or power of Parliament extends to every part of the Queen's dominions [Dicey, *The Law of the Constitution*, 10th ed.

On the other hand, the essential characteristic of federalism is "the distribution of limited executive, legislative, and judicial authority among bodies that are coordinated with and independent of each other." The supremacy of the constitution is fundamental to the existence of a federal state to prevent either the legislature of the federal unit or those of the member states from destroying or impairing that delicate balance of power that satisfies the particular requirements of states that are desirous of union but not prepared to merge their individuality in unity.

This supremacy of the constitution is protected by the authority of an independent judicial body to act as the interpreter of a scheme of distribution of powers. Nor is any change possible in the constitution by the ordinary process of federal or state legislation [Ibid., p. Ixxvii]. Thus, the dominant characteristic of the British Constitution cannot be claimed by a federal Constitution like ours.

In India, each House of the Indian Parliament collectively and its members individually enjoy certain powers, privileges, and immunities that are considered essential for them to discharge their functions and duties effectively without any let or hindrance. While the more important of these privileges, namely freedom of speech in Parliament and immunity of members from any proceedings in courts in respect of anything said or any vote given by them in Parliament, are specified in the Constitution itself, and some of them are specified in certain statutes and the Rules of Procedure and Conduct of Business in Lok Sabha, others are at present based on the precedents and conventions that have grown in this country in terms of the provisions of the Constitution, until defined by Parliament by law.

The corresponding provisions relating to the powers, privileges, and immunities of the Houses of State Legislatures and of members and committees thereof are contained in Article 194 of the Constitution, which are in identical terms to those in Article 105 relating to Parliament.

The relations between the Union and the States are controlled by the provisions contained in Part XI of the Constitution. The Constitution permits, through Articles 118 and 208, the Legislature at the Center and in the States, respectively, the authority to make rules for regulating their respective procedures.

Art. 105 (3) of the Indian Constitution and conduct of business "subject to the provisions of this Constitution" Since we are concerned mainly with the Houses of Parliament in these proceedings, it may be mentioned that each House, in the exercise of its powers under Article 118, has framed detailed rules of procedure, which are called "Rules of Procedure and Conduct of Business in Lok Sabha" and Rules of Procedure and Conduct of Business in the Council of States". Conscious of the high status of these bodies, the Constitution accorded certain powers, privileges, and immunities to the Parliament and State Legislatures and their respective members.

For this purpose, specific provisions were included in the Constitution in Article 105. At this time, it is only apparent that the Members of Parliament and State Legislatures, respectively, are granted "freedom of speech" in the Legislature by sub-Article (1) of Article 105 and Article 194, albeit "subject to the provisions" of the Constitution and "subject to the rules and orders regulating the procedure" of Parliament or the Legislatures, as the case may be.

Legislative privileges and fundamental rights

The Legislature, a representative body that embodies the people's desires in unison, is where democracy finds its complete expression. This is the reason the Legislature has been granted privileges in the majority of democracies. The powers, privileges, and other characteristics of the Houses of Parliament, as well as the members and committees within them, are outlined in Article 105 of the Constitution. Article 194 is the equivalent as it relates to state legislatures. Article 14 of the Constitution states that the fundamental law is a command for the rule of law that is equally applied to everyone, without exceptions or preferences. It implies that everyone should be treated equally before the law, including members of Parliament.

Differing from the analysis of 'Right', the adjective 'Fundamental' here is intended to denote a particular category of rights. Firstly, as concerned with legal rights, fundamental rights in our country are constitutional rights. It means that ordinary law cannot water them down. In addition, the constitutional rights mentioned in Part III of the Constitution are described as 'Fundamental'. They have been accorded more protection than non-fundamental constitutional rights. Thus, Article 32 of the Constitution gives people the additional remedy of knocking on the doors of the Supreme Court directly, which is not available to other constitutional rights. On the other hand, the privileges conferred upon the 'legislature' and 'legislators' have their clear purposes.

The first is the efficient performance of duties. The primary duty of legislators is to keep themselves informed of the affairs of their 'constituents' in particular and 'general public' in general. Another thing of great relevance here is the need for a fair and free discussion in the House. The legislature collectively is held to be the best judge of the permissibility of what its members say visually. In addition, provisions of Article 105 or 194 are also Constitutional law and not ordinary law made by Parliament or State Legislatures, and, therefore, they are as supreme as provisions of Articles relating to Fundamental Rights in Part III of the Constitution. The very basic question is that when a privilege violates any of the Fundamental Rights, what attitude has to be taken under the law or the Constitution? Adjustment between these privileges and fundamentals is always a very delicate and intricate problem in law.

What are the rules governing privilege?

- The Constitution (Article 105) mentions two privileges, i.e., freedom of speech in Parliament and the right of publication of its proceedings.
- Rule No. 222 in Chapter 20 of the Lok Sabha Rule Book and, correspondingly, Rule 187 in Chapter 16 of the Rajya Sabha Rule Book govern privilege.
- A member may, with the consent of the Speaker or the Chairperson, raise a question involving a breach of privilege either of a member or of the House.
- The rules mandate that any notice should relate to an incident of recent occurrence and should require the intervention of the House.

What is the Privileges Committee?

- In the Lok Sabha, the Speaker nominates a committee of privileges consisting of 15 members as per their respective party strengths.
- A report is then presented to the House for its consideration.
- The Speaker may permit a half-hour debate while considering the report.
- The Speaker may then pass final orders or direct that the report be tabled before the House.
- A resolution may then be moved relating to the breach of privilege that has to be unanimously passed.
- In the Rajya Sabha, the deputy chairperson heads the committee of privileges, which consists of 10 members.

What is the role of the Speaker/Rajya Sabha Chair?

- The Speaker/RS chairperson is the first level of scrutiny for a privilege motion.
- The Speaker/Chair can decide on the privilege motion himself or herself or refer it to the Privileges Committee of Parliament.
- If the Speaker/Chair gives consent under Rule 222, the member concerned is allowed to make a short statement.

Current Study of Recent Cases: A case of "**cash for query**" could be considered misbehavior or a breach of privilege. A violation of privilege occurs when a member of Parliament abuses the rights and immunities that are granted to them in order for them to operate effectively. These privileges are set by Parliament, and cases of privilege breaches are handled by the Committee of Privileges. The definition of "misconduct" varies from case to case. It describes a member acting in an impolite way or participating in activities unfit for a Member of Parliament. Misconduct allegations are handled by the Committee on Ethics. On occasion, the Parliament has referred issues pertaining to members' behavior to ad hoc committees (such as an inquiry committee). The Speaker has far more control over the makeup of ad hoc committees than she does over ethics and privileges committees.

Eleven Members of Parliament (six BJPs, three BSPs, one each from RJD and Congress) were discovered to have accepted bribes in 2005 for their parliamentary questions. There was one MP from the Rajya Sabha and ten from the Lok Sabha. Both the Rajya Sabha and the Lok Sabha recommended expulsion and forwarded the subject to an investigative committee and the Ethics Committee, respectively. Members of the Inquiry Committee, such as the BJP's Vijay Kumar Malhotra, dissented, claiming that a more equitable hearing would have been guaranteed by the Privileges Committee. The BJP and its allies backed him, leaving the room while the suspension was being considered. Arun Jaitley questioned the Ethics Committee's jurisdiction to suggest members be expelled from the Rajya Sabha.

Even putting aside political reasons, the fuzziness of the distinctions between privileges and wrongdoing makes objections to committee selection predictable. In Moitra's instance, this uncertainty is still present. For example, the Supreme Court's 1998 decision in the case of PV Narasimha Rao stipulated that bribery could result in privilege proceedings. However, the investigating committee in the 2005 "cash for query" incident categorised bribes as misconduct.

The Eleventh Lok Sabha's Committee on Privileges acknowledged this terminology-related misunderstanding. They suggested that privileges and ethics be handled by a single committee, the Committee on Ethics and Privileges, after conducting a thorough study of the topic and taking inspiration from international practices. Before the recommendations of the committee could be implemented, the Eleventh Lok Sabha was dissolved. The Committee Privileges reexamined these suggestions in the Thirteenth Lok Sabha. Without discussing the merits of the matter, they proposed creating a distinct ethics committee only to harmonize the House's protocols. A Committee on Ethics has already been formed by the Rajya Sabha.

The process for bringing up a point of privilege in Moitra's case probably had a significant impact on the committee's choice. Points of privilege may only be raised by members and the Speaker of the House. In this case,

the only evidence supporting Dubey's charge against Moitra is the affidavit that Dehadrai—a non-MP—filed. Consequently, the lack of an MP complainant renders the Privileges Committee inaccessible.

An evaluation of Hiranandani's behaviour in addition to Moitra's is necessary due to the pending case. In an affidavit that he submitted to the Ethics Committee, Hiranandani acknowledged that he had framed queries aimed at Adani and offered favours to Moitra. As the Supreme Court noted in *P.V. Narasimha Rao*, offering bribes is just as much of a violation of parliamentary privilege as accepting them. Interestingly, the Privileges Committee has the power to punish non-members, while the Ethics Committee is limited to looking into misbehaviour by members of Parliament. The Privileges Committee's investigation into Hiranandani's purported bribery of an MP is warranted in light of Moitra's case.

Due to his UAE citizenship, Hiranandani has allegedly not been called before by the Ethics Committee in Moitra's case. Remarkably, in 1983, when the Rajya Sabha's Privileges Committee was debating whether or not it had jurisdiction over foreign nationals, it sought counsel from the Attorney General. According to the opinion given, Parliament has jurisdiction over a foreign national for actions taken within the nation. There are no issues if the person willingly consents to take part in privilege proceedings. On the other hand, if the subject refuses to comply, actions may be taken while they are in the nation.

The difficulties surrounding parliamentary committees on privileges, ethics, and ad hoc committees have come back into focus as a result of Moitra's case. There's a good chance that these incidents will happen again in the future. Consequently, the recommendation made by the Committee of Privileges of the Eleventh Lok Sabha that just one committee be tasked with hearing ethics and privilege-related cases should be reviewed by Parliament. A clear framework defining what advantages and transgressions are, as well as where the boundaries are between them, is necessary. The Privileges Committee should look into Hiranandani's alleged act of paying an MP as the Ethics Committee looks into Moitra's behaviour.

Conclusion

The involvement of ethics and privileges committees in the complex world of governance is not only a question of procedure; rather, it is essential to maintaining the democratic fabric. Their importance in promoting integrity within legislative bodies is highlighted by their roles in upholding moral behaviour, protecting parliamentary privileges, carrying out unbiased investigations, and offering nonpartisan supervision.

The continuous strengthening of the pillars of accountability, openness, and ethical governance depends on the committees' sustained empowerment and assistance as we manage the difficult problems of contemporary governance.

In the end, the ethics and privileges committees act as protectors, making sure that the democratic spirit flourishes through moral behaviour and the maintenance of crucial parliamentary rights. Their participation in crucial instances is essential to the survival of strong democratic institutions—not merely necessary. It is not only a matter of preference; upholding a strong ethical framework and safeguarding parliamentary privileges are essential to maintaining the credibility and integrity of our democratic institutions.

References

- [1] Ramendra Kumar Sharma, "The Legislative Privileges in India and the Need for Codification." A.I.R. April 2004 (Journal Section), page 107
- [2] The Parliamentary Privileges Act 1987 (Australia):<http://www.aph.gov.au/senate/pubs/brief/index.htm>.
- [3] Hilaire Barnet, *Constitutional And Administrative Law* (1995- Reprint 1997), Page 447
- [4] Sir Thomas Erskine May, *The Law, Privileges, Proceedings and Usage of Parliament* (Butterworth, 17th Edn.), Page 42
- [5] *P.V. Narsimha Rao v. State*, A.I.R. 1988 SC 2120
- [6] Quoted from para 58 of *Raja Ram Pal v. The Honorable Speaker, Lok Sabha & Ors.* (2007) 3 SCC 184
- [7] S.N. Mukherjee, *Powers and Privileges of the House of Parliament* (1992), page 534.
- [8] Ramendra Kumar Sharma, *The Legislative Privileges in India and the Need for Codification'* Journal Section, AIR April 2004, page 107.

- [9] Privileges digest, Volume I (2001), page 283, and Subhash C. Kashyap, Parliamentary Procedure: Law Privileges & precedents (second edition, 2006), page 634
- [10] May Parliamentary Practice, 23rd ed.,) p.78
- [11] 1975(SCC 1.
- [12] Manu/SC/ 3865/2006
- [13] Indian Express Saturday, December 2, 2023