



Mains Practice Question

Q. Do you agree that there is a need for the codification of parliamentary privileges due to its misuse and curtailment of individual fundamental rights? (150 Words)

22 Mar, 2022 GS Paper 2 Polity & Governance

Approach

- Start with writing about the Parliamentary privileges.
- Discuss the need for the codification of parliamentary privileges due to its misuse and curtailment of individual fundamental rights.
- Suggest a way forward.

Answer

The issue of privileges for parliamentarians emerged in England to prevent MPs from being victimized by the monarch. These privileges are special rights, immunities, exceptions enjoyed by the members of the two houses of parliament and their committees. In the Indian Constitution, Article 105 deals with the powers and privileges of the Houses of Parliament, their members, and committees and Article 194 is the corresponding provision for State legislatures.

The conflict between privileges:

The Constitution of India preferred not to define the privileges but simply equated them with those of the House of Commons. The wholesale acceptance of the unwritten privileges of the British House of Commons by the Indian Parliament, functioning under a written Constitution which guarantees a set of fundamental rights, like the freedom of speech and expression has of late given rise to conflict between the legislature and Press as well as the judiciary.

Instances of Misuse:

The non-codification of privileges causes confusion and violates the freedom of speech and expression. In 2017, two senior scribes of Kannada tabloids were jailed for the breach of privileges of the state assembly. In other instances like The Blitz case (1951), the Searchlight case (1959), Keshav Singh case and The Hindu case (2003), privileges guaranteed to parliamentarians caused unnecessary trouble and prosecution of media and individuals.

Despite misuse and being antithetical to democratic rights, the codification of privileges is basically resisted because it would make the privileges subject to fundamental rights and hence judicial scrutiny and evolution of new privileges would not be possible.

These privileges were derived from the English parliament who have themselves forsaken the past-acts and utterances defamatory of Parliament or its members are no more treated as privilege questions. Australia too codified privileges in 1987. Even the Constitution Review Commission headed by Justice M.N. Venkatachaliah had recommended that privileges should be defined and delimited for the free and independent functioning of the legislatures. Hence, the Indian parliament should progressively look forward to codifying them.

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