

Breach of Privileges - UPSC Notes

Important parliamentary terms are crucial from the polity and governance perspectives in the UPSC exam. IAS aspirants should thoroughly understand their meaning and application, as questions can be asked from this static portion of the [UPSC syllabus](#) in both the UPSC Prelims and the UPSC Mains exams.

In this article, you can read about the Breach of Privileges for the civil services exam.

Breach of Privileges

Breach of privilege refers to some of the distinct rights that are enjoyed by the legislators in a parliament or an assembly without which they cannot discharge their functions and these rights are peculiar to them and as such are not enjoyed by members of any other institution or body of individuals. In India, these privileges emanate from the Constitution itself with identical provisions in this regard in the form of Articles 105 and 194, which give these privileges to the Members of Parliament and members of the state legislature respectively.

The Constitution itself specifically mentions two privileges only which are discussed briefly hereby:

Freedom of Speech

- By virtue of this right under Articles 105 and 194, absolute immunity is given to the lawmakers from courts for anything said during the four walls of the house during the course of proceedings of the house or any of its committees.
- So in essence these articles protect the speech within the house but the legislator is as good as any other individual when he says something outside the house.
- However, it has to be understood that this right is subject to other provisions of the Constitution and other rules and standing orders regulating the parliamentary procedure.
 - One such example is the restriction imposed by Article 121 which prohibits any discussion in Parliament with respect to the conduct of a judge of the Supreme Court or High Court in the discharge of his duties.
 - Similarly, Lok Sabha rules prohibit the use of unparliamentary language or conduct of a member.

Right of Publication of its Proceedings

- The other right that is explicitly provided under the Constitution is that 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 the Parliament or any committee thereof.
- The protection under this Article however does not extend to a publication made by a private person without the authority of a house.
 - In *Surendra v. Naba Krishna*, an editor of a newspaper was held guilty of [Contempt of Court](#) for publishing a statement of the house.
 - In the *Narasimha Rao* case, a five-judge bench of the Supreme Court held by 3:2 majority that the scope of protection of immunity available to the Members of Parliament is quite wide and is not confined only against judicial proceedings but is available to them against all civil action and criminal proceedings for anything said or any vote given by them in the House of Parliament.
- The object of this protection is to enable members to speak their mind in the Parliament freely and fearlessly.

Other privileges available to the legislators include:

- *Freedom from arrest.*
- *Right to exclude strangers from its proceedings and hold secret sessions.*
- *Right to prohibit the publication of its reports and proceedings.*
- *Right to regulate internal proceedings.*
- *Right to punish members or outsiders for contempt.*

Breach of Privileges Examples

When any individual or authority disregards or attacks any of the privileges, rights and immunities, either of the Members individually or of the House in its collective capacity, the offence is called a breach of privileges and is punishable by the House. Besides breaches of specific privileges, actions in the nature of offences against the authority or dignity of the House, such as disobedience to its legitimate orders or libels upon itself, its members or officers, are also punishable as contempt of the House.

Some typical cases of breach of privilege and contempt are as follows:—

- Speeches or writings reflecting on the House, its Committees or members;
- Reflections on the character and impartiality of the Speaker in the discharge of his duty;
- Publication of false or distorted report of the proceedings of the House;
- Publication of expunged proceedings of the House;
- Premature publication of proceedings, evidence or report of a parliamentary committee;
- Publication of proceedings of secret sessions of the House.

The House may impose one of the following punishments on a person found guilty of breach of privilege or contempt of the House:

1. Admonition or reprimand
2. Suspension from the House
3. Expulsion from the House

Conclusion

The penal powers of the House for breach of privilege or contempt of the House are, however, exercised only in an extreme case where a deliberate attempt is made to bring the institution of Parliament into disrespect and undermine public confidence in and support of Parliament. It is considered desirable that the process of parliamentary investigation should not be used in a way which would give importance to irresponsible or reckless statements or to persons of no consequence making such statements. It has also been observed by the Committee of Privileges that in the ardour of political contest and in the heat of the moment, strong and undesirable words are sometimes used which a person, thinking more coolly, would not say. It has also been held that the law of Parliamentary Privileges should not be administered in a way which could fetter or discourage the free expression of opinion or criticism, however prejudicial or exaggerated such opinions or criticism may be.

