
JATIN GUPTA

*Parliamentary
Committees and
Privileges*

Indian Polity and Constitution



Parliamentary Committees

Why do you think the committees are considered to be useful for parliamentary work? Discuss, in this context, the role of the Estimates Committee. 2018

Do Department-related Parliamentary Standing Committees keep the administration on its toes and inspire reverence for parliamentary control? Evaluate the working of such committees with suitable examples.
2022

President of the U.S. Woodrow Wilson once remarked, 'It is not far from the truth to say that Congress in session is Congress on public exhibition, whilst Congress in Committee rooms is Congress at work.'

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- **Parliamentary committees** are composed of groups of MPs. These Committees review proposed laws, oversee activities of the government, and scrutinise government expenditure.
 - Their reports allow for informed debate in Parliament, as well as increase the efficiency and expertise of Parliament.
 - Parliament lacks expertise and time they fill that gap
 - Committees also provide a forum to build consensus across party lines
 - They enable consultations with independent experts and stakeholders
 - The government is required to table an 'Action Taken' report for the House to judge the progress made on the suggestions of the committee.
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Ad hoc committees: These committees are appointed for a specific purpose and they cease to exist when they finish the task assigned to them and submit a report. The principal Ad hoc Committees are the Select and Joint Committees on Bills.

Standing committees: These act as Parliament's 'Watch Dogs' over the Executive. They are permanent in nature

Some of the important standing committees are as follows:

Departmentally Related Standing Committees (DRSCs): They were constituted in 1993 to assist Parliament in scrutinising funds allocated to Ministries. They also examine Bills referred to them by Parliament. They are composed of 31 members - 21 from Lok Sabha and 10 from Rajya Sabha.

Financial Committees: These include Committee on Public Accounts, Committee on Public Undertakings, and Estimates Committee. They ensure that public finances are used efficiently.

Administrative committees: Both Houses have set up different Committees, such as the Business Advisory Committee, which helps decide the daily agenda of Parliament.

Accountability committees: These are the Committee on Government Assurances, the Committee on Subordinate Legislation, and the Committee on Petitions.

Some best examples

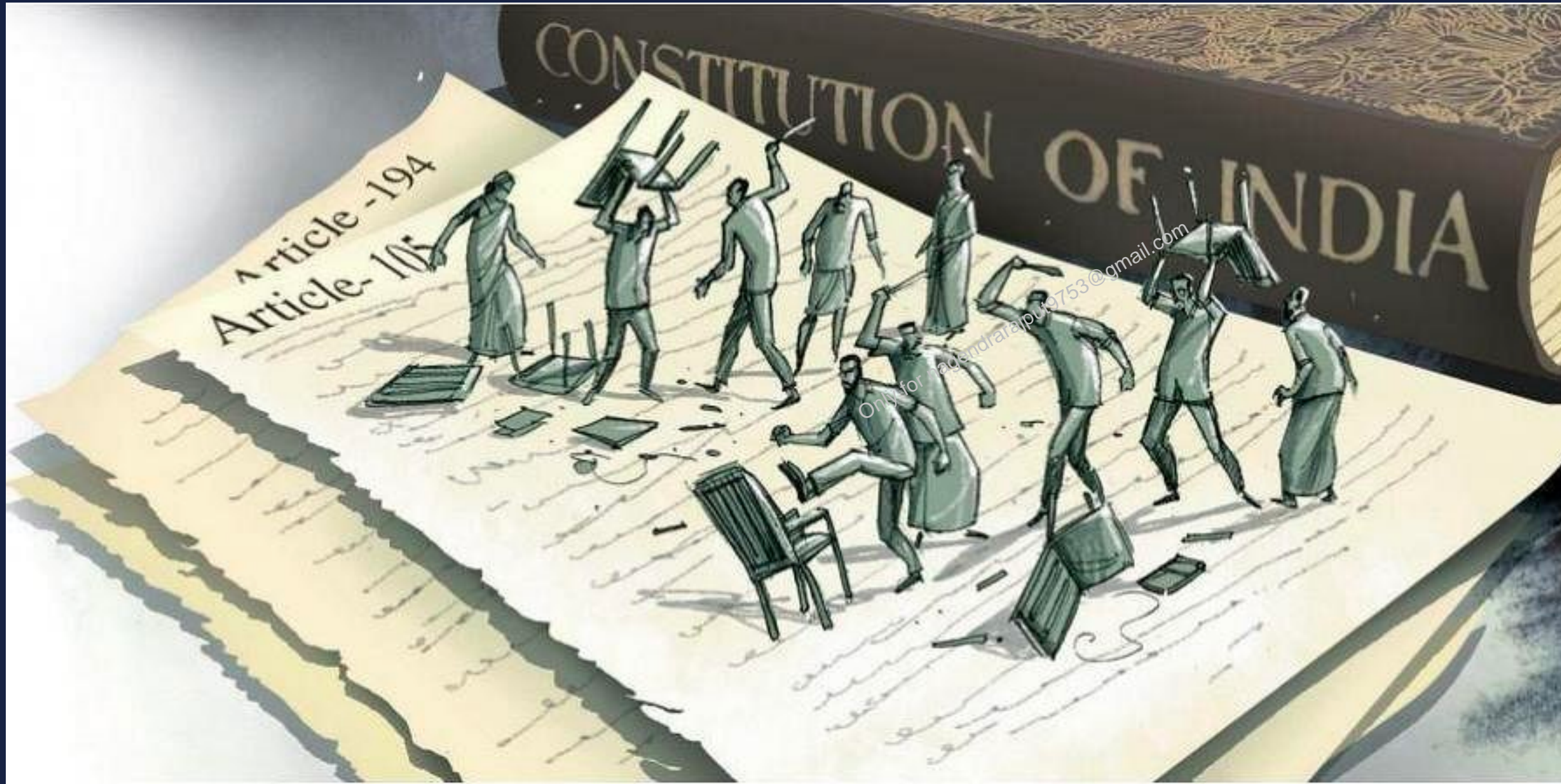
- Northeast Frontier (Assam) Tribal and Excluded Areas Sub-Committee and the Excluded and Partially Excluded Areas (Other than Assam) Sub-Committee (1947).
 - PERSONNEL, PUBLIC GRIEVANCES, LAW AND JUSTICE – identified the shortcomings and suggested measures to facilitate effective and efficient redressal of public grievances. Suggested to forward grievances to state governments received on CPGRAMS.
 - The Committee on Rural Development & Panchayati Raj in its report noted that the RE always fell short of the budget estimates.
 - PAC highlighted several concerns in a 2015 report including but not limited to audit findings about inadequate shipbuilding practices, frequent mid-course changes, delays in finalisation of weapon packages, and an underestimation of costs by shipyards.
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Limitations associated with the functions of the parliamentary committee:

- All bills need not be referred to a parliamentary committee which has reduced their effectiveness. In the 16th Lok sabha Only 29 % of the bills were referred to the parliamentary committee in comparison to 70% of bills in the 15th Lok sabha
 - Parliamentary committees suffer on the account of a shortage of staff
 - Shortage of time affects comprehensive functioning
 - Recommendatory in nature
 - The attendance of the MPs at meetings is not consistent-leading with irregularity in their functioning.
 - DRSCs are renewed on annual basis which affects their specialization.
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Way Ahead

- The problem of shortage of technical staff may be addressed by selecting young and dynamic individuals interested in the area of functioning of the parliament.
 - They can be given a fixed timeline to come up with the recommendation and present its report
 - There is a need to increase the number of DRSCs and their term may be increased beyond the period of one year
 - The NCRWC : setting up new DRSCs including the committee on the national economy, for scrutinizing amendment bills, and legislative planning
 - Mandatory attendance at meetings of the committee
 - Adopting British practice of compulsory referral
 - During the discussions of the committee , no party whip would apply
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Parliamentary Privileges and Immunities

Definition

Parliamentary privilege refers to rights and immunities enjoyed by Parliament as an institution and MPs in their individual capacity, without which they cannot discharge their functions as entrusted upon them by the Constitution.

According to the Constitution, the powers, privileges and immunities of Parliament and MP's are to be defined by Parliament. No law has so far been enacted in this respect. After 44th CAA, 1978 specific reference to the house of commons has been deleted w.r.t parliamentary privileges.

Individual Privileges

Freedom of Speech:

No member can be taken to task anywhere outside the four walls of the House

Freedom from arrest:

Under Section 135 of CPC, a sitting legislator cannot be arrested in a civil case 40 days before and after and during the ongoing session of the Parliament.

Exemption from attendance as witnesses:

The members of Parliament also enjoy freedom from attendance as witnesses during the session

Collective Privileges

Right to punish members and outsiders for breach of its privileges:

It has been given punitive powers to punish those who are adjudged guilty of contempt of the House.

The Parliament has the privilege to publish its debates and proceedings:

In normal circumstances, the Parliament does not prohibit the press from publishing its proceedings, yet it does have a right to enforce such a mechanism.

Exclusion of strangers

Each House of Parliament also enjoys the right to exclude the press and strangers from witnessing the proceedings of the Parliament.

Breach of Privilege:

- The Parliament may punish individuals who are guilty of breaching these privileges. Such a breach may be committed by members of the House or outsiders.
- When an MP is involved in misbehaviour or commits contempt of the House, he or she may be expelled from the House as well.
- For example, in 2006, 11 members were expelled by the speaker of the LS in the cash-for-question scam.

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Punishment for Breach of Privilege:

- The house can ensure attendance of the offending person.
- The person can be given a warning and let go or be sent to prison.

Examples

- In the case of throwing leaflets and chappal, the offending individuals were sentenced to simple imprisonment.
 - In 2008, an editor referred to the D.C of Rajya Sabha as a "coward". The privileges committee held the editor guilty of breach of privilege. The committee instead of recommending punishment stated that, "it would be better if the House saves its own dignity by not giving undue importance to such irresponsible articles published with the sole intention of gaining cheap publicity."
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Why is this power prone to misuse

- Threat to democracy because of Non Codification : Art.105(3) authorizes the Parliament to codify its privileges and until then rely on the privileges of British Parliament. Our Parliament has not yet codified its privileges. Therefore it can punish citizens for breach without even telling them what the privileges are.
- Mere codification will not grant protection to free speech: SC has held that Art.105 and 194 being special provisions would trump over Art.19(1) (a). SC held that there can be no JR on speaker's decision of breach unless it is proved that the decision was an "exertion of arbitrary powers."

Instances of misuse of Parliamentary Privileges

- A Karnataka tabloid in 2017 published defamatory articles against a MLA. Based on Privilege Committee's recommendations, the Assembly imposed a one-year sentence on the journalists. The final decision was of the Speaker, Koliwad, who was the one who had lodged the complaint against the journalists. High Court stepped in and stayed the jail sentence.
 - In Maharashtra, a person was sentenced to 90 days imprisonment for breach of privilege for using the sentence, "we would not allow minister's wives to move around if dance bars were banned." The High Court refused to interfere in the Legislative matter. Ultimately, the Supreme Court issued a stay order.
 - Similarly, in 2019, a parody video of Devendra Fadnavis delivering speech in the House was taken as insult to the House and breach of parliamentary privilege.
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Reasons for non-codification

- Codification of these privileges may put them in direct conflict with various FRs especially freedom of speech and expression under Article 19(1)(a) and therefore allow the courts to enter into such matters.
 - The vagueness due to non-codification works in the favour of the Parliament as it can arbitrarily apply them.
 - The Parliament believes that there have been very few instances of misuse of these privileges and therefore, there is no pressing need to codify them.
 - It is often argued that specifically defining the privileges may hamper the powers of the Presiding officers to take disciplinary actions against the erring members.
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Way Ahead

Parliament fears losing its supreme power when the codified law would come under judicial scrutiny. This is affecting fundamental rights of citizens and it is not the way a democracy should function. Knowing the intention of the parliamentarians, the Supreme Court may give the legislature a deadline for codifying its privileges so that further abuse of privileges is prevented.

Finally, unless the privileges are codified and relation between privileges and fundamental rights is balanced, the present scenario should be improved. One possible solution could be making the Privilege Committee as impartial as possible.

Since it is this Committee which recommends whether there has been breach and what punishment can be accorded to the person, it should follow all procedures of natural justice.

THANK YOU

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