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# UPSC Mains 2023

## 4 am Batch Test

**(DAY-31)**

**1) Explain the conflict between Fundamental Rights and parliamentary privileges, with relevant case laws.**

<b>UPSC Mains Syllabus topic</b>	<b>Parliament and State legislatures—structure, functioning, conduct of business, powers &amp; privileges and issues arising out of these.</b>
<b>Why was this question asked?</b>	<ul style="list-style-type: none"> <li>The ‘Powers, Privileges and immunities of Parliament and its members’ as envisaged in Article 105 of the Constitution leave room for a large number of un-codified and un-enumerated privileges to continue. Asses the reasons for the absence of legal codification of the ‘Parliamentary privileges. How can this problem be addressed? (2014)</li> </ul>
<b>Introduction</b>	<b>The conflict between Fundamental Rights and parliamentary privileges has been a subject of debate and judicial interpretation in India. While Fundamental Rights guarantee certain freedoms and protections to citizens, parliamentary privileges provide special powers and immunities to members of the legislature.</b>
<b>Body</b>	<b>I. Gunupati Case:</b> <ul style="list-style-type: none"> <li>The Gunupati case involved derogatory remarks published by the Blitz newspaper about the Speaker of the U.P. Legislative Assembly.</li> </ul>

	<ul style="list-style-type: none"> <li>• The Assembly issued an arrest warrant against the editor, leading to his arrest.</li> <li>• The Supreme Court ruled that the Fundamental Right of the editor under Article 22(2) had been violated as he was not produced before a magistrate within 24 hours.</li> <li>• This decision created the impression that Fundamental Rights would control parliamentary privileges.</li> </ul> <p><b>II. Searchlight Case:</b></p> <ul style="list-style-type: none"> <li>• In the Searchlight case, the Supreme Court held that parliamentary privileges under Article 105(3) were not subject to the Fundamental Right of Speech and Expression under Article 19(1)(a).</li> <li>• The Court stated that a House of Parliament could prohibit the publication of its debates or proceedings, even if it contradicted the freedom of speech and expression of the publisher.</li> <li>• The ruling in Gunupati was considered not binding as it was not a "considered opinion."</li> </ul> <p><b>III. Keshav Singh Case:</b></p> <ul style="list-style-type: none"> <li>• The Keshav Singh case clarified that only Article 19(1)(a) was excluded from controlling legislative privileges, and other Fundamental Rights could apply.</li> <li>• The Court held that Article 21, which guarantees the right to personal liberty, would apply to parliamentary privileges.</li> <li>• An order of the House punishing a person for contempt would not be final and conclusive, and the Court could intervene if there were capricious or mala fide reasons for deprivation of personal liberty.</li> </ul> <p><b>Relationship between Fundamental Rights and Legislative Privileges:</b></p> <ul style="list-style-type: none"> <li>• <b>Harmonious construction:</b> The Court emphasized the need for harmonious construction of Article 105(3) (or Article 194(3)) and Article 19(1)(a), giving due regard to the special nature of privileges.</li> <li>• <b>Special nature of privileges:</b> Legislative privileges, being of a special nature, should prevail over general Fundamental Rights.</li> </ul>
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	<ul style="list-style-type: none"> <li>• <b>Limited applicability of Art. 19(1)(a):</b> The Searchlight case excluded only Article 19(1)(a) from controlling legislative privileges, leaving other Fundamental Rights potentially applicable.</li> <li>• <b>Art. 21 and personal liberty:</b> The Court clarified that Article 21 would apply to parliamentary privileges, allowing individuals to seek relief on the ground of deprivation of personal liberty not in accordance with law.</li> </ul> <p><b>IV. Legislative Framework and Fundamental Rights:</b></p> <ul style="list-style-type: none"> <li>• It is essential for the legislature to enact laws defining its privileges while ensuring compatibility with Fundamental Rights.</li> <li>• If Parliament or a State Legislature defines its privileges under Article 105(3) or Article 194(3), such a law would be subject to Article 19(1)(a).</li> <li>• Any provision of the law that contravenes Fundamental Rights would be invalid under Article 13(2).</li> </ul>
<b>Conclusion</b>	<p><b>It is essential for the legislature to enact laws defining its privileges while ensuring compatibility with Fundamental Rights. This delicate equilibrium helps maintain the democratic fabric of the country while upholding the principles of justice and equality.</b></p>

## 2) Discuss the role of accountability committees in ensuring government accountability to Parliament and its citizens.

<b>UPSC Mains Syllabus topic</b>	<b>Parliament and State legislatures—structure, functioning, conduct of business, powers &amp; privileges and issues arising out of these.</b>
<b>Why was this question asked?</b>	<ul style="list-style-type: none"> <li>• 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)</li> </ul>
<b>Introduction</b>	<b>Accountability committees play a crucial role in ensuring government accountability to Parliament and its citizens.</b>
<b>Body</b>	<b>I. Committee on Petitions:</b>

	<ul style="list-style-type: none"> <li>• <b>Examination of complaints:</b> The Committee on Petitions scrutinizes petitions received from the public, addressing matters of public interest related to government work.</li> <li>• <b>Reporting and remedial measures:</b> After examining the complaints, the committee submits a report that addresses the grievances and suggests remedial measures.</li> <li>• <b>Action Taken Report:</b> Based on the government's adoption of the committee's recommendations, an Action Taken Report is published, ensuring transparency and follow-up on public petitions.</li> </ul> <p><b>II. Committee on Government Assurances:</b></p> <ul style="list-style-type: none"> <li>• <b>Scrutiny of assurances:</b> The Committee on Government Assurances monitors assurances, promises, and undertakings made by Ministers during parliamentary proceedings.</li> <li>• <b>Timely implementation:</b> It ensures that commitments made by the government are implemented within three months of being made, promoting accountability and avoiding delays.</li> <li>• <b>Reporting and review:</b> The committee presents a report addressing issues related to the implementation of assurances, allowing for parliamentary review and remedial action if necessary.</li> </ul> <p><b>III. Committee on Subordinate Legislation:</b></p> <ul style="list-style-type: none"> <li>• <b>Scrutiny of subordinate legislation:</b> This committee examines whether the powers to make regulations, rules, and sub-laws by the government are exercised properly.</li> <li>• <b>Procedural details:</b> While Parliament lays down broad principles in legislation, the committee ensures that the procedural details framed by the government align with the legislative intent.</li> <li>• <b>Recommendations and transparency:</b> The committee presents its recommendations in a report, promoting transparency and parliamentary oversight over subordinate legislation.</li> </ul>
<b>Conclusion</b>	<p>Thus their functions contribute to transparency, citizen participation, and the effective functioning of democratic governance.</p>

**3) Explain the necessity of delegation of legislative power, its limits, and methods of control. Analyze the impact of delegated legislation on executive powers and the status of the legislature.**

<b>UPSC Mains Syllabus topic</b>	<b>Parliament and State legislatures—structure, functioning, conduct of business, powers &amp; privileges and issues arising out of these.</b>
<b>Why was this question asked?</b>	<ul style="list-style-type: none"> <li>Miscellaneous theme not covered so far in the examination.</li> </ul>
<b>Introduction</b>	<p>Delegation of legislative power is essential in modern democracies due to the increased workload and complexity of legislation. However, it must have limits and be subject to control to maintain the balance of power between the executive and the legislature.</p>
<b>Body</b>	<p><b>I. Necessity of Delegation:</b></p> <ul style="list-style-type: none"> <li><b>Increased legislation:</b> The transition to a welfare state and technological advancements have led to a higher volume of legislation, necessitating delegation for efficient governance.</li> <li><b>Expertise of administrators:</b> Delegating legislation to professional administrators allows for better management of technical and complicated issues.</li> <li><b>Flexibility and efficiency:</b> Delegated legislation enables timely adjustments to address changing circumstances without the need for lengthy legislative processes.</li> </ul> <p><b>II. Limits of Delegation:</b></p> <ul style="list-style-type: none"> <li><b>Essential legislative powers:</b> Delegation cannot include the formulation of legislative policy and principles.</li> <li><b>Judicial control:</b> Courts can declare delegated legislation ultra vires if it exceeds the delegated power conferred by the legislature.</li> <li><b>Policy formulation:</b> Delegated legislation should not alter legislative policy but should adhere to the policy set by the legislature.</li> </ul>

	<p><b>III. Methods of control:</b></p> <ul style="list-style-type: none"> <li>• <b>Doctrine of ultra vires:</b> Courts exercise control by declaring delegated legislation invalid if it goes beyond the scope of the delegated power.</li> <li>• <b>Committees on subordinate legislation:</b> Legislative committees oversee delegated legislation, ensuring it aligns with the legislative intent.</li> </ul> <p><b>IV. Impact of Delegated Legislation:</b></p> <ul style="list-style-type: none"> <li>• <b>Executive power:</b> Delegated legislation expands executive authority in rule-making but must remain within the limits set by the legislature.</li> <li>• <b>Legislative oversight:</b> Delegated legislation bypasses the traditional legislative process, potentially weakening the role of the legislature in lawmaking.</li> <li>• <b>Judicial scrutiny:</b> The doctrine of ultra vires allows courts to review delegated legislation and ensure it remains within legal boundaries.</li> </ul>
<b>Conclusion</b>	<p>Striking the right balance between delegation and control is crucial for upholding the principles of transparency, accountability, and legislative authority.</p>

4) **“The golden rule of conduct is mutual toleration, seeing that we will never all think alike and we shall always see Truth in fragment and from different points of vision”.- Mahatma Gandhi**

**What does the above statement mean to you?**

The quote by Mahatma Gandhi emphasizes the importance of mutual tolerance, recognizing that individuals have diverse perspectives and that truth is multifaceted.

**Case Study 1:**

- In India, the coexistence of multiple religions and diverse cultural traditions underscores the significance of mutual tolerance and respect for different belief systems.

**Case Study 2:**

- Globally, the field of academia embraces the exchange of ideas and diverse perspectives, acknowledging that truth is a product of collaborative inquiry and respectful engagement.

### List of traits implied in the case studies:

1. **Ethical Pluralism:** Recognizing and respecting diverse ethical perspectives and the existence of multiple valid viewpoints.
2. **Open-mindedness:** Cultivating an attitude of curiosity and willingness to consider alternative perspectives and interpretations of truth.
3. **Respectful Dialogue:** Engaging in respectful and constructive discussions, valuing the exchange of ideas, and seeking common ground.
4. **Humility:** Acknowledging the limitations of one's own understanding and recognizing that truth is often partial and evolving.
5. **Inclusivity:** Embracing diversity and promoting inclusive spaces where different perspectives can be shared and valued.

The quote highlights the ethical principle of mutual tolerance, acknowledging the diversity of human experiences and perspectives. To integrate moral actions, it is essential to foster ethical pluralism, open-mindedness, respectful dialogue, humility, and inclusivity. By doing so, we can navigate the complexities of truth, bridge differences, and build a more harmonious and understanding society.

### 5) Optional Self-Practice Questions:

#### **HISTORY:**

- Buffer Day to finish the pending topics.

#### **PUBLIC ADMINISTRATION:**

- Have political realities thwarted the move towards evidence-based policy making? Critically examine.

#### **ANTHROPOLOGY:**

- Write a short note on 'Demographic Transition'.

#### **SOCIOLOGY:**

- Paper 1- Revision Day

#### **GEOGRAPHY:**

- Denudation chronology is an important tool for understanding landscape evolution. Discuss.