

COMMITTEE OF PRIVILEGES

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(FOURTEENTH LOK SABHA)

ELEVENTH REPORT ON “PARLIAMENTARY PRIVILEGES— CODIFICATION AND RELATED MATTERS”

(Presented to the Speaker, Lok Sabha on 31 March, 2008)
(Laid on the table of the House on)



LOK SABHA SECRETARIAT
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PERSONNEL OF THE COMMITTEE OF PRIVILEGES
(14th Lok Sabha)

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ELEVENTH REPORT OF THE COMMITTEE OF PRIVILEGES
ON 'PARLIAMENTARY PRIVILEGES—CODIFICATION
AND RELATED MATTERS'
(FOURTEENTH LOK SABHA)

I. Introduction and Procedure

1. I, the Chairman of the Committee of Privileges having been authorized by the Committee to submit the Report on their behalf, present this their Eleventh Report to the Speaker on the issue of "Parliamentary Privileges—Codification and related matters".

2. The Committee held eleven sittings. The relevant minutes of these sittings form part of the Report and are appended hereto.

3. At their first sitting held on 13 September, 2006 the Committee directed the Secretariat to prepare, a note on "Parliamentary Privileges, codification and other matters" for their consideration.

4. At their second sitting held on 10 October, 2006, the Committee took up the subject 'Parliamentary Privileges, its codification and related matters' for consideration, and after some deliberation on the subject felt that the matter merits a review by the Committee. The Committee authorized the Chairman, to request the Speaker, Lok Sabha to refer the matter to the Committee for consideration and report.

5. The Speaker referred the matter to the Committee on 10 November, 2006 for consideration and report.

6. The Committee at their third sitting held on 15 November, 2006 directed the Secretariat that a questionnaire covering all aspects of the matter be prepared and placed before the Committee along with a list of persons/institutions from whom responses might be elicited thereon.

7. The Committee at their fourth sitting held on 18 December, 2006 approved the questionnaire prepared by the Secretariat on the subject. The Committee also approved the list of persons/institutions to whom the questionnaire might be addressed for eliciting their views.

8. At their fifth sitting held on 5 February, 2007, the Chairman informed the Committee that copies of the questionnaire as approved by the Committee had been sent to about 300 persons/institutions and that responses thereto were, however, awaited. The Committee directed the Secretariat to issue reminders to all of them.

The Committee then considered the questionnaires to be addressed to Parliament Secretariats of U.K., Australia and others.

9. The Committee at their sixth sitting held on 11 April, 2007 observed that out of about 300 persons/institutions who had been requested to send their replies to the questionnaire, only 40 had so far responded. The Committee directed the Secretariat to send a final reminder to the persons/institutions in the last week of April, 2007 giving them time up to end of May, 2007 for sending their responses to the questionnaire.

10. The Committee at their seventh sitting held on 23 July, 2007, took up for consideration, the draft questionnaire prepared by the Secretariat on the subject which was proposed to be sent to Parliaments of foreign countries for eliciting their views with regard to the procedure adopted in their Parliaments and approved the same. The Committee, then, directed the Secretariat to send the questionnaire with a background note on the matter to the Clerks of the Foreign Parliaments.

11. The Committee at their eighth sitting held on 31 October, 2007 further considered the matter and directed the Secretariat to prepare analyses of responses received to the questionnaire and circulate the same to members before the next sitting.

12. The Committee at their ninth sitting held on 16 November, 2007 took up for consideration the "Analysis prepared on the basis of replies received from various Institutions/Organisations to the questionnaire on the matter 'Parliamentary Privileges – Codification and related matters' " and observed that as the statements were quite exhaustive, some more time was required to consider the same.

13. The Committee at their tenth sitting held on 18 January, 2008 further deliberated on the matter and directed the Secretariat to prepare the draft Report.

14. At their eleventh sitting held on 18 March, 2008 the Committee considered the draft Report and adopted it as amended. The Committee also permitted Dr. Sebastian Paul, a member, to append a Note of Dissent to the Report.

II. Parliamentary Privileges—A fresh look in the context of the present scenario and certain popular misconceptions

15. The Constitution makers had left it to the wisdom of the legislatures to codify the parliamentary privileges by including a provision to this effect in clause (3) of Articles 105 and 194 of the Constitution.

Codification of Parliamentary Privileges

16. The question of undertaking legislation on the subject has engaged the attention of the Presiding Officers since 1921. The matter has also been considered from time to time at the Conferences of Presiding Officers. The consistent view at these Conferences has, however, been that codification of parliamentary privileges is not feasible.

17. The matter was also considered at the Conference of Chairmen of Committees of Privileges of Legislative Bodies in India held at New Delhi in March, 1992. The Conference too was of the view that no codification of Parliamentary privileges was required.

18. The Committee note that during the Tenth Lok Sabha, the Committee of Privileges, taking into account the changing socio-political scenario, decided to take a fresh look at the whole issue. The matter regarding codification of parliamentary privileges was taken up by the Committee for consideration with the approval of the Speaker, Tenth Lok Sabha. The Committee obtained opinion of the eminent persons from a cross-section of society on the question of codification of parliamentary privileges, which consisted of persons belonging to Legislature, Legal Profession, Press and Academia. The Report of the Committee on the issue of 'Codification of Parliamentary Privileges' was laid on the Table of the House on 19 December, 1994. The Committee, in this Report recommended that it was not advisable to codify parliamentary privileges.

Revisiting the issue

19. This Committee, after having taken note of Fourth Report of Committee of Privileges (Tenth Lok Sabha) regarding "Codification of Parliamentary Privileges", felt that more than a decade has since elapsed and at present there are several myths surrounding the parliamentary privileges. Even after presentation of the Report, various misconceptions do continue to exist and lamentably even among the educated classes. Time and again the issue whether privileges need to be codified is being raised at various fora. Under these circumstances the Committee felt that there emerges a strong case for revisiting the very concept of parliamentary privileges. The Committee of Privileges have accordingly, with the approval of the Speaker, Lok Sabha taken up for consideration the matter regarding "Parliamentary Privileges – Codification and related matters".

20. The Committee have thus taken up this matter to clarify the extent and scope of privileges of the members and dispel certain misconceptions that prevail.

21. The Committee also take this opportunity to bring to the public light that the Parliament and the Committee of Privileges, Lok Sabha maintain utmost objectivity and follow the rules of natural justice while dealing with privilege issues.

III. Questionnaires

22. The Committee decided to elicit opinion on all aspects of parliamentary privileges from eminent persons/institutions belonging to the Legislature, Legal Profession, Media and Academia, through a Questionnaire.

23. The following Questionnaire was approved by the Committee for eliciting views/opinion of eminent persons/institutions :—

- Q.1 Do you agree that powers, privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their parliamentary duties and functions without any obstruction and hindrance?
- Q.2 Since it is well settled that privileges are available to members of Parliament only insofar as these are absolutely necessary for them to discharge their parliamentary functions, do you feel that there is any scope for misuse of these privileges by the House or its members?
- Q.3 As privileges are enjoyed by members to function freely in the House as representatives of the people, can it be said that privileges are liable to be used by members against the interest of the very same people who are their constituents?
- Q.4 Bearing in mind the observations of the Supreme Court in MSM Sharma's case* do you feel that non-enactment of law codifying their privileges was a deliberate act on the part of Parliament to keep their privileges vague?
- Q.5 Do you feel that privileges of Parliament, its Committees and members need to be codified?
- Q.6 Don't you feel that with a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament?

* A backgrounder circulated alongwith the Questionnaire gave the observations of the Supreme Court in brief.

- Q.7 Codification of parliamentary privileges could end up as an undue focus on specifics at the cost of substance. Please comment.
- Q.8 There is a view among members that they are performing their duties as members of Parliament even while taking up grievances and matters pertaining to their constituents with the concerned executive functionaries in their respective constituencies or elsewhere. Hence there has been a demand by some members that in order to enable them to serve their constituents unfettered, parliamentary privileges should appropriately be extended to them on such occasions too. In view of this position, do you feel that there is a need for broadening the content of parliamentary privileges? If so, please state reasons thereof.
- Q.9 The Contempt of Court Act, 1971 defines “criminal contempt” as publication of any matter or the doing of any other act whatsoever which “scandalises or tends to scandalize or lowers or tends to lower the authority of any court; prejudices or interferes or tends to interfere with the due course of any judicial proceedings; or interferes or tends to interfere with or obstructs or tends to obstruct, the administration of justice in any other manner”. Since this definition, does not specify each and every act that may amount to contempt of court, it is a matter of interpretation whether a particular act would come under the purview of the definition or not. Likewise the definition of contempt of Parliament does not specify each and every act of the commission or omission of which would amount to contempt of the House. In view of this position, how far the criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific, justified?
- Q.10 Article 129 of the Constitution provides that the Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Don’t you think that Parliament, being the supreme legislative body in the country should enjoy power to punish for its contempt in the same manner as is done by the Supreme Court, the supreme judicial body of the country?
- Q.11 Each House of Parliament by convention possess not only the power to punish for contempt but also have the right to judge for themselves what is contempt or what is not. The power of the House to punish for contempt or breach of

privilege is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege. If in exercise of its penal powers, the House adopts a motion expelling (available to House by virtue of convention) some members for grave misconducts unbecoming of members, can the judiciary review such decisions?

Q.12 Our constitution inherently follows the principle of 'separation of powers'. Would you agree that in the name of judicial activism, the courts do, on occasions, tend to transgress into the domains of legislature which is often resulting in near confrontation situations between the courts and the legislatures?

Q.13 Any other comments/suggestions which you may like to make in the matter.

24. The following were the questionnaires, which as approved by the Committee were sent to Foreign Parliaments for eliciting their considered views on privilege related matters.

Questionnaire for Parliament of U.K

Q.1 Have there been any instances where motions/ decisions of the House penalizing persons for breach of privilege and contempt of the House, been challenged in courts of law?

Q.2 Have there been any occasions, where it was felt that the judiciary has transgressed into the domain of Legislature in the matters of parliamentary privileges?

Q.3 The Joint Committee on Parliamentary Privilege which was set up with broad terms of reference "to review parliamentary privilege and make recommendations", presented their First Report to both Houses of Parliament of UK in March, 1999. The Committee in their Report recommended that there should be a Parliamentary Privileges Act, bringing together changes recommended by the Committee in related laws and codifying parliamentary privileges as a whole. Has any further action been taken by the Parliament of UK in the matter so far? If so, kindly give details thereof. If not, is there any initiative in this direction?

Q.4. Any other comments/suggestions which you may like to make in the matter.

Questionnaire for Parliament of Australia

- Q.1 Have there been any instances where motions/decisions of the House penalizing persons for breach of privilege and contempt of the House, been challenged in courts of law?
- Q.2 Have there been any occasions, where it was felt that the judiciary has transgressed into the domain of Legislature in the matters of parliamentary privileges?
- Q.3 What has been the experience *vis a vis* operation of the Parliamentary Privileges Act, 1987?
- Q.4 Has there been any initiative for review of the Act or any fresh initiative with regard to Parliamentary Privileges?
- Q.5 Any other comments/suggestions which you may like to make in the matter.

Questionnaire for other Foreign Parliaments

- Q.1 Do members of Parliament enjoy any privileges in your country?
- Q.2 If yes, are these privileges laid down in the Constitution/ Statute/Rules of Procedure/Standing Orders or have they evolved through conventions?
- Q.3 If privileges are available to members by way of convention, do you feel that these need to be codified?
- Q.4 Have there been any instances where motions/decisions of the House penalizing persons for breach of privilege and contempt of the House, been challenged in courts of law?
- Q.5 Have there been any occasions, where it was felt that the judiciary has transgressed into the domain of Legislature in the matters of parliamentary privileges?
- Q.6 Any other comments/suggestions which you may like to make in the matter.

IV. Analysis of Replies to Questionnaire

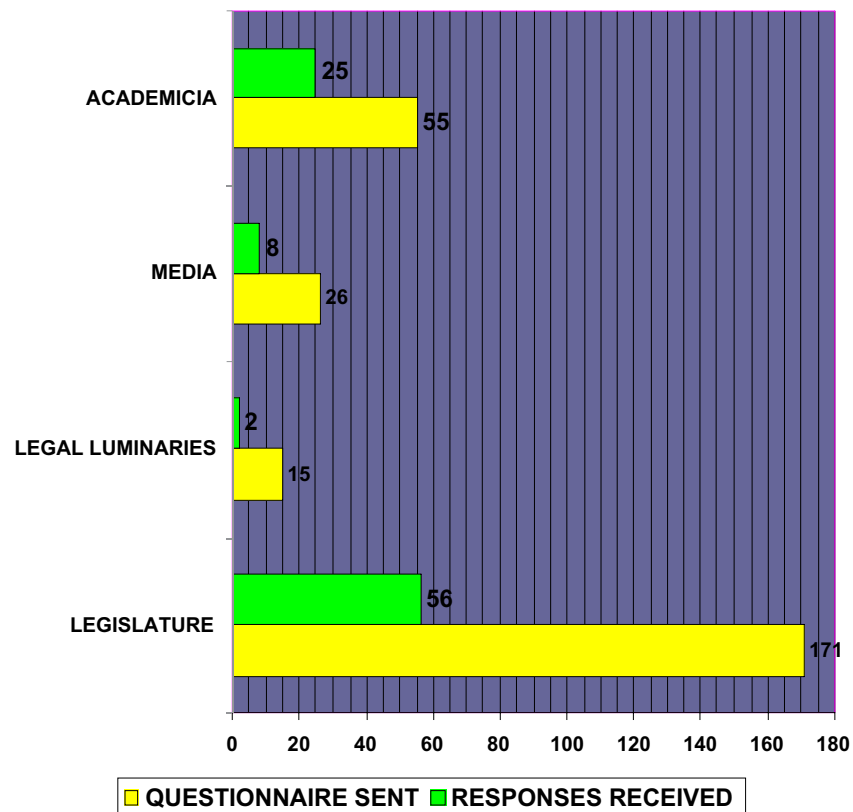
25. At the outset, the Committee would like to give an overview of the category of eminent persons/Institutions to whom questionnaire

was addressed to in India and to Foreign Parliaments, and responses received thereto, which is as under:—

Persons/Institutions to whom questionnaire was sent	No. of persons to whom questionnaire was sent	No. of Replies received	Responses received in percentage
1	2	3	4
LEGISLATURE	171	56	32.75
Vice President of India and Chairman of Rajya Sabha	01	00	00
Speakers/Chairmen of State Legislatures	34	18	52.94
Deputy Speakers/Deputy Chairmen of State Legislatures	27	10	37.03
Chairmen of Committee of Privileges of various State Legislatures	34	13	38.24
Leader of the House in Rajya Sabha	01	00	00
Leader of the House in Lok Sabha	01	00	00
Leader of Opposition in Rajya Sabha	01	00	00
Leader of Opposition in Lok Sabha	01	00	00
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	35	02	5.71
Minister of Parliamentary Affairs	01	00	00
Ministers of Parliamentary Affairs of various States	30	13	43.33
Former Speakers of Lok Sabha	05	00	00
LEGAL LUMINARIES	15	02	13.33
Minister of Law and Justice	01	01	100
Senior Advocates	14	01	7.14
MEDIA	26	08	30.77
Editors of leading Newspapers/Journals	18	02	11.11
CEOs of leading News Channels	08	06	75

1	2	3	4
ACADEMIA	55	25	45.45
Vice-Chancellors of various Universities	47	20	42.55
HoDs of Political Science and Law in various colleges	08	05	62.50
FOREIGN PARLIAMENTS	36	15	41.67
TOTAL	303	106	34.98

**OVERVIEW OF QUESTIONNAIRE SENT AND RESPONSES
RECIEVED(EXCLUDING FOREIGN PARLIAMENTS)**



Out of 303 persons/institutions to whom the questionnaire was addressed¹, responses have been received from 106 persons/institutions², which works out to 34.98%.

¹ Please see Appendix I for list of persons/institutions to whom questionnaire was addressed.

² Please see Appendix II for detailed analysis of responses.

STATISTICAL ANALYSIS OF RESPONSES RECEIVED TO THE
QUESTIONNAIRE (QUESTION-WISE)

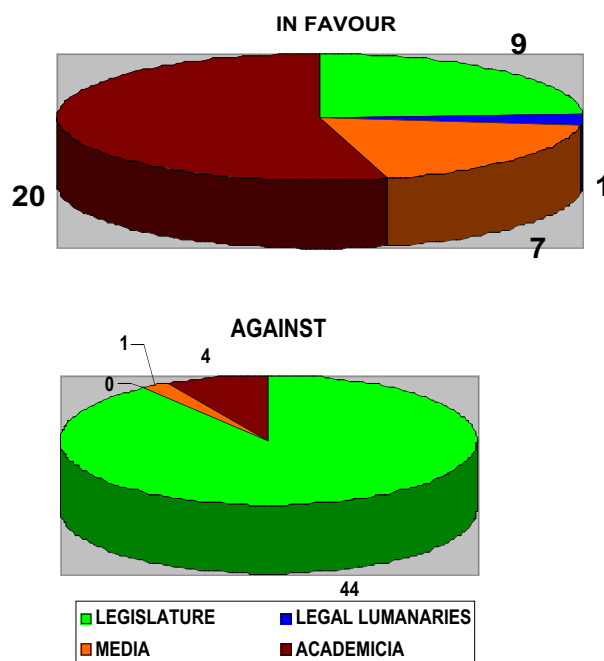
Question No. 1 Do you agree that powers, privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their Parliamentary duties and functions without any obstruction and hindrance?

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour	No. of responses against	No clear reply
LEGISLATURE	56	55	00	01
Speakers/Chairmen of State Legislatures	18	18	00	00
Deputy Speakers/Deputy Chairmen of State Legislatures	10	10	00	00
Chairmen of Committee of Privileges	13	13	00	00
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	02	00	00
Ministers of Parliamentary Affairs of various States	13	12	00	01
LEGAL LUMINARIES	02	02	00	00
Minister of Law and Justice	01	01	00	00
Senior Advocates	01	01	00	00
MEDIA	08	07	01	00
Editors of leading Newspapers/Journals	02	02	00	00
CEOs of leading News Channels	06	05	01	00
ACADEMICIA	25	25	00	00
Vice-Chancellors of various Universities	20	20	00	00
HoDs of Political Science and Law in various colleges	05	05	00	00
Grand Total	91	89	01	01

BREAK UP OF STATISTICAL DATA (PERCENTAGE-WISE)

Legislature	For:	(55/56) 98.21%
	Against:	(00/56) 00%
Legal Luminaries	For:	(02/02) 100%
	Against:	(00/02) 00%
Media	For:	(07/08) 87.5%
	Against:	(01/08) 12.5%
Academicia	For:	(25/25) 100%
	Against:	(00/25) 00%
Grand Total	For:	(89/91) 97.80%
	Against:	(01/91) 1.10%

RESPONSES TO THE QUESTION NO. 2



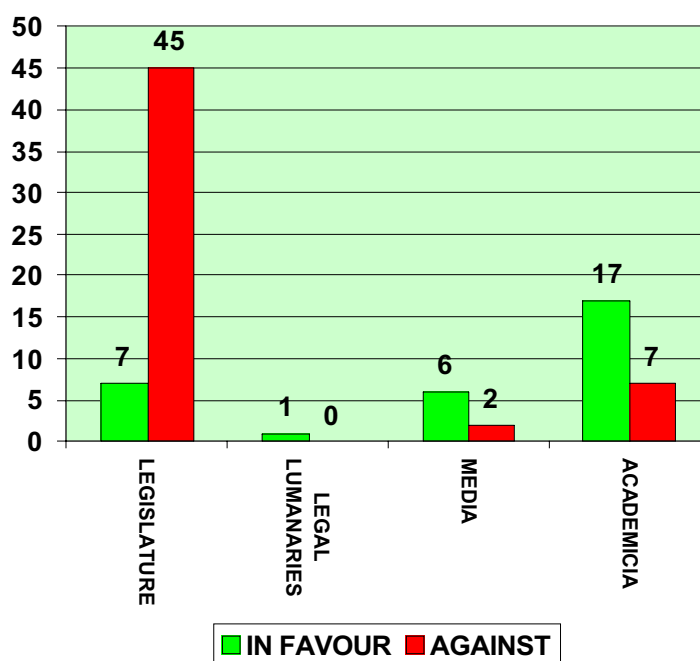
Question No. 2 **Since it is well settled that privileges are available to members of Parliament only in so far as these are absolutely necessary for them to discharge their parliamentary functions, do you feel that there is any scope for misuse of these privileges by the House or its members?**

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour	No. of responses against	No clear reply
LEGISLATURE	56	09	44	03
Speakers/Chairmen of State Legislatures	18	02	15	01
Deputy Speakers/Deputy Chairmen of State Legislatures	10	00	09	01
Chairmen of Committee of Privileges	13	01	12	00
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	01	01	00
Ministers of Parliamentary Affairs of various States	13	05	07	01
LEGAL LUMINARIES	02	01	00	01
Minister of Law and Justice	01	00	00	01
Senior Advocates	01	01	00	00
MEDIA	08	07	01	00
Editors of leading Newspapers/Journals	02	02	00	00
CEOs of leading News Channels	06	05	01	00
ACADEMICIA	25	20	04	01
Vice-Chancellors of various Universities	20	15	04	01
HoDs of Political Science and Law in various colleges	05	05	00	00
Grand Total	91	37	49	05

BREAK UP OF STATISTICAL DATA (PERCENTAGE-WISE)

Legislature	For:	(9/56) 16.07%
	Against:	(44/56) 78.57%
Legal Luminaries	For:	(01/02) 50%
	Against:	(00/02) 00%
Media	For:	(07/08) 87.5%
	Against:	(01/08) 12.5%
Academicia	For:	(20/25) 80%
	Against:	(04/25) 16%
Grand Total	For:	(37/91) 40.66%
	Against:	(49/91) 53.85%

RESPONSES TO QUESTION NO. 3



Question No. 3 As privileges are enjoyed by members to function freely in the House as representatives of the people, can it be said that privileges are liable to be used by members against the interest of the very same people who are their constituents?

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour	No. of responses against	No clear reply
LEGISLATURE	56	07	45	04
Speakers/Chairmen of State Legislatures	18	02	14	02
Deputy Speakers/Deputy Chairmen of State Legislatures	10	00	10	00
Chairmen of Committee of Privileges	13	02	11	00
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	00	02	00
Ministers of Parliamentary Affairs of various States	13	03	08	02
LEGAL LUMINARIES	02	01	00	01
Minister of Law and Justice	01	00	00	01
Senior Advocates	01	01	00	00
MEDIA	08	06	02	00
Editors of leading Newspapers/Journals	02	01	01	00
CEOs of leading News Channels	06	05	01	00
ACADEMICIA	25	17	07	01
Vice-Chancellors of various Universities	20	12	07	01
HoDs of Political Science and Law in various colleges	05	05	00	00
Grand Total	91	31	54	06

BREAK UP OF STATISTICAL DATA (PERCENTAGE-WISE)

Legislature	For:	(07/56) 12.5%
	Against:	(45/56) 80.36%
Legal Luminaries	For:	(01/02) 50%
	Against:	(00/02) 00%
Media	For:	(06/08) 75%
	Against:	(02/08) 25%
Academicia	For:	(17/25) 68%
	Against:	(07/25) 28%
Grand Total	For:	(31/94) 34.07%
	Against:	(54/91) 59.34%

Question No. 4 **Bearing in mind the observations of the Supreme Court in MSM Sharma's case, do you feel that non-enactment of a law codifying their privileges was a deliberate act on the part of Parliament to keep their privileges vague?**

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour	No. of responses against	No clear reply
1	2	3	4	5
LEGISLATURE	56	07	45	04
Speakers/Chairmen of State Legislatures	18	02	16	00
Deputy Speakers/Deputy Chairmen of State Legislatures	10	01	09	00
Chairmen of Committee of Privileges	13	01	11	01
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	01	01	00
Ministers of Parliamentary Affairs of various States	13	02	08	03

1	2	3	4	5
LEGAL LUMINARIES	02	00	02	00
Minister of Law and Justice	01	00	01	00
Senior Advocates	01	00	01	00
MEDIA	08	03	05	00
Editors of leading Newspapers/Journals	02	01	01	00
CEOs of leading News Channels	06	02	04	00
ACADEMICIA	25	13	09	03
Vice-Chancellors of various Universities	20	08	09	03
HoDs of Political Science and Law in various colleges	05	05	00	00
Grand Total	91	23	61	07

BREAK UP OF STATISTICAL DATA (PERCENTAGE-WISE)

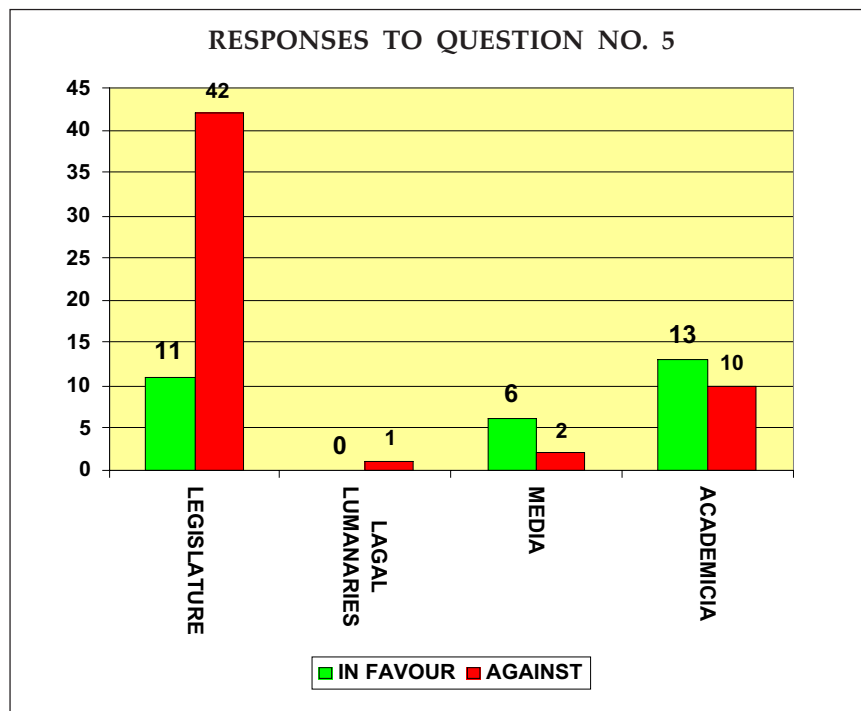
Legislature	For:	(07/56) 12.5%
	Against:	(45/56) 80.36%
Legal Luminaries	For:	(00/02) 00%
	Against:	(02/02) 100%
Media	For:	(03/08) 37.5%
	Against:	(05/08) 62.5%
Academicia	For:	(13/25) 52%
	Against:	(09/25) 36%
Grand Total	For:	(23/91) 25.27%
	Against:	(61/91) 67.03%

Question No. 5 Do you feel that privileges of Parliament and its Committees and members need to be codified?

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour	No. of responses against	No clear reply
LEGISLATURE	56	11	42	03
Speakers/Chairmen of State Legislatures	18	04	14	00
Deputy Speakers/Deputy Chairmen of State Legislatures	10	00	10	00
Chairmen of Committee of Privileges	13	00	12	01
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	01	01	00
Ministers of Parliamentary Affairs of various States	13	06	05	02
LEGAL LUMINARIES	02	00	01	01
Minister of Law and Justice	01	00	00	01
Senior Advocates	01	00	01	00
MEDIA	08	06	02	00
Editors of leading Newspapers/Journals	02	02	00	00
CEOs of leading News Channels	06	04	02	00
ACADEMICA	25	13	10	02
Vice-Chancellors of various Universities	20	11	07	02
HoDs of Political Science and Law in various colleges	05	02	03	00
Grand Total	91	30	55	06

BREAK UP OF THE STATISTICAL DATA (PERCENTAGE-WISE)

Legislature	For:	(11 / 56)19.64%
	Against:	(42 / 56)75%
Legal Luminaries	For:	(00 / 02)00%
	Against:	(01 / 02)50%
Media	For:	(06 / 08)75%
	Against:	(02 / 08)25%
Academicia	For:	(13 / 25)52%
	Against:	(10 / 25)40%
Grand Total	For:	(30 / 91)32.97%
	Against:	(55 / 91)60.44%



Question No. 6 Don't you feel that with a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament?

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour	No. of responses Against	No clear reply
LEGISLATURE	56	45	08	03
Speakers/Chairmen of State Legislatures	18	15	02	01
Deputy Speakers/Deputy Chairmen of State Legislatures	10	10	00	00
Chairmen of Committee of Privileges	13	13	00	00
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	01	01	00
Ministers of Parliamentary Affairs of various States	13	06	05	02
LEGAL LUMINARIES	02	01	01	00
Minister of Law and Justice	01	00	01	00
Senior Advocates	01	01	00	00
MEDIA	08	02	06	00
Editors of leading Newspapers/Journals	02	00	02	00
CEOs of leading News Channels	06	02	04	00
ACADEMICIA	25	11	12	02
Vice-Chancellors of various Universities	20	08	10	02
HoDs of Political Science and Law in various colleges	05	03	02	00
Grand Total	91	59	27	05

BREAK UP OF THE STATISTICAL DATA (PERCENTAGE WISE)

Legislature	For:	(45/56)80.36%
	Against:	(08/56)14.29%
Legal Luminaries	For:	(01/02)50%
	Against:	(01/02)50%
Media	For:	(02/08)25%
	Against:	(06/08)75%
Academicia	For :	(11/25)44%
	Against:	(12/25)48%
Grand Total	For:	(59/91)64.84%
	Against:	(27/91)29.67%

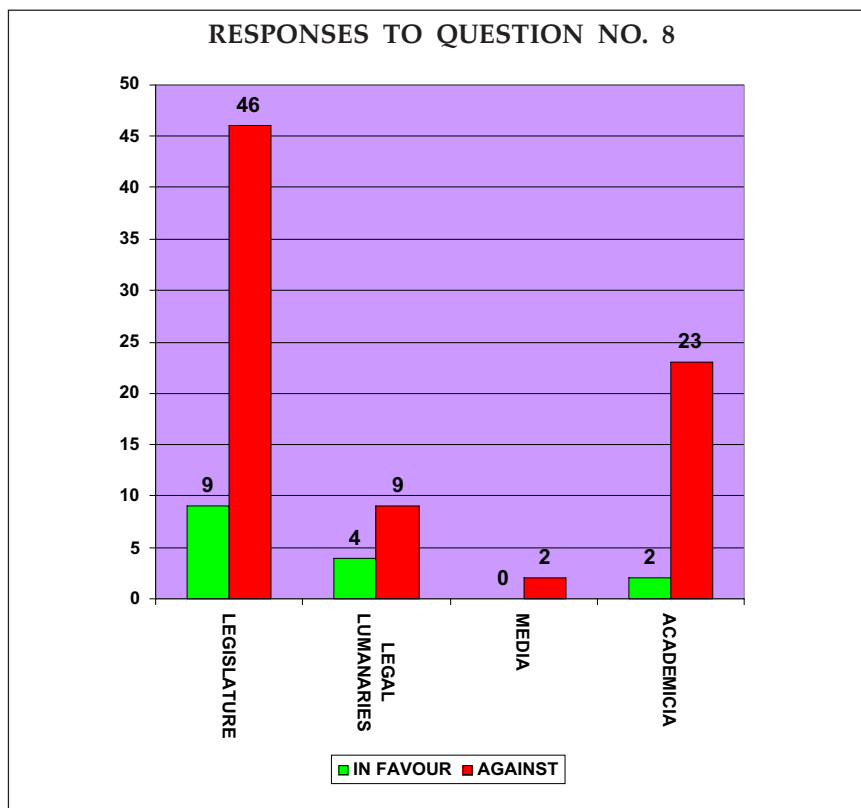
Question No. 7 Codification of parliamentary privileges could end up in undue focus on specifics at the cost of substance. Please comment.

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour	No. of responses Against	No clear reply
1	2	3	4	5
LEGISLATURE	56	38	11	07
Speakers/Chairmen of State Legislatures	18	14	03	01
Deputy Speakers/Deputy Chairmen of State Legislatures	10	08	00	02
Chairmen of Committee of Privileges	13	11	01	01
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	00	01	01
Ministers of Parliamentary Affairs of various States	13	05	06	02

1	2	3	4	5
LEGAL LUMINARIES	02	00	02	00
Minister of Law and Justice	01	00	01	00
Senior Advocates	01	00	01	00
MEDIA	08	02	06	00
Editors of leading Newspapers/ Journals	02	00	02	00
CEOs of leading News Channels	06	02	04	00
ACADEMICIA	25	15	09	01
Vice-Chancellors of various Universities	20	12	07	01
HoDs of Political Science and Law in various colleges	05	03	02	00
Grand Total	91	55	28	08

BREAK UP OF THE STATISTICAL DATA (PERCENTAGE WISE)

Legislature	For:	(38 / 56)67.86%
	Against:	(11 / 56)19.64%
Legal Luminaries	For:	(00 / 02)00%
	Against:	(02 / 02)100%
Media	For:	(02 / 08)25%
	Against:	(06 / 08)75%
Academicia	For:	(15 / 25)60%
	Against:	(09 / 25)36%
Grand Total	For:	(55 / 91)60.43%
	Against:	(28 / 91)30.77%



Question No. 8 There is a view among the members that they are performing their duties as members of Parliament even while taking up grievances and matters pertaining to their constituents with the concerned executive functionaries in their respective constituencies or elsewhere. Hence there has been a demand by some members that in order to enable them to serve their constituents unfettered, parliamentary privileges should appropriately be extended to them on such occasions too. In view of this position, do you feel that there is a need for broadening the content of parliamentary privileges? If so, please state reasons therefore.

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour	No. of responses Against	No clear reply
1	2	3	4	5
LEGISLATURE	56	09	46	01
Speakers/Chairmen of State Legislatures	18	02	16	00

1	2	3	4	5
Deputy Speakers/Deputy Chairmen of State Legislatures	10	00	09	01
Chairmen of Committee of Privileges	13	02	11	00
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	01	01	00
Ministers of Parliamentary Affairs of various States	13	04	09	00
LEGAL LUMINARIES	02	00	02	00
Minister of Law and Justice	01	00	01	00
Senior Advocates	01	00	01	00
MEDIA	08	01	07	00
Editors of leading Newspapers/Journals	02	01	01	00
CEOs of leading News Channels	06	00	06	00
ACADEMICIA	25	02	23	00
Vice-Chancellors of various Universities	20	01	19	00
HoDs of Political Science and Law in various colleges	05	01	04	00
Grand Total	91	12	78	01

BREAK UP OF STATISTICAL DATA (PERCENTAGE-WISE)

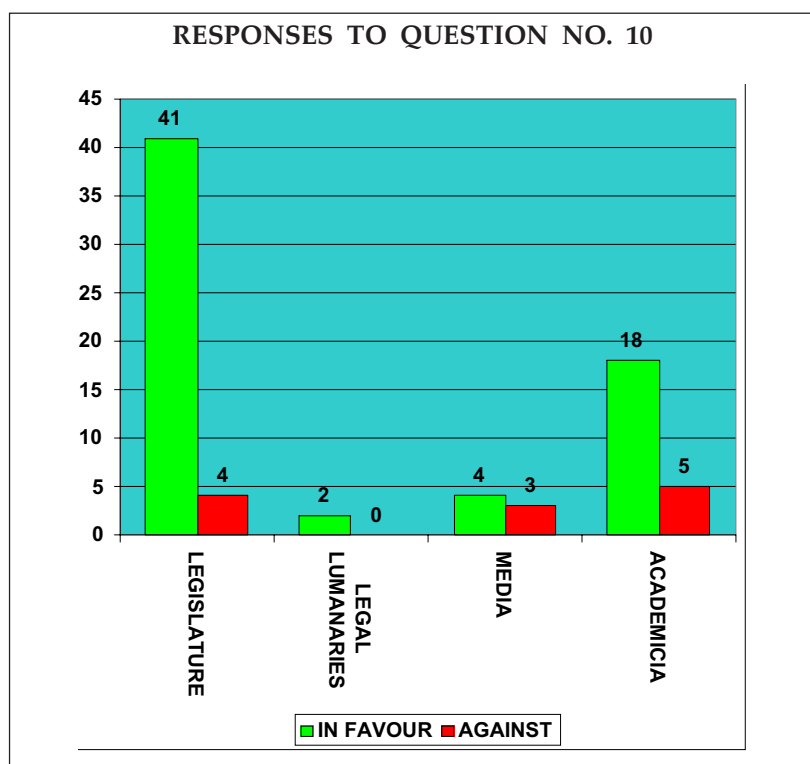
Legislature	For:	(09/56)16.07%
	Against:	(46/56)82.14%
Legal Luminaries	For:	(00/02)00%
	Against:	(02/02)100%
Media	For:	(01/08)12.5%
	Against:	(07/08)87.5%
Academicia	For:	(02/25)8%
	Against:	(23/25)92%
Grand Total	For:	(12/91)13.19%
	Against:	(78/91)85.71%

Question No. 9 **The Contempt of Court Act, 1971 defines “criminal contempt” as publication of any matter or the doing of any other act whatsoever which “scandalizes or tends to scandalize or lowers or tends to lower the authority of any court; prejudices or interferes or tends to interfere with the due course of any judicial proceedings; or interferes or tends to interfere with or obstructs or tends to obstruct, the administration of justice in any other manner”. Since this definition, does not specify each and every act that may amount to contempt of court, it is a matter of interpretation whether a particular act would come under the purview of the definition or not. Likewise the definition of contempt of Parliament does not specify each and every act, the commission or omission of which would amount to contempt of the House. In view of this position, how far the criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific, justified?**

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour Justified	No. of responses Against Not Justified	No clear reply
1	2	3	4	5
LEGISLATURE	56	11	41	04
Speakers/Chairmen of State Legislatures	18	05	11	02
Deputy Speakers/Deputy Chairmen of State Legislatures	10	00	09	01
Chairmen of Committee of Privileges	13	02	11	00
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	00	02	00
Ministers of Parliamentary Affairs of various States	13	04	08	01
LEGAL LUMINARIES	02	00	02	00
Minister of Law and Justice	01	00	01	00
Senior Advocates	01	00	01	00

1	2	3	4	5
MEDIA	08	04	02	02
Editors of leading Newspapers/ Journals	02	00	01	01
CEOs of leading News Channels	06	04	01	01
ACADEMICIA	25	08	16	01
Vice-Chancellors of various Universities	20	07	12	01
HoDs of Political Science and Law in various colleges	05	01	04	00
Grand Total	91	23	61	07

BREAK UP OF STATISTICAL DATA (PERCENTAGE-WISE)		
Legislature		
	Felt justified:	(11 / 56)19.64%
	Felt not justified:	(41 / 56)73.21%
Legal Luminaries		
	Felt justified:	(00 / 02)00%
	Felt not justified:	(02 / 02)100%
Media		
	Felt justified:	(04 / 08)50%
	Felt not justified:	(02 / 08)25%
Academicia		
	Felt justified:	(08 / 25)32%
	Felt not justified:	(16 / 25)64%
Grand Total		
	Felt justified:	(23 / 91)25.27%
	Felt not justified:	(01 / 91)67.03%



Question No. 10 Article 129 of the Constitution provides that the Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Don't you think that Parliament, being the supreme legislative body in the country should enjoy power to punish for its contempt in the same manner as is done by the Supreme Court, the supreme judicial body of the country?

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour	No. of responses Against	No clear reply
1	2	3	4	5
LEGISLATURE	56	41	04	11
Speakers/Chairmen of State Legislatures	18	14	01	03
Deputy Speakers/Deputy Chairmen of State Legislatures	10	07	01	02

1	2	3	4	5
Chairmen of Committee of Privileges	13	09	02	02
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	02	00	00
Ministers of Parliamentary Affairs of various States	13	09	00	04
LEGAL LUMINARIES	02	02	00	00
Minister of Law and Justice	01	01	00	00
Senior Advocates	01	01	00	00
MEDIA	08	04	03	01
Editors of leading Newspapers/Journals	02	01	00	01
CEOs of leading News Channels	06	03	03	00
ACADEMICIA	25	18	05	02
Vice-Chancellors of various Universities	20	15	03	02
HoDs of Political Science and Law in various colleges	05	03	02	00
Grand Total	91	65	12	14

BREAK UP OF THE STATISTICAL DATA (PERCENTAGE WISE)

Legislature	For:	(41 / 56)73.21%
	Against:	(04 / 56)7.14%
Legal Luminaries	For:	(02 / 02)100%
	Against:	(00 / 02)00%
Media	For:	(04 / 08)50%
	Against:	(03 / 08)37.5%
Academicia	For:	(18 / 25)72%
	Against:	(05 / 25)20%
Grand Total	For:	(05 / 91)71.43%
	Against:	(12 / 91)13.19%

Question No. 11 Each House of Parliament by convention possess not only the power to punish for contempt but also have the right to judge for themselves what is contempt or what is not. The power of the House to punish for contempt or breach of privilege is considered necessary to enable the house to discharge its functions and safeguard its authority and privilege. If in exercise of its penal powers, the House adopts a motion expelling (available to House by virtue of convention) some members for grave misconducts unbecoming of members, can the judiciary review such decisions?

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour	No. of responses Against	No clear reply
LEGISLATURE	56	13	36	07
Speakers/Chairmen of State Legislatures	18	04	11	03
Deputy Speakers/Deputy Chairmen of State Legislatures	10	01	08	01
Chairmen of Committee of Privileges	13	04	08	01
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	01	01	00
Ministers of Parliamentary Affairs of various States	13	03	08	02
LEGAL LUMINARIES	02	02	00	00
Minister of Law and Justice	01	01	00	00
Senior Advocates	01	01	00	00
MEDIA	08	06	02	00
Editors of leading Newspapers/Journals	02	01	01	00
CEOs of leading News Channels	06	05	01	00
ACADEMICIA	25	13	12	00
Vice-Chancellors of various Universities	20	10	10	00
HoDs of Political Science and Law in various colleges	05	03	02	00
Grand Total	91	34	50	07

BREAK UP OF STATISTICAL DATA (PERCENTAGE-WISE)		
Legislature	For :	(13/56)23.21%
	Against:	(36/56)64.29%
Legal Luminaries	For:	(02/02)100%
	Against:	(00/02)00%
Media	For:	(06/08)75%
	Against:	(02/08)25%
Academicia	For:	(13/25)52%
	Against:	(12/25)48%
Grand Total	For:	(34/91)37.36%
	Against:	(50/91)54.95%

Question No. 12 **Our constitution inherently follows the principle of ‘separation of powers’. Would you agree that in the name of judicial activism, the courts do, on occasions, tend to transgress into the domains of legislature which is often resulting in near confrontation situations between the courts and the legislatures?**

Persons/Institutions from whom responses have been received	No. of responses received	No. of responses in favour	No. of responses Against	No clear reply
1	2	3	4	5
LEGISLATURE	56	41	05	10
Speakers/Chairmen of State Legislatures	18	12	03	03
Deputy Speakers/Deputy Chairmen of State Legislatures	10	07	00	03
Chairmen of Committee of Privileges	13	11	01	01

1	2	3	4	5
Leaders of all Political Parties in Lok Sabha/Rajya Sabha	02	01	00	01
Ministers of Parliamentary Affairs of various States	13	10	01	02
LEGAL LUMINARIES	02	01	01	00
Minister of Law and Justice	01	00	01	00
Senior Advocates	01	01	00	00
MEDIA	08	03	04	01
Editors of leading Newspapers/Journals	02	01	00	01
CEOs of leading News Channels	06	02	04	00
ACADEMICIA	25	11	13	01
Vice-Chancellors of various Universities	20	08	11	01
HoDs of Political Science and Law in various colleges	05	03	02	00
Grand Total	91	56	23	12

BREAK UP OF THE STATISTICAL DATA (PERCENTAGE WISE)		
Legislature	For:	(41 / 56)73.21%
	Against:	(05 / 56)08.93%
Legal Luminaries	For:	(01 / 02)50%
	Against:	(01 / 02)50%
Media	For:	(03 / 08)37.5%
	Against:	(04 / 08)50%
Academicia	For:	(11 / 25)44%
	Against:	(13 / 25)52%
Grand Total	For:	(56 / 91)61.54%
	Against:	(23 / 91)25.27%

BROAD OVERVIEW REGARDING RESPONSES RECEIVED FROM FOREIGN PARLIAMENTS

No. of countries to whom questionnaire has been addressed³—36

No. of countries from whom responses have been received⁴—15

Countries where privileges have been codified in a separate Act/Statute	Parliament of Fiji, House of Representatives, Parliament of Australia, House of Commons, Canada Parliament of Sri Lanka, Mauritius National Assembly and National Assembly of Belize
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Question No. 1 Do members of Parliament enjoy any privileges in your country?

No. of Parliaments from whom replies have been received	14
Responses in favour	13
Responses against	-
No categorical reply	1

Question No. 2 If yes, are these privileges laid down in the Constitution/Statute/Rules of Procedure/Standing Orders or have they evolved through conventions? Kindly enumerate with details and furnish extracts of relevant constitutional/ Statutory Provisions etc.

No. of Parliaments from whom replies have been received	14
Countries from where details of constitutional/ statutory provisions etc. have received.	13
Countries from where details of constitutional/ statutory provisions etc. have not been received.	-
No categorical reply	1

³ Pl. *see* Appendix III for List of Foreign Parliaments to whom the questionnaire was addressed.

⁴ Please *see* Appendix IV for detailed analysis of responses received to the questionnaire.

Question No. 3 **If privileges are available to members by way of convention, do you feel that these need to be codified? Kindly give reasons for your views?**

No. of Parliaments from whom replies have been received	13
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Five Parliaments *viz.*, Mauritius National Assembly, Senate of Canada, National Assembly, Nigeria and Parliament of New South Wales, Australia, feel that codification is needed.

Rest of the Parliaments have not given any categorical response.

[This question was not addressed to UK Parliament]

Question No. 4 **Have there been any instances where motions/decisions of the House penalizing persons for breach of privilege and contempt of the House, been challenged in courts of law?**

No. of Parliaments from whom replies have been received.	15
Countries having instances where motions/decisions of the House taking penal action have been challenged in courts of law.	01
Countries having instances where motions/decisions of the House taking penal action have not been challenged in courts of law.	13
No categorical reply.	01

Question No. 5 **Have there been any occasions, where it was felt that the judiciary has transgressed into the domain of Legislature in the matters of parliamentary privileges?**

No. of Parliaments from whom replies have been received	15
Response in affirmative	03
Response in negative	10
No categorical reply	02

V. Privileges—An Overview

26. The Committee would at this juncture like to recapitulate definition and scope, constitutional provisions, provisions under the statute etc.

Definition and Scope of Privileges

27. A simple definition of privilege is that it is an exceptional right or exemption. In its legal sense it means an exemption 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 of Parliament collectively, and by members of each House individually without which they cannot discharge their functions. The object of Parliamentary privileges is to safeguard the freedom, the authority and the 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.

28. It is, however, well established that unless so provided in the Constitution or in any law, a member of Parliament cannot claim any privileges higher than those enjoyed by an ordinary citizen in the matter of the application of the laws.

The fundamental principle is that privileges are those rights which are absolutely necessary for the Houses and its members to perform their functions and they can claim these privileges only if they are in any way obstructed in performance of their parliamentary functions.

Thus, the privilege against assaults or molestation is available to a member only when he is obstructed or in any way molested while discharging his duties as a member of Parliament. In cases, when members were assaulted while they were not performing any parliamentary duty, it was held that no breach of privilege or contempt of the House had been committed. Similarly privilege of Parliament will not be attracted if a libel or a reflection upon a member of Parliament does not concern his capacity as a member of the House and is not based on matters arising in actual transaction of the business of the House.

29. Privileges are available in India to Houses of Parliament/ members by virtue of Constitutional provisions, statutory provisions and under Rules of Procedure and Conduct of Business in the Houses of Parliament and precedents of British House of Commons and conventions which have grown in this country.

Constitutional Provisions

30. Article 105 of the Constitution of India which provides for powers, privileges and immunities of the Houses of Parliament and of the members and the Committee thereof, reads as follows:—

- (1) Subject to 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 of any report, paper, votes or proceedings.
- (3) In other respects, the powers, privileges and immunities of each House of Parliament and of the members and the 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).
- (4) 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, and otherwise to take part in the proceedings of a House of Parliament or any Committee thereof as they apply in relation to members of Parliament.

Provisions under the Statute

31. In terms of provisions of Section 135 A of the Civil Procedure Code members enjoy freedom from arrest in civil cases during the continuation of the session of the House and during a period of 40 days before its commencement and 40 days after its conclusion. The object of this privilege is to ensure the safe arrival and regular attendance of Members of Parliament. The arrest of a Member of Parliament in Civil Proceedings during the period when he is exempt from such arrest is a breach of privilege and the member concerned is entitled to release.

* Section 15 of the Constitution (Forty-fourth Amendment) Act, 1978 came into force with effect from 20 June, 1979. Prior to 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 of its Members and Committees at the commencement of the Constitution *i.e.* on the 26th January, 1950.

Privileges governed by precedents of House of Commons (UK).

32. No law has so far been enacted by Parliament in pursuance of clause (3) of article 105 of the Constitution to define the powers, privileges and immunities of each House and of the Members and the Committees thereof. In the absence of any such law, therefore, the powers, privileges and immunities of the Houses of Parliament and of the Members and the Committees thereof (besides those enumerated in the Constitution and the Civil Procedure Code) continue in actual practice to be governed by the precedents of the British House of Commons as they existed on the date our Constitution came into force.

Privileges evolving through conventions, under Rules etc.

33. Following is an, illustrative, (though not exhaustive) list of powers, privileges and immunities enjoyed by Houses/members of Parliament other than those enjoyed by virtue of constitutional and statutory provisions:—

- (i) Exemption of members from liability to serve as juror;
- (ii) Prohibition of disclosure of the proceedings or decision of a secret sitting of the House;
- (iii) Rights of the House to receive immediate information of the arrest, detention, convictions, imprisonment and release of a member (Rules 229 and 230 of the Rules of Procedure and Conduct of Business in Lok Sabha);
- (iv) Prohibition of arrest and service of legal process within the precincts of the House without obtaining the permission of the Speaker (Rules 232 and 233 of the Rules of Procedure and Conduct of Business in Lok Sabha);
- (v) 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 13th September, 1957);
- (vi) Members or officers of the House cannot attend as a witness before the other House or a Committee thereof 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 17 December, 1958);

- (vii) All Parliamentary Committees are empowered to send for persons, papers and records relevant for the purpose of the inquiry by the 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 the Rules of Procedure and Conduct of Business in Lok Sabha);
- (viii) A Parliamentary Committee may administer oath or affirmation to a witness examined before it (Rule 272 of the Rules of Procedure and Conduct of Business in Lok Sabha);
- (ix) 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 the House (Rule 275 of the 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 powers are:—

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

Breach of Privilege and Contempt of the House

34. While a breach of privilege can be said to have taken place when any of the privileges specified above is violated, the contempt of the House is generally defined as “any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results.”

VI. Observations and Conclusions

35. The Committee, at the very threshold, would like to address the basic reasons/primary factors from which emanate the oft felt need in certain quarters and demand from others for codification of parliamentary privileges. The Committee feel it appropriate, to first focus on these core areas/factors. The term 'Parliamentary Privileges' evokes mixed emotions. "Privilege" is often misunderstood or more appropriately less understood expression. The general perception appears to be that privileges are certain supernumerary or special rights, which place legislators on a pedestal higher than that of an ordinary citizen. This perception is far from truth. The first task before the Committee is to clear and dispel the myths surrounding parliamentary privileges.

36. Privileges do not compromise the fundamental precept that all citizens are equal in the eyes of the law. Privileges do not place members of Parliament on a footing different from that of an ordinary citizen in the matter of application of laws, unless there are good and sufficient reasons in the interest of Parliament itself to do so. Unless so provided in the Constitution or in any law, a member of Parliament cannot claim any higher privileges than those enjoyed by an ordinary citizen.

37. With a view to appreciating the true import of parliamentary privileges, it becomes imperative to have a proper understanding as to what are privileges. In parliamentary parlance, privileges are certain rights and immunities enjoyed by each House of Parliament collectively, and by members of each House individually, without which they cannot discharge their functions. The object of parliamentary privileges is to safeguard the freedom, the authority and the dignity of Parliament.

The other question which arises is why are privileges necessary. 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 services of its members, and by each House collectively for the protection of its members, and the vindication of its own authority and dignity.

38. The Committee strongly feel that it needs to be reiterated in unambiguous terms that privileges are granted to members in order to enable them to perform their duties without any let or hindrance. In a democratic set-up, members personify the collective will, thought and voice of the people who choose them as their representatives. On the basis of this fundamental precept rests the importance and significance of the privileges and immunities to the members.

39. The Committee feel it pertinent to note the following observations made by the **Joint Committee on Parliamentary Privileges of Houses of Parliament, United Kingdom**, in their First Report on the review of parliamentary privileges:—

“Parliamentary privileges consist of the rights and immunities which the two Houses of Parliament and their members and officers possess to enable them to carry out their parliamentary functions effectively. Without this protection members would be handicapped in performing their parliamentary duties, and the authority of Parliament itself in confronting the executive and as a forum for expressing the anxieties of citizens would be correspondingly diminished

The source of parliamentary privilege is to be found chiefly in ancient practice, asserted by Parliament and accepted over time by the Crown and the courts as the law and custom of Parliament. This ancient practice is recorded in the rolls of Parliament and the journals of the two Houses. Some of the Commons ancient privileges, such as freedom from arrest, were claimed from the Sovereign and upheld with his consent. Other privileges were established by Parliament itself. Freedom of speech, for instance, claimed by the Commons under Elizabeth I and frequently asserted thereafter, was fully established only after the long struggle of the House of Commons in the seventeenth century to assert its independence against the Crown and the courts. What the House of Commons originally claimed as customary rights, in the course of repeated efforts to assert them, hardened into legally recognized privileges. They are part of the common law, in that their existence and validity are recognized by the courts, but they are unique in also being enforceable by Parliament itself through the exercise of its penal powers.....

Parliamentary privileges in its present form cannot be understood fully without regard to its historic origins and to constitutional developments over the last 400 years. These origins are well documented and readily accessible. In the phrase of the report of the Australian Select Committee on parliamentary privilege (1984), the privileges of Parliament are ‘a mirror of the times when they were gained’. Freedom from arrest for seditious libel, for example, was needed because in past centuries arrest was frequently the consequence of the unsuccessful assertion of freedom of speech.....

Parliamentary privilege is, in its detail, a complex, technical and somewhat arcane subject. This is partly because of its historic origin and partly because of the multifarious functions of

Parliament. Parliament is a legislative and deliberative assembly. Its main constitutional role is to enact the law and, in the case of the House of Commons, to grant supply (that is, make financial provision for the expenses of government). Parliament is also the grand inquest of the nation. It is the forum where any grievance may be aired, however, small or great. It is the place where the government is called to account by representatives of the whole nation. John Stuart Mill described one task of the legislature as to watch and control the government: to throw the light of publicity on its acts. Ministers can be required to explain to Parliament what is done by them in their capacity as Ministers or by their departments, so that members of Parliament can, where necessary, criticize the way public affairs are being administered and public money is being spent. So Parliament must be able to consider any matter it chooses and, principally through its committees, investigate any matter. If there is a national emergency, it is only through Parliament that effective action can be taken. The two Houses need sufficient power and authority both to carry out their everyday business and occasionally, to deal with extraordinary and extreme situations."

40. The justification for the penal jurisdiction of the Houses of Parliament, has been explained in **Erskine May's Parliamentary Practice** as follows:—

"Without a power to commit, the privileges of Parliament would not exist in their present form, and it would hardly have been possible adequately to defend the dignity of Parliament against disrespect and affronts which could not be brought, or could be brought only by implication, under the head of any of the specific privileges."

"The power of both Houses to punish Members and non-Members for disorderly and disrespectful acts has much in common with the authority inherent in the superior courts 'to prevent or punish conduct which tends to obstruct, prejudice or abuse them' while in the exercise of their responsibilities. By this means the two Houses are enabled to safeguard and enforce their necessary authority without the compromise or delay to which recourse to the ordinary courts would give rise. The act or omission which attracts the penal jurisdiction of either may be committed in the face of House or of a Committee, within the Palace of Westminster or outside it. Nor is it necessary that there should have been a breach of one of the privileges enjoyed, collectively or individually, by either House: anything done or omitted which may fall within the definition of contempt even if there is no precedent, may be punished."

According to M.N. Kaul and S.L. Shakdher's 'Practice and Procedure of Parliament':

"Each House of Parliament, as also a House of the Legislature of a State, has the power to secure the attendance of persons on matters of privilege and to punish for breach of privilege or contempt of the House and commit the offender to custody or prison.

Parliament and State Legislatures possess not only the power to punish for contempt but have also the right to judge for themselves what is contempt or what is not, as without this the privilege of punishing for contempt would be worthless...

The power of the House to punish for contempt or breach of privilege has been aptly described as the 'keystone of parliamentary privileges' and is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege. This power is akin in nature and owes its origin to the powers possessed by the courts of law to punish for contempt. Without such a power, the House would sink into utter contempt and inefficiency."

41. The Committee feel that demand for codification mainly arises from the fact that the power of the House to punish for its contempt or breach of privilege is wrongly seen as the House being judge of its own cause.

42. While taking up the review of 'Parliamentary Privileges codification and related matters', the Committee sought to elicit opinion of eminent persons/institutions in India through a comprehensive questionnaire which was drafted in a manner so as to obtain responses on the above mentioned core issues *viz* (i) whether privileges are necessary for performance of parliamentary duties; (ii) whether there was any scope of misuse of privileges; and (iii) whether the privileges need to be codified.

43. The Committee before venturing further on the ground reality *vis a vis* the parliamentary privileges, wish to briefly dwell upon the conclusions which have emerged from the analysis of responses to the comprehensive questionnaire on parliamentary privileges, codification and related matters.

It would be worthwhile to note that out of 303 persons/institutions to whom the questionnaire was addressed, responses had been received from 106. The break-up being 56 from Legislatures, 2 from legal

luminaries, 8 from media and 25 from Academia and 15 from Foreign Parliaments. It is on the basis of responses received from eminent persons and institutions in India that conclusions have been sought to be drawn after analyzing the same.

44. On the question whether they agree that powers, privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their parliamentary duties and functions without any obstruction and hindrance, there has been a near unanimous view of almost 98% replying in favour. On the contentious issue of scope for misuse of parliamentary privileges by the House or its members, while about 78.57% from Legislature disagreed that there is any scope for misuse of parliamentary privileges, 87.5% from media, 80% from Academia and 50% from legal luminaries, felt that there is scope for misuse. Viewed in totality, while 53.84% felt that there isn't any scope for misuse of parliamentary privileges, 40.65% felt otherwise.

45. On the question whether it can be said that privileges are liable to be used by members against the interest of the very same people who elect and send them to legislatures, 80.35% from Legislature disagreed with the contention. On the other hand, 75% from Media and 68% from Academia felt that privileges could be used by members against their constituents. However, the Legal luminaries are evenly divided on the issue.

46. Now coming to the issue whether there is a need for codification of parliamentary privileges, 75% from Legislatures are against it. On the other hand, 75% from the media and 52% from the Academia favour codification. Of the two responses received from Legal Luminaries, none of them favoured codification. **As it emerges, as a whole while 32.96% favour codification, 60.43% are against codification.**

47. As for the question whether with a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees, and courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament to maintain that dignity which rightly belongs to it, as many as 80.35% from Legislature agreed with this proposition. On the other hand 75% from media, and 48% from Academia were disinclined to agree with this proposition. Of the two responses received from legal luminaries one was in favour and one against.

48. The Committee had on purpose put the question with regard to enlargement of scope of privilege with a view to elicit opinion on

this issue. Responses from the Legal Luminaries, Media & Academia were on the expected lines - 100% from Legal Luminaries, 87.5% from Media and 92% from Academia were against enlargement of scope of privileges.

49. Interestingly, contrary to the general perception, 82.14% from the Legislature too were against enlargement of the scope of privileges.

50. The Committee would wish to state here that when such issues like codification of parliamentary privileges, conduct of members etc. arise, it is the media and intelligentsia that come out heavily on these issues. However, when opinion on such issues were sought to be elicited from media, academia etc., the responses were not forthcoming. The Committee would have certainly benefited from their views, had they responded in great numbers, which could have facilitated the Committee in formulating their views on these emotive issues.

As the Committee could not possibly wait *ad infinitum*, they were constrained to go ahead with the review taking into account whatever responses were received to the questionnaire.

51. The Committee feel that allegations of misuse of privileges are made mainly due to ignorance of the procedure followed by Speaker/Committee/House in dealing with privilege issues. The Committee, even at the risk of being accused of referring to procedural aspect of the matter in their Report, would like to briefly describe the procedure for dealing with notices of question of privilege by Speaker/Committee of Privileges/House if only to clarify that at each step of consideration of the notice of question of privilege, principles of natural justice are scrupulously followed.

Procedure for examination of notice of privilege

52. When a member feels that his privileges have been breached or there has been contempt of the House, it is open for him to give a notice of question of privilege under the provisions of Rule 223 of the Rules of Procedure and Conduct of Business in Lok Sabha. On receipt of such a notice of question of privilege, the same is examined to see whether it is in order in terms of the admissibility conditions laid down under Rule 224 of the Rules of Procedure and Conduct of Business in Lok Sabha.

If the examination shows that the case does not involve a breach of privilege, the Speaker under Rule 222, refuses his consent to the

question being raised in the House and the member concerned is apprised of the position.

If the examination reveals that a *prima facie* case might be involved in the matter, the comments of the person against whom the notice of question has been given are called for to enable him to place his version of the facts before the Speaker, Lok Sabha.

On receipt of the comments of the person concerned, the notice of question of privilege is examined in the light of the comments, and if the examination reveals that no question of privilege is involved in the matter, the Speaker may withhold his consent to the raising of the matter in the House as a question of privilege.

If, on examination of comments, it appears that the matter requires interposition of the House, the notice is further examined.

In case, the House is in session, the Speaker may give his consent to the question being raised in the House; thereafter House itself may take a decision in the matter or it may be referred to the Committee of Privileges on a motion adopted by the House, or the Speaker may *suo motu* refer the matter to the Committee of Privileges under Rule 227, for examination, investigation and report.

In case where the House is not in session, the Speaker may refer the matter to the Committee of Privileges under Rule 227 if it appears that it may not be appropriate to wait for the session of the House to commence for bringing the matter before the House.

Once the matter is referred to the Committee of Privileges, the well settled practice is that the Committee would first hear the member who gave the notice of question of privilege. Thereafter, the Committee would invariably hear the person against whom notice of question of privilege has been given. The Committee may also take the evidence of such other persons whose evidence appears to the Committee to be relevant to the matter under their consideration. **It is only if on consideration of the material and evidence on record and taking into account the totality of the circumstances of the case, the Committee are convinced that a breach of privilege or contempt of the House has been established, the Committee of Privileges in their Report recommend, punishment, if felt required.** The practice in general has been that even in cases where a breach of privilege or contempt of the House is established, on the contemnor tendering unqualified apologies, the Committee of Privileges have been consistently recommending in their Reports that the matters may be treated as closed.

53. It may also be appreciated that the Committee of Privileges can only recommend punishment. The power to impose punishment vests solely with the House. The House in its collective wisdom may decide not to agree with the recommendation of the Committee for punishment.

54. The Committee have taken pains to detail the above procedure mainly to drive home the point that adequate opportunity is invariably given to the persons alleged to have committed breach of privilege or contempt of the House to put forth their point of view, before taking any decision on the allegation of such persons having committed a breach of privilege or contempt of the House. As may be appreciated proper procedural checks and balances are applied *vis a vis* examination of privilege cases.

At each of the above stages, the benchmark that decides whether a breach of privilege or contempt of the House has been committed is whether the member has been in any way obstructed in discharge of his parliamentary duties or the House has been brought into odium, contempt or ridicule in any manner.

55. The Committee are convinced that the majority of the critics of parliamentary privileges including the press are not aware of the above procedure. The Committee would like to further buttress the point with the help of statistical information drawn from 13th and 14th Lok Sabhas.

56. The Committee note that during 13th Lok Sabha, out of 199 notices of question of privileges given by members only seven matters were referred to the Committee of Privileges for examination, investigation and report. In two such matters in which the Committee gave reports, keeping in view the unconditional apologies tendered by the persons against whom notices of question of privilege were given, the Committee recommended that the matter may be treated as closed. Five matters remained inconclusive due to early dissolution of the 13th Lok Sabha. One matter which remained inconclusive eventually got re-referred to the Committee of Privileges of the 14th Lok Sabha.

57. During the present Lok Sabha (14th Lok Sabha) so far 209 notices of question of privilege have been received. Only five matters (14 notices) of question of privilege have so far been referred to the Committee. Out of ten Reports presented by the Committee so far, five reports related to notices of question of privilege given by members. Only in one case, the Committee after considering the totality of facts and circumstances of the case, recommended that the person who was alleged to have committed a breach of privilege and contempt of the House may be admonished.

From the First Lok Sabha to the present Lok Sabha, the Committee of Privileges have recommended punishment only in 5 cases.

58. The Committee wish to emphasize that there has been no instance where Committee of Privileges have held that a breach of privilege or contempt of the House had been committed if the member was not performing any of his parliamentary duties.

59. The Committee would like to refer to a privilege matter during the fourteenth Lok Sabha on the question of privilege against the District Magistrate, the Superintendent, of Police and Deputy Superintendent of Police, Madhubani, Bihar for allegedly detaining a member without genuine grounds. The Committee in their Fifth Report in the matter, (which was laid on the Table of the House on 6 September, 2007) held that the arrest of the member on 12 November, 2005 was not on justified grounds and was a mistake. The Committee were also of the view that when this mistake came to the notice of concerned authorities an attempt was made to cover up for the lapse by concocting charges against the member. The Committee expressed their resentment over the conduct of the District Magistrate and the then Superintendent of Police and Deputy Superintendent of Police, Madhubani, Bihar and recommended that the same may be conveyed to the Chief Secretary, Government of Bihar for appropriate action in the matter. However, the Committee were categorically of the view that the member cannot be said to have been obstructed in discharge of his parliamentary duties in any way due to his unjustified arrest and detention on 12 November, 2005. The Committee further held that since the member cannot be said to be discharging his parliamentary duties at the relevant point of time, it was not possible for the Committee to hold that a breach of privilege had occasioned.

60. This is just a case in point to illustrate that privileges are not invoked if the member was not performing any of his parliamentary duties at the relevant point of time.

61. The Committee would like to state that the penal powers of the House to punish for breach of privilege or contempt of the House are, exercised only in extreme cases where deliberate attempt is made to bring the institution of Parliament into disrespect and to undermine public confidence in and support of Parliament. The Committee would also like to emphasize here that law of privileges has never been administered to fetter or discourage the free expression of opinion or criticism, however prejudicial or exaggerated such opinions or criticism may be.

62. As a matter of fact, the following recommendations made by the **Select Committee on Parliamentary Privileges of House of Commons, UK, 1967** have served as guiding principles in dealing with cases of breach of privilege and contempt of the House:—

*“The House should exercise its penal jurisdiction (a) in any event as sparingly as possible, (b) only when it is satisfied that to do so is essential in order to provide reasonable protection for the House, its members or its officers from such improper obstruction or attempt at or threat of obstruction as is causing or is likely to cause substantial interference with the performance of their respective functions.”**

63. On the aspect of restraint exercised by the Parliament in respect of its penal powers, the Committee find it worthwhile to cite following observations made by a predecessor Committee i.e. **Committee of Privileges (Seventh Lok Sabha) in their First Report** :**

“..... It adds to the dignity of one and all if power in a democratic system is exercised with restraint; the more powerful a body or institution is, the greater restraint is called for particularly exercising its penal jurisdiction.”

This position was reiterated by the **Committee of Privileges (Seventh Lok Sabha) in their Fourth Report@**

64. The Committee also note that it is the tradition of the House that unqualified and unconditional regrets, sincerely expressed by the persons guilty of breach of privilege and contempt of the House, are accepted by the House and the House normally decides in such cases to best consult its own dignity by taking no further notice of the matters.

65. The Committee would like to strongly emphasise that Parliament of India has used the power to punish very sparingly. In Lok Sabha, there have been only two cases of persons having been summoned to the bar of the House and reprimanded by the Speaker. In one case late Shri R.K. Karanjia, editor of the weekly magazine ‘Blitz’ was reprimanded on 29 August, 1961 for publishing a libelous dispatch in the magazine. In another case, Shri S.C. Mukherjee, a Government Officer was reprimanded on 9 December, 1970 for deliberately misrepresenting facts and giving false evidence before the Committee on Public Accounts.

* Subsequently the Committee of Privileges of the House of Commons, in their Third Report (1967-77) reiterated this recommendation, and the House of Commons, UK, adopted it on 6 February, 1978.

** The Report pertained to question of privilege raised by Shri Joytirmoy Bosu, MP against Shri J.R.D. Tata, Former Chairman, Air India, regarding certain remarks made by him in a press interview to the P.T.I. as reported in the newspapers on 29 May, 1979 re. Committee on Public Undertaking and its Report on Air India.

@ This Report related to privilege issue against Shri Arun Shourie, Editor, Indian Express and the Editors of Financial Express and Jansatta for allegedly casting reflections on Shri Kamal Nath, MP in an article captioned “An MP and two Accounts” published in their issues dated 14th March, 1988.

There has been one case of admonition in Lok Sabha (as referred to in para 57 *supra*) of none other than a former Secretary General of Lok Sabha, for having cast aspersions on the Speaker Lok Sabha in an interview telecast on a TV news Channel.

On 23 May, 2006 on a motion moved by the Leader of the House and adopted by the House, the former Secretary-General was admonished without calling him to the Bar of the House.

66. The Committee would like to refer to a case during Fourth Lok Sabha when a member raised a question of privilege regarding his alleged manhandling and removal by the police at Nagpur Railway Station on 27th May, 1970. The member raised the matter in the House on 18 November, 1970. After some discussion a motion was moved by another member that the concerned Deputy Commissioner of Police and Sub-Inspector of Police of the State of Maharashtra be summoned to appear at the Bar of the House on 3 December, 1970 to answer the charge of breach of privilege and contempt of the House for allegedly assaulting the member (who raised the notice of question of privilege). Accordingly, on 3 December, 1970 the concerned police officers appeared before the Bar of the House. They offered their profound apologies to the House. Thereafter, the Speaker, Fourth Lok Sabha observed that in view of the apologies tendered by the said police officers at the bar of the House, the matter may be treated as closed. The House agreed and the matter was accordingly closed.

The Committee would also like to refer to a case during Fifth Lok Sabha relating to a question of privilege regarding harassment and ill-treatment meted out to a member by certain Railway staff, police officials and others while he was proceeding to attend a meeting of a Parliamentary Committee. The Committee of Privileges (3 LS) in their Seventeenth Report opined that (i) the person on whose false complaint against the member led to member's harassment and ill treatment had committed breach of privilege and contempt of the House. He was further guilty of false evidence before the Committee; (ii) conduct on the part of concerned Railway and police officers was reprehensible and constituted a breach of privilege and contempt of the House. The Committee while expressing their displeasure on the conduct of the said officers recommended that suitable Departmental action might be taken against them. In regard to the person who made false complaint against the member, the Committee did not recommend any specific punishment and left it to the House to award suitable punishment to him. Subsequently, the Committee in their Twentieth Report in the matter reported to the House departmental action taken against the concerned Railway and police officers as reported by the Ministry of Home Affairs. Thereafter, a member moved

a motion in the House that the House do agree with the Seventeenth Report of the Committee, and resolve that the person who made false complaint against the member be sentenced to imprisonment till the prorogation of the Lok Sabha for the breach of privilege and contempt of the House. The Minister of Parliamentary Affairs moved a motion *inter alia* resolving that the matter be dropped. After lengthy discussion on both the motions a view emerged that the concerned person had already undergone enough torture in having been hauled up before the Committee of Privileges and also having been prosecuted in a court of law, where he was acquitted. Taking sense of the House a modified motion was adopted by the House resolving not to pursue the matter further.

67. In Rajya Sabha there has been only two such instances. In one instance three persons—joint authors of a book—were summoned to the bar of the House and reprimanded by the Chairman, Rajya Sabha on 24 December, 1980 for describing in the said book the Finance Bill 1980 as Finance Act, 1980 before it had received the assent of the President. In another instance a former member of Rajya Sabha, Shri K.K. Tiwari was summoned to the bar of the House on 1 June, 1990 and reprimanded for having cast aspersions on the Chairman, Rajya Sabha.

68. Thus, it is obvious that the penal power of the House has been used very sparingly.

69. In 1951, during the Provisional Parliament on a motion adopted by the House, a member Shri H.G. Mudgal was expelled from the membership of the House for indulging in corrupt practices involving financial and other business advantage which constituted a grave misconduct.

70. The only case of expulsion of a member in Parliament on the ground of breach of privilege and contempt of the House pertains to the Sixth Lok Sabha when Smt. Indira Gandhi, former Prime Minister of India, was expelled from the membership of the House *w.e.f.* 19 December, 1978.

On 7th May, 1981 (during Seventh Lok Sabha) the House adopted a resolution rescinding the motion adopted by the Sixth Lok Sabha on 19 December, 1978 *inter-alia* resolving that the “proceedings of the Committee (of Privileges of Sixth Lok Sabha) and the decision of the House (Sixth Lok Sabha)” were “inconsistent with and violative of the well accepted principle of the law of parliamentary privilege and basic safeguards assured to all and enshrined in the Constitution”.

71. Dilating further on the penal jurisdiction of the Parliament, the Committee note that other than the case of breach of privilege and

contempt of the House, on occasions of misconduct by their colleagues, in keeping with the tradition of taking self correcting measures, the fraternity of legislators meted out exemplary punishment, while dealing with cases of misconduct by its own members.

In a 'Cash for Query' case, ten members of Lok Sabha and one member of Rajya Sabha were expelled from the membership of Lok Sabha and Rajya Sabha respectively on the motion adopted to this effect in both the Houses on 23 December, 2005. The allegations against the members who were expelled were that they accepted money for tabling questions and raising other matters in the House. In a similar case pertaining to allegations of misconduct in the implementation of MPLAD Scheme against a member of Rajya Sabha on a motion adopted by the House on 21 March, 2006 the member was expelled from the membership of the House. In a similar case four members of Lok Sabha were reprimanded and suspended for a stipulated period through a motion adopted in Lok Sabha on 20 March, 2006.

Recently on 30 August, 2007 the House adopted a motion reprimanding and suspending a member for thirty actual sittings of the House on the ground of misusing his official air journeys and also for having committed contempt of the Inquiry Committee looking into the matter for giving false evidence and wilfully suppressing truth.

72. A pertinent fact that emerges is that during a period of over half a century, the penal powers of the Houses of Parliament have been used very sparingly and only in cases where the very authority and credibility of the Parliament was at stake. Besides, the penal powers have been directed more against legislators rather than outsiders which bears testimony to the fact that the fraternity of legislators did not shy away from taking action *vis-a-vis* their own colleagues, when the situation so demanded.

73. The Committee very much doubt whether the above position is known to people in general. The Committee suspect that lack of proper awareness with regard to true import of privileges and prevailing misconception that the privileges are being misused, in a way, are the reasons behind the frequent demands in some quarters that parliamentary privileges be codified. There also appears to exist a belief in some quarters that once parliamentary privileges are codified, the perceived abuses/misuse of privileges would be checked. As the above discussion would show, such a premise lacks factual basis.

74. The Committee are aware that the biggest critics of non-codification of parliamentary privileges are the legal fraternity and the media persons.

As regards criticism from the legal fraternity, the Committee would like to observe that a question was specifically put in the questionnaire to the effect that shouldn't the Parliament being the supreme legislative body in the country, enjoy power to punish for its contempt in the same manner as is done by the Supreme Court, the apex judicial body of the country. Out of the total responses received to this question 71.42% persons/institutions replied in affirmative. Out of the two responses received from legal luminaries, both conceded this power to the Legislatures. The main ground of criticism from the legal fraternity is that the legislators themselves decide what amounts to a breach of privilege and contempt of the House and then they proceed to decide such cases and take penal action against the contemnors.

75. The Committee would like to emphasise here that such a premise is a misconception. As already noted by the Committee in Part V of the Report, privileges have been well laid down in the article 105 of the Constitution, statutory provisions, Rules of Procedure and conventions. Contempts of the House have, however, not been defined or laid down in the like manner as contempts of court have not been defined. The reason for this is very simple. It is impossible to lay down all acts or omissions that may amount to contempt of the House or the contempt of court. The intention is not to keep the definitions vague; it is meant to cater to unforeseeable situations or novel ways that may be devised to commit contempt.

76. Coming to the penal jurisdiction of the Legislatures, the same has always been analogous to the powers of the highest court of the land *i.e.* the Supreme Court of India to punish for its own contempts.

77. On this analogy, a House of Parliament or Legislature having power to punish for its contempts could certainly do no harm. On the contrary the Committee feel that in a Court of Law, even a single judge can decide upon a matter pertaining to contempt of the Court. On the other hand the Committee of Privileges or any parliamentary Committee inquiring into misconduct of a member, recommends punishment in consequence of which the House adopts a motion/ resolution punishing a contemnor. **A Committee/House comprises of Leaders and members of different political parties. Consequently any punishment to a contemnor emanates from the collective decision of political parties of different hues. Under the circumstances there isn't as such any scope for partisan view in such matters.**

78. The Committee would now like to dilate on a scenario where privileges are codified. In such a situation not to speak of any action by the House, even if the House proceeds to ask for comments of the person against whom a notice of question of privilege is given, it is

quite possible that such a person would move the competent court in the matter and obtain a stay. Such an eventuality would throw up a real piquant situation *vis a vis* the concerned House. If the House wants to proceed, then it will have to make an appearance through its officers before the Court. In other words the House and its officers would be required to follow the matter in the Court like a litigant. Even then there is no guarantee that the case would come to a logical conclusion. The matter could linger on much beyond the tenure of the relevant Lok Sabha. On the other hand if the House does not choose to enter appearance in the matter in the Court, the person alleged to have committed a breach of privilege would go scot free, which will encourage the like minded person to indulge in contempt of the House with gay abandon.

In net effect the power of the House, its members and Committees to assert their privileges and their power to punish for breaches of their privileges would be completely negated.

79. Coming to the Press, their main ground of criticism is that they do not know what constitutes breach of privilege or contempt of the House. This certainly depends on case to case. Before proceeding further *the Committee would like to concede that media in this country has come a long way. Media, print as well as audio visual, is playing a proactive and very responsible role in taking up topical social issues, creating awareness and ensuring transparency in governance. There has indeed been a media explosion in this country.*

Alongside the expansion of audio visual and print media, the Committee note with concern the rapid emergence of overtly competitive journalism bordering on sensationalism. At this juncture the Committee cannot possibly visualize what will be the face of the media in the coming years. The Committee are convinced that if parliamentary privileges are codified it would only benefit and aid those who indulge in such sensational reporting which has been found to be not always based on facts. This would lead to commission of contempts of the House through scurrilous reporting without any fear of penal consequences of such actions.

80. In case of contempts of the House, with the penal power remaining with the House itself the matters could be quickly and judiciously examined and contemnors could be punished for proven contempts. As already observed penal powers of the House have been sparingly and wisely used.

81. The Committee would now like to allude to certain views and perceptions with regard to codification of parliamentary privileges.

In the context of arguments against codification, the Committee wish to reproduce the following observations made by the Supreme Court of India in **M.S.M. Sharma v. Sri Krishna Sinha, (Searchlight case), A.I.R. 1959, SC 395:—**

“...It does not, however, follow that if the powers, privileges or immunities conferred by the latter part of Articles are repugnant to the fundamental rights, they must also be void to the extent of such repugnancy. It must not be overlooked that the provisions of Art. 105(3) and Art. 194(3) are constitutional laws and not ordinary laws made by Parliament or the State Legislatures and that, therefore, they are as supreme as the provisions of Part III. Further, quite conceivably our Constitution makers, not knowing what powers, privileges and immunities Parliament or the Legislature of a State may arrogate and claim for its Houses, Members or Committees thought fit not to take any risk and accordingly made such laws subject to the provisions of Art. 13; but that knowing and being satisfied with the reasonableness of the powers, privileges and immunities of the House of Commons at the commencement of the Constitution, they did not, in their wisdom, think fit to make such powers, privileges and immunities subject to the fundamental right conferred by Art. 19(1)(a). We must, by applying the cardinal rules of construction ascertain the intention of the Constitution makers from the language used by them...”

The court also observed that “A law made by Parliament in pursuance of the earlier part of article 105(3) or by the State Legislature in pursuance of the earlier part of article 194(3) will not be a law made in exercise of constituent power... but will be one made in exercise of its ordinary legislative powers under article 246... and that consequently if such a law takes away or abridges any of the fundamental rights, it will contravene the pre-emptory provisions of article 13(2) and will be void to the extent of such contravention and it may well be that that is precisely the reason why our Parliament and the State Legislatures have not made any law defining the powers, privileges and immunities...”

82. The Committee also find the following views expressed by a former distinguished **Chief Justice of India (Mr. Justice M. Hidayatullah)** and former **Vice President of India and Chairman, Rajya Sabha, pertinent:—**

“If there is mutual trust and respect between Parliament and Courts there is hardly any need to codify the law on the subject of privilege. With a codified law more advantage will flow to

persons bent on vilifying Parliament, its members and Committees and the Courts will be called upon more and more to intervene. At the moment, given a proper understanding on both sides, parliamentary right to punish for breach of its privileges and contempt would rather receive the support of Courts than otherwise. A written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament and which the courts will always uphold as zealously as they uphold their own."

83. The Committee note with interest the developments in the United Kingdom in not too recent past. In June 1997 it was announced in both Houses of UK Parliament that as a part of the initiative to modernize Parliament, the Government proposed to institute a general review of parliamentary privilege. On 31 July, 1997, a Joint Committee on Parliamentary Privileges was set up with broad terms of reference "to review parliamentary privilege and make recommendations".

The Joint Committee presented the First Report to both Houses of Parliament of UK in March, 1999.

The Joint Committee was *inter-alia* of the view that with the change in circumstances, it is important that Parliament periodically reconsiders the scope of its privileges and their exercise.

The Joint Committee presented the First Report to both Houses of Parliament of UK in March, 1999.

The Joint Committee in that Report made certain observations and recommendations on following broad areas:—

For amendments in relevant laws

- (i) Freedom of speech
- (ii) Limits on freedom of speech
- (iii) Bribery in respect of 'Proceedings in Parliament'
- (iv) Control by Parliament over its own affairs
- (v) Disciplinary and penal powers
- (vi) Other privileges &
- (vii) Parliamentary papers

The Joint Committee finally recommended that there should be a Parliamentary Privileges Act, bringing together all the above recommended changes in related laws and codifying parliamentary privileges as a whole. The Joint Committee were of the view that this

would make it easier to understand that parliamentary privilege matters, not just to members of Parliament but to electorate as well.

However, Parliament of UK have not found it feasible to codify privileges, so far.

84. The Committee having considered the entire gamut of aspects relating to parliamentary privileges, the ground realities, responses to questionnaire on parliamentary privileges, considered positions in the matter, wish to sum up their observations/conclusions as under:

- (i) **Parliamentary privileges are made available to members of Parliament solely to enable them to perform their parliamentary duties unfettered. Members while not performing their parliamentary duties do not enjoy any privileges.**
- (ii) Contrary to certain misconceptions in some quarters, privileges aren't any special rights which are conferred upon members in exclusion of common citizens. Privileges do not compromise the fundamental precept that all citizens are equal in the eyes of law.
- (iii) Privileges are enabling rights of members to put across the views and voice the concerns of their constituents fearlessly. These could be termed as indirect rights of members' constituents. It is this essence of privileges which needs to be appreciated.

As already noted by the Committee (at para 39 *supra*) the Joint Committee of House of UK Parliament in their First Report stressing upon relevance of privileges for effective performance of parliamentary functions of members *observed that without the protection of privileges "members would be handicapped in performing their parliamentary duties and the authority of Parliament itself in confronting the executive and as a forum for expressing the anxieties of citizens would be correspondingly diminished."*

- (iv) **The penal powers of the House for breach of privilege or contempt of the House has been very sparingly used. During the past five and a half decades, in Lok Sabha there have been only one case of admonition, two cases of reprimand and one case of expulsion for commission of breach of privilege and contempt of the House. In Rajya Sabha there have been two cases of reprimand for commission of breach of privilege and contempt of the House.**

In cases of misconduct of members 10 members of Lok Sabha and 3 members of Rajya Sabha have been expelled and five members of Lok Sabha have been reprimanded and suspended from the membership of the House.

In the MPLADS case even though the improper conduct on the part of concerned four members of Lok Sabha did not strictly relate to their parliamentary duties and none of them were actually shown to have accepted money on the relevant video footage, the said members were reprimanded and suspended from the membership of the House for specified period of time.

The said members could have escaped punishment had they been tried in any court of law.

Hence as may be seen, penal powers of the Houses have been directed more against their own members rather than against outsiders.

- (v) Members against whom notice of question has been given, have always been given fullest opportunity of being heard.
- (vi) There has been no instance where Committee of Privileges have held that a breach of privilege or contempt of the House had been committed if the member was not performing any of his parliamentary duties.
- (vii) **The above facts bear testimony to the fact that there hasn't been any misuse of the power of privileges as erroneously believed in some quarters.**
- (viii) **Under the circumstances there doesn't arise an occasion for codification of parliamentary privileges. Besides the considered view has all along been against codification of parliamentary privileges. Even the majority view of those who responded to the Committee's questionnaire does not favour codification of parliamentary privileges.**

VII. Recommendations

85. In view of the foregoing discussion, the Committee are of the considered view that there doesn't arise any occasion for codification of parliamentary privileges and as a matter of fact an awareness needs to be created with regard to the true import of the term parliamentary privileges and the ground realities that exist.

86. The Committee accordingly recommend against codification of parliamentary privileges.

NEW DELHI;
18 March, 2008

V. KISHORE CHANDRA S. DEO,
Chairman,
Committee of Privileges.

NOTE OF DISSENT BY DR. SEBASTIAN PAUL

NOTE OF DISSENT BY DR. SEBASTIAN PAUL

MEMBER OF PARLIAMENT
(LOK SABHA)



DR. SEBASTIAN PAUL
March 20, 2008

The Chairman
Committee of Privileges

Dear Sir,

With utmost respect to the Committee of Privileges, I beg to differ from its recommendation against codification of parliamentary privileges and it is prayed that this note of dissent may be appended to the report of the Committee.

The intention of the framers of the Constitution was that sooner than later Parliament should frame its own laws and it was only as a transitory measure that it was conferred with the privileges of the House of Commons. When article 105(3) came up for consideration before the Constituent Assembly on May 19, 1949, there was strong criticism against the reference to the privileges of the House of Commons and on behalf of the Drafting Committee, Sir Alladi Krishnaswamy Ayyar said: "If you have the time and if you have the leisure to formulate all the privileges in a compendious form, it will be well and good". He assured the House that "only as a temporary measure, the privileges of the House of Commons are made applicable to this House". The President of the Constituent Assembly, Dr. Rajendra Prasad, reiterated this assurance when he said on October 16, 1949:

Parliament will define the powers and privileges, but until Parliament has undertaken the legislation and passes it, the privileges and powers of the House of Commons will apply. So, it is only a temporary affair. Of course Parliament may never legislate on that point and it is therefore for the members to be vigilant.

The apprehension became prophetic because Parliament never legislated and what was intended to be a "temporary affair" has lasted for six decades. Apart from a cosmetic change for the purpose of a sentimental omission of the reference to the House of Commons of

the United Kingdom, the 42nd as well as the 44th Constitution amendments did not effect any departure from the position prevailing on January 26, 1950.

The First Press Commission in 1954 suggested:—

It would therefore be desirable that both parliament and state legislatures should define by legislation the precise powers, privileges and immunities which they possess in regard to contempt and the procedure for enforcing them... Articles 105 and 194 to contemplate enactment of such legislation and it is only during the intervening period that Parliament and state legislatures have been endowed with the powers, privileges and immunities of the House of Commons.

Reiterating this suggestion, the Second Press Commission said in 1982:

We think that from the point of view of freedom of the press it is essential that the privileges of Parliament and state legislatures should be codified as early as possible.

It is significant that the Press Council of India, distressed by the nebulous state of affairs, took up a study of the question of parliamentary privileges *vis-a-vis* the press, as soon as it came into being in 1966 and strongly recommended codification. On the basis of a study conducted in collaboration with the Indian Law Institute in 1982, the Council reiterated its view that the privileges of parliament and state legislatures should be codified in the interest of freedom of the press.

The undefined boundary of parliamentary privileges has been a cause of chronic uneasiness for the press. In the absence of a precise and unambiguous code, parliamentary correspondents and commentators are scared of treading, albeit unwillingly, on what is often described as “privileged corns”. In order to get insulated from this latent danger, they may try to tone down their comments that are detrimental to the genuine interests of both the press and the legislature.

I respectfully agree with the assertion of our Committee that the misuse and abuse of privileges is only a myth. But what is the difficulty in codifying the privileges except the fear that codification will make privileges subject to fundamental rights and attract judicial scrutiny. It is not a justifiable deterrent in a mature constitutional democracy.

Apart from the vexed question of codification, it is time to deliberate on whether a modern legislative house should enjoy privileges and wield penal powers for the conduct of its business and maintenance of its authority. It will be expedient if legislative privileges were confined for the purpose of dealing with encroachers, detractors and obstructors. The entire idea of a person committing a breach of privilege by making a comment or writing a report in a newspaper should be discarded as obnoxious. The American process of government, based on free and uninhibited discussion, is a shining example worthy of examination. The power of the US Congress to punish for contempt is subject to judicial review; but it does not in any way belittle the authority of the House or hamper its functioning. The scope of legislative privileges in the United States is extremely limited and scope of judicial review much broader than in the United Kingdom. If a media commentator, in the legitimate exercise of his right to freedom of speech, abuses or defames a legislature or a legislator, the remedy ought to be sought in a court of law. Such a contraction in the area of legislative privileges in favour of freedom of speech will definitely enhance the prestige and dignity of the legislature. Relieved of the historical burden of confronting the monarchy, a joint committee of British Parliament recommended in 1999 the enactment of a Parliamentary Privileges Act, codifying parliamentary privileges as a whole. Though the Parliament till now has not found it feasible, a day will come when it will be done. India is a Republic with a written constitution and our Parliament is the concern of all, not the members alone.

On the basis of the above discussion, I strongly favour codification of parliamentary privileges as envisaged in Article 105(3) of the Constitution of India.

MINUTES OF SITTINGS OF COMMITTEE

MINUTES OF THE FIRST SITTING OF THE COMMITTEE OF
PRIVILEGES HELD ON WEDNESDAY, 13 SEPTEMBER, 2006
IN COMMITTEE ROOM NO. 62, PARLIAMENT HOUSE,
NEW DELHI

The Committee sat from 1100 hrs. to 1140 hrs.

PRESENT

Shri V. Kishore Chandra S. Deo — *Chairman*

MEMBERS

2. Shri Sartaj Singh Chhatwal
3. Shri Virendra Kumar
4. Shri Brajesh Pathak
5. Shri Shriniwas Patil
6. Dr. Sebastian Paul
7. Shri Varkala Radhakrishnan
8. Shri Raju Rana
9. Shri D. Vittal Rao
10. Shri Iqbal Ahmed Saradgi
11. Choudhary Bijendra Singh
12. Shri Beni Prasad Verma

SECRETARIAT

1. Shri V. K. Sharma — *Joint Secretary*
2. Shri Ravindra Garimella — *Under Secretary*
3. Shri Ashok Sajwan — *Under Secretary*

WITNESS

Shri Kamod Prasad, Sub-Inspector and Officer-in-Charge,
Phoolparash Police Station, Madhubani, Bihar.

2. At the outset the Chairman, welcomed the newly appointed members of the Committee which was reconstituted on 28 August, 2006.

3. ***

*Omitted as they relate to another case.

4. ***

5. The Chairman observed that with the conclusion of Shri Devendra Prasad Yadav's case, there would be no case before the Committee. He, however, observed that it was high time the Committee took up, with the permission of the Speaker a few academic issues for consideration. He proposed two issues for the consideration of the Committee, viz., (i) codification of the Parliament Privileges and (ii) requests received for production of Parliamentary documents/papers, etc. in Courts. The Chairman informed the members that while a study about codification of Parliamentary privileges was last made by the Committee of Privileges (10th Lok Sabha) in 1994, the procedure for production of documents in Court was laid down by the Committee of Privileges (2nd Lok Sabha) in 1958.

He felt that the issues needed to be given a fresh look and observed that if the members agreed the Secretariat might be directed to prepare and circulate notes on these two points for consideration of the Committee. If the Committee, thereafter agrees that the matters might be considered, the permission of Hon'ble Speaker would be obtained before proceeding further.

Members agreed.

5. The Committee accordingly, directed the Secretariat to prepare notes on the said two points for their consideration. The Committee decided to meet again on 10 October, 2006 at 11.00 hrs.

The Committee then adjourned.

MINUTES OF THE SECOND SITTING OF THE COMMITTEE OF
PRIVILEGES HELD ON TUESDAY, 10 OCTOBER, 2006 IN
COMMITTEE ROOM NO. 53, PARLIAMENT HOUSE,
NEW DELHI

The Committee sat from 1100 hrs. to 1140 hrs.

PRESENT

Shri V. Kishore Chandra S. Deo — *Chairman*

MEMBERS

2. Shri Omar Abdullah
3. Shri Sartaj Singh Chhatwal
4. Shri Virendra Kumar
5. Shri Brajesh Pathak
6. Shri Shriniwas Patil
7. Dr. Sebastian Paul
8. Shri Varkala Radhakrishnan
9. Shri Raju Rana
10. Shri D. Vittal Rao
11. Shri Beni Prasad Verma

SECRETARIAT

- | | | | |
|----------------------------|-----|------------------------|-----|
| 1. Shri Ravindra Garimella | — | <i>Under Secretary</i> | |
| 2. Shri Ashok Sajwan | — | <i>Under Secretary</i> | |
| 2. *** | *** | | *** |
| 3. *** | *** | | *** |

4. The Committee took up for consideration two subjects *viz.*,
(i) Parliamentary privileges, its codification and related matters and
(ii) Requests received from Courts of law/investigating agencies for
documents relating to proceedings of the House/committees etc., for
production in Courts of law/investigating purposes. After some
deliberation the Committee felt that both these matters merit a review
by the Committee. The Committee then authorised the Chairman to
request Hon'ble Speaker to refer the said two matters to the Committee
for consideration and report.

The Committee then adjourned.

*Omitted as they relate to another case.

MINUTES OF THE THIRD SITTING OF THE COMMITTEE OF
PRIVILEGES HELD ON WEDNESDAY, 15 NOVEMBER, 2006
IN COMMITTEE ROOM NO. 53, PARLIAMENT HOUSE,
NEW DELHI

The Committee sat from 1500 hrs. to 1540 hrs.

PRESENT

Shri V. Kishore Chandra S. Deo — *Chairman*

MEMBERS

2. Shri Sartaj Singh Chhatwal
3. Shri Virendra Kumar
4. Shri Brajesh Pathak
5. Dr. Sebastian Paul
6. Shri Varkala Radhakrishnan
7. Shri Beni Prasad Verma

SECRETARIAT

1. Shri V. K. Sharma — *Joint Secretary*
2. Shri Ravindra Garimella — *Under Secretary*
3. Shri Ashok Sajwan — *Under Secretary*

The Chairman informed the members that as desired by the Committee at their last meeting, he had approached the Speaker requesting him to refer the following two matters to the Committee of Privileges for examination and report.

- (i) Codification of Parliamentary privileges and related matters and
- (ii) ***

The Chairman informed that the Speaker had been pleased to refer these matters to the Committee.

2. The Committee deliberated on various aspects of the matter relating to codification of parliamentary privileges and directed that a questionnaire covering all aspects of the matter be prepared and placed before the Committee along with list of persons from whom responses might be elicited thereon. As regards the second matter, the Committee directed that a Memorandum be prepared and circulated to the members.

The Committee then adjourned.

*Omitted as it relates to another case.

MINUTES OF THE FOURTH SITTING OF THE COMMITTEE OF
PRIVILEGES HELD ON MONDAY, 18 DECEMBER, 2006 IN
COMMITTEE ROOM NO. 62, PARLIAMENT HOUSE,
NEW DELHI

The Committee sat from 1500 hrs. to 1540 hrs.

PRESENT

Shri V. Kishore Chandra S. Deo — *Chairman*

MEMBERS

2. Shri Omar Abdullah
3. Shri Anantkumar Hegde
4. Shri Virendra Kumar
5. Shri Hemlal Murmu
6. Shri Shriniwas Patil
7. Dr. Sebastian Paul
8. Shri D. Vittal Rao
9. Shri Iqbal Ahmed Saradgi

SECRETARIAT

1. Shri V. K. Sharma — *Joint Secretary*
2. Shri Ravindra Garimella — *Under Secretary*
3. Shri Ashok Sajwan — *Under Secretary*

2. The Committee deliberated on the matter relating to 'Codification of Parliamentary privileges and other related matters'. The Committee approved the questionnaire prepared by the Secretariat on the codification of parliamentary privileges. The Committee also approved the list of persons/institutions to whom the questionnaire might be addressed for eliciting their views. The Chairman informed the members that if the members had any further suggestions to make as regards the questionnaire or wanted to add names to the list of persons/institutions they might send the same to the Secretariat within a week.

3. ***

The Committee then adjourned.

*Omitted as it relates to another case.

MINUTES OF THE FIFTH SITTING OF THE COMMITTEE OF
PRIVILEGES HELD ON MONDAY, 5 FEBRUARY, 2007 IN
COMMITTEE ROOM NO. 62, PARLIAMENT HOUSE,
NEW DELHI

The Committee sat from 1100 hrs. to 1140 hrs.

PRESENT

Shri V. Kishore Chandra S. Deo — *Chairman*

MEMBERS

2. Shri Omar Abdullah
3. Shri Virendra Kumar
4. Shri Brajesh Pathak
5. Shri Shriniwas Patil
6. Dr. Sebastian Paul
7. Shri D. Vittal Rao
8. Shri Beni Prasad Verma

SECRETARIAT

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|----------------------------|---|---------------------------|
| 1. Shri V. K. Sharma | — | <i>Joint Secretary</i> |
| 2. Shri Ravindra Garimella | — | <i>Under Secretary</i> |
| 3. Shri Ashok Sajwan | — | <i>Under Secretary</i> |
| 4. Smt. Saroj Sharma | — | <i>Assistant Director</i> |

2. ***

3. The Committee, thereafter, took up for further consideration the matter relating to 'Codification of Parliamentary Privileges and other related matters'. The Chairman informed the members that copies of the questionnaire, approved by the Committee had been sent to about 400 persons/institutions. Response thereto was, however, awaited. The Committee directed the Secretariat to issue reminders to all of them in a few days time.

4. The Chairman then read out three questionnaires proposed to be sent to Parliament of U.K., Parliament of Australia and other foreign Parliaments in the matter. The Committee approved the questionnaires. The Chairman directed the Secretariat to circulate the questionnaires to the members of the Committee for their suggestions, if any, and thereafter send the questionnaires to foreign Parliaments.

The Committee then adjourned.

*Omitted as it relates to another case.

MINUTES OF THE SIXTH SITTING OF THE COMMITTEE OF
PRIVILEGES HELD ON MONDAY, 11 APRIL, 2007 IN
COMMITTEE ROOM NO. 62, PARLIAMENT HOUSE,
NEW DELHI

The Committee sat from 1130 hrs. to 1200 hrs.

PRESENT

Shri V. Kishore Chandra S. Deo — *Chairman*

MEMBERS

2. Shri Sartaj Singh Chhatwal
3. Shri Virendra Kumar
4. Shri Varkala Radhakrishnan
5. Shri Raju Rana
6. Shri D. Vittal Rao

SECRETARIAT

- | | | |
|----------------------------|-----|---------------------|
| 1. Shri V. K. Sharma | — | Joint Secretary |
| 2. Shri Ravindra Garimella | — | Deputy Secretary |
| 3. Shri Ashok Sajwan | — | Deputy Secretary-II |
| 4. Smt. Saroj Sharma | — | Under Secretary |
| 2. *** | *** | *** |
| 3. *** | *** | *** |
| 4. *** | *** | *** |
| 5. *** | *** | *** |

6. The Committee then took up for consideration the matter regarding "Parliamentary Privileges, Codification and other matters". The Committee observed that out of 300 persons/institutions who had been requested to send their replies to the Questionnaire, only 40 had so far responded. The Committee directed the Secretariat to send a final reminder to the persons/institutions in the last week of April, 2007 giving them time upto end of May, 2007 for sending their responses to the Questionnaire.

The Committee then adjourned.

*Omitted as they relate to another case.

MINUTES OF THE SEVENTH SITTING OF THE COMMITTEE OF
PRIVILEGES HELD ON MONDAY, 23 JULY, 2007 IN ROOM
NO. 147, PARLIAMENT HOUSE, NEW DELHI

The Committee sat from 1130 hrs. to 1200 hrs.

PRESENT

Shri V. Kishore Chandra S. Deo — *Chairman*

MEMBERS

2. Shri Omar Abdullah
3. Shri Sartaj Singh Chhatwal
4. Dr. Sebastian Paul
5. Shri D. Vittal Rao
6. Varkala Radhakrishnan
7. Shri Beni Prasad Verma

SECRETARIAT

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|----------------------------|---|----------------------------|
| 1. Shri V.K. Sharma | — | <i>Joint Secretary</i> |
| 2. Shri Ravindra Garimella | — | <i>Deputy Secretary</i> |
| 3. Shri Ashok Sajwan | — | <i>Deputy Secretary-II</i> |
| 4. Smt. Saroj Sharma | — | <i>Under Secretary</i> |

2. ***

3. The Chairman, then, informed the members about the status in respect of the replies received from various organizations on the "questionnaire on parliamentary privileges, codification and related matters".

The Committee then adjourned.

*Omitted as it relates to another case.

MINUTES OF THE EIGHTH SITTING OF THE
COMMITTEE OF PRIVILEGES

The Committee sat on Wednesday, the 31 October, 2007 from 1530 hrs. to 1600 hrs. in Room No. '53', First Floor, Parliament House, New Delhi.

PRESENT

Shri V. Kishore Chandra S. Deo — *Chairman*

MEMBERS

2. Shri Sartaj Singh Chhatwal
3. Shri D. Vittal Rao
4. Shri Iqbal Ahmed Saradgi
5. Choudhary Bijendra Singh
6. Shri Beni Prasad Verma

SECRETARIAT

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|----------------------------|---|----------------------------|
| 1. Shri V.K. Sharma | — | <i>Joint Secretary</i> |
| 2. Shri Ravindra Garimella | — | <i>Deputy Secretary</i> |
| 3. Shri Ashok Sajwan | — | <i>Deputy Secretary-II</i> |
| 4. Shri M.L.K. Raja | — | <i>Under Secretary</i> |

2. The Committee decided to meet again on 16 November, 2007 for (i) Consideration and adoption of the draft Report on 'Casting of aspersions on members of Parliament by Shri Ronen Sen, India's ambassador in USA in an interview'; and (ii) Further consideration of two other matters *viz.* 'Parliamentary privileges, codification and related matters' and 'Requests from courts and investigating agencies for documents pertaining to proceedings of House/Committees etc.'

3. The Committee directed the Secretariat that draft Report in Shri Ronen Sen's case and analysis of responses received to the questionnaires on (a) 'Parliamentary privileges, codification and related matters'; and (b) Requests from courts and investigating agencies for documents pertaining to proceedings of House/Committees might be circulated to members before the next sitting.

The Committee then adjourned.

MINUTES OF THE NINTH SITTING OF THE COMMITTEE OF
PRIVILEGES ON FRIDAY, THE 16 NOVEMBER, 2007 IN ROOM
NO. '147', THIRD FLOOR, PARLIAMENT HOUSE, NEW DELHI

The Committee sat from 1530 hrs. to 1600 hrs.

PRESENT

Shri V. Kishore Chandra S. Deo — *Chairman*

MEMBERS

2. Shri Sartaj Singh Chhatwal
3. Shri Virendra Kumar
4. Shri Sebastian Paul
5. Choudhary Bijendra Singh
6. Shri Beni Prasad Verma

SECRETARIAT

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|----------------------------|---|----------------------------|
| 1. Shri V.K. Sharma | — | <i>Joint Secretary</i> |
| 2. Shri Ravindra Garimella | — | <i>Deputy Secretary</i> |
| 3. Shri Ashok Sajwan | — | <i>Deputy Secretary-II</i> |
| 4. Shri M.L.K. Raja | — | <i>Under Secretary</i> |

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3. Thereafter, the Committee took up for consideration the matters
(i) Parliamentary privileges, codification and related matters &
(ii) Request from courts and investigative agencies for documents
pertaining to proceedings of House/Committees etc. The Committee
noted that as analysis of responses to questionnaires on the two matters
from various Institutions/Organisations and from Foreign Parliaments
respectively were quite exhaustive, some more time was required to
consider the same. The Chairman also directed the Secretariat to get
the Hindi versions of both the analysis and have them circulated to
the members before the next sitting of the Committee fixed for
consideration of these two matters.

The Committee then adjourned.

*Omitted as it relates to another case.

MINUTES OF THE TENTH SITTING OF THE COMMITTEE OF
PRIVILEGES HELD ON FRIDAY, 18 JANUARY, 2008 IN ROOM
NO. 53, FIRST FLOOR, PARLIAMENT HOUSE, NEW DELHI

The Committee sat from 1500 hrs. to 1630 hrs.

PRESENT

Shri V. Kishore Chandra S. Deo — *Chairman*

MEMBERS

2. Shri Sartaj Singh Chhatwal
3. Shri Virendra Kumar
4. Dr. Sebastian Paul
5. Shri Varkala Radhakrishnan
6. Shri D. Vittal Rao
7. Shri Iqbal Ahmed Saradgi
8. Shri Beni Prasad Verma

SECRETARIAT

- | | | |
|----------------------------|---|----------------------------|
| 1. Shri V.K. Sharma | — | <i>Joint Secretary</i> |
| 2. Shri Ravindra Garimella | — | <i>Deputy Secretary</i> |
| 3. Shri Ashok Sajwan | — | <i>Deputy Secretary-II</i> |
| 4. Shri M.L.K. Raja | — | <i>Under Secretary</i> |

WITNESS

Shri Madhup Kumar Tewari — DCP, Crime & Railways,
New Delhi

- | | | |
|--------|-----|-----|
| 2. *** | *** | *** |
| 3. *** | *** | *** |

4. The Committee then took up the matter regarding codification of privileges. Members expressed their views. The Committee directed the Secretariat to prepare the draft Report.

The Committee then adjourned.

*Omitted as they relate to another case.

MINUTES OF THE ELEVENTH SITTING OF THE COMMITTEE
OF PRIVILEGES ON TUESDAY, THE 18 MARCH, 2008 IN
ROOM NO. '62', PARLIAMENT HOUSE, NEW DELHI

The Committee sat from 1530 hrs. to 1550 hrs.

PRESENT

Shri V. Kishore Chandra S. Deo — *Chairman*

MEMBERS

2. Shri Shriniwas Patil
3. Shri Sartaj Singh Chhatwal
4. Dr. Sebastian Paul
5. Shri Varkala Radhakrishnan
6. Shri Raju Rana
7. Shri D. Vittal Rao

SECRETARIAT

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|----------------------------|---|----------------------------|
| 1. Shri V.K. Sharma | — | <i>Joint Secretary</i> |
| 2. Shri Ravindra Garimella | — | <i>Deputy Secretary</i> |
| 3. Shri Ashok Sajwan | — | <i>Deputy Secretary-II</i> |
| 4. Shri M.L.K. Raja | — | <i>Under Secretary</i> |

2. The Committee took up for consideration of the draft report on "Parliamentary Privileges—codification and related matters". Chairman invited the attention of the members to sub-para of para 70 of the draft Report. He proposed that this para may be substituted by a slightly modified sub-para giving the reasons for rescission of the earlier motion adopted during the Sixth Lok Sabha expelling Smt. Indira Gandhi. Members agreed with the proposal. Para 70 was, therefore, modified accordingly (please *see* Appendix). Dr. Sebastian Paul, member of the Committee, said that he would like to submit a 'note of dissent' favouring codification of privileges for inclusion in the report. The Chairman requested Dr. Paul to give the note of dissent latest by 20 March, 2008. The Committee, after some deliberations, adopted the report as modified.

3. The Committee authorised the Chairman to present the Report to the Hon'ble Speaker.

The Committee then adjourned.

APPENDIX

(Please see para 2 of the minutes)

Modification

Para 70 *for*

"On 7th May, 1981, (during Seventh Lok Sabha) the House adopted a resolution rescinding the motion adopted by the Sixth Lok Sabha on 19 December, 1978."

Read

"On 7th May, 1981, (during Seventh Lok Sabha) the House adopted a resolution rescinding the motion adopted by the Sixth Lok Sabha on 19 December, 1978 *inter alia* resolving that the 'proceedings of the Committee (of Privileges of Sixth Lok Sabha) and the decision of the House (Sixth Lok Sabha)' were 'inconsistent with and violative of the well accepted principle of the law of parliamentary privilege and basic safeguards assured to all and enshrined in the Constitution'.

**Appendix I : LIST OF PERSONS/INSTITUTIONS TO
WHOM QUESTIONNAIRE WAS ADDRESSED**

I. LEGISLATURE

1. HON'BLE VICE-PRESIDENT OF INDIA AND CHAIRMAN, RAJYA SABHA

2. SPEAKERS/CHAIRMEN OF STATE LEGISLATURES

1. Principal Secretary,
Uttar Pradesh Vidhan Parishad,
Vidhan Sabha Bhawan,
Lucknow, Uttar Pradesh-226 001
2. Secretary, Delhi Vidhan Sabha,
Old Secretariat,
Delhi – 110 054
3. Secretary, Jammu & Kashmir Legislative Assembly,
Jammu – 180 001
4. Secretary,
Assam Legislative Assembly,
PO Assam, Dispur,
Guwahati – 781 006
5. Secretary,
Orissa Legislative Assembly,
Bhubaneswar, Orissa
6. Secretary,
Karnataka Legislative Council,
Room No. 117, 1st Floor,
Vidhan Sabha, Bangalore, Karnataka-560 001
7. Secretary, Haryana Vidhan Sabha,
Haryana Vidhan Sabha Secretariat, Chandigarh
8. Principal Secretary,
Madhya Pradesh Vidhan Sabha,
Arera Hills, Bhopal-462 004
9. Principal Secretary,
Maharashtra Legislative Assembly, Vidhan Bhawan,
Backbay Reelamati, Mumbai-400 032
10. Secretary,
Punjab Vidhan Sabha,
Vidhan Bhawan, Chandigarh
11. Secretary, Tripura Legislative Assembly,
Agartala, Tripura-799 001

12. Secretary, West Bengal Legislative Assembly,
West Bengal Legislative Assembly House,
Kolkata-700 001
13. Principal Secretary, Uttar Pradesh Vidhan Sabha,
Vidhan Sabha Bhawan,
Lucknow-226 001
14. Secretary, Kerala Legislative Assembly,
Thiruvananthapuram, Kerala
15. Secretary,
Karnataka Legislative Assembly,
Room No. 119, Ist Floor,
Bangalore, Karnataka-560 001
16. Secretary, Tamil Nadu Legislative Assembly,
Tamil Nadu Legislative Assembly Secretariat,
Chennai, Tamil Nadu-600 009
17. Secretary,
Mizoram Legislative Assembly,
Mizoram Legislative Assembly Secretariat,
Post Box No. 8,
Aizwal, Mizoram-796 001
18. Secretary,
Sikkim Legislative Assembly, Nam Nang,
PO Gangtok, Sikkim-737 101
19. Secretary,
Puducherry Legislative Assembly,
Victor Simonel Street,
Puducherry-605 001
20. Secretary,
Arunachal Pradesh Legislative Assembly,
Naharlagun-791 110
21. Secretary,
Rajasthan Vidhan Sabha, Jyoti Nagar,
Room No. 106, Jaipur,
Rajasthan-302 005
22. Secretary,
Nagaland Legislative Assembly,
Kohima, Nagaland-797 001
23. Secretary,
Meghalaya Legislative Assembly,
M.G. Road, Shillong,
Meghalaya

24. Principal Secretary,
Maharashtra Legislative Council,
Vidhan Bhawan, Backbay Reelamati, Mumbai-400 032
25. Acting Secretary,
Bihar Vidhan Sabha,
Patna-800 015
26. Secretary,
Bihar Vidhan Parishad,
Patna-800 015
27. Secretary,
Andhra Pradesh Legislative Assembly,
Public Gardens, Hyderabad-500 004
28. Secretary, Uttaranchal Vidhan Sabha,
Vidhan Sabha Bhawan,
Dehradun-248 001
29. Secretary, Manipur Legislative Assembly,
Manipur Legislative Assembly Secretariat,
Imphal
30. Secretary,
Gujarat Legislative Assembly,
Vithalbhai Patel Bhawan, Sector-10, Gandhinagar-382 010
31. Secretary, Goa Legislative Assembly,
Porvorim, Goa-403 521
32. Secretary,
Chhattisgarh Legislative Assembly,
Baloda Bazaar Road, Raipur,
Chhattisgarh-492 001
33. Secretary,
Himachal Pradesh Vidhan Sabha,
Council Chamber, Shimla-171 004
34. Secretary, Jharkhand Vidhan Sabha,
Ranchi, Jharkhand-834 004

3. DEPUTY SPEAKERS/DEPUTY CHAIRMEN OF STATE LEGISLATURES

1. Principal Secretary,
Uttar Pradesh Vidhan Parishad,
Vidhan Sabha Bhawan,
Lucknow, Uttar Pradesh-226 001

2. Secretary, Delhi Vidhan Sabha,
Old Secretariat,
Delhi-110 054
3. Secretary,
Jammu & Kashmir Legislative Assembly,
Jammu-180 001
4. Secretary,
Assam Legislative Assembly,
PO Assam, Dispur,
Guwahati, Assam-781 006
5. Secretary,
Orissa Legislative Assembly,
Bhubaneswar, Orissa
6. Secretary,
Karnataka Legislative Council,
Room No. 117, Ist Floor,
Vidhan Sabha, Bangalore
Karnataka-560 001
7. Secretary, Haryana Vidhan Sabha,
Haryana Vidhan Sabha Secretariat, Chandigarh
8. Principal Secretary,
Madhya Pradesh Vidhan Sabha,
Arera Hills, Bhopal-462 004
9. Principal Secretary,
Maharashtra Legislative Assembly,
Vidhan Bhawan, Backbay Reelamati, Mumbai-400 032
10. Secretary,
Punjab Vidhan Sabha,
Vidhan Bhawan, Chandigarh
11. Secretary,
Tripura Legislative Assembly, Agartala, Tripura-799 001
12. Secretary,
West Bengal Legislative Assembly,
West Bengal Legislative Assembly House, Kolkata-700 001
13. Principal Secretary,
Uttar Pradesh Vidhan Sabha,
Vidhan Sabha Bhawan,
Lucknow-226 001
14. Secretary,
Kerala Legislative Assembly,
Thiruvananthapuram, Kerala

15. Secretary, Karnataka Legislative Assembly,
Room No. 119, 1st Floor,
Bangalore-560 001
16. Secretary,
Tamilnadu Legislative Assembly,
Tamilnadu Legislative Assembly Secretariat,
Chennai-600 009
17. Secretary, Mizoram Legislative Assembly,
Mizoram Legislative Assembly Secretariat,
Post Box No. 8, Aizwal-796 001
18. Secretary, Sikkim Legislative Assembly,
Nam Nang, PO Gangtok, Sikkim-737 101
19. Secretary,
Puducherry Legislative Assembly,
Victor Simonel Street,
Puducherry-605 001
20. Secretary,
Arunachal Pradesh Legislative Assembly, Naharlagun,
Arunachal Pradesh-791 110
21. Secretary,
Rajasthan Vidhan Sabha, Jyoti Nagar, Room No. 106,
Jaipur, Rajasthan
22. Secretary,
Nagaland Legislative Assembly,
Kohima, Nagaland-797 001
23. Secretary, Meghalaya Legislative Assembly,
M.G. Road, Shillong, Meghalaya.
24. Principal Secretary,
Maharashtra Legislative Council,
Vidhan Bhawan, Backbay Reelmati, Mumbai-400 032
25. Secretary, Goa Legislative Assembly,
Porvorim, Goa-403 521
26. Secretary,
Chhattisgarh Legislative Assembly,
Baloda Bazaar Road, Raipur, Chhattisgarh-492 001
27. Secretary,
Himachal Pradesh Vidhan Sabha, Council Chamber,
Shimla, Himachal Pradesh-171 004

4. CHAIRMEN OF COMMITTEES OF PRIVILEGES OF STATE LEGISLATURES

1. Principal Secretary,
Uttar Pradesh Vidhan Parishad,
Vidhan Sabha Bhawan,
Lucknow,
Uttar Pradesh-226 001
2. Secretary, Delhi Vidhan Sabha,
Old Secretariat, Delhi-110 054
3. Secretary,
Jammu & Kashmir Legislative Assembly,
Jammu-180 001
4. Secretary,
Assam Legislative Assembly,
PO Assam, Dispur, Guwahati,
Assam-781 006
5. Secretary,
Orissa Legislative Assembly,
Bhubaneswar, Orissa
6. Secretary,
Karnataka Legislative Council,
Room No. 117, Ist Floor,
Vidhan Sabha, Bangalore
Karnataka-560 001
7. Secretary,
Haryana Vidhan Sabha,
Haryana Vidhan Sabha Secretariat, Chandigarh
8. Principal Secretary, Madhya Pradesh Vidhan Sabha,
Arera Hills, Bhopal-462 004
9. Principal Secretary,
Maharashtra Legislative Assembly, Vidhan Bhawan,
Backbay Reelamati,
Mumbai-400 032
10. Secretary, Punjab Vidhan Sabha,
Vidhan Bhawan, Chandigarh.
11. Secretary, Tripura Legislative Assembly,
Agartala, Tripura-799 001
12. Secretary,
West Bengal Legislative Assembly,
West Bengal Legislative Assembly House,
Kolkata-700 001

13. Principal Secretary,
Uttar Pradesh Vidhan Sabha,
Vidhan Sabha Bhawan,
Lucknow-226 001
14. Secretary, Kerala Legislative Assembly,
Thiruvananthapuram,
Kerala
15. Secretary,
Karnataka Legislative Assembly,
Room No. 119, 1st Floor,
Bangalore-560 001
16. Secretary,
Tamilnadu Legislative Assembly,
Tamilnadu Legislative Assembly Secretariat,
Chennai-600 009
17. Secretary,
Mizoram Legislative Assembly,
Mizoram Legislative Assembly Secretariat,
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18. Secretary,
Sikkim Legislative Assembly,
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Sikkim-737 101
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Puducherry Legislative Assembly,
Victor Simonel Street,
Puducherry-605 001
20. Secretary,
Arunachal Pradesh Legislative Assembly,
Naharlagun, Arunachal Pradesh-791 110
21. Secretary,
Rajasthan Vidhan Sabha,
Jyoti Nagar, Room No. 106,
Jaipur, Rajasthan-302 005
22. Secretary,
Nagaland Legislative Assembly,
Kohima, Nagaland-797 001
23. Secretary, Meghalaya,
Legislative Assembly, M.G. Road,
Shillong, Meghalaya.

24. Principal Secretary,
Maharashtra Legislative Council,
Vidhan Bhawan, Backbay Reelmati, Mumbai-400 032
25. Secretary,
Goa Legislative Assembly,
Porvorim, Goa-403 521
26. Secretary,
Chhattisgarh Legislative Assembly,
Baloda Bazzar Road, Raipur
Chhattisgarh-492 001
27. Secretary,
Himachal Pradesh Vidhan Sabha,
Council Chamber, Shimla,
Himachal Pradesh-171 004
28. Secretary,
Jharkhand Legislative Assembly,
Ranchi, Jharkhand-834 004
29. Secretary,
Gujarat Legislative Assembly,
Vithalbhai Patel Bhawan, Sector-10,
Gandhinagar-382 010
30. Secretary,
Manipur Legislative Assembly,
Manipur Legislative Assembly Secretariat,
Imphal-795 001
31. Secretary,
Uttaranchal Vidhan Sabha, Vidhan Sabha Bhawan,
Dehradun-248 001
32. Secretary,
Andhra Pradesh Legislative Assembly,
Public Gardens, Hyderabad-500 004
33. Acting Secretary,
Bihar Vidhan Sabha, Patna-800 015
34. Secretary,
Orissa Legislative Assembly,
Bhubaneswar, Orissa

5. LEADER OF THE HOUSE, RAJYA SABHA

Hon'ble Prime Minister of India,
Leader of the House in Rajya Sabha

6. LEADER OF THE HOUSE, LOK SABHA

Minister of External Affairs,
(now Minister of Defence)
Leader of the House in Lok Sabha

7. LEADER OF THE OPPOSITION, RAJYA SABHA

Shri Jaswant Singh, MP
Leader of Opposition in Rajya Sabha

8. LEADER OF THE OPPOSITION, LOK SABHA

Shri L.K. Advani, MP
Leader of Opposition in Lok Sabha

**9. LEADER OF ALL POLITICAL PARTIES/GROUPS IN
RAJYA SABHA & LOK SABHA**

1. Shri Gurudas Dasgupta,
MP & Leader of Communist Party of India in Lok Sabha
2. Prof. M. Ramadass,
MP & Leader of Pattali Makkal Katchi in Lok Sabha
3. Shri Braja Kishore Tripathy,
MP & Leader of Biju Janata Dal in Lok Sabha
4. Shri Vanlalawma,
MP & Leader of Mizo National Front in Lok Sabha
5. Shri Rajesh Verma,
MP & Leader of BSP in Lok Sabha
6. Shri Prabhunath Singh,
MP & Leader of Janata Dal (United) in Lok Sabha
7. Shri Baleshwar Yadav,
MP & Leader of National Loktantrik Party in Lok Sabha
8. Shri Joachim Baxla, MP,
Leader of Revolutionary Socialist Party
in Lok Sabha
9. Dr. Arun Kumar Sarma,
MP & Leader of Asom Gana Parishad in Lok Sabha
10. Shri Subrata Bose,
MP & Leader of All India Forward Bloc in Lok Sabha
11. Shri K. Yerrannaidu,
MP & Leader of Telugu Desam Party in Lok Sabha

12. Shri Basudeb Acharia,
MP & Leader of CPI(M) in Lok Sabha
13. Shri Nakul Das Rai,
MP & Leader of Sikkim Democratic Front in Lok Sabha
14. Shri Delkar Mohanbhai Sanjibhai, MP &
Leader of Bharatiya Navshakti Party in Lok Sabha
15. Shri P.C. Thomas,
MP & Leader of Kerala Congress in Lok Sabha
16. Shri C. Kuppusami,
MP & Leader of DMK Party
in Lok Sabha
17. Prof. Ram Gopal Yadav,
MP & Leader of Samajwadi Party in Lok Sabha
18. Shri K. Chandrashekar Rao,
MP & Leader of Telangana Rashtra Samiti in Lok Sabha
19. Shri L. Ganesan,
MP & Leader of MDMK in Lok Sabha
20. Shri Asaduddin Owaisi,
MP & Leader of All India Majlis-E-Ittehadul Muslimeen in
Lok Sabha
21. Shri W. Wangyuh,
MP & Leader of Nagaland Peoples Front in Lok Sabha
22. Ms. Mehbooba Mufti,
MP & Leader of Jammu & Kashmir Peoples Democratic
Party in Lok Sabha
23. Shri Chandra Shekhar,
MP & Leader of Samajwadi Janata Party (Rashtriya) in
Lok Sabha
24. Shri Athawale Ramdas Bandu,
MP & Leader of Republican Party of India (A)
in Lok Sabha
25. Shri Anant Gangaram Geete,
MP & Leader of Shivsena in Lok Sabha
26. Shri Sukhdev Singh Dhindsa,
MP & Leader of Shiromani Akali Dal in Lok Sabha
27. Km. Mamata Banerjee,
MP & Leader of All India Trinamool Congress
in Lok Sabha

28. Shri Sansuma Khunggur Bwiswmuthiary, MP, Lok Sabha
29. Shri Harish Nagpal, MP, Lok Sabha
30. Shri Thupstan Chhewang, MP, Lok Sabha
31. Shri Babu Lal Marandi, MP, Lok Sabha
32. Shri Mani Charenamei, MP, Lok Sabha
33. Minister of State for External Affairs,
Leader of Muslim League
Kerala State Committee in Lok Sabha
34. Minister of Chemicals & Fertilizers & Minister of Steel,
Leader of Lok Jan Shakti in Lok Sabha
35. Minister of Railways,
Leader of Rashtriya Janata Dal in Lok Sabha

10. MINISTER OF PARLIAMENTARY AFFAIRS

Minister of Parliamentary Affairs

11. MINISTER OF PARLIAMENTARY AFFAIRS OF VARIOUS STATE LEGISLATURES

1. Secretary,
Ministry of Parliamentary Affairs,
Government of West Bengal,
Kolkata-700 001
2. Secretary,
Ministry of Parliamentary Affairs,
Government of Uttranchal, Dehradun-248 001
3. Secretary,
Ministry of Parliamentary Affairs,
Government of Andhra Pradesh, Hyderabad-500 004
4. Secretary,
Ministry of Parliamentary Affairs,
Government of Arunachal Pradesh, Naharlagun-791 110
5. Secretary,
Ministry of Parliamentary Affairs,
Government of Assam, Dispur, Guwahati-781 006
6. Secretary,
Ministry of Parliamentary Affairs,
Government of Chhattisgarh, Raipur, Chhattisgarh

7. Secretary,
Ministry of Parliamentary Affairs,
Government of Goa, Goa-403 521
8. Secretary,
Ministry of Parliamentary Affairs,
Government of Gujarat,
Gandhinagar
9. Secretary,
Ministry of Parliamentary Affairs,
Government of Himachal Pradesh,
Shimla-171 004
10. Secretary,
Ministry of Parliamentary Affairs,
Government of Meghalaya, Shillong
11. Secretary,
Ministry of Parliamentary Affairs,
Government of Mizoram, Aizwal-796 001
12. Secretary,
Ministry of Parliamentary Affairs,
Government of Manipur,
Imphal-795 001
13. Secretary,
Ministry of Parliamentary Affairs,
Government of Maharashtra, Mumbai-400 032
14. Secretary,
Ministry of Parliamentary Affairs,
Government of Kerala, Thiruvananthapuram
15. Secretary,
Ministry of Parliamentary Affairs,
Government of Karnataka, Bangalore-560 001
16. Secretary,
Ministry of Parliamentary Affairs,
Government of Jharkhand, Ranchi, Jharkhand-834 004
17. Secretary,
Ministry of Parliamentary Affairs,
Government of Jammu & Kashmir, Jammu-180 001
18. Secretary,
Ministry of Parliamentary Affairs,
Government of Nagaland,
Kohima-797 001

19. Secretary,
Ministry of Parliamentary Affairs,
Government of Uttar Pradesh, Lucknow-226 001
20. Secretary,
Ministry of Parliamentary Affairs,
Government of Orissa, Bhubaneswar
21. Secretary,
Ministry of Parliamentary Affairs,
Government of Puducherry, Puducherry-605 001
22. Secretary,
Ministry of Parliamentary Affairs,
Government of Punjab,
Chandigarh-160 001
23. Secretary,
Ministry of Parliamentary Affairs,
Government of Sikkim,
Gangtok-737 101
24. Secretary,
Ministry of Parliamentary Affairs,
Government of Tamilnadu,
Chennai-600 009
25. Secretary,
Ministry of Parliamentary Affairs,
Government of Tripura, Agartala, Tripura-799 001
26. Secretary,
Ministry of Parliamentary Affairs,
Government of Haryana,
Chandigarh
27. Secretary,
Ministry of Parliamentary Affairs,
Government of Rajasthan,
Jaipur-302 005
28. Secretary,
Ministry of Parliamentary Affairs,
Government of Madhya Pradesh,
Bhopal-216 004
29. Secretary,
Ministry of Parliamentary Affairs,
Government of Delhi,
Delhi-110 054

30. Secretary,
Ministry of Parliamentary Affairs,
Government of Bihar,
Patna-800 015

12. FORMER SPEAKERS OF LOK SABHA

1. Shri Shivraj Patil,
Minister of Home Affairs,
Former Speaker of Lok Sabha
2. Shri Rabi Ray,
Former MP and Speaker of Lok Sabha,
147, North Avenue, New Delhi-110 001
3. Shri P.A. Sangma, MP
Former Speaker of Lok Sabha
4. Shri Manohar Joshi,
MP, Rajya Sabha and
Former Speaker of Lok Sabha
5. Shri Balram Jharkhar,
Hon'ble Governor of Madhya Pradesh,
and Former Speaker of Lok Sabha,
D-4/8, Char Imli, Bhopal

II. LEGAL LUMINARIES

1. MINISTER OF LAW AND JUSTICE

2. SENIOR ADVOCATES

1. Shri T.R. Andhyarujina,
Senior Advocate,
B-5/17, Safdarjung Enclave,
New Delhi-110 029
2. Shri Fali S. Nariman,
Senior Advocate,
F-21-17, Hauz Khas Enclave,
New Delhi-110 029
3. Dr. Abhishek Manu Singhvi,
Senior Advocate,
Supreme Court of India,
B-106, Neeti Bagh,
New Delhi-110 049

4. Shri Ashok H. Desai,
Senior Advocate,
Supreme Court of India,
B-111, Defence Colony,
New Delhi-110 024
5. Shri Soli J. Sorabjee,
Former Attorney-General of India & Senior Advocate,
Supreme Court of India,
A-128, Neeti Bagh, New Delhi-110 049
6. Shri K. Parasaran,
Former Attorney-General of India & Senior Advocate,
Supreme Court of India,
R-20, Greater Kailash-I, New Delhi-110 048
7. Shri K.K. Venugopal,
Senior Advocate,
Supreme Court of India,
A-144, Neeti Bagh,
New Delhi-110 049
8. Shri P.P. Rao,
Senior Advocate,
Supreme Court of India,
"Park View", 143,
Sector 15-A, Noida-201 301
9. Shri Rajeev Dhavan,
Senior Advocate,
Supreme Court of India,
A-131, New Friends Colony,
New Delhi-110 065
10. Shri Ram Jethmalani,
MP, Rajya Sabha
11. Shri Arun Jaitley,
MP, Rajya Sabha
12. Shri Kapil Sibal,
MP, Minister of Science and Technology
13. Shri K.P. Unnikrishnan, Former MP,
GF A6, Khelgaon Marg,
Gulmohar Park, New Delhi-110 049

III. MEDIA

1. EDITORS OF PROMINENT NEWSPAPERS AND MAGAZINES

1. Editor, Hard News,
145, Gautam Nagar,
New Delhi-110 049
2. Editor, Jan Satta,
A-8, Sector 7, Noida,
Uttar Pradesh
3. Group Editor, Jan Satta,
E-55, Sector 8, Noida,
Uttar Pradesh
4. Editor, Dainik Bhaskar,
Doctor's Lane, Gole Market,
New Delhi-110 001
5. Editor, Rashtriya Sahara,
1st Floor, Gopal Das Bhawan,
28, Barakhamba Road,
Connaught Place, New Delhi-110 001
6. Editor, Rajasthan Patrika,
Rajasthan Patrika Pvt. Ltd.
J.N. Marg, Jaipur, Rajasthan
7. Editor, Dainik Jagran,
F-21,22,23, Sector 8, Noida
Uttar Pradesh
8. Editor-in-Chief, The Asian Age,
S-7, Green Park,
Main Market, New Delhi-110 016
9. Editor & Publisher,
Business Standard, Nehru House,
4, Bahadur Shah Jafar Marg, New Delhi-110 002
10. Editor-in-Chief, The Hindu,
Kasturi Building, 859-860,
Annasalai, Chennai-600 002
11. Editor-in-Chief, The Times of India,
7, Bahadur Shah Jafar Marg,
New Delhi-110 002
12. Editor-in-Chief, The Hindustan Times,
Hindustan Times House,
18-20 Kasturba Gandhi Marg,
Connaught Place, New Delhi-110 001

13. Editor & Managing Director,
The Statesman, 4 Chowringhee Square,
Kolkata-700 001
14. Editor-in-Chief, The Telegraph,
6, Praful Sarkar Street, Kolkata,
West Bengal-700 001
15. Editor, Mid Day, Mid Day Multimedia Ltd.,
Peninsula Centre, Dr. S.S. Rao Road, Parel,
Mumbai-12, Maharashtra
16. Editor-in-Chief, The Tribune,
The Tribune House,
Sector-29 C, Chandigarh
17. Editor-in-Chief, Indian Express,
9-10, Bahadur Shah Zafar Marg,
New Delhi-110 002
18. Editor-in-Chief & Managing Director,
The Pioneer, Line House, 2nd Floor,
3 Bahadur Shah Zafar Marg,
New Delhi-110 002

2. CEOs OF LEADING TELEVISION CHANNELS

1. Star News, A-37, Sector-60,
Noida, Uttar Pradesh
2. CEO, Aaj Tak,
Videocon Tower,
E-1, Jandewalan Extension,
New Delhi
3. Zee TV, Continental Building,
135, Dr. Anne Besant Road,
Worli, Mumbai
4. CEO, CNN-IBN,
Global Broadcast, News Ltd.,
Express Trade Tower,
Plot-15-16, Sector-16A,
Noida, Uttar Pradesh
5. CEO, Sahara TV,
C-2, C-4, Sector-11,
Noida, Uttar Pradesh
6. CEO, NDTV,
Arachana Complex, GK-I,
New Delhi-110 048.

7. Times Global Broadcasting Company Ltd.
8. Editor-in-Chief, Cobrapost.com,
B-21-22, Basement,
Sector-16 (Behind UTI Bank),
Noida-201 301, Uttar Pradesh

IV. ACADEMICIA

1. VICE-CHANCELLORS OF MAJOR UNIVERSITIES

1. Vice-Chancellor,
Jawaharlal Nehru University,
New Delhi-110 067
2. Vice-Chancellor,
Aligarh Muslim University,
Aligarh-202 002
3. Vice-Chancellor,
University of Allahabad,
Allahabad
4. Vice-Chancellor, Andhra University,
Waltair, Vishakhapatnam-530 003
5. Vice-Chancellor, Annamalai University,
Annamalainagar 608 002
6. Vice-Chancellor, Assam University,
Silchar-788 011
7. Vice-Chancellor, Banaras Hindu University,
Varanasi-221 005
8. Vice-Chancellor, Bangalore University,
Bangalore-560 056
9. Vice-Chancellor,
Bundelkhand University,
Kanpur Road, Jhansi-284 128
10. Vice-Chancellor,
University of Calcutta,
87/1, College Street, Kolkata-700 073
11. Vice-Chancellor,
University of Calicut,
Thenhipalam, Malappuram District-673 635

12. Vice-Chancellor,
University of Delhi,
Delhi-110 007
13. Vice-Chancellor,
Devi Ahilya Vishwavidyalaya,
R.N. Tagore Marg, Indore-452 001
14. Vice-Chancellor,
Guru Nanak Dev University,
Amritsar-143 005
15. Vice-Chancellor,
Gujarat University,
Navrangpura, Ahmedabad-380 009
16. Vice-Chancellor,
Hemwati Nandan Bahuguna Garhwal University,
Srinagar-246 174, District Garhwal,
Uttarakhand
17. Vice-Chancellor,
Himachal Pradesh University,
Summer Hills, Shimla-171 005
18. Vice-Chancellor,
Jadavpur University, Main Campus 188,
Raja S.C. Mallik Road,
Kolkata-700 032
19. Vice-Chancellor,
Indira Gandhi National Open University,
Maidan Garhi, New Delhi-110 068
20. Vice-Chancellor,
Jamia Millia Islamia,
Jamia Nagar, New Delhi-110 025
21. Vice-Chancellor,
University of Jammu
Babasaheb Ambedkar Road,
New Campus, Jammu Tawi-180 006
22. Vice-Chancellor,
Karnatak University,
Pavate Nagar, Dharwad-580 003
23. Vice-Chancellor,
University of Kerala,
Thiruvananthapuram-695 034

24. Vice-Chancellor,
Kumaun University,
Nainital-263 001
25. Vice-Chancellor,
Kurukshetra University,
Kurukshetra-136 119
26. Vice-Chancellor,
University of Lucknow,
Lucknow-226 007
27. Vice-Chancellor,
Maharshi Dayanand University,
Rohtak-124 001
28. Vice-Chancellor,
Mangalore University,
New Administrative Building,
Mangalagangothri,
Mangalore-574 199
29. Vice-Chancellor,
Manipal Academy of Higher Education, Madhav Nagar,
Manipal, District Udupi-576 104
30. Vice-Chancellor,
Manipur University, Canchipur,
Imphal-795 003
31. Vice-Chancellor,
Mohanlal Sukhadia University,
Pratapnagar, Udaipur,
Rajasthan-313 001
32. Vice-Chancellor,
University of Mumbai,
M.G. Road, Fort, Mumbai-400 032
33. Vice-Chancellor,
University of Mysore,
Crawford Hall,
Mysore-570 005
34. Vice-Chancellor,
Nagaland University,
P.B. 341, Lumani,
Kohima, Nagaland-797 001
35. Vice-Chancellor,
North Eastern Hill University,
PO Nehu Campus, Mawkynroh Umshing,
Shillong, Meghalaya-793 022

36. Vice-Chancellor,
Osmania University, Hyderabad,
Andhra Pradesh-500 007
37. Vice-Chancellor,
Punjab University,
Chandigarh-160 014
38. Vice-Chancellor,
Patna University,
Patna, Bihar-800 005
39. Vice-Chancellor,
Pondicherry University,
R. Venkatraman Nagar,
Kalapet, Pondicherry-605 014
40. Acting Vice-Chancellor,
University of Pune, Pune,
Maharashtra-411 007
41. Vice-Chancellor,
Rabindra Bharati University,
56-A Barrackpore, Trunk Road,
Kolkata, West Bengal-700 050
42. Vice-Chancellor,
University of Rajasthan, Jaipur,
Rajasthan-302 004
43. Vice-Chancellor,
Ranchi University Ranchi,
Jharkhand-834 001
44. Vice-Chancellor,
Sambalpur University,
Jyoti Vihar, Burla Distt.,
Sambalpur, Orissa-768 019
45. Vice-Chancellor,
Saurashtra University, University Road,
Rajkot, Gujarat-360 005
46. Vice-Chancellor,
Utkal University, Vani Vihar,
Bhubaneswar, Orissa-751 004
47. Vice-Chancellor,
Visva Bharati, Shantiniketan,
West Bengal-731 235

**2. HEADS OF DEPARTMENTS OF POLITICAL SCIENCE AND
LAW FACULTIES OF MAJOR UNIVERSITIES OF INDIA AND
LEADING LAW SCHOOLS**

1. The Government Law College,
Mumbai
2. Chancellor, Symbiosis Law College,
Pune, Maharashtra
3. Dean & Head of Department,
Faculty of Law, University of Delhi
Delhi-110 007
4. President,
Amity Law School, Delhi
5. The Principal,
ILS Law College, Law College Road,
Pune-411 004
6. The Registrar,
National Law School of India University,
Nagarbhavi, Bangalore-560 072
7. Shri A. Surya Prakash,
170, National Media Campus,
Gurgaon-122 002
8. Honorary Director General,
Asian Institute of Development and Entrepreneurship,
Cochin, Kerala

**Appendix II : DETAILED ANALYSIS OF RESPONSES FROM
PERSONS/INSTITUTIONS**

REPLIES FROM SPEAKERS/CHAIRMEN OF
VARIOUS STATE LEGISLATURES

Question No. 1 Do you agree that powers, privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their Parliamentary duties and functions without any obstruction and hindrance?

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
1.	Chhattisgarh Legislative Assembly	Yes		The aim of privileges is to encourage the members to participate without any fear in the parliamentary proceedings exempting proceedings of legislature from the purview of the general law. Any kind of interference or hindrance in their parliamentary function amounts to breach of privilege.
2.	Delhi Vidhan Sabha	Yes		
3.	Goa Legislative Assembly	Yes		Powers, privileges and immunities are essential to the House and its Members to safeguard the freedom, the authority and dignity of Parliament. It is necessary for the proper and smooth exercise of the functions entrusted to Parliament by the Constitution. Members are provided with these privileges because the

1	2	3	4	5
				House cannot perform its functions without unimpeded use of the service of its members, and by each House collectively for the protections of its members and the vindication of its own authority and dignity.
4.	Gujarat Legislative Assembly	Yes		Privilege has been guaranteed to the members under the Constitution and so any action or speech made in the House by members cannot be challenged in a court of law. Safeguard against any action in the court of law will enable the members to serve a public cause without fear or favour.
5.	Haryana Vidhan Sabha	Yes		The object of Parliamentary privileges is to safeguard the freedom, the authority and dignity of Parliament. Privileges are necessary for the proper exercise of the functions entrusted to Parliament by the Constitution. It is true that they are enjoyed by any 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. When a member delivers his speech in the House he is protected under the privilege specified in the Constitution. Thus performing such Parliamentary duty he is immune from any proceedings in any Court. The privileges of Parliament are granted to members in order that they may be able to perform their duty in Parliament without any fear or hindrance. In Parliamentary language the term "Privilege" is applied both to the immunities and exemption enjoyed by the members of one or other House of Parliament or both Houses individually. Some of the privileges of Parliament and its members and Committees are specified in the Constitution, certain statutes and the Rules of Procedure of the House, while others continue to be based on precedents of the British House of Commons and on conventions which have grown in our country. Thus powers of privilege should be used by the House only when it is reasonably necessary to protect the House from being obstructed.

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6.	Himachal Pradesh Vidhan Sabha	Yes		The foundation upon which the privileges rest is the maintenance of the dignity and independence of the House and of its Members. The privileges, though part of the Law of the land, are to a certain extent an exemption from the general law. Certain rights and immunities such as freedom from arrest or freedom of speech belong primarily to individual Members of Parliament State Legislatures and exist because the House can not perform its functions without unimpeded use of the services of its members.
7.	Jharkhand Vidhan Sabha	Yes		
8.	Karnataka Legislative Assembly	Yes		
9.	Maharashtra Legislative Assembly	Yes		The need for Privileges is to carry out the parliamentary duties and function without any fear or favour and no body should obstruct or impede the Members from doing their duty as a Member. They should not be deterred or influenced or pressurized by extraneous considerations while carrying out their parliamentary functions and duties.

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10.	Nagaland Legislative Assembly	Yes		
11.	Rajasthan Vidhan Sabha	Yes		
12.	Sikkim Legislative Assembly	Yes		Privileges and immunities available to Parliament and its members are primarily means to enable the Parliament and its members to perform their parliamentary duties and functions without any obstruction and hindrance.
13.	Uttar Pradesh Vidhan Parishad	Yes		
14.	West Bengal Legislative Assembly	Yes		
15.	Mizoram Legislative Assembly	Yes		
16.	Puducherry Legislative Assembly	Yes		The privileges are meant not only for performing parliamentary duties and functions without any obstruction and hindrance, but also for discharging the function freely and without fear or favour.
17.	Uttar Pradesh Legislative Assembly	Yes		
18.	Kerala Legislative Assembly	Yes		
Question No. 2		Since it is well settled that privileges are available to members of Parliament only in so far as these are absolutely necessary for them to discharge their parliamentary functions, do you feel that there is any scope for misuse of these privileges by the House or its members?		
1.	Chhattisgarh Legislative Assembly			No Privileges are available to the members only during the actual

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				conduct of business in the House/Committee. The rights of the members are same as possessed by any other citizen except in the disposal of their parliamentary duties. Therefore, there is no possibility of misuse of privileges.
2.	Delhi Vidhan Sabha	No		There is no scope of misuse of these privileges by the House or its Members because privileges available to them are primarily meant to enable the Parliament and its members to perform their parliamentary duties and functions without any obstruction and hindrance.
3.	Goa Legislative Assembly	No clear reply		Privileges are provided to members only when they are functioning in their capacity as members of Parliament and performing their parliamentary duties. It enables them to carry out their parliamentary duties without let or hindrance. Privileges of Parliament do not place a Member of Parliament on a footing different from that of an ordinary citizen in the matter of applications of the laws of the land unless there are good and

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				sufficient reasons in the interest of Parliament itself to do so. A Member in the House is absolutely free to express his views but is subject to the internal discipline of the House. Immunity from external influence or interference does not give an unrestricted license of speech within the walls of Parliament.
4.	Gujarat Legislative Assembly		No	
5.	Haryana Vidhan Sabha		No	It is well settled that privileges are available to members of Parliament only in so far as these are absolutely necessary for them to discharge their parliamentary functions. They do not discharge the members from the obligations to society that apply to other citizens. Privileges of Parliament do not place a member of Parliament on a higher footing different than an ordinary citizen in the matter of application of laws when there are good and sufficient reasons in the interest of Parliament itself to do so. When any individual or authority disregards or attacks any of privileges, right and immunities, either of the members individually or

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				of the House in its collective capacity or of its Committees, the offence is termed a breach of privilege and is punishable by the House.
6.	Himachal Pradesh Vidhan Sabha	No		The privileges of Parliament are rights absolutely necessary for the due execution of its duties. If a Member of Parliament/ State legislature is obstructed or molested while not discharging parliamentary duties, it does not mean that no breach of privileges! contempt of the House has been committed. Because whatever at that particular moment the Member was doing it can well be presumed that the Member must be doing something in his capacity as a Member of the House and must be doing public service, hence there is little scope left for misuse of the privileges by the House or its Members.
7.	Jharkhand Vidhan Sabha	No		
8.	Karnataka Legislative Assembly	No		Scope of privileges are properly understood by Legislators and strictly followed. There is no scope for abuse of these privileges. Members of Parliament have privilege that is not available to an

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				ordinary citizen. Therefore, it has to be exercised only in dire circumstances; only when the alternatives will endanger the privilege of democracy and impede the duties that members have to perform.
9.	Maharashtra Legislative Assembly	No		In a democracy, people act as a watch-dog and they judge the actions of their representatives every now and then, and the Judiciary is also very active in such matters and willing to interfere under the grab of judicial review and there are people who are always ready to champion the cause of fundamental rights of people and especially the fourth pillar of the democracy <i>i.e.</i> Media/ Press is also very sensitive and alert to such issues. In these circumstances, we do not find that there is much scope for misuse of these privileges by the House or its Members.
10.	Nagaland Legislative Assembly	No		
11.	Rajasthan Vidhan Sabha	No		
12.	Sikkim Legislative Assembly	No		There may not be scope for misuse of these privileges by the House itself but as regard to members individual capacity, it depends on member to member.

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13.	Uttar Pradesh Vidhan Parishad		No	
14.	West Bengal Legislative Assembly		No	
15.	Mizoram Legislative Assembly	Yes		
16.	Puducherry Legislative Assembly		No	There is no scope for misuse of the privileges.
17.	Uttar Pradesh Legislative Assembly	Yes		
18.	Kerala Legislative Assembly		No	

Question No. 3 **As privileges are enjoyed by members to function freely in the House as representatives of the people, can it be said that privileges are liable to be used by members against the interest of the very same people who are their constituents?**

1.	Chhattisgarh Legislative Assembly	No	Members are entitled to privileges only to the extent to which the House considers it apt for the disposal of his parliamentary duties. In the past more action have been taken against the members rather than the outsiders. Obviously, the House did not show any hesitation in taking action against the members in any such situation.
2.	Delhi Vidhan Sabha	No clear reply	It is not feasible due to the fact that the privileges do not exempt the Members from the obligations to the society which apply to other

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				citizens of the country. Further, these privileges available to individual members can be invoked only in such situation when their use is absolutely necessary for the House to perform its function freely.
3.	Goa Legislative Assembly	No clear reply		In a democracy, a candidate is chosen from the people, by the people and for the people. Thus the most popular candidate is the one that gets elected. A candidate elected (Member of the House) is therefore the most amiable of the public, chosen with the expectation of fulfilling the desires of the public. Public is complex. Their desires, goals and motives will be unceasing. And here comes the role of the politician who is supposed to fulfil the aspirations and desires of the public. A Member of the House is elected by the people to bring forth to the House the needs and desires of the people he represents, set forth new ideas, bring in new legislations, develop the constituency and the State as a whole etc. To assist a member of the House to comply with such a task, he is bestowed with privileges

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				and immunities to put forth his mind fearlessly, without restrictions and outside influence. These privileges are provided to them only when they are functioning in their capacity as members of Parliament and performing their parliamentary duties. In other circumstances they are not in any way different from any other common person. A member is duty bound to work for the benefit and development of his constituents. In doing so, he achieves more popularity and honour.
4.	Gujarat Legislative Assembly		No	Since privileges are well settled over the years and its exigencies were also recognized by every country following parliamentary democracy. These privileges were created during the gestation period of mother of Parliaments for safeguarding the authority of Parliament against the British Monarchy as well as the judiciary for undue interference in the domain of Parliament.
5.	Haryana Vidhan Sabha		No	Privileges are enjoyed by members to function freely in the House as representatives of the

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				<p>people. The privileges are rights which are absolutely necessary for the due execution of its powers. They are enjoyed by individual Members only to the extent required by their service in their capacity as Members. The privileges are not designed for the benefit of a special group of citizens, but to safeguard the rights of each and every elector. The privilege of freedom of speech enjoyed by Members of Parliament is in fact the privilege of their constituents. It is secured to members not for their personal benefit, but to enable them to discharge the functions of their office without fear of prosecutions, civil or criminal.</p>
6.	Himachal Pradesh Vidhan Sabha		No	<p>It is well established principle of parliamentary practices that Members are primarily and basically constituency based and supposed to be constituency oriented, hence, they cannot use their privileges against their own constituents.</p>
7.	Jharkhand Vidhan Sabha		No	
8.	Karnataka Legislative Assembly	Yes		<p>Members have become too sensitive to criticism and invoke readily the penal</p>

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				<p>jurisdiction of the House. In Karnataka, many members have requested to take action against officers for not inviting them to Government functions in their constituency and for not including their names in the invitation cards etc. They do so not merely in respect of matters which are too trivial to invoke that jurisdiction, but also on occasions when other remedies are available to them as citizens. Privileges should not be claimed for any cases beyond or outside the purview of the Business of the House or its Committees. They can be exercised only when there is any obstruction, obstacle in discharging their Parliamentary functions connected to the House and its Committees.</p>
9.	Maharashtra Legislative Assembly	No		<p>In democracy, any authority/individual who is at the helm of affairs is not supposed to take anti-people measures, which will make him unpopular. Parliament and its members being representatives of the very people will think twice before using the privileges against the interest of the people, who are electing</p>

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				<p>them. The members enjoy the privileges for functioning freely in the House in order to take decisions in the best interest of their constituents and, therefore, there is a remote possibility of such privileges being used by members against the interest of the very same people who are their constituents.</p>
10.	Nagaland Legislative Assembly		No	
11.	Rajasthan Vidhan Sabha		No	
12.	Sikkim Legislative Assembly		No	<p>It cannot be imagined that privileges are liable to be used by members against the Interest of the people.</p>
13.	Uttar Pradesh Vidhan Parishad		No	
14.	West Bengal Legislative Assembly		No	<p>Privileges of the members of the House will be attracted only if any obstruction, libel or reflection upon a member of Parliament/Legislature concerns his character or conduct in his capacity as a member of the House. Thus, the privileges can be used in a very limited way.</p>
15.	Mizoram Legislative Assembly	Yes		<p>There is a possibility for members as representatives of the people, using these</p>

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				privileges against the interests of there constituents.
16.	Puducherry Legislative Assembly	No		The Statement that the privileges could be used against the constituents is not agreed to. At the same time, the members should take in the right sense 'the fair criticism' of the people who elected the members.
17.	Uttar Pradesh Legislative Assembly	No		
18.	Kerala Legislative Assembly	No		
Question No. 4 Bearing in mind the observations of the Supreme Court in MSM Sharma's case, do you feel that non-enactment of a law codifying their privileges was a deliberate act on the part of Parliament to keep their privileges vague?				
1.	Chhattisgarh Legislative Assembly	No		Shri Mavalankar on the issue of framing of laws on privileges stated that "it would be much better at this point of time if we would not define specific privileges rather we should rely on the precedents of the House of Commons in Britain. At this junction, if we codify privileges, the minus point would be this that we would not be able adapt ourselves with a new situation and further privileges could not be confined on the members. Today, at least, we are

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				convinced that we have the same privileges as the members of House of Commons".
2.	Delhi Vidhan Sabha	No		
3.	Goa Legislative Assembly	No		The Codification of Privileges, was not resorted so as to keep the privileges vague and there was no political expediency or political compulsion nor need was felt for the same.
4.	Gujarat Legislative Assembly	No		In Parliamentary polity, the Parliament remains as the supreme representative and independent organ of the State and our constitution makers left this problem to the wisdom of the Parliament/Legislature. The role of the judiciary is restricted up to the judicial review of law passed by the Parliament/ Legislatures. The observation made by the Supreme Court in the above case seems to be an undue interference in the domain of the Parliament/ Legislatures. Article 194 of our Constitution explicitly lays down our main privileges and it will not be necessary to codify every act or behaviour for violation of these privileges because the law makers cannot anticipate

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				the future human acts or behaviour at a given point of time. As per the law of privilege, it is for the Parliament to decide whether a breach of privilege has been occurred or not and no other authority including the judiciary has any say in regard to the privilege.
5.	Haryana Vidhan Sabha	Yes		The categories of privileges and contempt should be defined to some extent. There must be some guidelines for future guidance of the House as with the passage of time new forms of obstructions, functions and duties have created new forms of privileges and contempt. Codification, if desirable at all could be effective only if embodies in legislation. The Parliament and State Legislatures have not made any law defining the powers, privileges and immunities. Therefore, non-enactment of a law codifying their privileges appears to be a deliberate act on the part of Parliament to keep their privileges vague.
6.	Himachal Pradesh Vidhan Sabha	No		Privileges enjoyed by Houses and Members of State Legislatures are part and parcel of the Constitution of India and

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				are provided under the Constitution and Statutes <i>i.e.</i> Civil Procedure Code, which in itself is a fundamental law. Hence there seems no deliberate act or malafide intention on the part of the Parliament to keep its privileges vague.
7.	Jharkhand Vidhan Sabha		No	
8.	Karnataka Legislative Assembly	Yes		Non-enactment of a law codifying the privileges was a deliberate act on the part of Parliament to keep their privilege vague. The intention behind keeping the privilege vague may be to gain unlimited scope in the matter of privileges and giving scope for interpretation according to convenience.
9.	Maharashtra Legislative Assembly		No	When we have accepted that we will go by precedents of British House of Commons, as they existed on the date our Constitution came into force, there is no substance in saying that non-enactment of a law codifying the privileges was a deliberate act on the part of Parliament to keep their privileges vague. If over the centuries no difficulties or problems cropped up in UK in this respect, why should we

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				<p>apprehend that situation in India. It is absolutely within the domain of the Parliament and State Legislatures as to on which subject they should make a law or not, and therefore, it should be left to the collective wisdom of Parliament and State Legislatures, and judiciary should refrain from advising about en-acting a particular law especially when it touches the sensitive issue of power, privileges, and immunities of Parliament, its members and Committees.</p>
10.	Nagaland Legislative Assembly		No	
11.	Rajasthan Vidhan Sabha		No	<p>One cannot comment with certainty as to the real motive of another institution in doing, or abstaining from doing, anything. But the said part of the judgment attempts to define the constitutional position with regard to the privileges endowed upon the Legislatures. There may be views or counter-views but the fact of the matter is that in a civil society, there are certain institutions which need to be kept immune from any motives.</p>
12.	Sikkim Legislative Assembly		No	<p>It may not be correct to say that no law has been enacted codifying the</p>

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				privilege. Privileges are available under the Rules of Procedure and Conduct of Business made by the Houses of the Parliament and enshrined by virtue of article 105 of the Constitution.
13.	Uttar Pradesh Vidhan Parishad	No		
14.	West Bengal Legislative Assembly	No		Privileges are not codified to reduce the areas of conflict between the Legislature and the Judiciary.
15.	Mizoram Legislative Assembly	No		
16.	Puducherry Legislative Assembly	No		Defining privilege by law, will not only narrow it down but will also lead to its interpretation and the loopholes in the enactment.
17.	Uttar Pradesh Legislative Assembly	No		
18.	Kerala Legislative Assembly	No		
Question No. 5 Do you feel that privileges of Parliament and its Committees and members need to be codified?				
1.	Chhattisgarh Legislative Assembly	No		In this regard, the facts presented by then Speaker, Shri Mavalankar in 'The Presiding Officers' Conference held on 3rd of January, 1955 in Rajkot are absolutely justified, relevant and apt. "Codification of privileges

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				<p>may be a setback to the sovereignty and prestige of Legislature. It may be mentioned that neither House of Commons nor any House of Parliament can form new privileges. Acceptance is given to those privileges only which have been established by traditions over a period of time. Therefore, there is no need to codify privileges."</p>
2.	Delhi Vidhan Sabha	No		<p>It may not be advisable to codify the privileges of Parliament and its Committees and Members keeping in mind its interpretation whether a particular act would come under the purview of the definition or not.</p>
3.	Goa Legislative Assembly	No		<p>If the privileges are codified or made into law, then the members have to use stringent constraints on their functioning, otherwise they may be made liable for contravening the legal framework of privileges. 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</p>

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cooly, would not say. It has also been held that the law of Parliamentary privileges, should not be administered in a way which would fetter to discourage the free expression of opinion or criticism, however prejudiced or exaggerated such opinions or criticism may be. It is also a tradition of the House, that unqualified and unconditional regrets or apology sincerely expressed by the persons guilty of breach of privilege and Contempt of the House, are accepted by the House and the House normally decides in such cases, to best consult in its own dignity by taking no further notice of the matter. Therefore, the Codification may stand in the way of exercising the powers of the House in its own wisdom. Secondly, the persons bent on vilifying Parliament, its members and Committees and the Courts will be called upon to intervene to an extent that it will be difficult for Parliament as well as the Courts to maintain the dignity which rightly belongs to the Parliament. It is felt that there is no need to

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				codify the privileges as the codification is likely to contain the prestige and sovereignty of the Parliament and State legislatures without any benefits and therefore codification is not necessary nor desirable. Illustration may be taken of a Case of the Cash for Query about the expulsion of eleven members of Parliament for tabling the Questions in the House or raising certain issues for their pecuniary benefits.
4.	Gujarat Legislative Assembly		No	If once privileges are codified, it will be open to the aggrieved party to go to a court of law and seek redress of his grievance. This will be against the basic spirit for grant of privileges to Parliament and its historical position of highest court of record in the U.K.
5.	Haryana Vidhan Sabha		No	The question of undertaking legislation on the subject has engaged the attention of Presiding Officers since 1921. The matter has been considered from time to time at the Conferences have been consistently of the view that codification of Parliamentary privileges is not feasible. The Committee of Privileges of

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				Tenth Lok Sabha also decided to take a fresh look at the whole issue. The Committee adopted their draft Report on the issue of codification of Parliamentary Privileges on 18th July, 1994 and the same was laid on the Table of the House on 19th December, 1994. The Committee, in this Report recommended that it is not advisable to codify Parliamentary privileges. The powers, privileges and immunities of either House of Parliament and of its members and Committees have been laid down in Article 105 of the Constitution.
6.	Himachal Pradesh Vidhan Sabha	No		The matter regarding codification of privileges was considered and deliberated upon from time to time at the conferences of Presiding Officers. Each time it has been viewed that neither codification is required nor it is feasible. Moreover, the Privileges Committee of Tenth Lok Sabha also considered the matter regarding codification of parliamentary privileges. The Committee obtained the opinion of eminent persons from all walks of life and submitted its report in the year 1994.

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				The Committee were of the opinion that it was not advisable to codify the Parliamentary privileges.
7.	Jharkhand Vidhan Sabha		No	
8.	Karnataka Legislative Assembly	Yes		Codification of privileges is an essential measure to protect the democratic character of our parliamentary system and in this direction the provisions of Article 105(3) and 194 (3) have been reasonably construed. The provision says that the immunities the powers and immunities of the House of the Legislature of a State and of the members of the Committees of a House of such Legislature, shall be such as may from time to time defined by the Legislature by law. Therefore, it is very appropriate to define the powers, privileges and immunities of members of parliament/legislature by codification.
9.	Maharashtra Legislative Assembly		No	Parliament and State Legislatures have not exceeded or misused their powers or jurisdiction in the matter of privileges, and they acted with utmost restraint and caution, and only where it was necessary to protect its credibility, dignity and

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				honour, they have exercised the said power. The real threat is of judicial activism, which will review the decisions in the matter of privileges on the basis of such a new law, and it will definitely erode the power, prestige and dignity of the Parliament and State Legislatures and undermine their very authority. If a new law is enacted, it will also lead to frivolous litigations, and every now and then, we will have to defend each and every action taken by the Parliament and State Legislatures in exercise of its privilege jurisdiction. This will pose great danger to complete democratic system.
10.	Nagaland Legislative Assembly	Yes		
11.	Rajasthan Vidhan Sabha	Yes		Codification can be opted for but, at the same time, it is not the scenario where the present legislation is ambiguous and leaves enough scope for varied interpretation. Art. 105 and Art. 194 are crystal clear and specifics and generalities therein have been kept therein keeping in mind the rich experience of parliamentary practices obtaining elsewhere.

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12.	Sikkim Legislative Assembly		No	The Codification of parliamentary privilege is not feasible.
13.	Uttar Pradesh Vidhan Parishad		No	
14.	West Bengal Legislative Assembly		No	To ensure greater harmony between the legislature and the judiciary.
15.	Mizoram Legislative Assembly		No	The codification of the privileges of Parliament, its Committees and Members.
16.	Puducherry Legislative Assembly		No	Codification of privileges may not be necessary.
17.	Uttar Pradesh Legislative Assembly	Yes		
18.	Kerala Legislative Assembly		No	Because codification is not likely to solve any of the problem that we face today.
Question No. 6 Don't you feel that with a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament?				
1.	Chhattisgarh Legislative Assembly	Yes		The House/Committee/ Members have the same privileges as members of House of Commons. If privileges are codified, the court will examine this act as they examine any other act. All the courts have to maintain the dignity of

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				Parliament, ... the matters will come before the courts and the Parliament will lose its exclusive right to take decisions regarding privileges.
2.	Delhi Vidhan Sabha	Yes		With a Codified law, scope of intervention in Legislative matters may enhance due to the reason that persons bent on tarnishing the dignity of Parliament may quote specific law for their vested interest.
3.	Goa Legislative Assembly	Yes		The codified law may prescribe procedures, and specifics, which when contravened or willfully overstretched may create a situation wherein the intervention of the courts will become inevitable. This may give rise to a conflict between the Legislature and the Judiciary. Being a written law, it will make it difficult for the Parliament as well as the courts to reconcile and to maintain their dignity, mutual respect and harmony. This situation can be overcome if very stringent punishment is prescribed for such behaviour in the codified law.
4.	Gujarat Legislative Assembly	Yes		With a codified law more benefit will flow to persons bent on vilifying

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				Parliament, its members and committees and the courts will be called upon more and more to intervene. At the moment given a proper understanding on both the sides, parliamentary right to punish for breach of privilege and contempt would rather receive the support of courts than otherwise. A written law will make it difficult for Parliament as well as courts to maintain that dignity which rightly belongs to Parliament and which the courts will always uphold as zealously as they uphold their own.
5.	Haryana Vidhan Sabha	Yes		With a codified law more benefit will flow to persons went on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belong to Parliament. In 1921 Speaker Frederick White stated at the first Speakers' Conference held that year. The whole question of Privileges in respect of the Legislatures in India was one of great

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				importance.. .the point being whether legal powers should be asked for to enable the Legislatures to punish contempt. At the Presiding Officers' Conference held in 1939, it was agreed that there should be a definition of privilege. However, no legislation on the subject was ultimately passed. Due to codification of privileges it will not be open to the House only in deciding whether or not a breach of privilege or contempt of the House has been committed. The Courts will extend their jurisdiction unreasonably.
6.	Himachal Pradesh Vidhan Sabha	Yes		Once, the privileges are codified by an Act of Parliament, the position will change entirely. The courts will examine the Statute and in view of the provisions of fundamental rights, it would be impossible for the Speaker to issue warrants without disclosing the grounds. This would certainly hamper the independence of the Parliament to protect and safeguard its privileges.
7.	Jharkhand Vidhan Sabha	Yes		
8.	Karnataka Legislative Assembly		No	Codified Law is necessary for the efficient effective

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				<p>functioning of Parliament. In the name of Parliamentary Privileges, Parliament or its Members cannot have unlimited authority to check citizens or the Press or the institutions who express their views independently by virtue of freedom of speech. On the other hand, a written law will make it easier for Parliament to maintain the dignity of Parliament. Then the written law is specific and precise, there will be no scope for Parliament and its Members to interpret to their convenience which is not covered by the law, and abuse the powers and Privileges.</p>
9.	Maharashtra Legislative Assembly	Yes		<p>Benefits will flow to persons bent on vilifying Parliament, its members and Committees, who will have a tool in their hand to challenge every action of the Parliament and project themselves as the saviour or champion of human rights and try to harm and damage the reputation and prestige of this august body. It will certainly give a chance to intervene more often to the already active judiciary in such matters and show its upper hand</p>

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				<p>at the cost of the dignity of the Parliament. Even now, with un-codified privileges, judiciary is intervening to a certain extent within the framework of the Constitutional mandate, but with a codified law they will always have an upper hand and flood gates will be opened to challenge any action taken under the said codified law. The chances of danger and threat to the authority, prestige, dignity and honour of the Parliament would be manifold under the codified law. The Courts will have to entertain such cases, whenever approached by an aggrieved party, even if it has no merit and such cases will be treated as ordinary cases involving violation of ordinary law and it may take years together to get early decisions, which will result into any action taken by the Parliament in exercise of its privilege jurisdiction becoming infructuous.</p>
10.	Nagaland Legislative Assembly	Yes		
11.	Rajasthan Vidhan Sabha	Yes		<p>There cannot be more truth in the statement. Intense public exposure—</p>

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				<p>through different media has reached to such a stage where organized campaign at the behest of vested interests makes a lie repeated hundred times look like a Gospel's truth. Therefore, it is all the more essential that these holier-than-thou elements identified and their real motives unearthed in the larger interest of harmony in the civil society at large.</p>
12.	Sikkim Legislative Assembly	No clear reply	Codification of Parliamentary privileges may not serve the purpose, Parliamentary privileges are available to individual members only in so far as they are necessary for the House to function. Each House of Parliament is custodian in its own privileges. It is well recognized that each House of Parliament is the sole and supreme authority to judge as to whether or not there has been breach of privileges and contempt of the House. Each House of Parliament is the custodian of its own privileges. The Houses of Parliament are Cognizant of their power and exercises thereby self important restraint.	

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13.	Uttar Pradesh Vidhan Parishad	Yes		
14.	West Bengal Legislative Assembly	Yes		If the privileges are codified, all matters would come under the jurisdiction of the courts and the Legislatures would lose their exclusive right to determine matters relating to their privilege. Judicial interference may add a conflicting dimension to the mutual relationship of the Legislature and the Judiciary.
15.	Mizoram Legislative Assembly	Yes		With a codified law the Parliament and its members will certainly be more vulnerable to vilification by outside forces and dignity of the Parliament will be at risk.
16.	Puducherry Legislative Assembly	Yes		Codification will facilitate more litigations, which will make difficult the Parliament to maintain its dignity.
17.	Uttar Pradesh Legislative Assembly		No	
18.	Kerala Legislative Assembly	Yes		
Question No. 7 Codification of parliamentary privileges could end up in undue focus on specifics at the cost of substance. Please comment.				
1.	Chhattisgarh Legislative Assembly	Yes		
2.	Delhi Vidhan Sabha	Yes		It is true that Codification of parliamentary privileges

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				would result in undesirable debates over specification and limiting the scope of use of privileges.
3.	Goa Legislative Assembly	Yes		If the Parliamentary privileges are codified, then the House may have to go to the specifics and follow the procedures under the Civil Procedure Code and the Evidence Act and finally may accept the apology; thereby much of the time is lost in specifics at the cost of substance.
4.	Gujarat Legislative Assembly	Yes		Codification will certainly end up in lowering the dignity and authority of Parliament and the substance of its existence will certainly be destroyed.
5.	Haryana Vidhan Sabha	Yes		The plea for codification of privileges was also put forward in 1954 by the Press Commission also, but it was not upheld by the Speaker Mavlankar, who, in his address to the Conference of Presiding Officers at Rajkot on January 3, 1955 observed: The Press Commission considered this matter purely from the point of view of the Press. Perhaps they may have felt the difficulties of the Press to

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				<p>be real; but from the point of view of the Legislature, the question has to be looked at from a different angle. Any codification is more likely to harm the prestige and sovereignty of the Legislature without any benefit being conferred on the Press. It may be argued that the Press is left in the dark as to what the privileges are. The simple reply to this is that those privileges which are extended by the Constitution to the Legislature, its members etc. are equated with the privileges of the House of Commons in England. It has to be noted that the House of Commons does not allow the creation of any new privileges and only such privileges recognised as have existed by long time custom. No codification, therefore, appears to be necessary. Conference debated the issue and unanimously decided that in the present circumstances, codification is neither necessary nor desirable.</p>
6.	Himachal Pradesh Vidhan Sabha	Yes		<p>Codification will crystallize the privileges and there will be no scope for the presiding authorities to deviate or change by interpretation.</p>

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7.	Jharkhand Vidhan Sabha	Yes		
8.	Karnataka Legislative Assembly		No	Codification of Parliamentary Privileges is essential as otherwise there would be arbitrariness and lack of transparency. What are Parliamentary Privileges have to be well defined and a suitable law requires to be enacted by Parliament. Unless Codification is done, there will be a lot of confusion as to what exactly Parliamentary Privileges are.
9.	Maharashtra Legislative Assembly	Yes		If we codify the privileges, naturally any breach of the same will be viewed with reference to the provisions made in the codified law, and they will try to go by interpretation of each word of the provisions and try to show that a particular action or omission does not amount to breach of privilege. In that case the whole concentration will be on the interpretation of the specific wordings and the substance of the provision will be kept aside in order to save from the action for breach of privileges and contempt. The very purpose of privileges will be defeated and

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				seriousness of the action will be diluted. The contemnor will always try to stress on specifics at the cost of substance of the provisions of codified law on privileges, which is not advisable because ultimately it will undermine the authority and dignity of the Parliament and State Legislatures. Let the Parliament be supreme in the area of deciding its privileges and no other authority should be given leverage in this respect.
10.	Nagaland Legislative Assembly		No	
11.	Rajasthan Vidhan Sabha	Yes		Presently there have been few and far between cases of privileges claimed by Legislatures and established. The saner collective voice of the Legislatures deliberates upon the issue and takes a very liberal view keeping the sovereignty and dignity of the Houses in mind. Therefore, public opinion has, more often than not sided with the Legislatures in pursuit of their power, privileges and immunities. If they are codified and given tangible shape, chances are Legislatures will be dragged to courts by

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				trouble-mongers seeking redressal of real or imagined compromises with their freedoms enshrined in the Constitution. Thus, Legislatures will be seized more: with matters connected with judicable proceedings, greatly compromising, and handicapping it, with the short time available with it to discuss public issues.
12.	Sikkim Legislative Assembly		No clear reply	
13.	Uttar Pradesh Vidhan Parishad	Yes		
14.	West Bengal Legislative Assembly	Yes		More attention will be then paid to the verdict of the court and precision will be gained at the sacrifice of substance.
15.	Mizoram Legislative Assembly	Yes		With a codified law the Parliament and its members and it will certainly be more vulnerable to vilification outside forces and the dignity of the Parliament will be at risk.
16.	Puducherry Legislative Assembly	Yes		Codification will end in undue focus on specifics at the cost of substance.
17.	Uttar Pradesh Legislative Assembly		No	
18.	Kerala Legislative Assembly			There is a distinct possibility that codification

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				may end up in undue focus on specifics at the cost of substance. Such possibility is another important reason for rejecting the proposal for codification.
Question No. 8	<p>There is a view among the members that they are performing their duties as members of Parliament even while taking up grievances and matters pertaining to their constituents with the concerned executive functionaries in their respective constituencies or elsewhere. Hence there has been a demand by some members that in order to enable them to serve their constituents unfettered, parliamentary privileges should approximately be extended to them on such occasions too. In view of this position, do you feel that there is a need for broadening the content of parliamentary privileges? If so, please state reasons therefor.</p>			
1.	Chhattisgarh Legislative Assembly	No	<p>Privileges are given to the members to the extent to which these are deemed to be necessary in disposing their duties. "The powers, privileges and immunities of the each House of Parliament and the Members of the each House and the Committees will be such as defined by the law from time to time, as long as these are not defined, the position will be similar as it was at the time of adopting of Constitution which are in detail in itself. Therefore, the Parliament is entrusted</p>	

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				with the power to expand the contents of the parliamentary privileges.
2.	Delhi Vidhan Sabha		No	There seems to be no need for broadening the content of Parliamentary privileges to the Members in order to resolve the grievances pertaining to their constituents with the concerned executive functionaries provided the executive functionaries perform their duties within the stipulated rules and regulation.
3.	Goa Legislative Assembly		No	Privileges are provided to Members of the House so that they may be able to perform their duties in Parliament without any obstruction. Privilege against assaults or molestation is available to a member only when he is obstructed or in any way molested while discharging his duties as a Member of Parliament. It also provides for freedom from arrest in civil cases during the continuation of the session of the House and during a period of 40 days before its commencement and 40 days after its conclusion with the motive of safe arrival and regular attendance of Members of Parliament.

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				<p>Thus the privileges bestowed on the Members of the House permit him to discharge his duties fairly and freely. The demand by some members to extend parliamentary privileges to them while they are engaged with matters pertaining to their constituents may not hold good. In addition to privileges, there are certain parliamentary practices, usages and conventions which should be followed by the members and others. Violation of such parliamentary usages is termed as impropriety. One of the point of propriety is that Courtesy is to be shown by Government officers in their dealings with members including correspondence with them. Civil servants are required to show due courtesy and respect to members of Parliament/State Legislatures and help them in the discharge of the functions and work. Government has issued instructions in this regard to all its employees. Thus the elected member will attain maximum cooperation while dealing with</p>

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				<p>executive functionaries anywhere in their respective constituencies or elsewhere in the State. If privileges are extended to them while they are conducting their works as parliamentarians in their constituencies or elsewhere, there would be a possibility of it being abused or misused. Under the pretext of privileges, the Government officers may be forced to comply with any order given by the elected representative, involvement of members in strikes and agitations may lead to disturbances in the law and order situation etc. Therefore the privileges and immunities presently extended to the members of the House are sufficient for them to carry out their duties as elected representatives of their constituents.</p>
4.	Gujarat Legislative Assembly		No	<p>Parliamentary privileges have been given to the House, its members and its committees only. Privilege has been defined as “an exceptional right of exemption”, and also as “an exception from some duty, burden, attendance or liability to which others are subject”. In Parliamentary language the term implies rights</p>

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				<p>enjoyed by the House and its members "without which they could not discharge their functions, and which exceeds those possessed by other bodies or individuals. Privileges are granted to members in order that they may be able to perform their duties in Parliament without let or hindrance." in view of the above, it is clear that the parliamentary privileges will come in picture only when an act or activity of a member has some direct or indirect relevance with the proceedings in Parliament. Any act or activity performed by a member for redressal of their constituents grievances may not have direct or indirect bearing with the proceedings in Parliament and as such, there is no need to broaden the concept of Parliamentary privilege for such act or activity.</p>
5.	Haryana Vidhan Sabha	No		<p>Parliamentary privileges are available to individual members only so far as they are necessary for the House to perform its functions. It is also well settled that neither House of Parliament can create new privileges. It is frequently argued or</p>

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				<p>alleged in reference to some particular case, that the existing privileges of Parliament are being unjustifiably extended. This arrangement based on misconception of law. It is surely the duty of Parliament to act effectively when breaches of its laws have occurred. It is not necessary to stress how menacing to all civil liberties it would be if Parliament yielded to outside pressure instead of using the weapon provided by law for its defence. It is within the competence of each House to expound the law of privilege and apply that law to the circumstances of each case as it arises. But it is fully accepted that no new privilege can be created. In 1704, the Lords and Commons both agreed to the proposition "That neither House of Parliament have power, by any vote or declaration, to create to themselves new privileges, not warranted by the known laws and customs of Parliament. There is no need for broadening the content of Parliamentary privileges.</p>
6.	Himachal Pradesh Vidhan Sabha		No	In India the privileges which are extended by the Constitution to the

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				Legislature, its Members etc. are equated with the privileges of the House of Commons. Even the House of Commons does not allow the creation of any new privileges. Hence, there is no need for broadening the content of Parliamentary privileges.
7.	Jharkhand Vidhan Sabha		No	
8.	Karnataka Legislative Assembly		No	There is no need for broadening the content of Parliamentary Privileges to Members of Parliament and Legislatures while they take up the grievances of the public with the Executive functionaries in their respective constituencies or elsewhere. Constitution has already defined the jurisdiction of the three organs of the State viz., Legislature, judiciary and Executive. They cannot transgress into each others domain. The Members of Parliament can serve the public even without the privileges enjoyed by them. If the Parliamentary Privileges are extended then spirit of framers of the Constitution will be defeated. It should be remembered that the Members, can enjoy the Parliamentary Privileges

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				only in connection with their functions in respect of the House and its Committees.
9.	Maharashtra Legislative Assembly		No	The Executive is giving proper and due respect to the Members and try to sort out their problems within the given framework of rules and regulations. However, if Members desire that there is need for broadening the content of parliamentary privileges, there is nothing wrong, but it can be done by way of issuing executive directions to the bureaucracy and not broadening the content of parliamentary privileges, otherwise it will loose its sharpness and sanctity, and it will become a weak tool in Parliamentary form of Government. Other methods or ways can be adopted to solve this grievance of the Members instead of broadening the content of existing parliamentary privileges.
10.	Nagaland Legislative Assembly	Yes		
11.	Rajasthan Vidhan Sabha		No	No such need has been felt by the Rajasthan Legislative Assembly so far.
12.	Sikkim Legislative Assembly		No	The broadening the content of parliamentary privileges on such matters may lead to misuse of the privileges.

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13.	Uttar Pradesh Vidhan Parishad		No	
14.	West Bengal Legislative Assembly		No	Privileges of Parliament do not exempt the members from the obligations to the society that apply to other citizens and they do not place a member of Parliament on a higher footing different than an ordinary citizen in the matter of application of laws. Thus, these privileges can be used in a very limited way.
15.	Mizoram Legislative Assembly		No	There appears to be no need for broadening the content of Parliamentary privileges in this instance.
16.	Puducherry Legislative Assembly		No	Privileges should be limited to the performance of parliamentary duties and it need not be extended outside. Privileges are necessary only for the proper exercise of the functions entrusted to Parliament by the Constitution.
17.	Uttar Pradesh Legislative Assembly	Yes		
18.	Kerala Legislative Assembly		No	There seems no need for broadening the content of parliamentary privileges because these rights are basically intended to safeguard the freedom, the authority and the dignity of Parliament. A member of Parliament/Legislature cannot claim special rights

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higher than those enjoyed by an ordinary citizen except the rights that are absolutely essential to perform their duty as a member of the House.

Question No. 9 **The Contempt of Court Act, 1971 defines “criminal contempt” as publication of any matter or the doing of any other act whatsoever which “scandalizes or tends to scandalize or lowers or tends to lower the authority of any court; prejudices or interferes or tends to interfere with the due course of any judicial proceedings; or interferes or tends to interfere with or obstructs or tends to obstruct, the administration of justice in any other manner”. Since this definition, does not specify each and every act that may amount to contempt of court, it is a matter of interpretation whether a particular act would come under the purview of the definition or not. Likewise the definition of contempt of Parliament (See para 8 of the Background Note) does not specify each and every act, the commission or omission of which would amount to contempt of the House. In view of this position, how far the criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific, justified?**

Sl.No.	Reply received from	Justified	Unjustified	Remarks
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1.	Chhattisgarh Legislative Assembly	Justified		The scope of Parliamentary privileges has been kept well-defined and limited. And the touchstone of it is if any allegation or aspersions have not been cast on the character or conduct as a member of House and these are not concerned with the matter taken up

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				during the disposal of their duties, this does not amount to breach of privilege of the Parliament or the member of the Parliament. Therefore, it will not be appropriate to say that parliamentary privileges are vague and complex, the facts and the circumstances of the matter actually determine when it is breach of privilege or when it is contempt of the House.
2.	Delhi Vidhan Sabha	Unjustified		The criticism of Parliament on this count is not justified considering the fact that the specific definition of contempt of House may not be practicable keeping in mind the dignity of each of House of Parliament because by doing so, scope of interpretations of definition of Contempt of the House as envisaged would be restricted.
3.	Goa Legislative Assembly	Justified		It is not possible and feasible to prepare an exhaustive list of the powers, privileges and immunities of the members of Parliament other than those enjoyed by virtue of their Constitutional and Statutory powers. Due to the unfeasibility of preparing an exhaustive list of privileges and powers.

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4.	Gujarat Legislative Assembly	Unjustified	There is material point in the criticism of the Parliament on the count of definition of the contempt of the Parliament. The contempt of the Parliament is generally defined as 'any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results.'	The above definition is quite clear and specific, and therefore, it cannot be said that the definition of contempt of Parliament is vague and unspecific.
5.	Haryana Vidhan Sabha	Justified	While a breach of privilege can be said to have taken place when any of the privileges specified in the Constitutional provisions, Rules of Procedure of the House, privileges governed by precedents of House of Commons and provisions under the statute are violated, the contempt of the House is generally defined as "any act of omission which obstructs or impedes	

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				<p>either House of Parliament in the performance of its functions, or which obstructs or impedes any matter or officer of such House in discharge of his duty, or which has tendency, directly or indirectly, to produce such results. There is some vagueness in the law of Parliament as what constitutes breach of privilege or contempt of the House, and it appears to be a deliberate and intentional vagueness which seems to be preserved by House of Commons for good reason. Any attempt to translate them into precise rules must deprive them of the very quality which renders them adoptable to new and varying conditions, and new and unusual combinations of circumstances and indeed, might have the effect of restricting rather than safeguarding Members' privileges.</p>
6.	Himachal Pradesh Vidhan Sabha	Unjustified	The Parliament is exercising its penal jurisdiction as sparingly as possible, and only when satisfied that it was essential to do so. For instance, the privilege of freedom from arrest has never been allowed to	

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				interfere with the administration of criminal justice or emergency legislation. Without a power to commit, the privileges of Parliament would not exist in their present form, and it would be hardly possible to adequately defend the dignity of Parliament against disrespect and affronts. Hence, it cannot be said that the definition of contempt is deliberately kept vague or unspecific.
7.	Jharkhand Vidhan Sabha	Unjustified		
8.	Karnataka Legislative Assembly	Justified		“The criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific is justified. In the contempt of Court Act, 1971 “Criminal Contempt” is defined. The definition of “Contempt of House” should be as comprehensive as possible. There should also be clear-cut difference between breach of Privilege and breach of courtesy.
9.	Maharashtra Legislative Assembly	Unjustified		It should be left to the Parliament to decide as to whether a particular act or omission is contempt or not and Parliament should be the final arbiter in such matters and no other authority should intervene

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				or interfere in such matters. Parliament, as a institution of great repute, always acts with restraint and caution in the matter of privileges and, therefore, the criticism of Parliament is not justified.
10.	Nagaland Legislative Assembly	Unjustified		
11.	Rajasthan Vidhan Sabha	Unjustified		
12.	Sikkim Legislative Assembly	No clear reply		It is a matter definition of application whether a particular amount contempt of the House. Division on it depends on fact and circumstance of each case.
13.	Uttar Pradesh Vidhan Parishad	Unjustified		
14.	West Bengal Legislative Assembly	Unjustified		What constitutes contempt of the House can be best decided according to the facts and circumstances of each case rather than by specifying them in so many words.
15.	Mizoram Legislative Assembly	Unjustified		There cannot be a clear-cut and unambiguous definition of parliamentary privileges.
16.	Puducherry Legislative Assembly	Unjustified		The statement that the definition of contempt of the House is vague and unspecific is not justified.
17.	Uttar Pradesh Legislative Assembly	Justified		
18.	Kerala Legislative Assembly			Legislatures in India have power to punish a person whether

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member or stranger for its contempt for breach of privilege. This power is truly described as the 'Keystone' of Parliamentary privilege. The expression "contempt of House" is of very wide meaning and includes an act or omission which obstructs or impedes performance of its functions or obstructs or interferes with any member or officer or which has a tendency directly or indirectly to produce such results. The House can examine the genuineness of each and every contempt issue in detail and can issue appropriate orders. Hence, even if the definition of contempt of House is vague and unspecific the House is at liberty to interpret it in tune with the wider objectives of parliamentary privilege.

Question No. 10 **Article 129 of the Constitution provides that the Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Don't you think that Parliament, being the supreme legislative body in the country should enjoy power to punish for its contempt in the same manner as is done by the Supreme Court, the supreme judicial body of the country?**

Sl.No.	Reply received from	For/ Yes	Against/ No.	Remarks
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1.	Chhattisgarh Legislative Assembly	Yes		Constitution is supreme in federal system and its supremacy can only be

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				protected by the setting independent judicial system. In case the validity of any legislation is challenged in the court, the power to resolve the said dispute vests in the judiciary itself. As the Hon'ble Supreme Court itself has mentioned in the "Searchlight Case", the provision in article 105(3) and article 194(3) are constitutional laws and they are not just ordinary laws made by the Parliament and as such these are supreme. Usually the power for awarding punishment for breach of privilege vested in the legislatures is more or less similar or equivalent to the power vested in the judiciary for awarding punishment of its contempt.
2.	Delhi Vidhan Sabha	Yes		Yes, Parliament being the supreme legislative body in the country should enjoy the power to punish for its contempt in the same manner as is done by the Supreme Court of India using its sole authority to judge as to whether or not there has been a breach of privilege or contempt of the House in a particular case. The House being the supreme legislative body in the

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				country is expected to use greater restraint particularly in exercising its penal jurisdiction.
3.	Goa Legislative Assembly	No clear reply		The keystone of Parliamentary Privileges is that Parliament has the power to punish for its own breach of privilege and contempt. Each House of Parliament is the guardian and master of its own privileges. Courts of law in India, have recognized that a House of Parliament or of a State Legislature is the sole authority to judge as to whether or not there has been a breach of privilege or contempt of the House in a particular case. The penal jurisdiction of the House is neither confined to its own members nor to its officers but extends to all contempt of the House whether committed by member or by persons who are not members, irrespective of whether the offence is committed within the House or beyond its walls. The power to punish gives effect to the privileges of Parliament and emphasizes its sovereign character so far as the protection of its rights and the maintenance of its dignity and authority are

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				<p>concerned. The House may then punish a person found guilty of breach of privilege or contempt of the House either by reprimand, admonition or imprisonment for a specific period. The power possessed by each Houses of Parliament and a House of the Legislature of a State to punish for contempt or breach of privilege is a general power of committing for contempt analogous to that possessed by the Supreme Court and is in its nature discretionary.</p>
4.	Gujarat Legislative Assembly	Yes		<p>The Parliament as a supreme legislative body and historically highest court of record has the power to punish for its contempt in the same manner as is done by the Supreme Court.</p>
5.	Haryana Vidhan Sabha	Yes		<p>Each House of Parliament, as also a House of the Legislature of a State has the power to punish for breach of privilege or contempt of the House and commit the offender to custody of prison. Parliament and State Legislature possess not only the power to punish for contempt but have also the right to judge for themselves what is</p>

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				contempt or what is not, as without this privilege of punishing for contempt would be worthless. The power of the House to punish for contempt has been aptly described as the “Keystone of parliamentary privilege” and is considered necessary to enable the House to discharge its functions and safeguard its authority and privileges. This power is a kin in nature and owes its origin to the powers possessed by the Courts of law to punish for contempt. Without such a power the House would sink in utter contempt and inefficiency”.
6.	Himachal Pradesh Vidhan Sabha	No clear reply		The power of the House to punish any person who commits contempt of the House or a breach of any of its privileges is the most important privileges. It is this power that gives life to the privileges of Parliament and emphasizes its sovereign character so far as the protection of its rights and the maintenance of its dignity is concerned. It can punish any person whom it considers to be guilty of contempt. The power of both Houses to punish Members and non-

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				Members for disorderly behaviour and disrespectful acts has much in common with the authority inherent in the Supreme Court. This means that the two Houses are enabled to safeguard and enforce their inherent authority without the compromise or delay.
7.	Jharkhand Vidhan Sabha	Yes		
8.	Karnataka Legislative Assembly	Yes		The power of the House to punish for contempt or breach of privilege has been aptly described as the “Keystone of parliamentary privileges and is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege. Therefore, Parliament being the supreme Legislative Body in the country should enjoy absolute powers to punish for its contempt in the same manner as is done by the Supreme Court.
9.	Maharashtra Legislative Assembly	Yes		The Parliament should have power to punish for its contempt and no other authority should have a right to review the same or interfere with it. In the above background, the Parliament cannot be treated as a inferior court

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				in the matter of exercising its power to punish for breach of privileges and contempt, since it is supreme legislative body of the country. In no way, the status of Parliament should be down-graded in such matters and its penal powers reduced, curtailed or restricted in any way, and Parliament should enjoy the power to punish for its contempt in the same manner as is enjoyed by the Supreme Court.
10.	Nagaland Legislative Assembly		No	
11.	Rajasthan Vidhan Sabha	Yes		In a civil society, there are certain institutions which need to be kept immune from any motives and, thus, every effort should be made to check the attempts aimed at lowering the dignity of such institutions. Legislatures and judiciary are two sue institutions.
12.	Sikkim Legislative Assembly		No clear reply	The Parliament is the supreme legislative body; it enjoys the powers to punish the contempt. Therefore, there is no point in reiterating it.
13.	Uttar Pradesh Vidhan Parishad	Yes		
14.	West Bengal Legislative Assembly	Yes		Fundamental rights of the people under Art. 19 are not sacrificed.
15.	Mizoram Legislative Assembly	Yes		However, punishment for its contempt should depend on consensus

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				among the members and should not contravene any other provisions of the constitution.
16.	Puducherry Legislative Assembly	Yes		Parliament should enjoy power to punish for its contempt in the same manner; the Supreme Court has powers to punish for its contempt.
17.	Uttar Pradesh Legislative Assembly	Yes		
18.	Kerala Legislative Assembly			Of course, Parliament should enjoy power to punish for its contempt. However, since we are to function under a written constitution and judicial review is a basic feature of the Constitution, Parliamentary privileges including the power of Parliament to punish for its contempt shall necessarily be subject to judicial review, based on the provisions of Part III of the Constitution.
Question No. 11 Each House of Parliament by convention possess not only the power to punish for contempt but also have the right to judge for themselves what is contempt or what is not. The power of the House to punish for contempt or breach of privilege is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege. If in exercise of its penal powers, the House adopts a motion expelling (available to House by virtue of convention) some members for grave misconducts unbecoming of members, can the judiciary review such decisions?				
1.	Chhattisgarh Legislative Assembly		No	When a question of parliamentary privileges arises, in the interest of

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				smooth functioning of parliamentary democracy, it is mandatory that not only the privilege of Parliament and the legislature remain intact but the power of the Houses for awarding punishment regarding breach of their privilege during the proceeding of the House cannot be challenged. House is Supreme authority in such case and judiciary cannot intervene in such matters.
2.	Delhi Vidhan Sabha	No		The Judiciary should not review such decision as the House is the sole authority to decide as to whether or not there has been a breach of privilege or contempt of the House. The House is at liberty by virtue of convention to exercise its penal powers to expel members for grave misconduct by adopting a motion if it is considered necessary for proper discharge of its functions and to safeguard its authority and privilege.
3.	Goa Legislative Assembly	No clear reply		Each House of Parliament or State Legislature has the power to adjudge for itself as to whether or not there is a breach of privilege or contempt. According to the nature of

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the case, the House has inherent power to punish for contempt or a breach of privilege. When a person is guilty of a breach of privilege or contempt of the House, the House has the right to discipline its offenders by inflicting punishment for such breaches. For members of the House, punishments such as naming a member, suspension of a member from the House, imprisonment of a member and even expulsion may be inflicted. For outsiders found guilty, the punishment is reprimand, admonition or imprisonment for a specified period. The House's right to deal with its offenders has been established by precedent and accepted by the Courts. The control of the House over its internal proceedings is absolute and cannot be interfered with by the Courts. These powers to the Legislature are enshrined in the Constitution. However, the House refrains to a great extent from exercising its penal powers to uphold its prestige and dignity. Decision of the House regarding the punishment

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				to be inflicted on a person guilty of a breach of privilege cannot be reviewed by anyone which also includes the Court. Reviewing a decision given by the Presiding Officer by any outside authority would be lead to interference in the functioning of the Legislature and losing its sovereignty. Any attempt to review decisions of the Legislature by Courts should be discouraged.
4.	Gujarat Legislative Assembly	No		<p>In this connection, May observes as follows:</p> <p>“The cases in which members have been called to account and punished by the House for offensive words spoken before the House are too numerous to mention. Some have been admonished, others imprisoned and in the Commons some have been expelled. (May, 17th Edn. page 53). Each House of Parliament is the guardian of its own privileges. Courts of law in India have recognized that a House of Parliament or State Legislature is the sale authority to judge as to whether or not there has been a breach of privilege or contempt of the House in a particular</p>

case. The House may punish a person found guilty of breach of privilege or contempt of the House either by reprimand or admonished or by imprisonment for a specified period. In case of its own members, two other punishments can be awarded by the House namely, suspension from the service of the House and expulsion. The House of Commons claims that its admitted right to adjudicate on breaches of privilege implies in theory the right to determine the existence and extent of the privileges themselves. It has never expressly abandoned its claim to treat as a breach of privilege the institution of proceedings for the purpose of bringing its privileges into discussion or decision before any court or tribunal elsewhere than in Parliament. In other words, it claims to be the absolute and exclusive judge of its own privileges, and that its judgments are not examinable by any other court or subject to appeal. In spite of the above position, the courts in India have time to time

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				encroached into the domain of Parliament by their constitutional right of judicial review. So far as the domain of Parliamentary privileges is concerned.
5.	Haryana Vidhan Sabha	Yes		<p>The framers of the Constitution intended the House alone to be sole judge on a question of admitted privilege. It is well established now that the House of Commons in England has certain well defined rights and privileges honoured and sanctified by tradition and custom, one of the most important of them being the right to commit a person for contempt of its high authority and for breach of privileges. The power of the House to punish for contempt or breach of privilege is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege. When Ch. Hardwari Lal, a member of Haryana Vidhan Sabha was found guilty for the contempt of the House and he was expelled from the membership of the House on a resolution passed by the House, he challenged it in the Hon'ble Punjab</p>

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				and Haryana High Court which held that House has no power to expel a member from the membership of the House whereas Madhya Pradesh High Court in a case has held otherwise. There are several cases of expulsion of members on the ground of grave misconduct by the House but this punishment can be reviewed by the judiciary under the judicial review.
6.	Himachal Pradesh Vidhan Sabha	No clear reply		The power to punish for contempt has been judicially considered to be inherent in each House of Parliament. According to our Constitution, both the Legislature and the Judiciary have well defined areas of activities and they are supreme in their own spheres. Nevertheless, the fact remains that Parliament being the supreme representative institution of the people as well as the highest legislative body, the Parliament has been accorded a pre-eminent position in our constitutional and political set-up. At the same time, the framers of the Constitution had taken due care to provide for an independent and impartial judiciary as the custodian

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				of the rights of the citizens. All the legislations, whether Union, State or delegated —have been subject to the doctrine of ultra vires and judicial review. However, the framers of our Constitution intended to provide the Legislatures in India with exclusive jurisdiction to decide all matters relating to the privileges without any interference from the court of law.
7.	Jharkhand Vidhan Sabha		No	
8.	Karnataka Legislative Assembly		No	The judiciary can review the decisions of the Parliament only when such decisions are arbitrary. In a rule of law society, which we claim to be, every action of any public body must conform to the law. In our legal system, law making and law enforcement powers are vested with the Legislature and the Executive respectively. The courts are vested with the power of checking whether the law is in accordance with the Constitution and has been correctly interpreted and applied. This is an accepted legal and constitutional proposition. Even when the

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				<p>Constitution or any law expressly excludes the jurisdiction of the courts, they themselves determine the scope of exclusion. In our constitutional and legal system never has a doubt been entertained that a person aggrieved can always approach the courts. Article 226 empowers the High Court to entertain any petition for the enforcement of fundamental rights or for any other purpose. Judicial review of any action of the legislature or of the executive is a basic feature of the Constitution, which even an amendment cannot whittle down. Judiciary cannot review the decision of the House when a member expelled for grave misconducts by invoking the penal powers by virtue of the conventions available.</p>
9.	Maharashtra Legislative Assembly	No		<p>Supreme Court has made certain observations that the judiciary has power to examine whether the privileges claimed are in existence and whether the power to punish for contempt or breach of privileges has been properly exercised or not (Raja Ram Pal. Vs. Speaker, Lok Sabha). They</p>

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				<p>have also accepted that Parliament has power to expel its members for grave mis-conduct unbecoming of members. But while doing so they are not ready to leave their power of judicial review even in such matters, which in fact amounts to undue interference in the sovereign working and functioning of the Parliament. Under the garb of judicial review, the judiciary wants to keep control over the penal powers of the Parliament indirectly, in spite of the fact that Parliament by convention possess power to punish for contempt and also have right to judge for themselves what is its contempt or what is not. That power cannot be usurped by the judiciary under the garb of judicial review. A clear cut provision be made to oust the jurisdiction of the Courts in such matters, and Parliament should have final authority on such subjects, and no other authority should be allowed to intervene or interfere.</p>
10.	Nagaland Legislative Assembly		No	
11.	Rajasthan Vidhan Sabha	Yes		As per the constitutional position, Legislatures are

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				supreme in the affairs pertaining to it. Consequently, it can certainly review its composition where instances of gray misconduct unbecoming of its members have been brought to its notice and established. The only requirement can be that reasonable opportunity should be accorded to the concerned members to explain their side of the story and prove facts contrary to the accusations.
12.	Sikkim Legislative Assembly		No	
13.	Uttar Pradesh Vidhan Parishad		No	
14.	West Bengal Legislative Assembly		No clear reply	The House may adopt a motion expelling some members in exercising of its penal powers and the interference of the Judiciary on the decision of Parliament in such occasions is undesirable in the interest of mutual respect to each other.
15.	Mizoram Legislative Assembly	Yes		The Hon'ble Speaker feels that a judicial review should be available as a choice for, the expelled member to keep the principle of check and balances.

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16.	Puducherry Legislative Assembly		No	Power to punish including the punishment to expel its members for grave misconduct should be left to the Parliament and it should be outside the purview of Judicial review.
17.	Uttar Pradesh Legislative Assembly	Yes		
18.	Kerala Legislative Assembly		No	The power of the House to punish for contempt or breach of privilege, including the power to expel a member, is indispensable to discharge its functions and safeguard its authority and privilege. The exercise of that power, especially the power of expulsion on should not be subject to judicial review.
Question No. 12 Our Constitution inherently follows the principle of 'separation of powers'. Would you agree that in the name of judicial activism, the courts do, on occasions, tend to transgress into the domains of legislature which is often resulting in near confrontation situations between the courts and the legislatures?				
1.	Chhattisgarh Legislative Assembly	Yes		
2.	Delhi Vidhan Sabha		No clear reply	These kinds of confronting situation generally arise due to difference of opinion amongst legislature and Judiciary on interpretation of various provisions under the Constitution of India.

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				Aware and active judiciary does not tend to transgress into the domains of legislature but it sometimes intervenes, whenever required, to ensure that the legislature performs its functions and discharge its responsibilities in conformity with the Constitution of India.
3.	Goa Legislative Assembly	Yes		In India, the Constitution has provided the Legislature and the Judiciary separate powers and specific functions to perform. While the Legislature makes the laws, the Judiciary interprets them. Each is independent in its own zone and seen together as a complete whole in itself. They both act as the 'check' and 'balance' of each other. While trying to have effective checks and balances on each other, it is expected that each does not overstep his zone and encroach upon the area of activity of each other. In order to achieve this, they should adopt the policy of mutual respect and non-interference. It is not any individual or anyone wing of the State but the entire system has to be strengthened. Each organ of the State should

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				function within its own framework. There may be certain overlapping functions but attempts will have to be made that neither will encroach and a harmonious relationship will be maintained.
4.	Gujarat Legislative Assembly	Yes		Judiciary in the name of judicial activism often transgress into the domains of legislature which ultimately results into the confrontation between these two organs of State.
5.	Haryana Vidhan Sabha	Yes		The Courts of law in India have occasions that a House of Parliament or a State Legislature is the sole authority to judge as to whether or not there has been a breach of privilege in a particular case. It has been held that the power of the House to commit for contempt is identical with that of the House of Commons, and that a Court of law would be incompetent to occasions the exercise of that power. Our Constitution inherently follows that principle of 'separation of powers.' However, there are instances when in the name of judicial activism the Courts transgressed into domains

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				of Legislature which resulted into confrontation situations between the Courts and the legislatures. Cases of M.S.M. Sharma and Keshav Singh throw some light on this issue.
6.	Himachal Pradesh Vidhan Sabha	No clear reply	Although both the Legislature and the Judiciary are the creatures of the Constitution working within their respective spheres, yet issues have arisen from time to time, which seem to have detracted from the usual position of complimentary relationship between the Legislature and Judiciary. Most of these are mainly related to the decisions by the Presiding Officers under the Anti-Defection Law and to the field of parliamentary privileges. The three organs of the State are meant to be active within their own limits. If they overstep their assigned limits, each one of them suffers and in the process the ultimate casualty is the larger national interest. The basic postulate of Parliamentary democracy, where the Parliament represents the people as the highest representative forum of the country is that it is not	

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				amenable to the jurisdiction of any other authority. Except as expressly permitted by the Constitution, no authority should assume the power to question or nullify Parliaments' decision or action as per the provisions of the Constitution. Exercise of power by any authority should not disturb the Constitutional balance and create tension in the body politic and uncertainty amongst the people.
7.	Jharkhand Vidhan Sabha	Yes		
8.	Karnataka Legislative Assembly	Yes		Often in the name of Judicial activism, Courts tend to transgress into the domains of Legislature resulting in confrontation situation between the Judiciary and Parliament, violating the Principle of Separation of power.
9.	Maharashtra Legislative Assembly	No		Recent trends of some judicial decisions show that judiciary is trying to usurp the jurisdiction of other authorities and transgress into the domains of Legislature and wants to supervise or control indirectly the actions or decisions of the Legislatures under the garb of judicial review. This judicial activism is

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				definitely leading to a near confrontation situation between the Legislature and the Judiciary. A time has now come to impress upon the judiciary to avoid confrontation by not transgressing its jurisdiction beyond the permissible areas as per the Constitution, which is very much required for healthy growth and strengthening the democratic fabric of our country.
10.	Nagaland Legislative Assembly	Yes		
11.	Rajasthan Vidhan Sabha	Yes		There definitely have been occasions where the role of the judiciary tantamount to interference in the affairs of Legislatures which is totally prohibited in the constitution scheme of things.
12.	Sikkim Legislative Assembly		No	No confrontation should be created.
13.	Uttar Pradesh Vidhan Parishad	Yes		
14.	West Bengal Legislative Assembly		No clear reply	Any over activism into the domain of other is not desirable. Sometimes the members themselves are responsible for causing judicial interferences in the jurisdiction of Parliament/ Legislature.

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15.	Mizoram Legislative Assembly	Yes		Such situations do occur on occasions.
16.	Puducherry Legislative Assembly	Yes		The courts do, on occasions, tend to transgress in the domains of legislature.
17.	Uttar Pradesh Legislative Assembly		No	
18.	Kerala Legislative Assembly		No clear reply	Judiciary in India has been assigned an active role under the Constitution. They have to exercise the judicial powers for protecting the fundamental rights and liberties of citizens in the country. At the same time judicial activism and self-restraint are to be maintained in a balanced manner. The increasing tendency of judiciary to transgress into the domains of legislatures either incidentally or willfully has to be curtailed.

Question No. 13 Any other comments/suggestions which you may like to make in the matter?

Sl.No.	Reply received from	Remarks
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1.	Chhattisgarh Legislative Assembly	Privileges should be allowed to evolve with time according to the situations and should not be confined by codification. Codification will throttle the flow of the privileges and will encourage judicial interference.

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2.	Goa Legislative Assembly	It is widely felt that privileges and immunities of the House, its members and Committees should not be codified. The present system gives less scope for the Judiciary to intervene in the internal working and affairs of the Legislature. The organs of the State should be vigilant to safeguard their powers and responsibilities and function within the framework of the powers entrusted to them by the Constitution.
3.	Haryana Vidhan Sabha	All the members, who bear seven principles of public life <i>viz.</i> selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
4.	Himachal Pradesh Vidhan Sabha	It is essentially only as a means to the effective discharge of the collective functions of the House that the individual privileges are enjoyed by the members.
5.	Maharashtra Legislative Assembly	A Constitutional Review Commission may be appointed to consider all these aspects <i>de novo</i> and eminent lawyers, jurists, academicians, politicians and constitutional experts may be actively involved in this sensitive issue concerning the relationship

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		between the Judiciary and Legislature detail discussion and deliberations may be held to resolve this delicate and complicated issue.
6.	Nagaland Legislative Assembly	We may keep to our own jurisdiction and look forward for harmonious relationship.
7.	Rajasthan Vidhan Sabha	The Constitution of India provides that any citizen of the country can approach the Judiciary to seek redressal of violation of his rights. On the face of it, there appears to be no flaw with this logic but, at the same time, there may be occasions where matters involving supreme organs of the State can be handled more delicately and tactfully.
8.	Sikkim Legislative Assembly	The Parliament has been transacting its business without being interfering by outside. Codification of law may create problem then solving them.
9.	West Bengal Legislative Assembly	Parliamentary privileges need not be codified in order to maintain the dignity of Parliament as conferred by the Constitution. But the members of the House for whom these privileges are guaranteed should observe a certain standard of

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		conduct, both inside and outside the House so as to enhance the dignity of Parliament and the members in general.
10.	Uttar Pradesh Legislative Assembly	Parliament should have the power to punish in case of both breach of privileges as well as misuse of privilege.
11.	Kerala Legislative Assembly	The pivotal role of the Supreme Court in ensuring that the other two organs of the Government act in accordance with the Constitution is commendable. At the same time, the sovereignty of Legislature in the field of Parliamentary privilege must be accepted by the Judiciary also. Mere codification of Parliamentary privileges will not put an end to the conflict, because once the privileges are codified by law, that law, like any other law would be subject to Fundamental Rights. A balanced approach based on mutual respect seems to be the only solution to the problem of conflict between the Legislature and the Judiciary, especially regarding the protection of privilege.

REPLIES FROM DEPUTY SPEAKERS/DEPUTY CHAIRMEN
OF VARIOUS STATE LEGISLATURES

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
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Question No. 1 Do you agree that powers, privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their Parliamentary duties and functions without any obstruction and hindrance?				
1.	Assam Legislative Assembly	Yes		
2.	Chhattisgarh Legislative Assembly	Yes		The aim of privileges is to encourage the members to participate without any fear in the parliamentary proceedings exempting proceedings of Legislature from the purview of the general law. Any kind of interference or hindrance in their parliamentary function amounts to breach of privilege.
3.	Delhi Vidhan Sabha	Yes		
4.	Goa Legislative Assembly	Yes		Privileges are enjoyed by the 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 Privileges of Parliament are granted to the members in order that

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				they may be able to perform their duty in the Parliament without any let or hindrance.
5.	Himachal Pradesh Vidhan Sabha	Yes		
6.	Jharkhand Vidhan Sabha	Yes		
7.	Maharashtra Legislative Assembly	Yes		The need for privileges is to carry out the parliamentary duties and function without any fear or favour and no body should obstruct or impede the Members from doing their duty as a Member. They should not be deterred or influenced or pressurized by extraneous considerations while carrying out their parliamentary functions and duties.
8.	Meghalaya Legislative Assembly	Yes		
9.	Puducherry Legislative Assembly	Yes		
10.	Rajasthan Vidhan Sabha	Yes		
Question No. 2		Since it is well settled that privileges are available to members of Parliament only in so far as these are absolutely necessary for them to discharge their parliamentary functions, do you feel that there is any scope for misuse of these privileges by the House or its members?		
1.	Assam Legislative Assembly	No		There is no single case of misuse of privilege by the House or its members of Assam Legislative Assembly.

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2.	Chhattisgarh Legislative Assembly	No		Privileges are available to the members only during the actual conduct of business in the House/Committee. The rights of the members are same as possessed by any other citizen except in the disposal of their parliamentary duties. Therefore, there is no possibility of misuse of privileges.
3.	Delhi Vidhan Sabha	No		
4.	Goa Legislative Assembly	No		There is hardly any scope for the misuse of these privileges, if they adhere to and, are within the ambit of the privileges granted. However, if they misuse these privileges, the House has powers to contain them and punish them.
5.	Himachal Pradesh Vidhan Sabha	No		
6.	Jharkhand Vidhan Sabha	No		
7.	Maharashtra Legislative Assembly	No		In a democracy, people are acting as a watch-dog and they judge the actions of their representatives every now and then, and the Judiciary is also very active in such matters and willing to interfere under the garb of judicial review and there are people who are always ready to champion the cause of

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				fundamental rights of people and especially the fourth pillar of the democracy <i>i.e.</i> Media/ Press is also very sensitive and alert to such issues. In these circumstances, we do not find that there is much scope for misuse of these privileges by the House or its members.
8.	Meghalaya Legislative Assembly		No clear reply	
9.	Puducherry Legislative Assembly		No	
10.	Rajasthan Vidhan Sabha		No	
Question No. 3 As privileges are enjoyed by members to function freely in the House as representatives of the people, can it be said that privileges are liable to be used by members against the interest of the very same people who are their constituents?				
1.	Assam Legislative Assembly		No	
2.	Chhattisgarh Legislative Assembly		No	Members are entitled to privileges only to the extent to which the House considers it apt for the disposal of his parliamentary duties. In the past more action have been taken against the members rather than the outsiders. Obviously, the House did not show any hesitation in taking action against the members in any such situation.

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3.	Delhi Vidhan Sabha	No		It is infeasible due to the fact that the privileges do not exempt the Members from the obligations to the society which apply to other citizens of the country. Further, these privileges available to individual members can be invoked only in such situation when their use is absolutely necessary for the House to perform its function freely.
4.	Goa Legislative Assembly	No		The members acting against the interest of their constituents will do so at their own peril.
5.	Himachal Pradesh Vidhan Sabha	No		
6.	Jharkhand Vidhan Sabha	No		
7.	Maharashtra Legislative Assembly	No		In democracy, any authority/individual who is at the helm of affairs is not supposed to take anti-people measures, which will make him unpopular. Parliament and its members being representatives of the very people will think twice before using the privileges against the interest of the people, who are electing them. The members enjoy the privileges for functioning freely in the House in order to take decisions in the best interest of their constituents

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				and, therefore, there is a remote possibility of such privileges being used by members against the interest of the very same people who are their constituents.
8.	Meghalaya Legislative Assembly	No		
9.	Puducherry Legislative Assembly	No		
10.	Rajasthan Vidhan Sabha	No		
Question No. 4 Bearing in mind the observations of the Supreme Court in MSM Sharma's case, do you feel that non-enactment of a law codifying their privileges was a deliberate act on the part of Parliament to keep their privileges vague?				
1.	Assam Legislative Assembly	No		
2.	Chhattisgarh Legislative Assembly	No		
3.	Delhi Vidhan Sabha	No		
4.	Goa Legislative Assembly	No		The Codification of Privileges was not resorted so as to keep the privileges vague and there was no political expediency or political compulsion nor need was felt for the same.
5.	Himachal Pradesh Vidhan Sabha	No		
6.	Jharkhand Vidhan Sabha	No		
7.	Maharashtra Legislative Assembly	No		When we have accepted that we will go by precedents of British House of Commons, as they existed on the date our

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				<p>Constitution came into force, there is no substance in saying that non-enactment of a law codifying the privileges was a deliberate act on the part of Parliament to keep their privileges vague. If over the centuries no difficulties or problems cropped up in UK in this respect, why should we apprehend that situation in India. It is absolutely within the domain of the Parliament and State Legislatures as to on which subject they should make a law or not, and therefore, it should be left to the collective wisdom of Parliament and State Legislatures, and Judiciary should refrain from advising about enacting a particular law especially when it touches the sensitive issue of power, privileges and immunities of Parliament, its members and Committees. In the light of the above, we don't feel that non-enactment of a law codifying their privileges was a deliberate act on the part of Parliament to keep their privileges vague.</p>
8.	Meghalaya Legislative Assembly		No	
9.	Puducherry Legislative Assembly		No	Defining privilege by law in the enactment.

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10.	Rajasthan Vidhan Sabha	Yes		As has been experienced world over, vested interests leave no opportunity to bring democratic institutions into disrepute and are always on the lookout to find more devious ways to escape the law of the land and, at the same time, serve their sinister purposes. Therefore, in my considered opinion, it was a deliberate act on the part of the Legislatures to not restrict the privileges by letters but in spirit.

Question No. 5 Do you feel that privileges of Parliament and its Committees and members need to be codified?

1.	Assam Legislative Assembly	No	
2.	Chhattisgarh Legislative Assembly	No	In this regard, the facts presented by then Speaker, Shri Mavalankar in 'The Presiding Officers Conference' held on 3rd of January, 1955 in Rajkot are absolutely justified, relevant and apt. "Codification of privileges may be a setback to the sovereignty and prestige of Legislature. It may be mentioned that neither House of Commons nor any House of Parliament can form new privileges. Acceptance is given to those privileges only which have been established by traditions over a period of time. Therefore, there is no need to codify privileges.

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3.	Delhi Vidhan Sabha	No		It may not be advisable to codify the privileges of Parliament and its Committees and Members keeping in mind its interpretation whether a particular act would come under the purview of the definition or not.
4.	Goa Legislative Assembly	No		If the privileges are codified or made into law, then the members have to use stringent constraints on their functioning, otherwise they may be made liable for contravening the legal framework of privileges. 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 would fetter to discourage the free expression of opinion or criticism, however prejudiced or exaggerated such opinions or criticism may be. It is also a tradition of the House, that unqualified and unconditional regrets or apology sincerely expressed by the persons

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				<p>guilty of breach of privilege and Contempt of the House, are accepted by the House and the House normally decides in such cases, to best consult in its own dignity by taking no further notice of the matter. Therefore, the Codification may stand in the way of exercising the powers of the House in its own wisdom. It is felt that there is no need to codify the privileges as the codification is likely to contain the prestige and sovereignty of the Parliament and State legislatures without any benefits and therefore codification is neither necessary nor desirable. Illustration may be taken of a Case of the Cash for Query about the expulsion of eleven members of Parliament for tabling the Questions in the House or raising certain issues for their pecuniary benefits.</p>
5.	Himachal Pradesh Vidhan Sabha	No		
6.	Jharkhand Vidhan Sabha	No		
7.	Maharashtra Legislative Assembly	No		<p>Parliament and State Legislatures have not exceeded or misused their powers or jurisdiction in the matter of privileges, and they acted with utmost</p>

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				<p>restraint and caution, and only where it was necessary to protect its credibility, dignity and honour, they have exercised the said power. Since, as on to-day, we don't find any difficulty in the matter of privileges, which are based on precedents, and no misuse has taken place, why to give away' the constitutional provisions with regard to privileges and replace the same by a new law in exercise of ordinary legislative powers. The real threat is of judicial activism, which will review the decisions in the matter of privileges on the basis of such a new law, and it will definitely erode the power, prestige and dignity of the Parliament and State Legislatures and undermine their very authority. If a new law is enacted, it will also lead to frivolous litigations, and every now and then, we will have to defend each and every action taken by the Parliament and State Legislatures in exercise of its privilege jurisdiction. This will pose great danger to complete democratic system. In view of this, we feel that privileges of Parliament and its Committees and members need not be codified.</p>

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8.	Meghalaya, Legislative Assembly		No	
9.	Puducherry Legislative Assembly		No	
10.	Rajasthan Vidhan Sabha		No	
Question No. 6 Don't you feel that with a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament?				
1.	Assam Legislative Assembly	Yes		There will be a lot of problems if the privilege is codified.
2.	Chhattisgarh Legislative Assembly	Yes		The House/Committee/ Members have the same privileges as members of House of Commons. If privileges are codified, the court will examine this act as they examine any other act. All the courts have to maintain the dignity of Parliament. The matters will come before the courts and the Parliament will lose its exclusive right to take decisions regarding privileges.
3.	Delhi Vidhan Sabha	Yes		
4.	Goa Legislative Assembly	Yes		The codified law may prescribe procedures, and specifics, which when contravened or willfully overstretched may create a situation wherein the

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				<p>intervention of the courts will become inevitable. This may give rise to a conflict between the Legislature and the Judiciary. Being a written law, it will make it difficult for the Parliament as well as the courts to reconcile and to maintain their dignity, mutual respect and harmony. This situation can be overcome if very stringent punishment is prescribed for such behaviour in the codified law.</p>
5.	Himachal Pradesh Vidhan Sabha	Yes		<p>Once, the privileges are codified by an Act of Parliament, the position will change entirely. The courts will examine the Statute and in view of the provisions of fundamental rights, it would be impossible for the Speaker to issue warrants without disclosing the grounds. This would certainly hamper the independence of the Parliament to protect and safeguard its privileges.</p>
6.	Jharkhand Vidhan Sabha	Yes		
7.	Maharashtra Legislative Assembly	Yes		<p>Benefits with a codified law more will flow to persons bent on vilifying Parliament, its members and Committees, who will have a tool in their hand to challenge every action of</p>

the Parliament and project themselves as the saviour or champion of human rights and try to harm and damage the reputation and prestige of this august body. It will certainly give a chance to intervene more often to the already active judiciary in such matters and show its upper hand at the cost of the dignity of the Parliament. Even now, with un-codified privileges, judiciary is intervening to a certain extent within the frame-work of the Constitutional mandate, but with a codified law they will always have a upper hand and a flood gate will be opened to challenge any action taken under the said codified law. The chances of danger and threat to the authority, prestige, dignity and honour of the Parliament would be manifold under the codified law. The Courts will have to entertain such cases, whenever approached by an aggrieved party, even if it has no merit and such cases will be treated as ordinary cases involving violation of ordinary law and it; may take years together to get early decisions, which will result into any action taken by the

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				Parliament in exercise of its privilege jurisdiction becoming infructuous.
8.	Meghalaya, Legislative Assembly	Yes		
9.	Puducherry Legislative Assembly	Yes		
10.	Rajasthan Vidhan Sabha	Yes		
Question No. 7 Codification of parliamentary privileges could end up in undue focus on specifics at the cost of substance. Please comment?				
1.	Assam Legislative Assembly		No clear reply	
2.	Chhattisgarh Legislative Assembly	Yes		
3.	Delhi Vidhan Sabha	Yes		
4.	Goa Legislative Assembly	Yes		If the Parliamentary privileges are codified, then the House may have to go to the specifics and follow the procedures under the Civil Procedure Code and the Evidence Act and finally may accept the apology, thereby much of the time is lost in specifics at the cost of substance.
5.	Himachal Pradesh Vidhan Sabha	Yes		Codification will crystallize the privileges and there will be no scope for the presiding authorities to deviate or change by interpretation.
6.	Jharkhand Vidhan Sabha	Yes		
7.	Maharashtra Legislative Assembly	Yes		If we codify the privileges, naturally any breach of the

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				<p>same will be viewed with reference to the provisions made in the codified law, and they will try to go by interpretation of each word of the provisions and try to show that a particular action or omission does not amount to breach of privilege. In that case the whole concentration will be on the interpretation of the specific wordings and the substance of the provision will be kept aside in order to save from the action for breach of privileges and contempt. The very purpose of privileges will be defeated and seriousness of the action will be diluted. The contemnor will always try to stress on specifics at the cost of substance of the provisions of codified law on privileges, which is not advisable because ultimately it will undermine the authority and dignity of the Parliament and State Legislatures. Let the Parliament be supreme in the area of deciding its privileges and no other authority should be given leverage in this respect.</p>
8.	Meghalaya, Legislative Assembly		No clear reply	
9.	Puducherry Legislative Assembly	Yes		

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10.	Rajasthan Vidhan Sabha	Yes		Whenever a law is legislated, brilliant minds in the lawyer fraternity start nitpicking its contents from their narrow self-serving perspectives. Startingly, when briefs of clients demand, they don't hesitate in taking diametrically opposite views on the same points of reference. The same fate is destined if privileges of the Legislatures are codified and, more importantly, most of the time of the Legislatures will be consumed in dealing with such issues, proving detrimental to its original task of debating issues of public interest and evolving policies in pursuit thereof.

Question No. 8 **There is a view among the members that they are performing their duties as members of Parliament even while taking up grievances and matters pertaining to their constituents with the concerned executive functionaries in their respective constituencies or else where. Hence there has been a demand by some members that in order to enable them to serve their constituents unfettered, parliamentary privileges should approximately be extended to them on such occasions too. In view of this position, do you feel that there is a need for broadening the content of parliamentary privileges? If so, please state reasons therefore.**

1.	Assam Legislative Assembly	No	Parliamentary privilege should not be extended to their respective constituencies.
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2.	Chhattisgarh Legislative Assembly		No	Privileges are given to the members to the extent to which these are deemed to be necessary in disposing their duties. The powers, privileges and immunities of the each House of Parliament and the members of the each House and the Committees will be such as defined by the law from time to time, as long as these are not defined, the position will be similar as it was at the time of adopting of Constitution which are in detail in itself. Therefore, the Parliament is entrusted with the power to expand the contents of the parliamentary privileges.
3.	Delhi Vidhan Sabha		No	There seems to be no need for broadening the content of Parliamentary privileges to the Members in order to resolve the grievances pertaining to their constituents with the concerned executive functionaries provided the executive functionaries perform their duties within the stipulated rules and regulation.
4.	Goa Legislative Assembly		No	
5.	Himachal Pradesh Vidhan Sabha		No	
6.	Jharkhand Vidhan Sabha		No	

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7.	Maharashtra Legislative Assembly		No	<p>The Executive is giving proper and due respect to the Members and try to sort out their problems within the given frame-work of rules and regulations. Our experience is that very often hon. Members of the State Legislature give notices for alleged breach of privileges on account of various reasons <i>viz.</i> not inviting for various functions or meetings held in there constituency, not mentioning their names on the invitation cards as guests or special invitees, not getting proper treatment and respect from Government Officers/ Officials, not getting response/replies to their letters to the Government concerning the grievances of people from their constituency, arranging official meetings during session period when they are not in a position to attend the same, not getting railway reservations on priority, etc. In fact such notices are based on mis-conception and it has nothing to do with the privileges. It can be termed as breach of propriety or decency or courtesy to be shown to the elected representatives, for which Government has issued</p>

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				<p>guide-lines from time to time, and this falls within the domain of executive functions and not the legislative functions. Therefore, if Members desire that there is need for broadening the content of parliamentary privileges, there is nothing wrong, but it can be done by way of issuing executive directions to the bureaucracy and not broadening the content of parliamentary privileges, otherwise it will loose its sharpness and sanctity, and it will become a weak tool in Parliamentary form of Government. Other methods or ways can be adopted to solve this grievance of the Members instead of broadening the content of existing parliamentary privileges.</p>
8.	Meghalaya, Legislative Assembly		No	
9.	Puducherry Legislative Assembly		No	
10.	Rajasthan Vidhan Sabha		No clear reply	
Question No. 9	<p>The Contempt of Court Act, 1971 defines "criminal contempt" as publication of any matter or the doing of any other act whatsoever which "scandalizes or tends to scandalize or lowers or tends to lower the authority of any court; prejudices or interferes or tends to interfere with the due course of any judicial proceedings; or interferes or tends to interfere with or obstructs or tends to obstruct, the administration of justice</p>			

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		<p>in any other manner". Since this definition, does not specify each and every act that may amount to contempt of court, it is a matter of interpretation whether a particular act would come under the purview of the definition or not. Likewise the definition of contempt of Parliament (See para 8 of the Background Note) does not specify each and every act, the commission or omission of which would amount to contempt of the House. In view of this position, how far the criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific, justified?</p>		

Sl.No.	Reply received from	Justified	Unjustified	Remarks
1	2	3	4	5
1.	Assam Legislative Assembly		Unjustified	Both the definition given in the Contempt of Court Act, 1971 and contempt of Parliament could not cover all aspects of the subject. However, these can be dealt with situation as arise by discussion.
2.	Chhattisgarh Legislative Assembly		Unjustified	The scope of Parliamentary privileges has been kept well-defined and limited. And the touchstone of it is if any allegation or aspersions have not been cast on the character or conduct as a member of House and these are not concerned with the matter taken up during the disposal of their duties, this does not amount to breach of privilege of the Parliament or the member of the Parliament. Therefore, it will not be appropriate to say that parliamentary privileges are vague and complex, the

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				facts and the circumstances of the matter actually determine when it is breach of privilege or when it is contempt of the House.
3.	Delhi Vidhan Sabha	Unjustified		The criticism of Parliament on this count is not justified considering the fact that the specific definition of contempt of House may not be practicable keeping in mind the dignity of each of House of parliament because by doing so, scope of interpretations of definition of Contempt of the House as envisaged would be restricted.
4.	Goa Legislative Assembly	Unjustified		It is not possible and feasible to prepare an exhaustive list of the powers, privileges and immunities of the members of Parliament other than those enjoyed by virtue of their Constitutional and Statutory powers. Due to the unfeasibility of preparing an exhaustive list of privileges powers and immunities of the members of the Parliament, the definition of contempt appears to be vague and unspecific.
5.	Himachal Pradesh Vidhan Sabha	Unjustified		Parliament is exercising its penal jurisdiction as sparingly as possible, and only when satisfied that it was essential to do so. For instance, the privilege of freedom from arrest has never been allowed to

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				interfere with the administration of criminal justice or emergency legislation, without a power to commit, the privileges of Parliament would not exist in their present form, and it would be hardly possible to adequately defend the dignity of Parliament against disrespect and affronts. Hence, it can not be said that the definition of contempt is deliberately kept vague or unspecific.
6.	Jharkhand Vidhan Sabha	Unjustified		
7.	Maharashtra Legislative Assembly	Unjustified		It should be left to the Parliament to decide as to whether a particular act or omission is contempt or not and Parliament should be the final arbiter in such matters and no other authority should intervene or interfere in such matters. Parliament, as a institution of great repute, always acts with restraint and caution in the matter of privileges and, therefore, the criticism of Parliament is not justified.
8.	Meghalaya, Legislative Assembly	Unjustified		
9.	Puducherry Legislative Assembly	Unjustified		
10.	Rajasthan Vidhan Sabha	No clear reply		The founding fathers of our Constitution, while formulating it, studied constitutions of different countries, evaluated their contents from the perspective of Indian

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				<p>conditions and made the lengthiest Constitution for India envisaging all possible scenarios in the working of it. However, they hesitated in putting in words the obvious requirement of harmonious construction and interpretation of it, leaving it to the innate wisdom of the august constitutional bodies. Sadly and contrarily, there have been far too many occasions of parochialism. The need of the hour is to take a constructive, healthy and magnanimous interpretation of the provisions of Constitution of India.</p>

Question No. 10 **Article 129 of the Constitution provides that the Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Don't you think that Parliament, being the supreme legislative body in the country should enjoy power to punish for its contempt in the same manner as is done by the Supreme Court, the supreme judicial body of the country?**

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
1.	Assam Legislative Assembly	Yes		As Supreme Legislative body, Parliament also have the right to punish if any contempt of procedure. But Parliament should not act like Supreme Court. Parliament should carry out their decision as per existing law of the land.

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2.	Chhattisgarh Legislative Assembly	Yes		Constitution is supreme in Federal System and its supremacy can only be protected by setting independent judicial system. In case the validity of any legislation is challenged in the court, the power to resolve the said dispute vests in the judiciary itself. As the Hon'ble Supreme Court itself has mentioned in the 'Searchlight Case'. The provision in Article 105(3) and Art. 194(3) are Constitutional Laws and they are not just ordinary laws made by the Parliament and as such these are supreme. Usually the power awarding punishment for breach of privilege vested in the legislatures is more or less similar or equivalent to the power vested in the judiciary for awarding punishment of its contempt.
3.	Delhi Vidhan Sabha	Yes		
4.	Goa Legislative Assembly		No	
5.	Himachal Pradesh Vidhan Sabha		No clear reply	The power of both Houses to punish Members and non-Members for disorderly behaviour and disrespectful acts has much in common with the authority inherent in the

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				Supreme Court. This means that the two Houses are enabled to safeguard and enforce their inherent authority without the compromise or delay.
6.	Jharkhand Vidhan Sabha	Yes		
7.	Maharashtra Legislative Assembly	Yes		The Parliament should have power to punish for its contempt and no other authority should have a right to review the same or interfere with it. In the above background, the Parliament cannot be treated as a inferior court in the matter of exercising its power to punish for breach of privileges and contempt, since it is supreme legislative body of the country. In no way, the status of Parliament should be down-graded in such matters and its penal powers reduced, curtailed or restricted in any way, and Parliament should enjoy the power to punish for its contempt in the same manner as is enjoyed by the Supreme Court.
8.	Meghalaya, Legislative Assembly	Yes		
9.	Puducherry Legislative Assembly	Yes		
10.	Rajasthan Vidhan Sabha		No clear reply	

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Question No. 11	<p>Each House of Parliament by convention possess not only the power to punish for contempt but also have the right to judge for themselves what is contempt or what is not. The power of the House to punish for contempt or breach of privilege is considered necessary to enable the house to discharge its functions and safeguard its authority and privilege. If in exercise of its penal powers, the House adopts a motion expelling (available to House by virtue of convention) some members for grave misconducts unbecoming of members, can the judiciary review such decisions?</p>			
1.	Assam Legislative Assembly	No		
2.	Chhattisgarh Legislative Assembly	No		When a question of parliamentary privileges arises, in the interest of smooth functioning of parliamentary democracy, it is mandatory that not only the privilege of parliament and the legislature remain intact but the power of the Houses for awarding punishment regarding breach of their privilege during the proceeding of the House can not be challenged. House is Supreme authority in such case and judiciary can not intervene in such matters.
3.	Delhi Vidhan Sabha	No		The House is at liberty by virtue of convention to exercise its penal powers to expel members for grave misconduct by adopting a motion if it is considered

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				necessary for proper discharge of its functions and to safe guard its authority and privilege.
4.	Goa Legislative Assembly	Yes		
5.	Himachal Pradesh Vidhan Sabha	No clear reply		All the legislations, whether Union, State or delegated—have been subject to the doctrine of <i>ultra vires</i> and judicial review. However, the framers of our Constitution intended to provide the Legislatures in India with exclusive jurisdiction to decide all matters relating to the privileges without any interference from the court of law.
6.	Jharkhand Vidhan Sabha	No		
7.	Maharashtra Legislative Assembly	No		Supreme Court has made certain observations. It is the stand of the judiciary that it has power to examine whether the privileges claimed are in existence and whether the power to punish for contempt or breach of privileges has been properly exercised or not. They have also accepted that Parliament has power to expel its members for grave misconduct unbecoming of members. But while doing so they are not ready to leave their power of judicial review

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				<p>even in such matters, which in fact amounts to undue interference in the sovereign working and functioning of the Parliament. Under the garb of judicial review, the judiciary wants to keep control over the penal powers of the Parliament indirectly, in spite of the fact that Parliament by convention possesses power to punish for contempt and also have right to judge for themselves what is its contempt or what is not. That power cannot be usurped by the Judiciary under the garb of judicial review. We feel that this matter requires due deliberations at length and a Constitutional Review Commission be set up to study all the aspects of powers, privileges, and immunities of Parliament, its Members, and Committees, and a clear cut provision be made to oust the jurisdiction of the Courts in such matters, and Parliament should have final authority on such subjects, and no other authority should be allowed to intervene or interfere.</p>
8.	Meghalaya, Legislative Assembly		No	

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9.	Puducherry Legislative Assembly		No	
10.	Rajasthan Vidhan Sabha		No	Every constitutional body and functionary, collectively and individually, has been bestowed with dignity, decorum and authority and if there is an instance contrary to it, effective remedial measures need to be taken immediately. Now in the constitutional scheme of things, Legislature has been made sovereign and independent and, consequently, corrective action in instances of grave misconduct unbecoming of its members has necessarily to be left to the collective wisdom of the august body. Of course, concerned member(s) should be afforded reasonable opportunity to explain and defend themselves and such proceedings may be conducted in a manner befitting the Legislature in quasi-judicial nature, not challengeable in any court of law.

Question No. 12 **Our constitution inherently follows the principle of 'separation of powers'. Would you agree that in the name of judicial activism, the courts do, on occasions, tend to transgress into the domains of legislature which is often resulting in near confrontation situations between the courts and the legislatures?**

1.	Assam Legislative Assembly	No clear reply	There is no possibility of any confrontation between judiciary and legislature if
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				both of them do not cross their limitation as there is a principle of separation of power between the two in the constitution of India.
2.	Chhattisgarh Legislative Assembly	Yes		
3.	Delhi Vidhan Sabha	Yes		This kind of confronting situations generally arise due to difference of opinion amongst legislature and Judiciary on interpretation of various provisions under the Constitution of India. Aware and active judiciary does not tend to transgress into the domains of legislature but it sometimes intervenes, whenever required, to ensure that the legislature performs its functions and discharge its responsibilities in conformity with the Constitution of India.
4.	Goa Legislative Assembly	Yes		
5.	Himachal Pradesh Vidhan Sabha		No clear reply	Although both the Legislature and the Judiciary are the creatures of the Constitution working within their respective spheres, yet issues have arisen from time to time, which seem to have detracted from the usual position of complimentary relationship between the Legislature and the Judiciary. Most of these are mainly related to the

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				<p>decisions by the Presiding Officers under the Anti Defection Law and to the field of parliamentary privileges. The basic postulate of Parliamentary democracy is that it is not amenable to the jurisdiction of any other authority. Except as expressly permitted by the Constitution, no authority should assume the power to question or nullify Parliaments' decision or action as per the provisions of the Constitution. Exercise of power by any authority should not disturb the Constitutional balance and create tension in the body politic and uncertainty amongst the people.</p>
6.	Jharkhand Vidhan Sabha	Yes		
7.	Maharashtra Legislative Assembly	Yes		<p>Recent trends of some judicial decisions show that judiciary is trying to usurp the jurisdiction of other authorities and transgress into the domains of Legislature and wants to supervise or control indirectly the actions or decisions of the Legislatures under the garb of judicial review. This judicial activism is definitely leading to a near confrontation situation between the Legislature</p>

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				and the Judiciary. A time has now come to impress upon the judiciary to avoid confrontation by not transgressing its jurisdiction beyond the permissible areas as per the Constitution, which is very much required for healthy growth and strengthening the democratic fabric of our country.
8.	Meghalaya, Legislative Assembly	Yes		
9.	Puducherry Legislative Assembly	Yes		
10.	Rajasthan Vidhan Sabha		No clear reply	

Question No. 13 Any other comments/suggestions which you may like to make in the matter.

Sl. No.	Reply received from	Remarks
1	2	3
1.	Chhattisgarh Legislative Assembly	The definition of privilege should develop naturally according to prevailing circumstances. The efforts to define and codify them should not be made. With the codification of the privileges, these are bound to be confined in the rigid definition and under such circumstances their may be a scope an undue judicial intervention.
2.	Himachal Pradesh Vidhan Sabha	It is, essentially only as a means to the effective discharge of the collective functions of the House that

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3.	Maharashtra Legislative Assembly	<p>the individual privilege are enjoyed by the Members.</p> <p>A Constitutional Review Commission may be appointed to consider all these aspects de novo and eminent lawyers, jurists, academicians, politicians, and constitutional experts may be actively involved in this exercise. Since this is a sensitive issue concerning the relationship between the Judiciary and Legislature, detailed discussion and deliberations may be held to resolve this delicate and complicated issue.</p>
4.	Rajasthan Vidhan Sabha	<p>The Constitution of India in its preamble begins with the words—"WE THE PEOPLE OF INDIA do hereby adopt, enact and give to ourselves this Constitution." <i>i.e.</i> the sovereignty lies with the people of India. Every organ of the State <i>viz.</i> Legislature, Executive and Judiciary must sub serve itself in the larger interest of the people of the country and when every institution is working for the ultimate goal of the welfare of the people, there should arise no occasion for confrontation between any of them. The need, however, is to accord primacy to duties rather than rights.</p>

**REPLIES FROM CHAIRMEN OF COMMITTEE OF
PRIVILEGES OF VARIOUS STATE LEGISLATURES**

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
Question No. 1	Do you agree that powers, privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their Parliamentary duties and functions without any obstruction and hindrance?			
1.	Andhra Pradesh Legislative Assembly	Yes		
2.	Bihar Vidhan Sabha	Yes		
3.	Chhattisgarh Legislative Assembly	Yes		The aim of privileges is to encourage the members to participate without any fear in the parliamentary proceedings exempting proceedings of legislature from the purview of the general law. Any kind of interference or hindrance in their parliamentary function amounts to breach of privilege.
4.	Goa Legislative Assembly	Yes		Privileges are enjoyed by the 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 Privileges of Parliament are granted to the members in order that

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				they may be able to perform their duty in the Parliament without any let or hindrance.
5.	Gujarat Legislative Assembly	Yes		The House and its members are protected by Parliamentary privileges. The privileges have been given to the House, its members and its committees so that they can perform their duties and functions freely and without any obstruction and hindrance. Privileges has been guaranteed to the members under the Constitution and so any action or speech made in the House by members cannot be challenged in a court of law. Safeguard against any action in the court of law will enable the members to serve a public cause without fear or favour.
6.	Haryana Vidhan Sabha	Yes		The object of Parliamentary privileges is to safeguard the freedom, the authority and dignity of Parliament. Privileges are necessary for the proper exercise of the functions entrusted to Parliament by the Constitution. It is true that they are enjoyed by any 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. When a member delivers his speech in the House he is protected under the privilege specified in the Constitution. Thus performing such parliamentary duty he is immune from any proceedings in any Court. In Parliamentary language the term privileges—is applied both to the immunities and exemption enjoyed by the members of one or other House of Parliament or both Houses individually. Some of the privileges of Parliament and its members and Committees are specified in the Constitution, certain statutes and the Rules of Procedure of the House, while others continue to be based on precedents of the British House of Commons and on conventions which have grown in our country. Thus powers of privilege should be used by the House only when it is reasonably necessary to protect the House from being obstructed. In this way, it can be said that the privileges do not discharge the member from the obligations to society.

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7.	Himachal Pradesh Vidhan Sabha	Yes		
8.	Jharkhand Legislative Assembly	Yes		
9.	Karnataka Legislative Council	Yes		The privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their parliamentary duties and functions without any obstructions and hindrance.
10.	Mizoram Legislative Assembly			The Committee of Privileges, Mizoram agrees that powers, privileges and immunities available to the House and its members are indeed meant to enable the House and its members to perform their Parliamentary duties and functions without any obstruction and hindrance.
11.	Puducherry Legislative Assembly			The privileges are meant not only for performing parliamentary duties and functions without any obstruction and hindrance, but also for discharging the function freely and without fear or favour.
12.	Rajasthan Vidhan Sabha			
13.	Uttar Pradesh Vidhan Parishad			

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Question No. 2 Since it is well settled that privileges are available to members of Parliament only in so far as these are absolutely necessary for them to discharge their parliamentary functions, do you feel that there is any scope for misuse of these privileges by the House or its members?				
1.	Andhra Pradesh Legislative Assembly	No		
2.	Bihar Vidhan Sabha	No		Privileges matters are examined at various levels. Hence there is no scope of its misuse.
3.	Chhattisgarh Legislative Assembly	No		Privileges are available to the members only during the actual conduct of business in the House/ Committee. The rights of the members are same as possessed by any other citizen except in the disposal of their parliamentary duties. Therefore, there is no possibility of misuse of privileges.
4	Goa Legislative Assembly	No		There is hardly any scope for the misuse of these privileges, if they adhere to and, are within the ambit of the privileges granted. However, if they misuse these privileges, the House has powers to contain them and punish them.
5.	Gujarat Legislative Assembly	No		There is no scope for misuse of this privilege by the House or its members.
6.	Haryana Vidhan Sabha	No		It is well settled that privileges are available to

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				<p>members of Parliament only in so far as these are absolutely necessary for them to discharge their parliamentary functions. They do not discharge the members from the obligations to society which apply to other citizens. Privileges of Parliament do not place a member of Parliament on a higher footing different than an ordinary citizen in the matter of application of laws when there are good and sufficient reasons in the interest of Parliament itself to do so. When any individual or authority disregards or attacks any of privileges, right and immunities, either of the members individually or of the House in its collective capacity or of its Committees, the offence is termed a breach of privilege and is punishable by the House.</p>
7.	Himachal Pradesh Vidhan Sabha	No		<p>The privileges of Parliament are rights absolutely necessary for the due execution of its duties. If a Member of Parliament/ State legislature is obstructed or molested while not discharging parliamentary duties, it does not mean that no breach of privileges/ contempt of the House has</p>

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				been committed. Because whatever at that particular moment the Member was doing it can well be presumed that the member must be doing something in his capacity as a Member of the House and must be doing public service, hence there is little scope left for misuse of the privileges by the House or its members.
8.	Jharkhand Legislative Assembly		No	
9.	Karnataka Legislative Council		No	Privileges are granted to members to ensure that they discharge their functions without any let or hindrance. However, this will not exempt the members from their obligations to the society, just like any other citizen. This will not make any difference between members and common citizen when it comes to the application of the law of the land, unless there are good and sufficient reasons in the interest of the Parliament itself to do so. "Privileges" granted to the members also accept the superiority of the basic principles of the Constitution. In the background of these restrictions, there is absolutely no scope for the members to misuse the "Privileges" granted to them.

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10.	Mizoram Legislative Assembly	Yes		The Committee feels that given the situation and the character of a member there is a scope for misuse of these privileges.
11.	Puducherry Legislative Assembly		No	There is no scope for misuse of the privileges.
12.	Rajasthan Vidhan Sabha		No	
13.	Uttar Pradesh Vidhan Parishad		No	
Question No. 3 As privileges are enjoyed by members to function freely in the House as representatives of the people, can it be said that privileges are liable to be used by members against the interest of the very same people who are their constituents?				
1.	Andhra Pradesh Legislative Assembly		No	
2.	Bihar Vidhan Sabha		No	
3.	Chhattisgarh Legislative Assembly		No	Members are entitled to privileges only to the extent to which the House considers it apt for the disposal of his parliamentary duties. In the past more action have been taken against the members rather than the outsiders. Obviously, the House did not show any hesitation in taking action against the members in any such situation.
4	Goa Legislative Assembly		No	The members acting against the interest of their constituents will do so at their own peril.

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5.	Gujarat Legislative Assembly		No	Privileges are well settled over the years and its exigencies were also recognized by every country following parliamentary democracy. These privileges were created during the gestation period of mother of Parliament for safeguarding the authority of Parliament against the British Monarchy as well as the judiciary for undue interference in the domain of Parliament. The mother of Parliament after establishing the authority of its own, restrained from creating a new privilege by passing resolution to that effect. Since then, the whole gamut of Parliamentary privileges restricted to the historical privileges. In India, it will be too early to review the scope and extent of our historical privileges. Barring few exceptions, the privileges were not misused and in India too, the resort to privileges are up to the extent of safeguarding the authority of our Parliament.
6.	Haryana Vidhan Sabha		No	They are enjoyed by individual Members only to the extent required by their service in their capacity as members. The privileges are not designed for the benefit of a special

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				group of citizens, but to safeguard the rights of each and every elector. The privilege of freedom of speech enjoyed by Members of Parliament is in truth the privilege of their constituents. It is secured to members not for their personal benefit, but to enable them to discharge the functions of their office without fear of prosecutions, civil or criminal. This is in accordance with the principle laid down by the Commons in a conference with the Lords in 1641. Civil or criminal, Privilege of Parliament is granted in regard of the service of the Commonwealth and is not to be used to the danger of common welfare.
7.	Himachal Pradesh Vidhan Sabha	No		It is well established... their own constituents.
8.	Jharkhand Legislative Assembly	No		When members are discharging their duties as representatives of the people and they are toiling for the betterment and upliftment of the common people, it cannot be said that the privileges are used by members against the interest of the constituents themselves. In a Parliamentary democracy like India, it is difficult, if not totally impossible, for

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				Parliament members to use their privileges against the interests of the people who are their constituents. The members who intend to be in the Parliament for some more terms, do not generally run the risk of doing so because, they have go to the same people to seek re-election.
9.	Karnataka Legislative Council		No	When members are discharging their duties as representatives of the people and they are toiling for the betterment and upliftment of the common people, it cannot be said that the privileges are used by members against the interest of the constituents themselves. In a Parliamentary democracy like India, it is difficult, if not totally impossible, for Parliament members to use their privileges against the interests of the people who are their constituents. The members who intend to be in the Parliament for some more terms, do not generally run the risk of doing so because, they have go to the same people to seek re-election.
10.	Mizoram Legislative Assembly	Yes		There is a possibility for members as representatives of the people, using these privileges against the interests of their constituents.

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11.	Puducherry Legislative Assembly			The statement the privileges could be used against the constituents is not agreed to. At the same time, the members should take in the right sense of the fair criticism of the people who elected the members.
12.	Rajasthan Vidhan Sabha	Yes		
13.	Uttar Pradesh Vidhan Parishad		No	
Question No. 4 Bearing in mind the observations of the Supreme Court in MSM Sharma's case, do you feel that non-enactment of a law codifying their privileges was a deliberate act on the part of Parliament to keep their privileges vague?				
1.	Andhra Pradesh Legislative Assembly		No	
2.	Bihar Vidhan Sabha		No	Codification has not been carried out in any of the countries having parliamentary system. The Conference of Presiding Officers have clearly decided against any codification. It is felt that Article 105 and Article 194 is sufficient.
3.	Chhattisgarh Legislative Assembly		No	Shri Mavalankar on the issue of framing of laws on privileges stated that it would be much better at this point of time if we would not define specific privileges rather we should rely on the precedents of the House of Commons in

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				Britain. At this juncture, if we codify privileges, the minus point would be this that we would not be able adapt ourselves with a new situation and further privileges could not be confined on the members. Today, at least, we are convinced that we have the same privileges as the members of House of Commons.
4	Goa Legislative Assembly		No	There are legislative powers available to Parliament to enact a law under Article 246 of the Constitution of India in respect of powers, privileges and immunities of Parliament and its Committees as well as the State Legislatures. However, if it contravenes ... the powers, privileges and immunities.
5.	Gujarat Legislative Assembly		No	In Parliamentary polity, the Parliament remains as the supreme representative and independent organ of the State and our constitution makers left this problem to the wisdom of the Parliament/Legislature. The role of the judiciary is restricted up to the judicial review of law passed by the Parliament/Legislatures. The observation made by the Supreme Court in the above case seems to be an

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				undue interference in the domain of the Parliament/ Legislatures. Article 194 of our Constitution explicitly lays down our main privileges and it will not be necessary to codify every act or behaviour for violation of these privileges because the law makers cannot anticipate the future human acts or behaviour at a given point of time. As per the law of privilege, it is for the Parliament to decide whether a breach of privilege has occurred or not and no other authority including the judiciary has any say in regard to the privilege.
6.	Haryana Vidhan Sabha	Yes		Categories of privileges and contempt should be defined to some extent. There must be some guidelines for future guidance of the House as with the passage of time new forms of obstructions, functions and duties have created new forms of privileges and contempt. Codification, if desirable at all could be effective only if embodied in legislation. The Parliament and State Legislatures have not made any law defining the powers, privileges and immunities. Privileges are available in India to the Houses of Parliament/

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				members by virtue of Constitution of provisions, statutory provisions, under the Rules of Procedure and Conduct of Business in the Houses of Parliament, precedents of British House of Commons and Conventions which have grown in this Country. Therefore, non-enactment of a law codifying their privileges appear to be a deliberate act on the part of Parliament to keep their privileges vague.
7.	Himachal Pradesh Vidhan Sabha		No	
8.	Jharkhand Legislative Assembly		No	
9.	Karnataka Legislative Council		No	The framers of Constitution wanted to skip the codification of "Privileges", because they wanted to give absolute powers to the Parliament itself to decide the issue of "Privileges" depending upon the nature of the issue.
10.	Mizoram Legislative Assembly		No	Parliamentary privileges are too vast any concise codification is not possible.
11.	Puducherry Legislative Assembly		No clear Reply	Defining privileges, by law, will not only narrow it down but will also lead to its interpretation and the loopholes in the enactment.
12.	Rajasthan Vidhan Sabha		No	
13.	Uttar Pradesh Vidhan Parishad		No	

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Question No. 5 Do you feel that privileges of Parliament and its Committees and members need to be codified?				
1.	Andhra Pradesh Legislative Assembly	No		
2.	Bihar Vidhan Sabha	No		Codification will hamper the independence of the Legislature.
3.	Chhattisgarh Legislative Assembly	No		In this regard, the facts presented by then Speaker, Shri Mavalankar in The Presiding Officers Conference held on 3rd of January, 1955 in Rajkot are absolutely justified, relevant and apt. Codification of privileges may be a setback to the sovereignty and prestige of Legislature. It may be mentioned that neither House of Commons nor any House of Parliament can form new privileges. Acceptance is given to those privileges only which have been established by traditions over a period of time. Therefore, there is no need to codify privileges.
4.	Goa Legislative Assembly	No		
5.	Gujarat Legislative Assembly	No		If once codified, it will be open to the aggrieved party to approach court of law and seek redressal of his grievances. This will be against the basic spirit for grant of privileges to Parliament and its historical position of highest court of record in the U.K.

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6.	Haryana Vidhan Sabha	No		The matter has been considered from time to time at the Conferences have been consistently of the view that codification of Parliamentary privileges is not feasible. The Committee of Privileges of Tenth Lok Sabha also decided to take a fresh look at the whole issue. The Committee adopted their draft Report on the issue of codification of Parliamentary Privileges on 18th July, 1994 and the same was laid on the Table of the House on 19th December, 1994. The Committee, in this Report recommended that it is not advisable to codify Parliamentary privileges.
7.	Himachal Pradesh Vidhan Sabha	No		
8.	Jharkhand Legislative Assembly	No		
9.	Karnataka Legislative Council	No clear reply		Though there is scope for codifying the Privileges, still I feel it may not be possible to cover the vast field where the issues of "Privileges" arise. In the event of codification, the Parliament should be vested with full powers to deal with privilege issues which are not included in the list of privileges codified.

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10.	Mizoram Legislative Assembly			The Committee does not feel a need for the codification of the privileges of Parliament. Its Committees and Members.
11.	Puducherry Legislative Assembly			
12.	Rajasthan Vidhan Sabha			
13.	Uttar Pradesh Vidhan Parishad			
Question No. 6	Don't you feel that with a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament?			
1.	Andhra Pradesh Legislative Assembly	Yes		
2.	Bihar Vidhan Sabha	Yes		Legislature is supreme in a parliamentary system. Moreover, Article 105, 194, 212 & 213 of the Constitution forbids the Courts or any external agencies to interfere with the power of the House in privileges matters.
3.	Chhattisgarh Legislative Assembly	Yes		The House/Committee/ Members have the same privileges as members of House of Commons. If privileges are codified, the court will examine this act as they examine any other act. All the courts have to maintain the dignity of

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				Parliament, if the matter comes before the courts otherwise the Parliament will lose its exclusive right to take decisions regarding privileges.
4	Goa Legislative Assembly	Yes		The codified law may prescribe procedures, and specifics, which when contravened or willfully overstretched may create a situation wherein the intervention of the courts will become inevitable. This may give rise to a conflict between the Legislature and the Judiciary. Being a written law, it will make it difficult for the Parliament as well as the courts to reconcile and to maintain their dignity, mutual respect and harmony. This situation can be overcome if very stringent punishment is prescribed for such behaviour in the codified law.
5.	Gujarat Legislative Assembly	Yes		At the moment given a proper understanding on both the sides, Parliamentary right to punish for breach of privilege and contempt would rather receive the support of courts than otherwise. A written law will make it difficult for Parliament as well as courts to maintain that dignity

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				which rightly belongs to Parliament and which the courts will always uphold as zealously as they uphold their own.
6.	Haryana Vidhan Sabha	Yes		With a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain the dignity which rightly belong to Parliament.
7.	Himachal Pradesh Vidhan Sabha	Yes		Once the privileges are codified by an Act of Parliament, the position will change entirely. The courts will examine the Statute and in view of the provisions of fundamental rights, it would be impossible for the Speaker to issue warrants without disclosing the grounds. This would certainly hamper the independence of the Parliament to protect and safeguard its privileges.
8.	Jharkhand Legislative Assembly	Yes		
9.	Karnataka Legislative Council	Yes		The apprehension that the persons who are bent on vilifying the Parliament, its members, and committees,

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				is not unreasonable. However, it is not difficult to overcome such risks of privilege codification by conferring adequate powers on the Parliament to deal with such undesirable situations.
10.	Mizoram Legislative Assembly	Yes		With a codified law the Parliament and its members will certainly be more vulnerable to qualification by outside forces and the dignity of the Parliament will be at risk.
11.	Puducherry Legislative Assembly	Yes		Codification will facilitate more litigations, which will make it difficult for the Parliament to maintain its dignity.
12.	Rajasthan Vidhan Sabha	Yes		
13.	Uttar Pradesh Vidhan Parishad	Yes		
Question No. 7 Codification of parliamentary privileges could end up in undue focus on specifics at the cost of substance. Please comment.				
1.	Andhra Pradesh Legislative Assembly	Yes		The conventions and parliamentary practices regarding privileges, immunization of the elected representatives of the Parliament or Assembly should be kept in tact and proper respect should be given. Immunities and privileges should be implemented in their true spirit.

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2.	Bihar Vidhan Sabha	Yes		Only those who do not believe in parliamentary system will benefit from any codification. It will end up in undue focus on specifics at the cost of substance.
3.	Chhattisgarh Legislative Assembly	Yes		
4.	Goa Legislative Assembly	Yes		If the Parliamentary privileges are codified, then the House may have to go to the specifics and follow the procedures under the Civil Procedure Code and the Evidence Act and finally may accept the apology, thereby much of the time is lost in specifics at the cost of substance.
5.	Gujarat Legislative Assembly	Yes		Codification will certainly end up in lowering the dignity and authority of Parliament and the substance of its existence will certainly be destroyed.
6.	Haryana Vidhan Sabha	Yes		
7.	Himachal Pradesh Vidhan Sabha	Yes		Codification will crystallize the privileges and there will be no scope for the presiding authorities to deviate or change by interpretation.
8.	Jharkhand Legislative Assembly	Yes		
9.	Karnataka Legislative Council		No	Given such experience that the Parliament has and the rich traditions that it has

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				built-up since its inception, the codification of parliamentary privileges need not end up in undue focus on specifics at the cost of substance. I am confident of the competence of our Parliament in giving due focus to the substance, of course, without slighting the specifics.
10.	Mizoram Legislative Assembly		No clear reply	
11.	Puducherry Legislative Assembly	Yes		It is agreed that codification will end in undue focus on specific at the cost of substance.
12.	Rajasthan Vidhan Sabha	Yes		
13.	Uttar Pradesh Vidhan Parishad	Yes		
Question No. 8 There is a view among the members that they are performing their duties as members of Parliament even while taking up grievances and matters pertaining to their constituents with the concerned executive functionaries in their respective constituencies or else where. Hence there has been a demand by some members that in order to enable them to serve their constituents unfettered, parliamentary privileges should approximately be extended to them on such occasions too. In view of this position, do you feel that there is a need for broadening the content of parliamentary privileges? If so, please state reasons therefore.				
1.	Andhra Pradesh Legislative Assembly		No	
2.	Bihar Vidhan Sabha		No	In India the privileges which are extended by the Constitution to the

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				Legislature, its Members etc. are equated with the privileges of the House of Commons, which may be referred in any exigency. Presently it appears to be sufficient in dealing with any situation.
3.	Chhattisgarh Legislative Assembly	No		Privileges are given to the members to the extent to which these are deemed to be necessary in disposing their duties. The powers, privileges and immunities of the each House of Parliament and the Members of the each House and the Committees will be such as defined by the law from time to time, as long as these are not defined, the position will be similar as it was at the time of adopting of Constitution which are in detail in itself. Therefore, the Parliament is entrusted with the power to expand the contents of the parliamentary privileges.
4	Goa Legislative Assembly	No		
5.	Gujarat Legislative Assembly	No		Parliamentary privileges have been given to the House, its members and its committees only. Privilege has been defined as "an exceptional right of exemption", and also as "an exception from some duty, burden, attendance or liability to which others are

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				<p>subject". The parliamentary privileges will come in picture only when an act or activity of a member has some direct or indirect relevance with the proceedings in Parliament. Any act or activity performed by a member for redressal of their constituents grievances may not have direct or indirect bearing with the proceedings in Parliament and as such, there is no need to broaden the concept of Parliamentary privilege for such act or activity.</p>
6.	Haryana Vidhan Sabha	No		<p>Parliamentary privileges are available to individual members only so far as they are necessary for the House to perform its functions. It is also well settled that neither House of Parliament can create new privileges. It is frequently argued or alleged in reference to some particular case, that the existing privileges of Parliament are being unjustifiably extended. This arrangement is based on misconception of law. It is the duty of Parliament to act effectively when breaches of its laws have occurred. It is not necessary to stress how menacing to all civil liberties it would be</p>

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				if Parliament yielded to outside pressure instead of using the weapon provided by law for its defence. It is within the competence of each House to expound the law of privilege and apply that law to the circumstances of each case as it arises. There is no need for broadening the content of parliamentary privileges.
7.	Himachal Pradesh Vidhan Sabha		No	In India the privileges which are extended by the Constitution to the Legislature, its Members etc. are equated with the privileges of the House of Commons. Even the House of Commons does not allow the creation of any new privileges. Hence, there is not need for broadening the content of parliamentary privileges.
8.	Jharkhand Legislative Assembly		No	
9.	Karnataka Legislative Council	Yes		They perform their duties as members of Parliament even while taking up grievances and matters pertaining to their constituents with the concerned executive functionaries in their respective constituencies or elsewhere. Therefore, their hands are to be strengthened by sufficient provisions in that regard.
10.	Mizoram Legislative Assembly		No	There appears to be no need for broadening the content of parliamentary privileges in this instance.

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11.	Puducherry Legislative Assembly		No	Privileges should be limited to the performance of parliamentary duties and it need not be extended outside. Privileges are necessary only for the proper exercise of the functions entrusted to Parliament by the Constitution.
12.	Rajasthan Vidhan Sabha	Yes		
13.	Uttar Pradesh Vidhan Parishad		No	

Question No. 9 **The Contempt of Court Act, 1971 defines “criminal contempt” as publication of any matter or the doing of any other act whatsoever which “scandalizes or tends to scandalize or lowers or tends to lower the authority of any court; prejudices or interferes or tends to interfere with the due course of any judicial proceedings; or interferes or tends to interfere with or obstructs or tends to obstruct, the administration of justice in any other manner”. Since this definition, does not specify each and every act that may amount to contempt of court, it is a matter of interpretation whether a particular act would come under the purview of the definition or not. Likewise the definition of contempt of Parliament (See para 8 of the Background Note) does not specify each and every act, the commission or omission of which would amount to contempt of the House. In view of this position, how far the criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific, justified?**

Sl.No.	Reply received from	Justified	Unjustified	Remarks
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1.	Andhra Pradesh Legislative Assembly		Unjustified	Specific powers have been assigned in the Constitution for the

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				Judiciary, Executive and the Legislature. The intention of the Parliament or Legislature is that the prestige and dignity of the Judiciary should not be undermined. Likewise, any Act that had been passed by the legislature after so much of the deliberations should not be viewed very lightly. They should not interfere with the functioning of each other.
2.	Bihar Vidhan Sabha	Unjustified	Articles 118 and 208 confers on the Legislature the right to punish anyone for its contempt. The Parliament exercises its penal jurisdiction on the recommendations of the Committee of Privileges. Therefore, any criticism is unjustified.	
3.	Chhattisgarh Legislative Assembly	Justified	The scope of Parliamentary privileges has been kept well-defined and limited. And the touchstone of it is if any allegation or aspersions have not been cast on the character or conduct as a member of House and these are not concerned with the matter taken up during the disposal of their duties, this does not amount to breach of privilege of the Parliament or the member of the Parliament.	

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				Therefore, it will not be appropriate to say that parliamentary privileges are vague and complex, the facts and the circumstances of the matter actually determine when it is breach of privilege or when it is contempt of the House.
4	Goa Legislative Assembly	Unjustified	It is not possible and feasible to prepare an exhaustive list of the powers, privileges and immunities of the members of Parliament other than those enjoyed by virtue of their Constitutional and Statutory powers.	
5.	Gujarat Legislative Assembly	Unjustified	There is material point in the criticism of the Parliament on the count of definition of the contempt of the Parliament. The contempt of the Parliament is generally defined as 'any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results.' The above definition is quite clear and specific, and therefore, it cannot be said that the definition of contempt of Parliament is vague and unspecific.	

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6.	Haryana Vidhan Sabha	Justified		<p>While a breach of privilege can be said to have taken place when any of the privileges specified in the Constitutional provisions, Rules of Procedure of the House, privileges governed by precedents of House of Commons and provisions under the statute are violated, the contempt of the House is generally defined as any act of omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any matter or officer of such House in discharge of his duty, or which has tendency, directly or indirectly, to produce such results. There is some vagueness in the law of Parliament as what constitutes breach of privilege or contempt of the House, and it appears to be a deliberate and intentional vagueness which seems to be preserved by House of Commons for good reason. Any attempt to translate them into precise rules must deprive them of the very quality which renders them adoptable to new and varying conditions, and new and unusual combinations of</p>

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				circumstances and indeed, might have the effect of restricting rather than safeguarding Members' privileges.
7.	Himachal Pradesh Vidhan Sabha	Unjustified		It should, however, be borne in mind that the Parliament is exercising its penal jurisdiction as sparingly as possible, and only when satisfied that it was essential to do so. For instance, the privilege of freedom from arrest has never been allowed to interfere with the administration of criminal justice or emergency legislation without a power to commit, the privileges of Parliament would not exist in their present form, and it would be hardly possible to adequately defend the dignity of Parliament against disrespect and affronts. Hence, it can not be said that the definition of contempt is deliberately kept vague or unspecific.
8.	Jharkhand Legislative Assembly	Unjustified		
9.	Karnataka Legislative Council	Unjustified		The "Contempt of Parliament" will have to be taken up in the same spirit as the "Contempt of Court" is taken up. Both are to be left to the discretion of the respective institutions and the highest authority in them will have to be vested

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				with such power. Therefore, the Parliament in its wisdom is always empowered to take its own decision in case of contempt of Parliament. Therefore, the criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific, is not justified.
10.	Mizoram Legislative Assembly		Unjustified	There cannot be a clear-cut and unambiguous definition of parliamentary privileges.
11.	Puducherry Legislative Assembly		Unjustified	The Statement that the definition of contempt of the House is vague and unspecific is not justified.
12.	Rajasthan Vidhan Sabha		Unjustified	
13.	Uttar Pradesh Vidhan Parishad		Unjustified	
Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
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Question No. 10	Article 129 of the Constitution provides that the Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Don't you think that Parliament, being the supreme legislative body in the country should enjoy power to punish for its contempt in the same manner as is done by the Supreme Court, the supreme judicial body of the country?			
1.	Andhra Pradesh Legislative Assembly	Yes		
2.	Bihar Vidhan Sabha	Yes		

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3.	Chhattisgarh Legislative Assembly	Yes		Constitution is supreme in federal system and its supremacy can only be protected by the setting independent judicial system. In case the validity of any legislation is challenged in the court, the power to resolve the said dispute vests in judiciary itself. As the Hon'ble Supreme Court itself has mentioned in the Searchlight Case, the provision in article 105(3) and article 194(3) are constitutional laws and they are not just ordinary laws made by the Parliament and as such these are supreme. Usually the power for awarding punishment for breach of privilege vested in the legislatures is more or less similar or equivalent to the power vested in the judiciary for awarding punishment of its contempt.
4.	Goa Legislative Assembly		No	
5.	Gujarat Legislative Assembly	Yes		The Parliament as a supreme legislative body and historically highest court of record has the power to punish for its contempt in the same manner as is done by the Supreme Court.
6.	Haryana Vidhan Sabha	Yes		Each House of Parliament, as also a House of the legislature of a State has the

power to punish for breach of privilege or contempt of the House and commit the offender to custody of prison. Parliament and State Legislature possess not only the power to punish for contempt but have also the right to judge for themselves what is contempt or what is not, as without this privilege of punishing for contempt would be worthless. The power of the House to punish for contempt has been aptly described as the Keystone of parliamentary privileges and is considered necessary to enable the House to discharge its functions and safeguard its authority and privileges. This power is akin in nature and owes its origin to the powers possessed by the Courts of law to punish for contempt. Without such a power the House would sink in utter contempt and inefficiency. Thus the House exercises the power of superior Court, namely a Court of Record while issuing a warrant for contempt of the House. Supreme body in the country should enjoy the power to punish for its contempt in the same manner as is done by the Supreme Court.

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7.	Himachal Pradesh Vidhan Sabha		No clear reply	The power of both Houses to punish Members and non-Members for disorderly behaviour and disrespectful acts has much in common with the authority inherent in the Supreme Court. This means that the two Houses are enabled to safeguard and enforce their inherent authority without the compromise or delay.
8.	Jharkhand Legislative Assembly	Yes		
9.	Karnataka Legislative Council		No clear reply	This Question needs a thorough discussion.
10.	Mizoram Legislative Assembly	Yes		Punishment, however, for its contempt should depend on consensus among the members and should not contravene any other provisions of the constitution.
11.	Puducherry Legislative Assembly	Yes		Parliament should enjoy power to punish for its contempt in the same manner; the Supreme Court has powers to punish for its contempt.
12.	Rajasthan Vidhan Sabha		No	It may lead to confrontation between the legislature and the judiciary.
13.	Uttar Pradesh Vidhan Parishad	Yes		

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Question No. 11				
	<p>Each House of Parliament by convention possess not only the power to punish for contempt but also have the right to judge for themselves what is contempt or what is not. The power of the House to punish for contempt or breach of privilege is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege. If in exercise of its penal powers, the House adopts a motion expelling (available to House by virtue of convention) some members for grave misconducts unbecoming of members, can the judiciary review such decisions?</p>			
1.	Andhra Pradesh Legislative Assembly	No	<p>The recent judgment of the Supreme Court in clearly says that the House has the power. Judiciary should not interfere within the punishment given by the House in case of the misconduct of the Members.</p>	
2.	Bihar Vidhan Sabha	No	<p>The penal powers are exercised only after extensive deliberations on the matter. Therefore, the judiciary should not review its decisions.</p>	
3.	Chhattisgarh Legislative Assembly	No	<p>When a question of parliamentary privileges arises, in the interest of smooth functioning of parliamentary democracy, it is mandatory that not only the privilege of Parliament and the Legislature remain intact but the power of the Houses for awarding punishment regarding</p>	

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				breach of their privilege during the proceeding of the House cannot be challenged. House is Supreme authority in such case and judiciary cannot intervene in such matters.
4.	Goa Legislative Assembly	Yes		
5.	Gujarat Legislative Assembly		No	The courts in India have time to time encroached into the domain of Parliament by their constitutional right of judicial review. So far as the domain of Parliamentary privileges is concerned, the courts have no right for undertaking judicial review.
6.	Haryana Vidhan Sabha	Yes		The framers of the Constitution intended the House to be sole judge on a question of admitted privilege. It is well established now that the House of Commons in England has certain well defined rights and privileges honoured and sanctified by tradition and custom, one of the most important of them being the right to commit a person for contempt of its high authority and for breach of privileges. The power of the House to punish for contempt or breach of privilege is considered necessary to

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				enable the House to discharge its functions and safeguard its authority and privilege. When Ch. Hardwari Lal, a member of Haryana Vidhan Sabha was found guilty for the contempt of the House and he was expelled from the membership of the House on a resolution passed by the House, he challenged it in the Hon'ble Punjab and Haryana High Court which held that House has no power to expel a member from the membership of the House whereas Madhya Pradesh High Court in a case has held otherwise. There are several cases of expulsion of members on the ground of grave misconduct by the rouse but this punishment can be reviewed by the judiciary under the judicial review.
7.	Himachal Pradesh Vidhan Sabha	No clear reply		All the legislations, have been subject to the doctrine of <i>ultra vires</i> and judicial review. However, the framers of our Constitution intended to provide the Legislatures in India with exclusive jurisdiction to decide all matters relating to the privileges without any interference from the court of law.
8.	Jharkhand Legislative Assembly	No		

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9.	Karnataka Legislative Council	No		The judiciary cannot review such punishments, since the House itself enjoys supreme power to punish for contempt of the House.
10.	Mizoram Legislative Assembly	Yes		The Committee feels that a judicial review should be available as a choice for the expelled member to keep the principle of check and balances.
11.	Puducherry Legislative Assembly	No		Power to punish including the punishment to expel its members for grave misconduct should be left to the Parliament and it should be outside the purview of judicial review.
12.	Rajasthan Vidhan Sabha	Yes		This may help the aggrieved members to rectify the arbitrary and biased decisions, if any, of the House.
13.	Uttar Pradesh Vidhan Parishad	No		
Question No. 12 Our constitution inherently follows the principle of 'separation of powers'. Would you agree that in the name of judicial activism, the courts do, on occasions, tend to transgress into the domains of legislature which is often resulting in near confrontation situations between the Courts and the Legislatures?				
1.	Andhra Pradesh Legislative Assembly	Yes		
2.	Bihar Vidhan Sabha	No clear reply		It was decided in Conferences of Presiding Officers that both Judiciary

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				and Legislative should work within their ambits without transgressing upon the powers & functions of the others.
3.	Chhattisgarh Legislative Assembly	Yes		
4	Goa Legislative Assembly	Yes		
5.	Gujarat Legislative Assembly	Yes		The judiciary in the name of judicial activism often transgress into the domains of legislature which ultimately results into the confrontation between these two organs of State.
6.	Haryana Vidhan Sabha	Yes		“The Courts of law in India have recognized that a House of Parliament or a State Legislature is the sole authority to judge as to whether or not there has been a breach of privilege in a particular case. It has been held that the power of the House to commit for contempt is identical with that of the House of Commons, and that a Court of law would be incompetent to scrutinize the exercise of that power. Our Constitution inherently follows that principle of ‘separation of powers’. However, there are instances when in the name of judicial activism the Courts transgressed in to domains of Legislature which

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				resulted into confrontation situations between the Courts and the legislatures.
7.	Himachal Pradesh Vidhan Sabha	Yes		Although both the Legislature and the Judiciary are the creatures of the Constitution working within their respective spheres, yet issues have arisen from time to time, which seem to have detracted from the usual position of complimentary relationship between the Legislature and the Judiciary. Most of these are mainly related to the decisions by the Presiding Officers under the Anti Defection Law and to the field of parliamentary privileges. The three organs of the State are meant to be active within their own limits.
8.	Jharkhand Legislative Assembly	Yes		
9.	Karnataka Legislative Council	Yes		That depends upon individual cases.
10.	Mizoram Legislative Assembly	Yes		The Committee agrees that such situations do occur on occasions.
11.	Puducherry Legislative Assembly	Yes		The courts do, on occasions, tend to transgress in the domains of legislature.
12.	Rajasthan Vidhan Sabha		No	
13.	Uttar Pradesh Vidhan Parishad	Yes		

Sl.No.	Reply received from	Remarks
Question No. 13 Any other comments/suggestions which you may like to make in the matter.		
1.	Bihar Vidhan Sabha	Judicial power ought to be distinct from both the legislature and the executive and independent of both, so that it may be a check upon both, as both should be checks upon that.
2.	Chhattisgarh Legislative Assembly	The definition of privilege should develop naturally according to prevailing circumstances. The efforts to define and codify them should not be made. With the codification of the privileges, these are bound to be confined in the rigid definition and under such circumstances their may be a scope an undue judicial intervention.
3.	Goa Legislative Assembly	The following countries have specially codified the privileges, defined by law. These are Australia, Canada, Sri Lanka, Kenya, Zambia, Trinidad and Tobago and Malaysia. It is suggested that the comparative examination may be made of the codified laws of the above countries, also, their effects and ramifications may be studied, so that the benefits and pitfalls of the codification may be revealed, which will help to decide issue of codification of privileges in the Indian Parliament and the State Legislatures, which has been inviting attention since sometime, to a logical conclusion.
4.	Himachal Pradesh Vidhan Sabha	It is, essentially only as a means to the effective discharge of the collective functions of the House that the individual privilege are enjoyed by the Members.

REPLIES FROM MINISTRY OF PARLIAMENTARY AFFAIRS OF THE
STATE LEGISLATURES

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
Question No. 1 Do you agree that powers, privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their Parliamentary duties and functions without any obstruction and hindrance?				
1.	Government of Assam	Yes		
2.	Government of Chhattisgarh	Yes		
3.	Government of Gujarat	Yes		
4.	Government of Himachal Pradesh	Yes		Because the foundation upon which the privileges rest is the maintenance of the dignity and independence of the House and of its Members. The privileges, though part of the Law of the land, are to a certain extent an exemption from the general law. Certain rights and immunities such as freedom from arrest or freedom of speech belong primarily to individual Members of Parliament. State Legislatures and exist because the House cannot perform its functions without unimpeded use of the services of its Members.
5.	Government of Karnataka	Yes		
6.	Government of Madhya Pradesh	Yes		

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7.	Government of Meghalaya	Yes		It should not give them absolute immunity to commit criminal offences.
8.	Government of Mizoram	Yes		
9.	Government of Nagaland		No clear Reply	
10.	Government of Punjab	Yes		
11.	Government of Rajasthan	Yes		
12.	Government of Sikkim	Yes		
13.	Government of Tripura	Yes		
<p>Question No. 2 Since it is well settled that privileges are available to members of Parliament only in so far as these are absolutely necessary for them to discharge their parliamentary functions, do you feel that there is any scope for misuse of these privileges by the House or its members?</p>				
1.	Government of Assam		No	
2.	Government of Chhattisgarh		No	
3.	Government of Gujarat		No	The privileges granted are only in order that the members may be able to perform their duty in Parliament without any hindrance. So far as members' obligation to society is concerned, an ordinary law applies in his case and in that way he is treated on the same footing with an ordinary citizen.
4.	Government of Himachal Pradesh		No	The privileges of Parliament are rights absolutely necessary for the due execution of its

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				<p>powers. If a Member of Parliament/State legislature is obstructed or molested while not discharging parliamentary duties, it does not mean that no breach of privileges contempt of the House has been committed. Because whatever at that particular moment the Member was doing it can well be presumed that the Member must be doing something in his capacity as a Member of the House and must be doing public service, hence there is little scope left for misuse of the privileges by the House or its Members.</p>
5.	Government of Karnataka	Yes		
6.	Government of Madhya Pradesh	Yes		It can be misused in rare cases.
7.	Government of Meghalaya	Yes		
8.	Government of Mizoram	Yes		<p>Privileges available to the members of Parliament are by virtue of constitutional provisions and statutory provisions and under Rules of Procedure and conduct of Business of the House are limited to the sittings and the businesses of the House, which should not be extended outside or beyond any sittings or business of the House. Once it is invoked in matters not connected with the sittings or businesses of the House, then it is an abuse of the privilege or the immunity.</p>

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9.	Government of Nagaland		No clear reply	
10.	Government of Punjab	Yes		
11.	Government of Rajasthan		No	
12.	Government of Sikkim		No	
13.	Government of Tripura		No	
Question No. 3 As privileges are enjoyed by members to function freely in the House as representatives of the people, can it be said that privileges are liable to be used by members against the interest of the very same people who are their constituents?				
1.	Government of Assam		No	
2.	Government of Chhattisgarh		No	
3.	Government of Gujarat		No	Basically, the privileges granted are only in order that Members may be able to perform their official duties and functions without any hindrance. Such privileges will enable the members to take up the issues and grievances of the people of these constituencies and also with the concerned executive functionaries.
4.	Government of Himachal Pradesh		No	It is well-established principle of parliamentary practices that Members are primarily and basically constituency based and supposed to be constituency oriented, hence, they cannot use their privileges against their own constituents.

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5.	Government of Karnataka	Yes		
6.	Government of Madhya Pradesh		No clear reply	
7.	Government of Meghalaya	Yes		
8.	Government of Mizoram		No	
9.	Government of Nagaland		No clear reply	
10.	Government of Punjab	Yes		Some of the elected MPs forget their duties towards the people and they treat themselves as masters and rulers of the people who elected them. They should visit their constituencies frequently and listen to the grievances of the people and try to solve them locally in association with the local administration or bring the same to the notice of the State Government.
11.	Government of Rajasthan		No	
12.	Government of Sikkim		No	
13.	Government of Tripura		No	
Question No. 4 Bearing in mind the observations of the Supreme Court in MSM Sharma's case, do you feel that non-enactment of a law codifying their privileges was a deliberate act on the part of Parliament to keep their privileges vague?				
1.	Government of Assam	Yes		
2.	Government of Chhattisgarh		No	
3.	Government of Gujarat		No	Non-enactment of law codifying the privilege is subject matter that

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				<p>was examined by the Conference of the Presiding Officers and conclusion was that the codification is more likely to harm the prestige and sovereignty of the British House also worth to rely upon the precedents of the British House of Commons. Once the privileges are defined, it will be difficult to give members additional privileges whenever some new circumstances arise. The institution has granted privileges that are equated to those of the House of Commons. Hence, law to codify the privileges shall mean legislation only in regard to matters acceptable to the Government of the day.</p>
4.	Government of Himachal Pradesh	No		<p>Privileges enjoyed by Houses and Members of State Legislatures are part and parcel of the Constitution of India and are provided under the provisions of the Constitution and Statutes <i>i.e.</i> Civil Procedure Code, which in itself is a fundamental law. Hence there seems no deliberate act or malafide attention on the part of the Parliament.</p>
5.	Government of Karnataka	No		<p>An attempt has not been made to enact a law codifying the privileges, till today.</p>

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6.	Government of Madhya Pradesh		No clear reply	
7.	Government of Meghalaya		No	
8.	Government of Mizoram		No clear reply	
9.	Government of Nagaland		No clear reply	Whether privileges of the legislatures are codified or not, in the event of their use/abuse threatening gravely the life and liberty of individuals, the issues are bound to become justiciable. The question why Parliament has deliberately kept privileges out of codification, is, therefore, irrelevant, in that context. Even if privileges are codified and explicitly courts' jurisdiction is ousted, they would not escape the scrutiny of the courts/since judicial review has come to stay as a key ingredient of basic structure of the Constitution.
10.	Government of Punjab	Yes		
11.	Government of Rajasthan		No	
12.	Government of Sikkim		No	It is not correct to say that no law has been enacted codifying the privileges to keep the privileges "vague". Privileges are available in India to the Houses of Parliament/ members by virtue of Article 105 of the Constitution as well as

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				under the rules of procedure and conduct of business made by the Houses of Parliament.
13.	Government of Tripura	No		For transparency and accountability privileges and immunities must be codified.
Question No. 5 Do you feel that privileges of Parliament and its Committee and members need to be codified?				
1.	Government of Assam	Yes		
2.	Government of Chhattisgarh	No		
3.	Government of Gujarat	No		Ultimately such codification shall lead to conceiving the views of this or that party and such attempt may lead to a substantial curtailment of the privileges as they exist today. Secondly, once legislation is framed there shall not be any scope to widen or change the same by interpretation of privileges as it is done today.
4.	Government of Himachal Pradesh	No		The matter regarding codification of privileges was considered and deliberated upon from time to time at the conferences of Presiding Officers. Each time it has been viewed that codification is neither required nor it is feasible. Moreover, the Privileges Committee of

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				Tenth Lok Sabha also considered the matter regarding codification of parliamentary privileges. The Committee obtained the opinion of eminent persons from all walks of life and submitted its report in the year 1994. The Committee were of the opinion that it was not advisable to codify the Parliamentary privileges.
5.	Government of Karnataka	Yes		
6.	Government of Madhya Pradesh		No clear reply	
7.	Government of Meghalaya	Yes		It will help establish the circumstances under which the privileges and immunities hold good.
8.	Government of Mizoram	Yes		Nothing should remain vague, and left for interpretation by the writ courts.
9.	Government of Nagaland	Yes		Powers and immunities of the legislators, legislatures and their Committees need to be statutorily enumerated.
10.	Government of Punjab	Yes		
11.	Government of Rajasthan		No	Codification can be opted for but at the same time, it is not the scenario where the present legislation is ambiguous and leaves enough scope for varied interpretation. Art. 105 and Art. 194 are crystal clear and specific.

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12.	Government of Sikkim	No		The question of legislation on the subject has engaged the attention of the Presiding Officers. In the Conference of the Presiding Officers, it has been felt and resolved that codification of Parliamentary privileges is not feasible.
13.	Government of Tripura	Yes		
Question No. 6 Don't you feel that with a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament?				
1.	Government of Assam	Yes		
2.	Government of Chhattisgarh	No		Codification of privileges has not been felt necessary in United Kingdom also from where these concepts have been borrowed.
3.	Government of Gujarat	No		The statute on the subject will be examined in the same way as any other law passed by the Parliament. Even the courts may come to the conclusion that in view of the provisions in Fundamental Rights it is not open to any legislature in India to authorize Speaker in certain issues. Moreover, all matters would come before the courts and Parliament would lose its exclusive

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				rights to determine the matter pertaining to the privileges.
4.	Government of Himachal Pradesh	Yes		Once the privileges are codified by an Act of Parliament, the position will change entirely. The courts will examine the Statute and in view of the provisions of fundamental rights, it would be impossible for the Speaker to issue warrants without disclosing the grounds. This would certainly hamper the independence of the Parliament to protect and safeguard its privileges.
5.	Government of Karnataka		No	If the law is so enacted so as to have no difficulty for the Parliament as well as the Courts to maintain the dignity of the Parliament there may be no difficulty.
6.	Government of Madhya Pradesh		No clear reply	
7.	Government of Meghalaya	Yes		It will help clear the grey areas.
8.	Government of Mizoram		No	
9.	Government of Nagaland		No clear reply	
10.	Government of Punjab	Yes		The problem if any comes due to the codification, the same can be removed by taking away the jurisdiction of the courts.
11.	Government of Rajasthan	Yes		

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12.	Government of Sikkim	Yes		Codification of parliamentary privileges will not serve the purpose.
13.	Government of Tripura		No	
Question No. 7 Codification of parliamentary privileges could end up in undue focus on specifics at the cost of substance. Please comment.				
1.	Government of Assam		No	
2.	Government of Chhattisgarh	Yes		
3.	Government of Gujarat	Yes		
4.	Government of Himachal Pradesh	Yes		Any legislation with regard to codification of the privileges will crystallize the privileges and there will be no scope for the Presiding Officers authorities to widen or change them by interpretation.
5.	Government of Karnataka		No	In the Karnataka Legislature, the privileges have been provided in the respective rules of procedures of each House. If a law is enacted under Article 194(3) read with entry 39 of the List II of the Seventh Schedule to the Constitution, more clarity could be achieved with respect to the privileges.
6.	Government of Madhya Pradesh		No clear reply	
7.	Government of Meghalaya	Yes		Codes should not talk too much on specifics but on circumstances where privileges will apply.

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8.	Government of Mizoram	No		
9.	Government of Nagaland			Critical examination of "specifics" may have the potential of wearing out "substance" of its suppositions, assumptions, presumptions and prejudices and, therefore, if codification of powers and immunities of legislators and Legislatures supposedly brings about this focus as feared in the question, it should be preferred for its purgative value.
10.	Government of Punjab	No		It will make no difference. The MPs should be well aware of their functions, duties and responsibilities and to think about the welfare of the constituents who have elected them as their representatives.
11.	Government of Rajasthan	Yes		The saner collective voice of the Legislatures deliberates upon the issue and takes a very liberal view keeping the sovereignty and dignity of the Houses in mind. Therefore, public opinion has, more often than not, sided with the Legislatures in pursuit of their power, privileges and immunities. If they are codified and given tangible shape chances are Legislatures will be dragged to courts

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				by trouble-mongers seeking redressal of real or imagined compromises with their freedoms enshrined in the Constitution. Thus, Legislatures will be seized more with matters connected with judicial proceedings, greatly compromising and handicapping it, with the short time available with it to discuss public issues.
12.	Government of Sikkim	Yes		Parliamentary privileges are available to individual members only in so far as they are necessary for the House to perform its functions. Article 105 of the Constitution of India which provides for powers, privileges and immunities of the House of Parliament and of the members takes care of the situation. Each House of Parliament is the custodian of its won privileges. The courts of law in India have recognized that each House of Parliament is the sole and supreme authority to judge as to whether or not there has been a breach of privilege or contempt of the House. The history of Indian Parliament would indicate that in about 56 years Indian Parliament has exercised its powers of reprimand only in a few

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				cases. This goes to establish that the Houses of Parliament are cognizant of their powers and exercise them by self-imposed restraints.
13.	Government of Tripura	No		
Question No. 8	<p>There is a view among the members that they are performing their duties as members of Parliament even while taking up grievances and matters pertaining to their constituents with the concerned executive functionaries in their respective constituencies or else where. Hence there has been a demand by some members that in order to enable them to serve their constituents unfettered, parliamentary privileges should approximately be extended to them on such occasions too. In view of this position, do you feel that there is a need for broadening the content of parliamentary privileges? If so, please state reasons therefore.</p>			
1.	Government of Assam	Yes		
2.	Government of Chhattisgarh	No		
3.	Government of Gujarat	No		If the views expressed in the questions are accepted it will then be necessary to codify the privileges by enacting a law. As the privileges are available to individual members for the performance of their functions in the House, the acceptance of the views as stated will amount creating new privileges which is not possible.
4.	Government of Himachal Pradesh	No		In India the privileges which are extended by the Constitution to the

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				Legislature, its Members etc. are equated with the privileges of the House of Commons. Even the House of Commons does not allow the creation of any new privileges. Hence, there is no need for broadening the content of parliamentary privileges.
5.	Government of Karnataka	Yes		Members should have the privileges while discharging their functions as representatives of the people in the constituencies.
6.	Government of Madhya Pradesh	Yes		Any such extension should be upto the limit where the member may be able to help the citizens of his constituency.
7.	Government of Meghalaya		No	The circumstances under which privileges apply can take this into account.
8.	Government of Mizoram		No	If scope of the expression "privileges" is widened so as to include immunity as provided in clause (2) of article 105 or 194, as the case may be, read with article 361A of the Constitution then such immunity is restricted to anything done or said only in the House, and not outside. Otherwise the powers and privileges should be appropriately extended to them while taking up grievances and

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				matters pertaining to their constituencies with the concerned executive functionaries therein.
9.	Government of Nagaland	No		Parliamentary privileges are meant for unhindered functioning in the House and Committees. House and the Committees are the fora through which such grievances are to be taken up and possibly settled.
10.	Government of Punjab	Yes		The privileges enjoyed by the members while performing their duties in the House and in their constituencies can be differentiated.
11.	Government of Rajasthan	No		
12.	Government of Sikkim	No		These would be misused by some members.
13.	Government of Tripura	No		
<p>Question No. 9 The Contempt of Court Act, 1971 defines “criminal contempt” as publication of any matter or the doing of any other act whatsoever which “scandalizes or tends to scandalize or lowers or tends to lower the authority of any court; prejudices or interferes or tends to interfere with the due course of any judicial proceedings; or interferes or tends to interfere with or obstructs or tends to obstruct, the administration of justice in any other manner”. Since this definition, does not specify each and every act that may amount to contempt of court, it is a matter of interpretation whether a particular act would come under the purview of the definition or not. Likewise the definition of contempt of Parliament (See para 8 of the Background Note) does not specify each and every act, the</p>				

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	<p>commission or omission of which would amount to contempt of the House. In view of this position, how far the criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific, justified?</p>			
1.	Government of Assam	Justified		The definition of contempt of the House must be clear and specific.
2.	Government of Chhattisgarh		Unjustified	
3.	Government of Gujarat		Unjustified	Power of the House to punish for contempt or breach of privilege is a key stone of parliamentary privilege and it is necessary to enable the House to discharge its functions and safeguard its authority. The contempt of House can be defined as any act or omission which obstructs or impedes either House of Parliament in the performance of its functions or which obstructs or impedes any member or officer of the House in discharge of his duty. As the Parliamentary privileges are not codified and available by virtue of constitutional provisions, under rules of procedure and conduct of business in the House and precedents of the House of Commons, there is no question to say that definition of the contempt of the House is vague.

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4.	Government of Himachal Pradesh	Unjustified	Any act of omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as contempt even though there is no precedent of the offence. It should, however, be borne in mind that the Parliament is exercising its penal jurisdiction as sparingly as possible, and only when satisfied that it was essential to do so. For instance, the privilege of freedom from arrest has never been allowed to interfere with the administration of criminal justice or emergency legislation. Without a power to commit, the privileges of Parliament would not exist in their present form, and it would hardly have been possible adequately to defend the dignity of Parliament against disrespect and affronts. Hence, it can not be said that the definition of contempt is deliberately kept vague or unspecific.	
5.	Government of Karnataka	Justified	A definition of Contempt of the House could be attempted.	

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6.	Government of Madhya Pradesh		Unjustified	Since the Parliament is institution of people's representatives, people and press should be allowed to praise or express dissatisfaction over its performance. They should however not be allowed to interfere in the internal functions of the Parliament.
7.	Government of Meghalaya		Unjustified	Rather than the acts <i>per se</i> , it is the intention that has more of a bearing and therefore it has to be vague.
8.	Government of Mizoram	Justified		No definition of any expression that in particular entails penal consequences should be kept or left vague and unspecific. Therefore the expression contempt of Parliament or Legislature should be defined in clear terms, and should be devoid of all vagueness or ambiguity. Fair criticism of Parliament or Legislature, as has recently been encouraged by Apex Court in respect of criticism of Judiciary may be allowed for constructive purposes codification. Courts are not the representatives of the people and are not answerable to the people, whereas members of the Parliament or the State Legislatures are. As they are the people's representative and elected by them. They

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				<p>are answerable to the people for the acts done by them, which may even encompass their life-style, mode of functioning, assets accumulated etc. To balance the position, it may be considered to make later criticism of a member not the contempt of the House made outside the House and of the member on his acts inside the House should be made to amount to contempt of the House.</p>
9.	Government of Nagaland			<p>Two distinct differences must be observed between "contempt of court" and "contempt of Parliament". While "contempt of court" has been defined by Parliament by law, "contempt of Parliament" is perceived by each House of a Legislature to be so, without being statutorily defined. While "contempt of court" is dealt with by judicial authorities formally appointed for that purpose, "contempt of Parliament" is dealt with by Committees and Legislatures comprising people's representatives with less formal qualifications not to speak of formally trained judicial sense. Having understood this difference, even if the definition of "contempt of court" as laid down in the</p>

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				<p>statute concerned, falls far below public expectations, there would not be an accusation from the public that the judiciary has a vested interest in keeping the definition in an improper lexical realm. On the other hand, if the definition of "contempt of Parliament" is far below public expectations or the public perceive that it is capable of promoting Parliament's interests at the cost of individual liberties, for the mere reason that it has not been laid down in law, it will draw flak on the ground that Parliament is promoting its vested interests and is behaving like an unquestioned estate. It is therefore all the more necessary to get the privileges codified so that at least one notable difference between "contempt of court" and "contempt of Parliament", as aforesaid, is removed, even when absolute parity between the two need not be built.</p>
10.	Government of Punjab	Justified		<p>The matter should be left to the Speaker or the Chairman as the case may be, to decide, whether certain act is defamatory or contemptuous or is otherwise.</p>

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11.	Government of Rajasthan	Unjustified	Codification can be opted for but at the same time, it is not the scenario where the present legislation is ambiguous and leaves enough scope for varied interpretation.	
12.	Government of Sikkim	Unjustified	An act or omission which obstructs either House of Parliament in the performance of its functions or which obstructs any member or officer of such House in the discharge of his duty or which tends directly or indirectly to produce such result is regarded as contempt of the House. It is a matter of application of that definition whether a particular act amounts to contempt of the House. Decision on it depends on the facts and circumstance of each case.	
13.	Government of Tripura	Unjustified	Definition of contempt has well been defined by judgment law. Same principles may be applied in case of contempt of the House.	
Question No. 10 Article 129 of the Constitution provides that the Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Don't you think that Parliament, being the supreme legislative body in the country should enjoy power to punish for its contempt in the same manner as is done by the Supreme Court, the supreme judicial body of the country?				
1.	Government of Assam	Yes		
2.	Government of Chhattisgarh	No clear reply	The functioning of both these institutions are	

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				different. Parliament has the inherent power to punish anyone for its contempt.
3.	Government of Gujarat	Yes		Courts of law in India recognized that the House of Parliament is a sole authority to judge as to whether or not there has been a breach of privilege or contempt of House in a particular case. The penal power of the House for breach of privilege or contempt of House are exercised only in extreme cases. Supreme Court being the highest court of record under article 129 of the Constitution of India has power to interpret, review any decision of the other constitutional body. In this context there is no need to review the present position.
4.	Government of Himachal Pradesh	No clear reply		The power of the House to punish any person who commits a contempt of the House or a breach of any of its privileges is the most important privilege. It is this power that gives reality to the privileges of parliament and emphasizes its sovereign character so far as the protection of its rights and the maintenance of its dignity are concerned. It can punish any person whom it considers to be guilty of contempt. The

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				power of both Houses to punish Members and non-Members for disorderly and disrespectful acts has much in common with the authority inherent in the Supreme Court. By this means the two Houses are enabled to safeguard and enforce their necessary authority without the compromise or delay to which recourse to the ordinary court would give rise.
5.	Government of Karnataka	Yes		
6.	Government of Madhya Pradesh		No clear reply	The Parliament of India has the power to punish for its contempt that appears to be sufficient.
7.	Government of Meghalaya	Yes		Codification should protect the sanctity of parliament from outside interference in a similar way to the court.
8.	Government of Mizoram	Yes		
9.	Government of Nagaland			Constitutional schemes for vesting powers for punishing contempt of court in the Supreme Court and for vesting powers for punishing breach of its privileges in Parliament are entirely different. No protagonist of the primacy of Parliament would ever even think of the Supreme Court of India overtaking Parliament in any area. He would only legitimately

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				explore the ways and means of enhancing Parliament's due role in promoting democracy and public welfare and not turn his attention to augmenting its privileges and immunities as a means for such enhancement.
10.	Government of Punjab	Yes		The Parliament should enjoy the same status as defined in Article 129 of the Constitution of India. The Supreme Court and the parliament are independent of each other and should be competent to award the punishment for contempt.
11.	Government of Rajasthan	Yes		As already stated, in a civil society, there are certain instructions which need to be kept immune from any motives and thus, every effort should be made to check the attempts aimed at lowering the dignity of such instructions. Legislatures and judiciary are two such institutions.
12.	Government of Sikkim	Yes		The Parliament is the supreme legislative body in India. It enjoys the power to punish for its contempt. There is, therefore, no point in reiterating it.
13.	Government of Tripura	Yes		The Parliament should have the power to punish for its contempt by the members of the Parliament. For other matters, the Supreme Court has the jurisdiction to deal with the matter adequately.

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Question No. 11 Each House of Parliament by convention possess not only the power to punish for contempt but also have the right to judge for themselves what is contempt or what is not. The power of the House to punish for contempt or breach of privilege is considered necessary to enable the house to discharge its functions and safeguard its authority and privilege. If in exercise of its penal powers, the House adopts a motion expelling (available to House by virtue of convention) some members for grave misconducts unbecoming of members, can the judiciary review such decisions?				
1.	Government of Assam	No		
2.	Government of Chhattisgarh	No		If the judiciary reviews the decisions taken by the legislature then the powers given to the Legislative Bodies would be rendered meaningless.
3.	Government of Gujarat	Yes		The power of House to punish for contempt or breach of privileges is for the purpose of discharging its functions and safeguarding its authority and privileges. However, any decision of the House can have the judicial review of the Apex Court. The Supreme Court has taken a view that the House is contempt to punish for contempt or breach of privilege. The apex court's power to have such judicial review is upheld again.
4.	Government of Himachal Pradesh	No clear reply		The power to punish for contempt has been judicially considered to be

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				<p>inherent in each House of Parliament. According to our Constitution, both the Legislature and the Judiciary have well defined areas of activities and they are supreme in their own spheres. Nevertheless the fact remains that being the supreme representative of the people as well as the highest legislative body, the Parliament has been accorded a pre-eminent position in our constitutional and political set-up. At the same time, the framers of the Constitution have taken due care to provide for an independent and impartial judiciary as the custodian of the rights of the citizens. All the legislations whether Union, State or delegated—have been subject to the doctrine of ultra vires and judicial review. However, the framers of our Constitution intended to provide the legislatures in India with exclusive jurisdiction to decide all matters relating to the privileges without any interference from the court of law.</p>
5.	Government of Karnataka	No		
6.	Government of Madhya Pradesh	No		Judiciary should not indulge in such interferences.

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7.	Government of Meghalaya	No		
8.	Government of Mizoram	No		
9.	Government of Nagaland			<p>Certain courts in India have declared that Legislatures do not have powers to expel members and certain others including the Supreme Court otherwise. Expulsion from membership even for breach of ethical standards without judicially ascertained proof against the member also falls in that category. Judges are removed only if a guilty verdict is returned to Parliament by the Judges Inquiry Committee. There is no expulsion of judges from the Bench by an in-house decision making process within the Bench. Errant members can also be subjected to judicial examination by a similar Judges Inquiry Committee and thereafter removed by Parliament itself but not on the basis of a party based Committee's recommendations. The power of the Houses to expel members through the present procedures is inconsistent with the scheme of the Tenth Schedule and other provisions of the Constitution relating to disqualification of members.</p>

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10.	Government of Punjab	No		In such matters the interference of judiciary in the decision of the Speaker of Lok Sabha or Chairman of the Rajya Sabha would be uncalled for and the judiciary should refrain from interference in such matters.
11.	Government of Rajasthan	No		As per the Constitutional position, Legislatures are supreme in the affairs pertaining to it. Consequently, it can certainly review its composition where instances of grave misconduct unbecoming of its members have been brought to the notice and established. The only requirement can be that reasonable opportunity should be accorded to the concerned members to explain their side of the story and prove facts contrary to the accusations.
12.	Government of Sikkim	Yes		The power of judicial review on the decision of the House to punish for contempt or breach of privilege or expulsion of member should be permitted on limited grounds. Suppose some penal action is taken against a member without giving him opportunity of hearing.
13.	Government of Tripura	Yes		The judiciary should have the power to or the democracy may be in peril.

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Question No. 12 Our constitution inherently follows the principle of 'separation of powers'. Would you agree that in the name of judicial activism, the courts do, on occasions, tend to transgress into the domains of legislature which is often resulting in near confrontation situations between the courts and the legislatures?				
1.	Government of Assam	Yes	No	
2.	Government of Chhattisgarh	Yes		However, the instances are rare and the differences should harmoniously be resolved.
3.	Government of Gujarat		No	There are least chances of conflict between the Courts and legislatures. The courts are concerned only with interpreting the law and are not to enter upon the discussion as to what the law should be. Even the Parliament is vested with the constitutional power to amend any of the provision of the Constitution to override the effect of a judicial decision without altering the basic structure of the Constitution. However, the final say as to what the Constitution means rests with the Supreme Court.
4.	Government of Himachal Pradesh	Yes		Although both the Legislature and the Judiciary are the creatures of the Constitution working within their respective spheres, yet issues have arisen from time to time, which seem to have

detracted from the usual position of complementary relationship between the legislature and the Judiciary. Most of these are mainly related to the decisions by the Presiding Officers under the Anti-Defection Law and to the field of parliamentary privileges. The issue of 'Judicial activism' is attracting the attention of the Constitutional experts, legal luminaries and others. Many Parliamentarians and legislators have expressed the view that the judiciary has, at times, been found transgressing its jurisdiction and entering into the domain of the Executive and the Legislature. The three organs of the state are meant to be active within their own limits. If they overstep their assigned limits, each one of them suffers and in the process the ultimate casualty is the larger national interest. The basic postulate of Parliamentary democracy, where the Parliament represents the people as the highest representative forum of the country is that it is not amenable to the jurisdiction of any other authority. Except as expressly permitted by the

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				Constitution, no authority should assume the power to question or nullify Parliaments decision or action as per the provisions of the Constitution. Exercise of power by any authority should not disturb the Constitutional balance and create tension in the body politic and uncertainty amongst the people.
5.	Government of Karnataka	Yes		It is necessary to codify the law and if necessary take away the powers of the courts to transgress into the domains of legislature.
6.	Government of Madhya Pradesh	Yes		Judicial interference should be restricted to the judicial issues only.
7.	Government of Meghalaya	Yes		
8.	Government of Mizoram	Yes		
9.	Government of Nagaland	Yes		
10.	Government of Punjab			No one should interfere in the function of the other organ of the Government. Any transgression into the domain of the legislatures by the courts should be avoided.
11.	Government of Rajasthan		No	There definitely have been occasions where the role of the judiciary tantamounted to interference in the affairs of Legislatures that is totally prohibited in the constitutional scheme of things.

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12.	Government of Sikkim	No clear reply	Judicial activism if taken up with restraint would help in the development of democracy in the country. In exercise of judicial activism the Courts should not create situations of confrontation with the legislatures and try to avoid it.	
13.	Government of Tripura	Yes	Judicial activism is not acceptable. Everyone should work within their specific jurisdiction.	

Question No. 13 Any other comments/suggestions which you may like to make in the matter.

Sl. No.	Reply received from	Remarks
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1.	Government of Assam	Parliament being the Supreme Legislative Body in the country should enjoy power.
2.	Government of Chhattisgarh	Greater transparency and awareness is required to be disseminated among the masses.
3.	Government of Gujarat	No Comments.
4.	Government of Himachal Pradesh	Fundamentally, however, it is only as a means to the effective discharge of the collective functions of the House that the individual privileges are enjoyed by Members.
5.	Government of Karnataka	Draft legislation in this regard may be circulated for deliberation in all the legislatures and various forums.
6.	Government of Madhya Pradesh	Action should be taken after studying international experiences and applied in the Indian context.
7.	Government of Meghalaya	No Comments.

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8.	Government of Mizoram	There is no Code of Conduct prescribed for the members, to be followed outside the House. On many occasions conduct of the Members to the public or outside the House brings disgrace to the House. Such conducts should also be defined as amounting to contempt of the House by such member so that he is made liable to punishment, or a well defined code of conduct may be made and included in the codified privileges as a part of the same.
9.	Government of Nagaland	No Comments.
10.	Government of Punjab	To overcome the present situation of misutilisation of the privileges the provisions should be made for minimum given qualification for a person to become an MP and on his so becoming there should be a periodical training for them.
11.	Government of Rajasthan	The Constitution of India provides that any citizen of the country can approach the judiciary to seek redressal of violation of his rights. On the face of it, there appears to be no flaw with this logic but, at the same time, there may be occasions where matters involving supreme organs of the State can be handled more delicately and tactfully.
12.	Government of Sikkim	As mentioned above, during the period of last 56 years the Indian Parliament has used its penal powers sparingly. This bears testimony to the fact that although there is no codification of privileges, the Parliament has been transacting its business without any interference from outside. Codification of law may create problems than solving them.
13.	Government of Tripura	Parliament being law-making authority in India, its members should have adequate power and proper honour as they are the public representative. Privileges as far as practicable may be provided to them so that the democracy gets its strength from the eminent parliamentarians.

REPLIES FROM VARIOUS POLITICAL PARTIES

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
Question No. 1				
	Do you agree that powers, privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their Parliamentary duties and functions without any obstruction and hindrance?			
1.	Minister of State for External Affairs	Yes		
2.	Rashtriya Janta Dal	Yes		Powers, privilege and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their parliamentary duties and functions without any obstruction and hindrance.
Question No. 2				
	Since it is well settled that privileges are available to members of Parliament only in so far as these are absolutely necessary for them to discharge their parliamentary functions, do you feel that there is any scope for misuse of these privileges by the House or its members?			
1.	Minister of State for External Affairs		No	Any scope for misuse of these privileges by the House or its Members is not possible, provided the spirit of parliamentary privileges and the Constitution are kept in mind.
2.	Rashtriya Janta Dal	Yes		There is scope for misuse of the privileges by individual members in some cases but not by privilege committee itself or by House.

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Question No. 3				
	As privileges are enjoyed by members to function freely in the House as representatives of the people, can it be said that privileges are liable to be used by members against the interest of the very same people who are their constituents?			
1.	Minister of State for External Affairs	No		
2.	Rashtriya Janta Dal	No		Privileges are never liable to be used by member against people, as they are their constituents.
Question No. 4				
	Bearing in mind the observations of the Supreme Court in MSM Sharma's case, do you feel that non-enactment of a law codifying their privileges was a deliberate act on the part of Parliament to keep their privileges vague?			
1.	Minister of State for External Affairs	Yes		Similar views were expressed by the then Law Minister, Naushir Barucha on the floor of Lok Sabha. Since then, Committee on Privileges has time and again examined this issue and the opinion has been against codifying the parliamentary privileges. It is a well thought out act by the Parliament and the decision of not codifying the parliamentary privileges has been taken considering the views of experts and renowned persons after a prolonged debate.
2.	Rashtriya Janta Dal	No		Non-enactment of a law modifying the privileges was not a deliberate act on

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				the part of Parliament to keep their privileges vague codification has not taken place as no consensus has arrived as yet.
Question No. 5 Do you feel that privileges of Parliament and its Committees and members need to be codified?				
1.	Minister of State for External Affairs	No		Time and again, conflicting views have been expressed at different fora and also by the media. The Constitution Review Committee headed by Justice UN. Venkatachellaiah has also recommended that the parliamentary privileges should be codified. However, the advocates of 'codification of parliamentary privileges' should also consider the case of UK where even the Constitution is not codified and is based partly on written statutes and many unwritten conventions. Codification of parliamentary privileges may provide a rigid framework which may not be suited to decide individual cases based on the facts and circumstances of each case. Moreover, it is likely to harm the prestige and sovereignty of Parliament.
2.	Rashtriya Janta Dal	Yes		Privileges of Parliament its committees and members

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				may be codified after a comprehensive give in depth marathon exercise on the issue.
Question No. 6	Don't you feel that with a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament?			
1.	Minister of State for External Affairs	Yes		
2.	Rashtriya Janta Dal	No		Any matter regarding breach of privileges and contempt of Parliament would be looked into by Parliament and its committee alone and no court may be allowed to intervene.
Question No. 7	Codification of parliamentary privileges could end up in undue focus on specifics at the cost of substance. Please comment.			
1.	Minister of State for External Affairs	No Clear reply		Parliament is the sovereign authority to decide on the issue of parliamentary privileges. Decision in such cases should be taken with caution on the basis of facts and circumstances of each case. Instead of going into any further legislation, it would be better to go by the spirit and guiding principles of the Constitution in deciding on matters related to Parliamentary privileges.

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2.	Rashtriya Janta Dal		No	Codification may be absolute codification. It is a continuous process. Any matter that privileges may be included from time to time. These codifications would be guiding factor. The continuance of breach of privileges is due to dismal number of penalty, reprimand imposed on who breach privileges. It would not end up in undue focus on specifics at the cost of substance. Rather it will form basis for analysis of cases of privileges.

Question No. 8 **There is a view among the members that they are performing their duties as members of Parliament even while taking up grievances and matters pertaining to their constituents with the concerned executive functionaries in their respective constituencies or else where. Hence there has been a demand by some members that in order to enable them to serve their constituents unfettered, parliamentary privileges should approximately be extended to them on such occasions too. In view of this position, do you feel that there is a need for broadening the content of parliamentary privileges? If so, please state reasons therefor.**

1.	Minister of State for External Affairs		No	There is an increasing tendency among the members of Parliament to take undue interest in the day to day functioning of Executive in the garb of taking up grievances and matters pertaining to their constituencies. This is also reflected in the decreasing
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				<p>interest of the members in the legislative work. Our constitution envisages harmonious balance among the three wings of the Government Executive, Legislative and Judiciary. Any interference by any wing of the Government in the areas of work and responsibility pertaining to the other wing is undesirable and unwarranted. Over the years, we have seen that undue interest by members of Parliament in the work of executive has led to erosion of values in the Indian Polity. Extending Parliamentary Privileges to the Members for taking up grievances and matters pertaining to their constituents with the concerned executive functionaries will be counterproductive in the long run.</p>
2.	Rashtriya Janta Dal	Yes		<p>As far as redressals of grievances of constituents are concerned, members do feel difficulties. When members do not get addressed the rightful problem of the people, the purpose they have been elected to Parliament, Such demand are bound to occur. Moreover, for all executive functionaries, laws already exist even though people are being harassed. There should be some privileges circum-</p>

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				venting executive functionaries otherwise it would be of no use to become members from such constituencies. The scope of privileges should be extended as members are being detained illegally without any genuine ground due to omission/ commissions by officers and abuse of power by some eccentric executive functionaries. This requires to be addressed urgently. Any such unmindful/ illegal use of executive power should be taken as breach of privileges.

Sl.No.	Reply received from	Justified	Unjustified	Remarks
1	2	3	4	5

Question No. 9 **The Contempt of Court Act, 1971 defines “criminal contempt” as publication of any matter or the doing of any other act whatsoever which “scandalizes or tends to scandalize or lowers or tends to lower the authority of any court; prejudices or interferes or tends to interfere with the due course of any judicial proceedings; or interferes or tends to interfere with or obstructs or tends to obstruct, the administration of justice in any other manner”. Since this definition, does not specify each and every act that may amount to contempt of court, it is a matter of interpretation whether a particular act would come under the purview of the definition or not. Likewise the definition of contempt of Parliament (See para 8 of the Background Note) does not specify each and every act, the commission or omission of which would amount to contempt of the House. In view of this position, how far the criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific, justified?**

1. Minister of State for External Affairs Unjustified

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2.	Rashtriya Janta Dal	Unjustified	There should be broad parameters of contempt of House. It is true that each and every act of contempt cannot be codified. Further incorporation is a continuous process and Parliament would be free to interpret and decide what constitutes as privileges of members of Houses.	

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
Question No. 10 Article 129 of the Constitution provides that the Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Don't you think that Parliament, being the supreme legislative body in the country should enjoy power to punish for its contempt in the same manner as is done by the Supreme Court, the supreme judicial body of the country?				
1.	Minister of State for External Affairs	Yes		This issue has now been settled in view of the recent judgement by the Supreme Court. The Five member Constitution Bench hearing petition on expulsion of 11 MPs has ruled that "Parliament can take appropriate action against erring members by imposing appropriate punishments or penalties and expulsion is one of them". Parliament thus has the authority to punish for its conduct in the same manner as is done by the Supreme Court.
2.	Rashtriya Janta Dal	Yes		Parliament should exclusively enjoy power to punish for its contempt.

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Question No. 11 Each House of Parliament by convention possess not only the power to punish for contempt but also have the right to judge for themselves what is contempt or what is not. The power of the House to punish for contempt or breach of privilege is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege. If in exercise of its penal powers, the House adopts a motion expelling (available to House by virtue of convention) some members for grave misconducts unbecoming of members, can the judiciary review such decisions?				
1.	Minister of State for External Affairs	Yes	This issue has also been answered by the Five Member Constitution Bench while hearing a petition filed by the 11 former MPs expelled in the cash for query scam. While asserting that the Parliament has the power to take action against the erring members, the Court also said that “under our Constitution, every action of every authority is subject to law as no body is above it. Parliament is not an exception to this universal rule. If the court is satisfied within the limited parameters of judicial review. While it is important for the judiciary to tread the path cautiously in such cases, it is also the paramount duty of Judiciary to discharge its responsibilities whenever any such petition is filed before it.	

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2.	Rashtriya Janta Dal	No		Judiciary should not review such decisions of expulsion of members because it concerns to internal function of Parliament in which no court has to interfere.

Question No. 12 **Our Constitution inherently follows the principle of 'separation of powers'. Would you agree that in the name of judicial activism, the courts do, on occasions, tend to transgress into the domains of legislature which is often resulting in near confrontation situations between the Courts and the Legislatures?**

1.	Minister of State for External Affairs	No clear reply	
2.	Rashtriya Janta Dal	Yes	The Indian Constitution has already defined the function of court and the function of Parliament separately and there is no scope for interference in each others jurisdiction. Therefore, the courts should not transgress into the domains of legislature. However in recent cases of expulsion of members, some confrontation occurred. In such cases, court should restrain. They should work within the jurisdiction fixed by constitution so that no confrontation may occur. As House do not discuss sub-judice matter, Court should also not interfere in the functioning of House. Both should remain under their preview.

Question No. 13 Any other comments/suggestions which you may like to make in the matter.

Sl. No.	Reply received from	Remarks
1.	Minister of State for External Affairs	—
2.	Rashtriya Janta Dal	Generally powers, privileges and immunities of Members/House are meant for functioning without any obstruction and hindrance. The work of the Parliament is enactment of law and surveillance over executives. As the system prevails after enactment of law, its implementation is done by union State Govts. However, at several occasions, it is found that these laws are not being implemented properly and the members of Parliament/legislation when intervened are not taken seriously and thus whole work done by legislature is become in fructuous. Thus there is grave miscarriage of law where members cannot remain a silent spectator. In such situations when members intervene some altercation/confrontation take place leading to issues of privileges too. Thus domain of privileges should be increased by harmonizing such issues and executive functionaries should behave properly with members and should never go against dignity of member or House.

REPLIES FROM LEGAL LUMINARIES

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
Question No. 1	Do you agree that powers, privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their Parliamentary duties and functions without any obstruction and hindrance?			
1.	Ministry for Law & Justice	Yes		It may be pointed out that 'May's', in his "Parliamentary Practice" has defined parliamentary privileges as "sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by members of each House individually without which they could not discharge their functions, and which exceed possessed by other bodies or individuals." (Quoted in In re Keshav Singh Case (1965) 1 SCR413 & in Raja Ram Pal v. Hon'ble Speaker (2007)1 SCALE 241. Further, the Supreme Court in Keshav Singh Case (supra) has observed: "There can be little doubt that the powers, privileges and immunities which every legislature must possess in order that it may be able to function effectively".
2.	Shri P.P. Rao, Senior Advocate	Yes		

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Question No. 2	Since it is well settled that privileges are available to members of Parliament only in so far as these are absolutely necessary for them to discharge their parliamentary functions, do you feel that there is any scope for misuse of these privileges by the House or its members?			
1.	Ministry for Law & Justice			No comments.
2.	Shri P.P. Rao, Senior Advocate	Yes		Recently a few Members of Parliament have been expelled by the House for receiving cash for questions. It is a well known and well recognised fact that elections to Parliament are influenced to a large extent by money power, muscle power and caste and communal considerations. People who get elected by relying on one or more of these factors may not be able to resist the temptation of misusing their privileges as Members of Parliament for personal gain or extraneous considerations.
Question No. 3	As privileges are enjoyed by members to function freely in the House as representatives of the people, can it be said that privileges are liable to be used by members against the interest of the very same people who are their constituents?			
1.	Ministry for Law & Justice			No comments.
2.	Shri P.P. Rao, Senior Advocate	Yes		Now and then, we witness defections and realignments for considerations other than the interests of the constituents.

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Question No. 4	Bearing in mind the observations of the Supreme Court in MSM Sharma's case, do you feel that non-enactment of a law codifying their privileges was a deliberate act on the part of Parliament to keep their privileges vague?			
1.	Ministry for Law & Justice	No	Non-enactment of a law codifying their privileges was not a deliberate act on the part of Parliament. While taking part in debate on Article 85 of the Draft Constitution, which corresponds to the present Article 105, in the Constituent Assembly, Sir Alladi Krishnaswamy Iyer stated : "If you I have the time and if you have the leisure to formulate all the privileges in a compendious form, it will be well and good. That is what the article (85) says. It does not in any way fetter your discretion. You may enlarge the privilege, you may curtail the privileges, you may have a different kind of privileges." Dr. B.R. Ambedkar, Chairman of the Drafting Committee, while answering the debate on Article 169 of the draft Constitution (corresponding to present Art. 194) said:—"It is not easy to define what are the acts and deeds which may be deemed to bring Parliament into disgrace. That would require a considerable amount of discussion and examination. That is one reason why we did not think of	

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				<p>enumerating these privileges and immunities. It seems to me, if the proposition was accepted that the Act itself should enumerate the privileges of Parliament, we would have to allow three courses. One is to adopt them in the Constitution, namely to set out in detail the privileges and immunities of Parliament and its members. I have carefully gone over the index to May's Parliamentary Practice and I have noticed that practically 8 or 9 columns of the index are devoted to the privileges and the immunities of Parliament. So that if you were to enact a complete code of the privilege and immunities of Parliament based upon what May has to say on this subject. It is least doubted that we will have to add not less than twenty or twenty five pages relating to immunities and privileges of Parliament." It shows the reasons why the Constitution makers could not codified these privileges. For the same reasons, the Parliament could not do so.</p>
2.	Shri P.P. Rao, Senior Advocate	No		<p>It is a farsighted decision not to codify privileges. The moment a law is enacted codifying the privileges it will be liable to be challenged on the</p>

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				ground of violation of one or the other of the Fundamental Rights contained in Part-III of the Constitution. Now the privileges have the status of provisions of the Constitution itself.
Question No. 5 Do you feel that privileges of Parliament and its Committees and members need to be codified?				
1.	Ministry for Law & Justice		No clear reply	
2.	Shri P.P. Rao, Senior Advocate		No	
Question No. 6 Don't you feel that with a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament?				
1.	Ministry for Law & Justice		No	
2.	Shri P.P. Rao, Senior Advocate	Yes		Leaving persons bent on vilifying Parliament aside any law codifying the privileges becomes amenable to challenge in a Court of law on the ground of violation of Fundamental Rights. It will be a needless digression to Parliament, which should be able to utilize all its time and resources for the benefit of the people, through legislation and supervision of the Executive.

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Question No. 7 Codification of parliamentary privileges could end up in undue focus on specifics at the cost of substance. Please comment.				
1.	Ministry for Law & Justice	No		
2.	Shri P.P. Rao, Senior Advocate	No		Codification will have the merit of clarifying what the privileges are and what is their extent. At the same time, codifying privileges means inviting litigation and leaving it to the Courts to decide the issue. No one can be sure of the outcome of such litigation.
Question No. 8 There is a view among the members that they are performing their duties as members of Parliament even while taking up grievances and matters pertaining to their constituents with the concerned executive functionaries in their respective constituencies or else where. Hence there has been a demand by some members that in order to enable them to serve their constituents unfettered, parliamentary privileges should approximately be extended to them on such occasions too. In view of this position, do you feel that there is a need for broadening the content of parliamentary privileges? If so, please state reasons therefore.				
1.	Ministry for Law & Justice	No		Privileges are given to the Parliament as these are necessary for exercise of its constitutional functions. May in his Parliamentary practice has stated: "The privileges of Parliament are rights which are absolutely necessary for the due execution of its powers. They are enjoyed by individual Members, because the House cannot perform its functions

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				without unimpeded use of the service of its Members." Therefore, privileges of Members should be confined to their functions in the House.
2.	Shri P.P. Rao, Senior Advocate	No		As it is, Members of Parliament have no difficulty in taking up the grievances of their respective constituents with the concerned Executive functionaries. In addition, they can utilize the Question Hour in Parliament for this purpose.

Sl.No.	Reply received from	Justified	Unjustified	Remarks
1	2	3	4	5
Question No. 9	The Contempt of Court Act, 1971 defines "criminal contempt" as publication of any matter or the doing of any other act whatsoever which "scandalizes or tends to scandalize or lowers or tends to lower the authority of any court; prejudices or interferes or tends to interfere with the due course of any judicial proceedings; or interferes or tends to interfere with or obstructs or tends to obstruct, the administration of justice in any other manner". Since this definition, does not specify each and every act that may amount to contempt of court, it is a matter of interpretation whether a particular act would come under the purview of the definition or not. Likewise the definition of contempt of Parliament (See para 8 of the Background Note) does not specify each and every act, the commission or omission of which would amount to contempt of the House. In view of this position, how far the criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific, justified?			
1.	Ministry for Law & Justice	Unjustified		In fact, there is no definition of the words, 'Contempt of Parliament'

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				in any statute. The Contempt of Court Act, 1971 defines 'civil contempt' and 'criminal contempt' separately.
2.	Shri P.P. Rao, Senior Advocate	Unjustified		It is not possible to enumerate exhaustively all the Acts which constitute contempt of Court or Contempt of the House. A view will have to be taken having regard to the facts and circumstances of each case. Broadly one knows what constitutes contempt of the House. The Rulings already given by the British House of Commons and our own Lok Sabha, decisions of Courts and the textbooks provide sufficient guidance.

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
Question No. 10 Article 129 of the Constitution provides that the Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Don't you think that Parliament, being the supreme legislative body in the country should enjoy power to punish for its contempt in the same manner as is done by the Supreme Court, the supreme judicial body of the country?				
1.	Ministry for Law & Justice	Yes		
2.	Shri P.P. Rao, Senior Advocate	Yes		Parliament has the undoubted power to punish for its contempt. The privileges of the Parliament include this power. Courts have recognised this power. There is no need to have a separate provision like Art. 129 for Parliament.

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Question No. 11	<p>Each House of Parliament by convention possess not only the power to punish for contempt but also have the right to judge for themselves what is contempt or what is not. The power of the House to punish for contempt or breach of privilege is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege. If in exercise of its penal powers, the House adopts a motion expelling (available to House by virtue of convention) some members for grave misconducts unbecoming of members, can the judiciary review such decisions?</p>			
1.	Ministry for Law & Justice	Yes	<p>This issue has already been decided by a Five Judges bench of the Supreme Court in the case of Raja Ram Pal v. Hon'ble Speaker, Lok Sabha, reported in 2007. The Supreme Court at para 399 has observed thus: "We are of the view that the manner of exercise of power or privilege by Parliament is immune from judicial scrutiny only to the extent indicated in Article 122(1). That is to say the Court will decline to interfere to allegations of 'irregularity of procedure'. But in case of gross illegality or violation of constitutional provisions is shown, the judicial review will not be inhibited in any manner by Art. 122, or for the matter by Article 105."</p>	
2.	Shri P.P. Rao, Senior Advocate	Yes	<p>The recent judgment of the Supreme Court in</p>	

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				<p>Raja Ram Pal <i>vs.</i> The Hon'ble Speaker, Lok Sabha & Ors. Reported in 2007 clear on this aspect. The Court has asserted the power of judicial review, though on very limited grounds even in the cases of recognised privileges. However, it is felt that once the existence of a privilege and its extent are accepted by the Court, there shall be no judicial review thereafter. Otherwise, Parliament will not be able to exercise its powers in respect of privileges effectively.</p>
<p>Question No. 12 Our Constitution inherently follows the principle of 'separation of powers'. Would you agree that in the name of judicial activism, the courts do, on occasions, tend to transgress into the domains of legislature which is often resulting in near confrontation situations between the courts and the legislatures?</p>				
1.	Ministry for Law & Justice	No		<p>There is no possibility of confrontation between the judiciary and legislature or executive. In our country, the Constitution is supreme. Judiciary and legislature both are mature enough and understand their powers and limitations.</p>
2.	Shri P.P. Rao, Senior Advocate	Yes		<p>Some times Courts do transgress the dominion of</p>

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				the Legislature notwithstanding the fact that the principle of "separation of powers" is accepted as a basic feature of the Constitution and part of the basic structure of the Constitution by a Bench of 13 Judges of the Supreme Court in Kesavananda Bharati's case (1973) Supp. SCR 1.

Question No. 13 Any other comments/suggestions which you may like to make in the matter.

Sl. No.	Reply received from	Remarks
1.	Ministry for Law & Justice	No comments.
2.	Shri P.P. Rao, Senior Advocate	Shri P.P. Rao, Senior Advocate Electoral reforms are overdue. It is necessary to purify the electoral process and ensure that only men and women of integrity with some degree of ability and unblemished record of public service alone are elected to Parliament. Political parties always promise electoral reforms in their manifestoes but rarely fulfil such promises. It is unfortunate that today Members of Parliament and State Legislatures do not command the same respect as the Houses in the fifties and sixties did. They should regain their lost image if democracy is to survive for long. If the situation is allowed to deteriorate further the terrorist outfits which are operating in different parts of the country may capture power. Such an eventuality should be avoided at all cost.

REPLIES FROM MEDIA

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
Question No. 1 Do you agree that powers, privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their Parliamentary duties and functions without any obstruction and hindrance?				
1.	Aaj Tak (TV Today Network Ltd.)	Yes		Not primarily, solely with reference to privileges.
2.	Business Standard Ltd.	Yes		
3.	CNN-IBN		No clear reply	
4.	Sahara TV	Yes		
5.	Star News		No	
6.	The Pioneer	Yes		Of late privileges and immunities are rather frequently used to subvert law.
7.	Times Global Broadcasting Company Ltd.	Yes		
8.	Zee News	Yes		
Question No. 2 Since it is well settled that privileges are available to members of Parliament only in so far as these are absolutely necessary for them to discharge their parliamentary functions, do you feel that there is any scope for misuse of these privileges by the House or its members?				
1.	Aaj Tak (TV Today Network Ltd.)	Yes		It has been seen that in case of media expose of misdemeanour of members privilege proceedings were sought against concerned media persons.

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2.	Business Standard Ltd.	Yes		
3.	CNN-IBN	Yes		There will always be scope for misuse.
4.	Sahara TV	Yes		It would be naïve to assume that misuse of privileges could be completely ruled out.
5.	Star News	Yes		
6.	The Pioneer		No	On the contrary, there may be a need to revisit certain privileges.
7.	Times Global Broadcasting Company Ltd.	Yes		It has been seen that in case of media expose of misdemeanour of members privilege proceedings were sought against concerned media persons.
8.	Zee News	Yes		
Question No. 3 As privileges are enjoyed by members to function freely in the House as representatives of the people, can it be said that privileges are liable to be used by members against the interest of the very same people who are their constituents?				
1.	Aaj Tak (TV Today Network Ltd.)	Yes		
2.	Business Standard Ltd.	Yes		
3.	CNN-IBN	Yes		Every misuse of a parliamentary privilege inherently impinges upon the interests of the people of this country, protection of which is the very purpose of granting these privileges. The trend among legislators to invoke

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				the protective shield of privilege to prevent members of the public from knowing the truth about matters concerning them, in itself militates against the interests of the people at large.
4	Sahara TV		No	
5.	Star News	Yes		
6.	The Pioneer		No	While responsible members appreciate the accountability attached to privileges such exceptions nevertheless cannot be considered the rule.
7.	Times Global Broadcasting Company Ltd.	Yes		Attempts to suppress the media by misuse of privileges by members militants against interests of the very people whom the members represent.
8.	Zee News	Yes		
Question No. 4 Bearing in mind the observations of the Supreme Court in MSM Sharma's case, do you feel that non-enactment of a law codifying their privileges was a deliberate act on the part of Parliament to keep their privileges vague?				
1.	Aaj Tak (TV Today Network Ltd.)		No	Legislators do keep their privileges vague but vagueness certainly helps those who are inclined to misuse privileges.
2.	Business Standard Ltd.	Yes		
3.	CNN-IBN	Yes		
4	Sahara TV		No	This is basically an academic postulate.

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5.	Star News	No		
6.	The Pioneer	No		
7.	Times Global Broadcasting Company Ltd.	No		But vagueness certainly helps those who are inclined to misuse privileges.
8.	Zee News	Yes		Codification of privileges could lead to transparency and obviate misuse of privileges.

Question No. 5 Do you feel that privileges of Parliament and its Committees and members need to be codified?

1.	Aaj Tak (TV Today Network Ltd.)	Yes		
2.	Business Standard Ltd.	Yes		
3.	CNN-IBN	No		There is no need for a codification of specific privileges <i>per se</i> as there are enough to guide conventions to guide in this regard. However, it would certainly be useful to provide guidelines to regulate the use of privileges.
4.	Sahara TV	No		History bears testimony to the fact that privileges have been duly exercised even without being codified. There are in-built safeguards against undue hindrance and misuse of privileges.
5.	Star News	Yes		
6.	The Pioneer	Yes		The grey areas surrounding privileges need to be clarified.

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7.	Times Global Broadcasting Company Ltd.	Yes		
8.	Zee News	Yes		
Question No. 6 Don't you feel that with a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament?				
1.	Aaj Tak (TV Today Network Ltd.)	No		Not codifying its privileges opens Parliament to questioning all the time, and enables those bent upon vilifying it to accuse it of misusing its privileges.
2.	Business Standard Ltd.	No		
3.	CNN-IBN	Yes		Codifying privileges could only invite unnecessary litigation consequently resulting in a conflict between the legislature and the judiciary that will only denigrate the prestige of both these institutions. This will also tend to directly militate against the Constitutional doctrine of separation of powers. Having guidelines would suffice as in exceptional cases where such guidelines have been violated with impunity, judicial intervention will be allowed.
4	Sahara TV	Yes		Once privileges are codified, they are bound to engage the attention of

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				many interested in getting into a debate over the right and wrong of each and every nuance of privileges. A situation might well arise where the definition of the privilege might well become the bone of contention between a court and Parliament.
5.	Star News		No	
6.	The Pioneer		No	Suitable measures should be taken to address such concerns while codifying the broad parameters of the privileges.
7.	Times Global Broadcasting Company Ltd.		No	
8.	Zee News		No	The Courts of Law can be trusted to maintain dignity of Parliament.
Question No. 7 Codification of parliamentary privileges could end up in undue focus on specifics at the cost of substance. Please comment.				
1.	Aaj Tak (TV Today Network Ltd.)		No	
2.	Business Standard Ltd.		No	
3.	CNN-IBN	Yes		The purpose of the entire process should be to simplify the system and not to make it more complicated.
4.	Sahara TV	Yes		
5.	Star News		No	
6.	The Pioneer		No	

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7.	Times Global Broadcasting Company Ltd.	No		
8.	Zee News	No		
Question No. 8	<p>There is a view among the members that they are performing their duties as members of Parliament even while taking up grievances and matters pertaining to their constituents with the concerned executive functionaries in their respective constituencies or else where. Hence there has been a demand by some members that in order to enable them to serve their constituents unfettered, parliamentary privileges should approximately be extended to them on such occasions too. In view of this position, do you feel that there is a need for broadening the content of parliamentary privileges? If so, please state reasons therefor.</p>			
1.	Aaj Tak (TV Today Network Ltd.)	No		
2.	Business Standard Ltd.	No		
3.	CNN-IBN	No		<p>If the suggestion to extend the protection of privileges to members outside the floor of the House is accepted, there will be no end to widening its scope. Privileges are meant for a purpose and their present extent is enough to meet that purpose. There are other laws relating to performance of duties by a "public servant" which can take care of members during the performance of their duties outside the House.</p>
4	Sahara TV	No		

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5.	Star News	Yes		
6.	The Pioneer			Adequate precaution needs to be taken for anticipating and obviating chances of misuse.
7.	Times Global Broadcasting Company Ltd.	No		
8.	Zee News	No		

Question No. 9 **The Contempt of Court Act, 1971 defines “criminal contempt” as publication of any matter or the doing of any other act whatsoever which “scandalizes or tends to scandalize or lowers or tends to lower the authority of any court; prejudices or interferes or tends to interfere with the due course of any judicial proceedings; or interferes or tends to interfere with or obstructs or tends to obstruct, the administration of justice in any other manner”. Since this definition, does not specify each and every act that may amount to contempt of court, it is a matter of interpretation whether a particular act would come under the purview of the definition or not. Likewise the definition of contempt of Parliament (See para 8 of the Background Note) does not specify each and every act, the commission or omission of which would amount to contempt of the House. In view of this position, how far the criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific, justified?**

1.	Aaj Tak (TV Today Network Ltd.)	Justified		
2.	Business Standard Ltd.	No clear reply	Contempt should be a matter of civil litigation.	
3.	CNN-IBN	No clear reply		
4.	Sahara TV	Justified		

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5.	Star News	Justified		Codification will enhance the dignity of the institution of Parliament and give people greater faith and confidence in its sense of fair play.
6.	The Pioneer		Unjustified	
7.	Times Global Broadcasting Company Ltd.	Justified		
8.	Zee News		Unjustified	
Question No. 10 Article 129 of the Constitution provides that the Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Don't you think that Parliament, being the supreme legislative body in the country should enjoy power to punish for its contempt in the same manner as is done by the Supreme Court, the supreme judicial body of the country?				
1.	Aaj Tak (TV Today Network Ltd.)	Yes		Provided parliamentary privileges are codified and contempt of the House is well defined.
2.	Business Standard Ltd.		No clear reply	
3.	CNN-IBN		No	What follows from this suggestion is that the "supreme body" of each wing of the State should have the power to punish for contempt of itself. The legislative intent of Article 129 of the Constitution and, indeed of the provisions of the Constitution relating to the judiciary, cannot be

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				compared to the legislative intent of provisions relating to legislatures in general and of privileges in particular. The functions of these institutions are entirely different.
4.	Sahara TV	Yes		
5.	Star News		No	As the highest democratic forum, Parliament should be more indulgent to dissent and debate and accountable to people.
6.	The Pioneer	Yes		
7.	Times Global Broadcasting Company Ltd.	Yes		
8.	Zee News		No	
Question No. 11				
	Each House of Parliament by convention possess not only the power to punish for contempt but also have the right to judge for themselves what is contempt or what is not. The power of the House to punish for contempt or breach of privilege is considered necessary to enable the house to discharge its functions and safeguard its authority and privilege. If in exercise of its penal powers, the House adopts a motion expelling (available to House by virtue of convention) some members for grave misconducts unbecoming of members, can the judiciary review such decisions?			
1.	Aaj Tak (TV Today Network Ltd.)	Yes		The Supreme Court can review the legality of such decisions, not their propriety.
2.	Business Standard Ltd.	Yes		There would be reason for the courts to intervene if the generally accepted principles of natural justice are not followed.

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3.	CNN-IBN	Yes		The Supreme Court has made recent judicial pronouncements in this regard holding that such decisions may be subject to limited judicial review on grounds of maintainability.
4.	Sahara TV		No	A review petition mechanism should be built in within the ambit of the House and intervention of all external agencies, including the courts, should be avoided.
5.	Star News	Yes		
6.	The Pioneer		No	
7.	Times Global Broadcasting Company Ltd.	Yes		
8.	Zee News	Yes		
Question No. 12 Our constitution inherently follows the principle of 'separation of powers'. Would you agree that in the name of judicial activism, the courts do, on occasions, tend to transgress into the domains of legislature which is often resulting in near confrontation situations between the courts and the legislatures?				
1.	Aaj Tak (TV Today Network Ltd.)		No	
2.	Business Standard Ltd.	Yes		
3.	CNN-IBN		No	When there is ambiguity, confrontation situations can arise. Ambiguity should be avoided.
4.	Sahara TV	Yes		In certain situations an issue which at times may

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				seem to be a confrontation might actually be case for building a remedy against misuse of powers against the common man.
5.	Star News	Yes		It's a quid proquo.
6.	The Pioneer		No clear Reply	
7.	Times Global Broadcasting Company Ltd.		No	Laws that are enacted without due process or are in conflict with/violation of other laws or of the Constitution of India must be called to question, and only the courts can do so.
8.	Zee News		No	

Question No. 13 Any other comments/suggestions which you may like to make in the matter.

Sl.No.	Reply received from	Remarks
1.	Aaj Tak (TV Today Network Ltd.)	No specific comments.
2.	Business Standard Ltd.	The very fact that there have been relatively few instances of privileges being invoked over half a century should mean that codifying these privileges does not carry with it any real risk.
3.	CNN-IBN	No specific comments.
4.	Sahara TV	No specific comments.
5.	Star News	No specific comments.
6.	The Pioneer	The rule regarding publication of expunged remarks by newspapers/ periodicals needs to be reviewed.
7.	Times Global Broadcasting Company Ltd.	No specific comments.
8.	Zee News	Codification will reduce arbitrariness, vagueness and uncertainty.

REPLIES FROM ACADEMICIA

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
Question No. 1	Do you agree that powers, privileges and immunities available to Parliament and its members are primarily meant to enable the Parliament and its members to perform their Parliamentary duties and functions without any obstruction and hindrance?			
1.	Banaras Hindu University, Uttar Pradesh	Yes		
2.	Bangalore University, Karnataka	Yes		
3.	Himachal Pradesh University, Himachal Pradesh	Yes		
4.	Jamia Millia Islamia, New Delhi	Yes		
5.	Karnatak University, Karnataka	Yes		
6.	Kurukshetra University, Haryana	Yes		
7.	Maharshi Dayanand University, Haryana	Yes		
8.	Mangalore University, Karnataka	Yes		
9.	Mohan Lal Sukhadia University, Rajasthan	Yes		
10.	North Eastern Hill University, Meghalaya	Yes		
11.	Ranchi University, Jharkhand	Yes		
12.	Sambalpur University, Orissa	Yes		Tacit approval. Privileges and rights given to

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				members are actually rights that enable members of Parliament to fulfil their rights, duties and responsibilities towards people.
13.	Saurashtra University, Gujarat	Yes		
14.	University of Delhi, Delhi	Yes		Immunities provided to the parliamentarians are effective if the duties assigned to them are discharged judiciously.
15.	University of Jammu, Jammu (Tawi)	Yes		These privileges should be exercised in such a way that no disrepute is brought to the dignity of the House. In a parliamentary democracy the onus of credibility/repute of Legislative bodies rests on the probity of legislators.
16.	University of Lucknow, Uttar Pradesh	Yes		
17.	University of Mysore, Karnataka	Yes		The concept of privileges to members is purpose-oriented and conceived to facilitate effective exercise of Parliamentary duties and functions by legislators.
18.	University of Pune, Maharashtra	Yes		
19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra	Yes		

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20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi	Yes		
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi	Yes		
22.	ILS Law College, Maharashtra	Yes		An ethical and effective Parliament is the envisaged objective behind these privileges.
23.	National Law School of India University, Karnataka	Yes		With a rider that they are not “primarily” but “solely”. The Parliament has absolute powers to ensure this, most effectively by enacting a law on the subject-matter under Entry 75 of List 1 of Schedule VII read with Article 105.
24.	Osmania University, Andhra Pradesh	Yes		Privileges are given to ensure independence and autonomy to Parliament and State Legislatures.
25.	University of Allahabad, Uttar Pradesh	Yes		
Question No. 2 Since it is well settled that privileges are available to members of Parliament only in so far as these are absolutely necessary for them to discharge their parliamentary functions, do you feel that there is any scope for misuse of these privileges by the House or its members?				
1.	Banaras Hindu University, Uttar Pradesh	No (Qualified reply)	Collective decision of the House ensures that there will not be any possibility of misuse of the privileges. However, there is scope for misuse of privileges by the members of the Houses and the same is evidenced	

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				in the cases of P.V. Narsimha Rao v. State and Raja Ram Pal v. The Hon'ble Speaker, Lok Sabha & Others.
2.	Bangalore University, Karnataka	Yes		Privileges have a potential for abuse. A member can use privileges as a shield for damaging allegations that would ordinarily be discouraged by defamation laws, without first determining whether those allegations have a strong foundation. However, the privileges by themselves are necessary.
3.	Himachal Pradesh University, Himachal Pradesh	Yes		
4.	Jamia Millia Islamia, New Delhi	Yes		
5.	Karnatak University, Karnataka		No	Presiding Officer of a Legislature should ensure that individual members do not misuse parliamentary privileges.
6.	Kurukshetra University, Haryana	Yes		Scope of misuse is more particularly when the House is not in session.
7.	Maharshi Dayanand University, Haryana	Yes		
8.	Mangalore University, Karnataka	Yes		There is scope for misuse of 'extended privileges'.
9.	Mohan Lal Sukhadia University, Rajasthan		No	
10.	North Eastern Hill University, Meghalaya		No	

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11.	Ranchi University, Jharkhand	Yes		
12.	Sambalpur University, Orissa	Yes		The scope for misuse of privileges, even though minimal, cannot be ruled out.
13.	Saurashtra University, Gujarat		No	View taken by way of inference.
14.	University of Delhi, Delhi	Yes		Unless judiciously discharged, there is a clear possibility of misuse of privileges and immunities.
15.	University of Jammu, Jammu (Tawi)	Yes		There appears to be ample scope for misuse of privileges owing to criminalisation of politics.
16.	University of Lucknow, Uttar Pradesh	Yes		There is a possibility of misuse of privileges since privileges are not well defined/codified.
17.	University of Mysore, Karnataka	Yes		There is scope for misuse of such privileges, because of individualized exercise of the same and due to lack of effective preventive checks.
18.	University of Pune, Maharashtra	Yes		Possibility of abuse of privileges cannot be ruled out.
19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra	Yes		If any specific instances of such misuse by any member comes to notice, that in itself can come under the category of breach of privilege of the House making such member liable to be prosecuted for such breach.

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20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi	Yes		There may be scope of misuse of privileges.
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi			
22.	ILS Law College, Maharashtra	Yes		There is scope of abuse. Time and facts have also shown how privileges under the guise of certain gross irregularities, have been protected.
23.	National Law School of India University, Karnataka	Yes		The framers of the constitution contemplated such a possibility when they provided three limitations on the freedom of speech in article 105. The immunity is provided for anything said or any vote in the Parliament or any Committee thereof. In other respects immunities and privileges are to be defined by a Law enacted by the Parliament.
24.	Osmania University, Andhra Pradesh	Yes		There appears to be a tendency and scope for misuse for personal gains.
25.	University of Allahabad, Uttar Pradesh	Yes		It has happened in the past.
Question No. 3 As privileges are enjoyed by members to function freely in the House as representatives of the people, can it be said that privileges are liable to be used by members against the interest of the very same people who are their constituents?				
1.	Banaras Hindu University, Uttar Pradesh	Yes		While such a notion was inconceivable earlier, however, the recent scams indicate otherwise.

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2.	Bangalore University, Karnataka	Yes		
3.	Himachal Pradesh University, Himachal Pradesh	Yes		
4.	Jamia Millia Islamia, Delhi	Yes		
5.	Karnatak University, Karnataka		No	
6.	Kurukshetra University, Haryana	Yes		The possibility of misuse of privileges is there, though remote.
7.	Maharshi Dayanand University, Haryana		No	
8.	Mangalore University, Karnataka	Yes		While in specific case, it is possible. The same can't however be generalized.
9.	Mohan Lal Sukhadia University, Rajasthan		No	
10.	North Eastern Hill University, Meghalaya	Yes		Possibility is there under special circumstances.
11.	Ranchi University, Jharkhand	Yes		
12.	Sambalpur University, Orissa		No	
13.	Saurashtra University, Gujarat		No	View taken by way of inferences from the instances quoted.
14.	University of Delhi, Delhi		No clear reply	
15.	University of Jammu, Jammu (Tawi)	Yes		
16.	University of Lucknow, Uttar Pradesh		No	

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17.	University of Mysore, Karnataka	Yes		
18.	University of Pune, Maharashtra	Yes		
19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra	No		
20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi	Yes		
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi			During the last 40 years or so Indian polity has suffered setbacks at the hands of the representatives of people in the Houses of Parliament. Unprincipled defections violated the mandate and the interests of the people. This is true also in context of the coalition politics where members do not serve the interests of the people.
22.	ILS Law College, Maharashtra	Yes		The wide protection given to MPs by privileges is definitely capable of being misused against the people of the country, particularly against the fundamental rights of people.
23.	National Law School of India University, Karnataka	Yes		
24.	Osmania University, Andhra Pradesh	Yes		Particularly when the elected representatives use the privileges with ulterior motive by forsaking the public interest.
25.	University of Allahabad, Uttar Pradesh	Yes		

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Question No. 4 Bearing in mind the observations of the Supreme Court in MSM Sharma's case, do you feel that non-enactment of a law codifying their privileges was a deliberate act on the part of Parliament to keep their privileges vague?				
1.	Banaras Hindu University, Uttar Pradesh	Yes		
2.	Bangalore University, Karnataka	Yes		
3.	Himachal Pradesh University, Himachal Pradesh	Yes		
4.	Jamia Millia Islamia, Delhi	Yes		
5.	Karnatak University, Karnataka		No	Codification of privileges is possible but a very difficult task. No written constitution has succeeded in the endeavour.
6.	Kurukshetra University, Haryana		No	Non-enactment of law codifying privileges enables Parliament to deal with unforeseen obstruction and hindrances in discharging their parliamentary functions.
7.	Maharshi Dayanand University, Haryana	Yes		
8.	Mangalore University, Karnataka	Yes		
9.	Mohan Lal Sukhadia University, Rajasthan		No	
10.	North Eastern Hill University, Meghalaya		No	Non-codification is a dignified course of action. Keeping a flexible view

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				<i>vis-a-vis</i> privileges would enable Parliament to cope with evolving situation in course of time.
11.	Ranchi University, Jharkhand		No clear reply	
12.	Sambalpur University, Orissa		No	
13.	Saurashtra University, Gujarat		No clear reply	
14.	University of Delhi, Delhi	Yes		
15.	University of Jammu, Jammu (Tawi)		No clear reply	
16.	University of Lucknow, Uttar Pradesh		No	
17.	University of Mysore, Karnataka	Yes		
18.	University of Pune, Maharashtra		No	It may not be deliberate attempt but the fact remains that privileges need to be codified.
19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra		No	
20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi		No	
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi	Yes		
22.	ILS Law College, Maharashtra	Yes		The fact that no law has been codified the privileges is clearly interpreted as a deliberate inaction,

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				enabling Parliament to operate in a sea of vagueness, but vagueness is desirable here.
23.	National Law School of India University, Karnataka	Yes		
24.	Osmania University, Andhra Pradesh	Yes		The main reason for non-enactment of a law codifying the parliamentary privileges appears to be that framers of our Constitution followed the Westminster model of U.K., which has no written constitution.
25.	University of Allahabad, Uttar Pradesh	Yes		
Question No. 5 Do you feel that privileges of Parliament and its Committees and members need to be codified?				
1.	Banaras Hindu University, Uttar Pradesh	Yes		Codification brings certainty and clarity. India adopted a written constitution just because of this fact.
2.	Bangalore University, Karnataka			
3.	Himachal Pradesh University, Himachal Pradesh	Yes		
4.	Jamia Millia Islamia, Delhi	Yes		
5.	Karnatak University, Karnataka		No	
6.	Kurukshetra University, Haryana		No	Complete codification of privileges is not required in

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				view of the fact that it will lead to rigidity in the system and there will be clashes between different organs of the Government over the interpretation of codified law hampering the growth of healthy democracy in India.
7.	Maharshi Dayanand University, Haryana	Yes		
8.	Mangalore University, Karnataka	Yes		
9.	Mohan Lal Sukhadia University, Rajasthan		No	
10.	North Eastern Hill University, Meghalaya		No	Privileges once codified would come under judicial scrutiny. Parliament is well empowered to regulate its privileges within its own ambit.
11.	Ranchi University, Jharkhand	Yes		
12.	Sambalpur University, Orissa		No	The time has not arrived yet but may be looked into in future.
13.	Saurashtra University, Gujarat		No	
14.	University of Delhi, Delhi		No clear reply	
15.	University of Jammu, Jammu (Tawi)		No clear reply	
16.	University of Lucknow, Uttar Pradesh	Yes		
17.	University of Mysore, Karnataka	Yes		In the background of expanded scope of

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				fundamental rights, greater focus on strengthening the basic features of the Constitution, and increased instances of arbitrary and partisan conduct of members of Parliament, codification of parliamentary privileges is essential. It will have educative, preventive and remedial value.
18.	University of Pune, Maharashtra	Yes		
19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra	Yes		
20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi		No	
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi		No	
22.	ILS Law College, Maharashtra		No	
23.	National Law School of India University, Karnataka	Yes		Powers and privileges should be defined by law to objectively set out what can be done by the Parliament to safeguard its institutional position and function to avoid a charge of arbitrariness in the context of the rights guaranteed by the Constitution. This will enable Parliament to be consistent in its approach to the questions of privileges

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				and would also serve to put people in proper prospective as to what would constitute a breach of privilege. These could be realized only through a statute.
24.	Osmania University, Andhra Pradesh	Yes		For avoiding confusion and uncertainty.
25.	University of Allahabad, Uttar Pradesh		No	It is likely that despite codification some grey areas would be left out. Thus differences are likely to arise.
Question No. 6 Don't you feel that with a codified law more benefit will flow to persons bent on vilifying Parliament, its members and Committees and Courts will be called upon more and more to intervene and that a written law will make it difficult for Parliament as well as Courts to maintain that dignity which rightly belongs to Parliament?				
1.	Banaras Hindu University, Uttar Pradesh		No	Codification does not mean that power to decide on the breach shall rest with the courts. Even today courts have the power to review the decision of the Parliament regarding its privileges.
2.	Bangalore University, Karnataka		No	
3.	Himachal Pradesh University, Himachal Pradesh		No	
4.	Jamia Millia Islamia, Delhi		No	

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5.	Karnatak University, Karnataka	Yes		Codification restricts privileges. Parliament alone should have the power of defining privileges in a given context.
6.	Kurukshetra University, Haryana	Yes		
7.	Maharshi Dayanand University, Haryana	Yes		
8.	Mangalore University, Karnataka		No clear reply	
9.	Mohan Lal Sukhadia University, Rajasthan	Yes		
10.	North Eastern Hill University, Meghalaya	Yes		
11.	Ranchi University, Jharkhand		No	
12.	Sambalpur University, Orissa	Yes		Codification may bring judiciary in matters essentially belonging to Legislature.
13.	Saurashtra University, Gujarat			
14.	University of Delhi, Delhi	Yes		No categorical reply. The perfect guarantee against misuse of privileges is the level of awareness among people.
15.	University of Jammu, Jammu (Tawi)		No	
16.	University of Lucknow, Uttar Pradesh		No	What is required is true appreciation of parliamentary privileges.
17.	University of Mysore, Karnataka		No	

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18.	University of Pune, Maharashtra		No	Desired objective can be achieved if codification of privileges is done in a proper manner.
19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra		No	
20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi	Yes		
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi	Yes		Given the nature and complexion of on-going politics in India, codified law will certainly hamper the smooth functioning of the Houses of Parliament and their committees and members because disgruntled politicians and vested interests would initiate large scale litigation in the country and one never knows how long the judiciary will take to decide the issues raised. Infact, in the present political scenario, the <i>status quo</i> may be maintained.
22.	ILS Law College, Maharashtra	Yes		However, a broad definition of either contempt or privileges is necessary in today's context. Without a codified law, the courts are entitled to review only the gross illegalities of violations of the Constitution.

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23.	National Law School of India University, Karnataka		No	<p>It appears to be only an unverified apprehension that a law defining the powers and privileges would invite more questions. Even without a law, questions have been asked in courts on the validity of the actions of Parliament. This, no doubt, is an inevitable consequence of a controlling Constitution under which judicial review is apart of the basic structure. In the absence of any law, the courts may be prompted to set down the norms for exercise of parliamentary privileges. Parliament has surrendered its dignity and identity to “a numerical quota of anonymous heads” and that is the main reason for the vilification. Alongside, membership of Parliament, and the holding of any other office involving any exercise of executive power should be regarded as mutually exclusive for the reason Parliament has the duty to control the executive power-holders through denying legislative support unless convinced about the correctness of executive action and to impeach high executive power holders for violation of the Constitution.</p>

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24.	Osmania University, Andhra Pradesh		No	The proposed codified law can be so enacted to contain effective safeguards against the misuse of privileges. As regards, the intervention by the courts. It cannot be stopped, in view of the fact that judicial review is a basic feature of the Constitution.
25.	University of Allahabad, Uttar Pradesh	Yes		
Question No. 7 Codification of parliamentary privileges could end up in undue focus on specifics at the cost of substance. Please comment.				
1.	Banaras Hindu University, Uttar Pradesh		No	
2.	Bangalore University, Karnataka			No specific answer. In the first instance dilemmas, problems and challenges regarding the existing privileges need to be addressed.
3.	Himachal Pradesh University, Himachal Pradesh	Yes		
4.	Jamia Millia Islamia, Delhi		No	
5.	Karnatak University, Karnataka	Yes		Parliamentary privileges belong to the domain of conventions—unwritten and practices regarded as binding. The British House of Commons is powerful mainly because of respect to conventions governing the privileges and powers of Parliament.

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6.	Kurukshetra University, Haryana	Yes		Codification will defeat the very purpose of the provision <i>i.e.</i> smooth functioning of Parliament within the overall framework of the Constitution and as per the spirit of democracy. Codification of privileges or laying down detailed provisions will defeat the very purpose.
7.	Maharshi Dayanand University, Haryana	Yes		
8.	Mangalore University, Karnataka		No	It is time that substance has to be obtained through viable specifics.
9.	Mohan Lal Sukhadia University, Rajasthan	Yes		
10.	North Eastern Hill University, Meghalaya	Yes		
11.	Ranchi University, Jharkhand		No	Codifications tend to restrict privileges. Parliament is capable of accommodating to demand of changing times.
12.	Sambalpur University, Orissa	Yes		
13.	Saurashtra University, Gujarat	Yes		
14.	University of Delhi, Delhi	Yes		A positive/codified law is better than the common or customary law.
15.	University of Jammu, Jammu (Tawi)	Yes		Law that grows and develops on the basis of conventions shall be pointer towards wider

1	2	3	4	5
				dimensions, approaches and ramifications, and codification shall be pointer towards specifics, hence, narrower in approach as well as ramifications.
16.	University of Lucknow, Uttar Pradesh		No	
17.	University of Mysore, Karnataka		No	Codification invariably involves formulation of specific principles and procedures. It is only undue focus on specifics that injures the substance. Provision for residuary powers will address the loopholes of codification.
18.	University of Pune, Maharashtra	Yes		
19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra		No	
20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi	Yes		
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi	Yes		It is possible that judicial verdict might frustrate the very purpose of the guarantee of privileges.
22.	ILS Law College, Maharashtra	Yes		A codified law can be challenged on minute details, considering that such a law will be bound by the mandate of all fundamental rights (Article 13).

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23.	National Law School of India University, Karnataka		No	It is only in "other respects" in article 105 (1) & (2) that privileges are to be by an enacted law. The most significant aspect of the membership of Parliament is fearless espousal of the common cause, the main essence of Parliament's function. This is safeguarded by the constitution but necessarily subject to the provisions of the Constitution. Therefore, in "other matters", which are not of the essence of the Parliament's functioning codification will not unduly focus on specifics at the cost of substance.
24.	Osmania University, Andhra Pradesh		No	It will ensure greater clarity and certainty.
25.	University of Allahabad, Uttar Pradesh	Yes		It is possible that codification might lead to interference of the courts and could end up in undue focus on specifics at the cost of substance.
Question No. 8				
<p>There is a view among the members that they are performing their duties as members of Parliament even while taking up grievances and matters pertaining to their constituents with the concerned executive functionaries in their respective constituencies or else where. Hence there has been a demand by some members that in order to enable them to serve their constituents unfettered, parliamentary privileges should approximately be extended to them on such occasions too. In view of this position, do you feel that there is a need for broadening the content of parliamentary privileges? If so, please state reasons therefore.</p>				
1.	Banaras Hindu University, Uttar Pradesh		No	Broadening the content of parliamentary privileges would only result in undue

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				interference in the executive functioning.
2.	Bangalore University, Karnataka		No	Before further broadening, in the first instance the dilemmas, problems and challenges regarding the existing privileges need to be addressed.
3.	Himachal Pradesh University, Himachal Pradesh		No	
4.	Jamia Millia Islamia, Delhi		No	
5.	Karnatak University, Karnataka		No	
6.	Kurukshetra University, Haryana		No	
7.	Maharshi Dayanand University, Haryana		No	
8.	Mangalore University, Karnataka		No	By doing so there is scope for misuse of privileges.
9.	Mohan Lal Sukhadia University, Rajasthan		No	
10.	North Eastern Hill University, Meghalaya		No	Provision of privileges both inside and outside parliamentary jurisdictions would create two classes of citizenry, which would be discriminatory.
11.	Ranchi University, Jharkhand		No	
12.	Sambalpur University, Orissa		No	
13.	Saurashtra University, Gujarat		No	

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14.	University of Delhi, Delhi		No	
15.	University of Jammu, Jammu (Tawi)		No	
16.	University of Lucknow, Uttar Pradesh		No	Extension of privileges could result in abuse.
17.	University of Mysore, Karnataka		No	
18.	University of Pune, Maharashtra	Yes		Privileges can be broadened only when the members wish to use these privileges to carry out their duties in person at places other than their constituencies.
19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra		No	
20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi		No	
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi		No	The extension of parliamentary privileges is undesirable to the actions/ utterances outside the precincts of the Houses, however laudable their intentions might be though it is doubtful that these intentions would always be laudable, given the existing political climate in the country. Moreover, the opponents might initiate cases in the courts against the members of the Houses, which would not be a healthy trend to be initiated.

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22.	ILS Law College, Maharashtra		No	The privileges are intended to protect the dignity of Parliament. Political functions are to be distinguished from the parliamentary functions. Parliament is the platform to debate on the issues of governance. Privileges are intended to preserve the dignity of the Parliament as a democratic institution. Therefore, there is no need for broadening the content of parliamentary privileges.
23.	National Law School of India University, Karnataka		No	There is no need for broadening the scope of privileges. Members can take note of violation of Sec.166 IPC involved in every case where the law is not obeyed and require in Parliament prosecution of the erring officer for the non-compoundable offence involved. This method will serve to eliminate corruption as well.
24.	Osmania University, Andhra Pradesh	Yes		
25.	University of Allahabad, Uttar Pradesh		No	

Sl.No.	Reply received from	Justified	Unjustified	Remarks
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Question No. 9	The Contempt of Court Act, 1971 defines "criminal contempt" as publication of any matter or the doing of any other act whatsoever which "scandalizes or tends to scandalize or lowers or tends to lower the authority of any court; prejudices or interferes or tends to interfere with the due course of any judicial proceedings; or interferes or tends to interfere with or obstructs			

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		<p>or tends to obstruct, the administration of justice in any other manner". Since this definition, does not specify each and every act that may amount to contempt of court, it is a matter of interpretation whether a particular act would come under the purview of the definition or not. Likewise the definition of contempt of Parliament (See para 8 of the Background Note) does not specify each and every act, the commission or omission of which would amount to contempt of the House. In view of this position, how far the criticism of Parliament on the count that the definition of contempt of the House is vague and unspecific, justified?</p>		
1.	Banaras Hindu University, Uttar Pradesh	Justified		The definition of parliamentary privileges needs more accuracy, clarity and specification.
2.	Bangalore University, Karnataka	Justified		
3.	Himachal Pradesh University, Himachal Pradesh		Unjustified	
4.	Jamia Millia Islamia, Delhi		Unjustified	The term 'contempt of the House' needs to be defined.
5.	Karnatak University, Karnataka		Unjustified	It is better to continue to follow British Parliamentary practice.
6.	Kurukshetra University, Haryana		Unjustified	It is justified only if any action of the Parliament in the name of contempt of the House goes against the rule of law and comes in the way of judicial review and lowers the dignity of an organ of the Government.
7.	Maharshi Dayanand University, Haryana		Unjustified	

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8.	Mangalore University, Karnataka	Justified	No clear reply	
9.	Mohan Lal Sukhadia University, Rajasthan		Unjustified	
10.	North Eastern Hill University, Meghalaya		Unjustified	Comment on functioning of the Parliament or conduct of the parliamentarians is a part of their public accountability—criticism and tolerance of criticism is part and parcel of every mature Parliamentary Democracy. However, caricature of Parliament or matters expressed in indignity must be dealt with by the Parliament and should not be permitted under the garb of ‘Freedom of Expression’.
11.	Ranchi University, Jharkhand	Justified		
12.	Sambalpur University, Orissa		Unjustified	
13.	Saurashtra University, Gujarat	Justified		
14.	University of Delhi, Delhi		Unjustified	Similar to Contempt of Court Act, 1971 contempt of the House would merely be illustrative and cannot be exhaustive.
15.	University of Jammu, Jammu (Tawi)		Unjustified	
16.	University of Lucknow, Uttar Pradesh	Justified		
17.	University of Mysore, Karnataka		Unjustified	

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18.	University of Pune, Maharashtra		Unjustified	
19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra	Justified		It militates against the cardinal principle of jurisprudence that any statute, particularly a statute providing for punishment should be specific.
20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi	Justified		
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi	Justified		Most of the legal definitions in the world are not absolute and they cannot be because law interacts with myriads of human activities and, therefore, only broad definitions have to be given, leaving the interpretation to relevant courts/ legislative Houses. Accordingly, the definition of the contempt of the Houses of Parliament cannot be characterized as vague.
22.	ILS Law College, Maharashtra		Unjustified	A definition of contempt of a House of Parliament will have to be broad by its inherent nature. The nature of a House has to be interpreted in the context of the facts in each case. In view of this position the criticism is not justified.
23.	National Law School of India University, Karnataka		Unjustified	To define is to limit. Therefore, an exhaustive definition will create more

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				difficulties than it may solve. It would be better to indicate the broad rubric.
24.	Osmania University, Andhra Pradesh	Justified		The definition contains vague expressions.
25.	University of Allahabad, Uttar Pradesh		Unjustified	The definition of contempt of Parliament is sufficient. It would be unfair to criticize the members on the basis of insufficiency of the definition.

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
Question No. 10 Article 129 of the Constitution provides that the Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Don't you think that Parliament, being the supreme legislative body in the country should enjoy power to punish for its contempt in the same manner as is done by the Supreme Court, the supreme judicial body of the country?				
1.	Banaras Hindu University, Uttar Pradesh	Yes		
2.	Bangalore University, Karnataka	Yes		Parliament, however has to use the power judiciously.
3.	Himachal Pradesh University, Himachal Pradesh	Yes		
4.	Jamia Millia Islamia, Delhi		No	
5.	Karnatak University, Karnataka	Yes		However, there is no need to enact any law in this regard because the power to punish is discretionary.
6.	Kurukshetra University, Haryana	Yes		This power, however, has to be used only if absolutely necessary.

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7.	Maharshi Dayanand University, Haryana	Yes		
8.	Mangalore University, Karnataka		No clear reply	
9.	Mohan Lal Sukhadia University, Rajasthan	Yes		
10.	North Eastern Hill University, Meghalaya	Yes		
11.	Ranchi University, Jharkhand	Yes		
12.	Sambalpur University, Orissa	Yes		
13.	Saurashtra University, Gujarat	Yes		
14.	University of Delhi, Delhi		No	
15.	University of Jammu, Jammu (Tawi)		No	
16.	University of Lucknow, Uttar Pradesh	Yes		
17.	University of Mysore, Karnataka	Yes		Powers, however, should be codified and made clear.
18.	University of Pune, Maharashtra		No clear reply	
19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra	Yes		
20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi	Yes		
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi	Yes		The House of Parliament possess the power to punish for their contempt under several provisions of article 105 of the Constitution.

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22.	ILS Law College, Maharashtra	Yes		However, the Constitution is equally clear that the Court is the final interpreter of Constitutions.
23.	National Law School of India University, Karnataka		No	The power to punish for contempt of the Parliament is available even now. A specific take of that power may not be required.
24.	Osmania University, Andhra Pradesh	Yes		It should be used sparingly as there is no law such as law like the Contempt of Courts Act, 1971.
25.	University of Allahabad, Uttar Pradesh		No	There is a difference in functioning of both these institutions.

Question No. 11 Each House of Parliament by convention possess not only the power to punish for contempt but also have the right to judge for themselves what is contempt or what is not. The power of the House to punish for contempt or breach of privilege is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege. If in exercise of its penal powers, the House adopts a motion expelling (available to House by virtue of convention) some members for grave misconducts unbecoming of members, can the judiciary review such decisions?

1.	Banaras Hindu University, Uttar Pradesh	Yes		Matter has since been settled in Raja Ram Pal v. The Hon'ble Speaker, Lok Sabha & Others. The Supreme court has upheld that it has the power of judicial review.
2.	Bangalore University, Karnataka	Yes		In A.K. Gopalan case the Supreme Court held that

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				<p>the powers of each of the three organs had to be exercised as fundamentally subject to the provisions of the Constitution relating to that organ individually as well as to the provisions relating to the organs. In <i>Raj Narain v. Atmaram Govind Kher</i>, held that the Allahabad High Court had no jurisdiction to issue a writ, direction or order relating to a matter, which affected the internal affairs of the House. Speaker (2nd Lok Sabha) Shri M.A. Ayyangar had observed that privileges can be codified by law, and when this law is made then it will be subservient to the Fundamental Rights and shall be subjected to scrutiny as contemplated under Art. 13(2) which could be, wherever necessary, struck down by the Supreme Court. According to Shri Ayyangar legislature does not seem to be prepared to be subservient to judicial review. It seems that the legislature is unwilling to restrict its perhaps hitherto unlimited powers and privileges.</p>
3.	Himachal Pradesh University, Himachal Pradesh		No	

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4.	Jamia Millia Islamia, Delhi	Yes		
5.	Karnatak University, Karnataka		No	
6.	Kurukshetra University, Haryana	Yes		Judicial review is the basic structure of the Constitution.
7.	Maharshi Dayanand University, Haryana	Yes		
8.	Mangalore University, Karnataka	Yes		
9.	Mohan Lal Sukhadia University, Rajasthan		No	
10.	North Eastern Hill University, Meghalaya		No	
11.	Ranchi University, Jharkhand		No	
12.	Sambalpur University, Orissa		No	
13.	Saurashtra University, Gujarat		No	
14.	University of Delhi, Delhi	Yes		
15.	University of Jammu, Jammu (Tawi)	Yes		
16.	University of Lucknow, Uttar Pradesh		No	
17.	University of Mysore, Karnataka	Yes		Judicial review need not be treated by the Parliament and State Legislatures as confrontation but should be treated as part of democracy.
18.	University of Pune, Maharashtra	Yes		

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19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra		No	
20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi		No	
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi		No	If in a certain case a House adopts a motion expelling some members for grave misconduct that is quite unbecoming of the member, the judiciary does not have the power to review the decision of the House. This is exclusively a matter that falls within the jurisdiction of the House. The court can certainly decide in case of a challenge whether a certain privilege exists or not but it cannot decide the question of the manner in which the privilege has been exercised.
22.	ILS Law College, Maharashtra	Yes		The scope of judicial review has been limited by the Article 122 of the Constitution but the same does not protect acts in defiance of the Rule of Law. The Supreme Court has recognized this distinction in accepting that procedural irregularities cannot be interfered with, while illegalities or unconstitutionality in the

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				exercise of contempt/ privilege powers of the Parliament can be set aside.
23.	National Law School of India University, Karnataka	Yes		Article 105 (3) of the Constitution would seem to save the current practice, but it would be 'existing law' for Art. 13 (1) read with Article 13 (3) and cannot abridge or take away any of the rights conferred by Part III. Membership of Parliament would involve at the core, freedom of speech, which is subject to reasonable restrictions in the interests of 'decency' or 'morality'. What is 'decency' or 'morality' for Parliament can be set by it and Article 13 (3) would allow even 'custom' or 'usage' having in the territory of India the force of law. Judicial review cannot be ousted but would be limited to verifying the reasonableness of the restriction.
24.	Osmania University, Andhra Pradesh	Yes		Action of Speaker should not be above the power of judicial review particularly when the ruling party enjoys brute majority in the House.
25.	University of Allahabad, Uttar Pradesh		No	This would be violation of doctrine of separation of powers.

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Question No. 12 Our Constitution inherently follows the principle of 'separation of powers'. Would you agree that in the name of judicial activism, the courts do, on occasions, tend to transgress into the domains of legislature which is often resulting in near confrontation situations between the courts and the legislatures?				
1.	Banaras Hindu University, Uttar Pradesh		No	Doctrine of Separation of Powers is adopted not in strict sense but in a modified manner, following Checks & Balances doctrine.
2.	Bangalore University, Karnataka		No	
3.	Himachal Pradesh University, Himachal Pradesh	Yes		
4.	Jamia Millia Islamia, Delhi	Yes		
5.	Karnatak University, Karnataka	Yes		The conflict is inevitable because of the principle of compromise between judicial review and parliamentary supremacy as per our Constitution. The people's representatives and judges of courts should bear in mind the ultimate goal of people's well being and smooth working of parliamentary system.
6.	Kurukshetra University, Haryana		No clear reply	
7.	Maharshi Dayanand University, Haryana	Yes		
8.	Mangalore University, Karnataka	Yes		

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9.	Mohan Lal Sukhadia University, Rajasthan		No	
10.	North Eastern Hill University, Meghalaya	Yes		
11.	Ranchi University, Jharkhand		No	
12.	Sambalpur University, Orissa		No	
13.	Saurashtra University, Gujarat	Yes		
14.	University of Delhi, Delhi		No	Judicial activism is an outcome of the failure of the executive and legislature to address the genuine concerns. Judicial intervention cannot be unjustified simply because the judiciary is not accountable to the people.
15.	University of Jammu, Jammu (Tawi)		No	Judicial intervention should be treated as friendly synergetic gesture; unlike political populist it is judicious angelic devoid of "political popularis".
16.	University of Lucknow, Uttar Pradesh		No	If 'judicial activism' is for the sake of proper administration of justice then it should be appreciated by all, instead of looking it as transgression.
17.	University of Mysore, Karnataka		No	The final interpretation of the Constitution, which is supreme, vests with the judiciary, and the other wings of Governance have to accept as to what judiciary says.

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18.	University of Pune, Maharashtra		No	Judicial activism has strengthened the democratic and constitutional values and is not problematic factor.
19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra		No	
20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi	Yes		
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi		No	The power to interpret the various provisions of the Constitution lies with the higher judiciary, the last word being that of the apex court. However, this does not give the judiciary unlimited power to disturb the fine balance ensured by the Constitution between the three organs of the State: rather it is the function of the judiciary to strike such a balance.
22.	ILS Law College, Maharashtra		No	Judiciary has been well within its legitimate limits in interpreting the legal/constitutional limits of the contempt powers/privileges of the Parliament. Judicial activism by itself cannot be termed as transgression of borders of judicial review.
23.	National Law School of India University, Karnataka	Yes		The Constitution has a separation of powers and checks and balances built

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				into it. The judiciary finds itself compelled to lay down norm relating to privileges in the absence of any specific legislation. The agony is that the legislature is not appreciating the present state of affairs and checks and balances. It is because of this that the Parliament looks with suspicion at judicial decisions as transgression. The courts have seldom transgressed into policy making.
24.	Osmania University, Andhra Pradesh	Yes		Action of Speaker should not be above the power of judicial review particularly when the ruling party enjoys brute majority in the House.
25.	University of Allahabad, Uttar Pradesh	Yes		This has happened in the past but not as a result of judicial activism but as a result of the impatience and intolerance showed by the courts as well as the legislature.
Question No. 13 Any other comments/suggestions which you may like to make in the matter?				
1.	Banaras Hindu University, Uttar Pradesh			There is a need of fresh look at codification keeping in view our experiences in P.V. Narsimha Rao case (1998) and Raja Ram Pal case (2007). Privileges are for the purpose of protecting dignity of Parliament from outer

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				attacks. But our representatives have established that there is a need of inner shield in the form of privileges for Parliament to be protected from its members.
2.	Bangalore University, Karnataka			Certain precedents, conventions ought to develop in parliamentary procedure and practice to prevent misuse and politicization of the privileges and immunities. If this happens then the issue of courts coming into the picture will be minimized.
3.	Himachal Pradesh University, Himachal Pradesh			For enhancing propagation and applicability of democratic values, people's representatives could be given more power of privileges. At the same time greater responsibility and accommodation is expected of them.
4.	Jamia Millia Islamia, Delhi			The principle of separation of powers is concerned with the avoidance of concentration of power. What is required is that, each branch of Government is able to check the exercise of power by the others, either by participating in the functions conferred on them, or by subsequently reviewing the exercise of that power. The decorum and seriousness of the proceedings of the House should be paramount.

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5.	Karnatak University, Karnataka			The Presiding Officers should act impartially and in a non-partisan way. They should safeguard the dignity and authority of the Parliament/Legislature. They should strictly enforce the rules of procedure during the proceeding the House and take stringent action against everyone who attacks the authority of the House. Parties, language, region, caste, religion and race should never bother them. As presiding officers they are responsible for orderly conduct of the business in the House.
6.	Kurukshetra University, Haryana			
7.	Maharshi Dayanand University, Haryana			
8.	Mangalore University, Karnataka			
9.	Mohan Lal Sukhadia University, Rajasthan			
10.	North Eastern Hill University, Meghalaya			
11.	Ranchi University, Jharkhand			
12.	Sambalpur University, Orissa			A healthy democratic practice requires regular review of constitutional and parliamentary practices and India must also innovate instead of looking to conventions developed by Great Britain.

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13.	Saurashtra University, Gujarat			There should not be any proto type and strict codification of parliamentary privileges. Codification can be worked out, but it should not adversely affect on the basic structure of Indian Constitution <i>i.e.</i> democratic privileges of the member.
14.	University of Delhi, Delhi			One should go for building consensus among the parties and other stakeholders in Parliamentary system of democracy so that the decision is arrived at without friction. This will take some time but seems to be a respectable way of sorting out the differences that have been blown out of proportion. One should also encourage civil society activists to look into the issues that appear to have damaged the integrity of legislators. A concerted effort on the part of the stakeholders of democratic governance in India may yield results which will protect the sanctity of institution and processes, so integral to parliamentary form of Government in its reinvented design.
15.	University of Jammu, Jammu (Tawi)			
16.	University of Lucknow, Uttar Pradesh			Indian Parliament now should take on to properly

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				codify the parliamentary privileges for the sake of transparency. It would be in the greater interest of Parliamentary justice.
17.	University of Mysore, Karnataka			<p>Recently there is welcome trend in the development of the law of Parliamentary privileges. It is increasingly used to ensure respectable conduct on the part of MPs. In view of the growing corruption and decline in political morality, using the parliamentary privileges as an instrument of self rectification rather than as a tool of self glorification is appropriate development. The Supreme Court's power of review on resolution passed by the House including expulsion order as in Raja Ram Pal case (2007) has resulted in comfortable consequences. Compared to P.V. Narsimha Rao's case when individual MP's privilege of voting prevailed over the House, the emerging law is in tune with democratic principles. In view of abuse of MPLADS it is necessary to impose stringent restrictions so that transparency may be ensured.</p>
18.	University of Pune, Maharashtra			

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19.	Dr. S.B. Majumdar, Chancellor, Symbiosis Law College, Pune, Maharashtra			Times have changed and it is a welcome step to apply a fresh thinking to the issue of privilege. There cannot be a cut and dried solution. The privileges have to be evolved over a period of time. Their contents, their context, their utility will undergo many changes with lapse of time. Such an attempt to review the position is therefore welcomed.
20.	Prof. Nomita Aggrawal, Dean, Faculty of Law, University of Delhi			Codification of privileges will cause more problems than it can solve.
21.	Dr. Ashok K. Chauhan, Amity Law College, Delhi			A Constitution is best worked out by a sense of propriety and good conscience.
22.	ILS Law College, Maharashtra			The separation of power is imbibed in the Constitution itself. The organs of the State have been empowered with wide power. The mere exercise of these powers by the organs of the State is not confrontation but a working example of what the constitution's makers intended to be the role of each organ. The organs of the State must work harmoniously with each other under the auspices of the Constitution itself. One must not consider recent history as a clash of powers but as a legitimate.

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23.	National Law School of India University, Karnataka			<p>The most urgent need is for Parliament to redeem itself as an institution. This would require that a party form of Government cannot be in place. Each and every member will have to be recognized as the representative of his/her constituency of electors and allowed to function with parity of power and without instructions from the party of which he/she is a member. This autonomy and independence of the Members of Parliament is to be fully recognized and ensured to enable Parliament to function as an institution. Parliament will have to be vigilant about violation of the Constitution by the high constitutional functionaries through non-action of unconstitutional action the same way as the superior Courts are about acts by the executive and the legislature. Parliament will have to start asserting its power of control over the executive and the judiciary and, for that, first step out of the Westminster frame and work the constitutional scheme as written in the text of the Constitution. An interaction by co-ordination with the executive instead</p>

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				<p>of the integration as of now will give Parliament greater stature but Members of Parliament would have to eschew participation in any kind of exercise of executive power, the MPLAD Scheme included. The danger is from executive power as experienced here and elsewhere have indicated. The Parliament, therefore, as an institution will have to control executive power rather than participation with it.</p>
24.	Osmania University, Andhra Pradesh			<p>In view of the increased criminalisation of politics, the need of the hour appears to be ensuring greater accountability on the part of the members. The codification of privileges may be taken up for ensuring greater transparency in the working of legislators, apart from avoiding conflict with the judiciary and executive.</p>
25.	University of Allahabad, Uttar Pradesh			<p>There is an urgent need to reform the electoral process. There should be State funding of elections and minimum 5% threshold votes should be made mandatory for the political parties. Provisions should be made for confidence motion and two-ballot system.</p>

**Appendix III : LIST OF FOREIGN PARLIAMENTS TO
WHOM THE QUESTIONNAIRE WAS
ADDRESSED**

V. FOREIGN PARLIAMENT

1. **Australia**
Clerk of the House,
House of Representatives,
Parliament House, Canberra, ACT 2600,
Australia
2. **United Kingdom**
Clerk of the Parliaments,
United Kingdom: House of Lords Westminster,
London SW1A0PW, United Kingdom
3. **United Kingdom**
Clerk of the House of Commons,
United Kingdom: House of Commons, Westminster,
London SW1A0AA,
United Kingdom
4. **Antigua**
Clerk to Parliament Antigua and Barbuda, Parliament Building,
Queen Elizabeth Highway,
St. John's, Antigua
5. **New South Wales**
Clerk of the Parliaments
New South Wales: Legislative Council, Parliament House, Macquarie
Street, Sydney 2000, New South Wales
6. **New South Wales**
Clerk of the Legislative Assembly
New South Wales: Legislative Council, Parliament House, Macquarie
Street, Sydney 2000, New South Wales
7. **Barbados**
Deputy Clerk of Parliament
Barbados, House of Assembly
Parliament Buildings,
Bridgetown, Barbados
8. **Central America**
Clerk, National Assembly of Belize
PO Box 139, Belmopan,
Cayo District Belize, Central America
9. **Bermuda**
Clerk to the Legislature,
Bermuda House of Assembly,
Sessions House, 21 Parliament Street, Hamilton HM 12, Bermuda

10. **Botswana**
Clerk of the National Assembly, Botswana, PO Box 240, Gaborone,
Botswana
11. **Canada**
Clerk of the Senate and Clerk of the Parliaments Canada: Senate,
Parliament Buildings,
Centre Block, Room 185-S Ottawa, Ontario, Canada
12. **Ontario**
Clerk of the House of Commons
Canada: House of Commons
Parliament Buildings,
111, Wellington Street, Ottawa,
Ontario K1A 0A6
13. **Cyprus**
Secretary General,
Cyprus: House of Representatives,
Nicosia 1402, Cyprus
14. **Fiji Islands**
Secretary General to Parliament
Fiji Islands, Parliament of Fiji,
PO Box 2352,
Government Buildings, Suva, Fiji
15. **Ghana**
Clerk to Parliament, Ghana
Office of Parliament,
Parliament House,
Accra, Ghana
16. **Guyana**
Clerk of the National Assembly, Guyana Parliament Office,
Public Buildings,
Georgetown, Guyana
17. **Isle of Man**
Clerk of Tynwald,
Legislative Buildings,
Douglas, Isle of Man IM1 3PW
18. **Jamaica**
Acting Clerk to the Houses of Parliament,
Jamaica, Houses of Parliament,
81 Duke Street, PO Box 636,
Kingston, Jamaica

19. **Kenya**
Clerk of the National Assembly, Kenya Clerk's Chambers, National Assembly,
Parliament Buildings,
PO Box 41842, Nairobi, Kenya
20. **Malaysia**
Clerk of the House of Representatives,
Malaysia Parliament House, Bangunan Parliament, 50680
Kuala Lumpur, Malaysia
21. **Mauritius**
Clerk of the National Assembly, Mauritius National Assembly,
Parliament House, Port Louis,
22. **New Zealand**
CNZM, QC
Clerk of the House of Representatives,
New Zealand Parliament House,
Wellington 6001
23. **Nigeria**
Clerk to the National Assembly – Nigeria, Complex Three Arms Zone,
PMM 141, Garki, Abuja,
Nigeria
24. **Nigeria**
Clerk of the Senate – Nigeria,
Complex Three Arms Zone,
PMM 141, Garki, Abuja, Nigeria
25. **Nigeria**
Clerk of the House – Nigeria
Complex Three Arms Zone,
PMM 141, Garki, Abuja, Nigeria
26. **Samoa**
Clerk of the Legislative Assembly,
PO Box 1866, Apia, Samoa
27. **St. Lucia**
Clerk of Parliament – St. Lucia,
Government Buildings, Castries, St.
28. **St. Vincent and the Grenadines**
Clerk of the House of Assembly Kingtown,
St. Vincent and the Grenadines

29. **Seychelles**
Clerk to the National Assembly – Seychelles, PO Box 734, Victoria,
Mahe, Seychelles
30. **Sierra Leone**
Clerk of Parliament, Parliament Building,
OAU Drive, Tower Hill,
Freetown, Sierra Leone
31. **Singapore**
Clerk of Parliament—Singapore,
Parliament House,
1 Parliament Place,
Singapore 178880
32. **South Africa**
Secretary to Parliament – South Africa, PO Box 15,
Cape Town 8000, South Africa
33. **Sri Lanka**
Secretary General of Parliament – Sri Lanka
Sri Jayewardenepura Kotte,
Colombo, Sri Lanka
34. **Tanzania**
Clerk of the National Assembly – Tanzania, Box 9133,
Dare-es-Salaam, Tanzania
35. **Trinidad and Tobago**
Acting Clerk of the Senate - Trinidad and Tobago
PO Box 878, Port of Spain
Trinidad and Tobago
36. **Uganda**
Clerk to Parliament – Uganda
Parliament of Uganda,
PO Box 7178
Kampala, Uganda

**Appendix IV : DETAILED ANALYSIS OF RESPONSES
RECEIVED TO THE QUESTIONNAIRES
FROM FOREIGN PARLIAMENTS**

ANALYSIS OF REPLIES FOR THE QUESTIONNAIRES FROM THE
FOREIGN PARLIAMENTS

I. QUESTIONS COMMON TO ALL FOREIGN PARLIAMENTS

**Question No. 1 Do members of Parliament enjoy any privileges
in your country?**

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
1.	Parliament of Fiji	Yes	-	-
2.	House of Representatives, Republic of Cyprus	Yes	-	--
3.	House of Representatives Parliament of Australia	Yes	-	-
4.	Office of the Clerk of the House of Representatives, New Zealand	Yes	-	-
5.	Clerk of Parliament, Antigua and Barbuda	Yes	-	-
6.	House of Commons, Canada	Yes	-	Members of Parliaments constitutionally enjoy the same privileges and immunities as those granted to MPs of House of Commons, UK
7.	Parliament of Sri Lanka	Yes	-	-
8.	Parliament Office, Public Buildings, Georgetown, Guyana	Yes	-	-
9.	Mauritius National Assembly	Yes	-	-

1	2	3	4	5
10.	Senate of Canada	Yes	-	-
11.	Clerk of Tynwald, British Isles	Yes	-	Only one privilege is enjoyed i.e. immunity from suit of defamation in respect of words spoken in Parliament or any of its Committees
12.	National Assembly, Nigeria	Yes	-	-
13.	National Assembly of Belize	Yes	-	-
14.	Parliament of New South Wales, Australia	-	-	It has never passed any legislation conferring upon itself the powers, privileges and immunities. The Parliament has never defined the extent of its privileges through a legislation. It has no privileges except those that are inherent in any legislative body.

Sl.No.	Reply received from	Yes	No	Remarks
1	2	3	4	5

Question No. 2 **If yes, are these privileges laid down in the Constitution/Statute/Rules of Procedure/Standing Orders or have they evolved through conventions? Kindly enumerate with details and furnish extracts of relevant constitutional/Statutory Provisions etc.**

1.	Parliament of Fiji	Yes	-	Privileges for Members for Parliament are prescribed in the "Parliamentary Powers and Privileges Act"(Cap) and in the detailed
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1	2	3	4	5
				<p>standing orders of the two Houses. These privileges include immunity from legal proceedings; freedom from arrest whilst attending to parliamentary duties, unless consent is obtained from a presiding officer; regulating the entry and presence of strangers in the precincts of Parliament: powers to order the attendance of witness to a parliamentary sitting of committee to give evidence or produce documents etc. This includes the powers to summon, issue warrant, counsel witness to be examined on oath. Furthermore, neither the Speaker, Deputy Speaker, President or Vice President of the Senate or any other officer of Parliament shall be subject to the jurisdiction of any court in respect of any powers conferred on or vested in such officer under the above-stated Act. It also includes the empowerment of the officers of Parliament, with all the powers and privileges of a police officer for the purpose of the Act, including arresting without warrant.</p>

1	2	3	4	5
2.	House of Representatives, Republic of Cyprus	Yes	-	The privileges are laid down in the Constitution. The representatives shall not be liable to civil or criminal proceedings in respect of any statement made or vote given by them in the House of Representatives. A representative cannot without the leave of the High Court, be prosecuted, arrested or imprisoned so long as he continues to be a Representative. Other privileges include members of the House of Representatives are entitled to a tax free vehicle every 100 months. This privilege is stipulated in the Customs and Excise Duty Law. Moreover during parliamentary missions abroad, members of the House of Representatives fly club class and are entitled to 75% of the per diem allowance of the country concerned.
3.	House of Representatives Parliament of Australia	Yes	-	Laid down in Parliamentary Privileges Act, 1987
4.	Office of the Clerk of the House of Representatives, New Zealand	Yes	-	Section 242 of the Legislature Act, 1908 provides the legal basis for parliamentary

1	2	3	4	5
				<p>privilege. It deems the privileges held by the British House of Commons in 1865 to be applicable in New Zealand. This includes article 9 of the Bill of Rights 1688, which provides for the freedom of speech in Parliament. There is no definitive list of privileges enjoyed by the House of Representatives. Privileges can be divided into two main categories, the first, being the privileges that exist for the benefit of members and include freedom of speech, immunity from arrest and civil process, and freedom from being served with legal process within the parliamentary precincts and the second category of privilege are those used to enforce Parliament's collective authority. These privileges include the power of the House to punish for contempt, the right of the House to be the sole judge of its own proceedings and to regulate its own composition. All privileges are in fact, the privileges of Parliament.</p>
5.	Clerk of Parliament, Antigua and Barbuda	Yes	-	The Constitution of Antigua and Barbuda

1	2	3	4	5
				<p>presently prescribes powers, privileges and immunities thus in section 58(1) which provides that “without prejudice to any provision made by Parliament relating to the powers, privileges and immunities of Parliament and its committees, or the privileges and immunities of the members and officers of either House of Parliament and of other persons concerned in the business of Parliament or its committees, no civil or criminal proceedings may be instituted against any member of either House of Parliament for words spoken before, or written in a report to, the House of Parliament of which he is a member or a committee thereof or any joint committee or thing brought by him therein by petition, bill, resolution, motion or otherwise”.</p>
6.	House of Commons, Canada	Yes	-	<p>The Privileges of British House of Commons were formally granted to the Canadian Parliament at the time of Confederation through the Constitution Act, 1867. The Privileges, immunities and powers</p>

1	2	3	4	5
				<p>are also embodied in sections 4, 5, 10-13 of the Parliament of Canada Act. The rights and immunities granted to Members of the Canadian House of Commons individually may be grouped under the following headings:</p> <p>Freedom of speech;</p> <p>Freedom from arrest in civil actions;</p> <p>Exemption from jury duty; and exemption from attending court as a witness. Collectively, the House of Commons has a certain number of rights which it claims are constitutionally protected. These include the following:</p> <p>The power to discipline; the regulation of its own internal affairs; the authority to maintain the attendance and service of its Members; the right to hold inquiries and to call witnesses and demand papers; the right to administer oaths to witnesses; and the right to publish papers containing defamatory material.</p>
7.	Parliament of Sri Lanka	Yes	-	<p>These privileges are codified in the Parliament (Powers and</p>

1	2	3	4	5
				Privileges) Act No. 21 of 1953 as amended by law No. 5 of 1978, Act No. 17 of 1980, Act No. 25 of 1984, Act No. 37 of 1987 and Act No. 27 of 1997. Power has been granted to Parliament by the Constitution to determine and regulate its privileges, immunities and powers.
8.	Parliament office, Public Buildings, Georgetown, Guyana	No categorical reply		<p>The Privileges, immunities and powers of the National Assembly of the Parliament of Guyana and of Members, are in accordance with article 172 of the Constitution, to be determined by Parliament. Broadly, this include:</p> <p>(1) No civil or criminal proceedings may be instituted against any member of the Assembly for words spoken before, or written in a report to, the Assembly or to a committee thereof or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise.</p> <p>(2) For the duration of any session, members of the Assembly shall be enjoying freedom from arrest for any civil debt.</p>

1	2	3	4	5
				(3) No process issued by any court in the exercise of its civil jurisdiction shall be served or executed within the precincts of the Assembly while the Assembly is sitting or through the Speaker, the Clerk, or any officer of the Assembly.
9.	Mauritius National Assembly	Yes	-	<p>The National Assembly Privileges, Immunities and Powers Act governs the privileges.</p> <p>The various sections that come under the Act are as follows:</p> <p>Immunity from legal proceedings, Exemption from certain services, Immunity for acts done under authority, Contempt of the Assembly, prosecution subject to the Standing Orders, Strangers, Power of officer of Assembly Summoning of witnesses, Witnesses may be examined on oath, Objections by witness, Penalty for giving false evidence, Evidence, Certificate to witness a bar to proceedings, Journals to be evidence, Publications authorized by Assembly, Penalty for printing false copies, Continuance or</p>

1	2	3	4	5
				powers of Speaker. The procedure in case of any breach is set down in the Standing Orders and Rules of the National Assembly.
10.	Senate of Canada	Yes	-	In Canada, privileges are laid down both in the Constitution and in statute law. The Rules of the Senate of Canada prescribe the process for raising a question of privilege, but do not define what constitutes a breach. The privileges of Parliament are set out in section 18 of the Constitution Act of 1867. That section transferred the privileges of the British House of Commons to Canada, and explicitly limited the privileges that can be claimed in Canada to those of the British Parliament. Because the Canadian Parliament has the exclusive right to amend the Canadian Constitution with respect to privilege, and because parliamentary privilege is created by the Constitution, it follows that Parliament may expand or limit, through constitutional amendment, the extent of parliamentary privilege.

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11.	Clerk of Tynwald, British Isles	Yes	-	Laid down in privileges of Tynwald (Publications) Act, 1973. These include declaration of immunity from certain proceedings, stay of proceedings in respect of reports, etc. published by order or under the authority of Tynwald or either Branch, stay of proceedings in respect of copies of reports, etc. published by order or under the authority of Tynwald or either Branch, defense of good faith in respect of proceedings in relation to extracts or abstracts of reports, etc.
12.	National Assembly, Nigeria	Yes	-	The Standing Orders of the Senate and the House of Representatives define Privileges "as the rights enjoyed by the Senate/ House collectively and by the members individually conferred by the Legislative Houses (Powers and Privileges) Act, 1990 and other statutes, practices, precedents, usages and customs".
13.	National Assembly of Belize	Yes	-	Laid in statute as Legislative Assembly (Power and Privilege Act) 1962. These include Immunity from legal proceedings, Freedom

1	2	3	4	5
				from arrest, Exercise of process, Entry to Assembly, regulation of admission to Assembly, Order of withdrawal from Assembly.
14.	Parliament of New South Wales, Australia		No	New South Wales Parliament has never defined the extent of its privileges in legislation.

Question No. 3 If privileges are available to members by way of convention, do you feel that these need to be codified? Kindly give reasons for your views.

Sl.No.	Reply received from	Remarks
1	2	3
1.	Parliament of Fiji	-
2.	House of Representatives, Republic of Cyprus	-
3.	Office of the Clerk of the House of Representatives, New Zealand	A member's Bill was introduced in 1994 in an attempt to codify issues of privilege but the same could not be proceeded with.
4.	Clerk of Parliament, Antigua and Barbuda	Privileges are available to member by virtue of provisions of Art 58(i) of the Constitution.
5.	House of Commons, Canada	N/A
6.	Parliament of Sri Lanka	-
7.	Parliament office, Public Buildings, Georgetown, Guyana	No reply
8.	Mauritius National Assembly	Codification will give clarity.
9.	Senate of Canada	Codification offers clarity and predictability. However, it should not be very long and exhaustive so that whole status becomes less flexible.

1	2	3
10.	Clerk of Tynwald, British Isles	As only one privilege exist.
11.	National Assembly, Nigeria	Codification of parliamentary privileges would enhance parliamentary practice and procedure; it would eliminate unnecessary conflicts and further strengthen the Legislature. More importantly, a legislator should know the limitations imposed by law on his Privileges.
12.	National Assembly of Belize	-
13.	Parliament of New South Wales, Australia	The New South Wales Parliament has no privileges except those that are inherent in any legislative body. Unlike other Australia Parliaments, New South Wales Parliament did not inherit, nor has it ever passed, legislation conferring upon itself the powers, privileges and immunities of the House of Commons. Recourse is therefore made to the common law and certain relevant statutory provisions to determine its privileges.

Question No. 4 Have there been any instances where motions/decisions of the House penalizing persons for breach of privilege and contempt of the House, been challenged in courts of law?

Sl.No.	Reply received from	For/ Yes	Against/ No	Remarks
1	2	3	4	5
1.	Parliament of Fiji	-	No	-
2.	House of Representatives, Republic of Cyprus	-	No	-

1	2	3	4	5
3.	House of Representatives Parliament of Australia	Yes	-	The only instance in which a motion/division of the House penalizing persons for breach of privilege was challenged in the courts occurred in 1955. The House of Representatives, following a report and recommendation from the House Committee of Privileges, found a newspaper publisher and journalist guilty of a serious breach of privilege and sentenced them to jail for three months. Action was taken by legal representatives of the offenders to apply to the High Court for writs of <i>habeas corpus</i> . The High Court found that the House had the power to make the finding and impose the penalty that it had.
4.	Office of the Clerk of the House of Representatives, New Zealand	-	No	-
5.	Clerk of Parliament, Antigua and Barbuda	-	No	-
6.	House of Commons, Canada	-	No	Only one such instance exist.
7.	Parliament of Sri Lanka	-	No	-
8.	Parliament office, Public Buildings, Georgetown, Guyana	-	No	Not mentioned.
9.	Mauritius National Assembly	-	No	-

1	2	3	4	5
10.	Senate of Canada	-	No	-
11.	House of Commons, UK	-	No specific reply	
12.	Clerk of Tynwald, British Isles	-	No	-
13.	National Assembly, Nigeria	-	No	The judiciary does not meddle with the conduct of Legislative business against the backdrop of the principle of separation of powers.
14.	National Assembly of Belize	-	No	-
15.	Parliament of New South Wales, Australia		No	<p>There have been no recent instances where people have been penalised for breaches of privileges or contempt of the New South Wales Legislative Assembly. Some historical cases involving the Houses of the New South Wales Parliament are worthy of note.</p> <p>There have been no recent occasions where the judiciary has transgressed into the domain of the New South Wales Parliament in relation to matters of parliamentary privilege. The few cases where the privileges of the Parliament have been brought into question have been on the whole amicably decided by the courts without transgressing into the domain of the Parliament.</p>

1	2	3	4	5
Question No. 5 Have there been any occasions, where it was felt that the judiciary has transgressed into the domain of legislature in the matters of parliamentary privileges?				
1.	Parliament of Fiji	-	No	No specific instance
2.	House of Representatives, Republic of Cyprus	-	No	-
3.	House of Representatives Parliament of Australia	Yes	-	In the 1980s there was considerable concern that the judiciary was permitting 'debates and proceedings in Parliament' to be introduced and questioned in court proceedings in a way that was contrary to Article 9 of the Bill of Rights 1688. This concern was a major stimulus for the passage of the Parliamentary Privileges Act, 1987 to restore and enshrine the traditional interpretation of Article 9.
4.	Office of the Clerk of the House of Representatives, New Zealand	Yes	-	There have been several court judgments in recent times that have had implications for Parliament in respect of matters of privilege. The Privileges Committee has reported to the House on several matters arising from these judgments. The Privileges Committee recommended an amendment to the Legislative Act to provide that no criminal or civil liability may arise as a result of any person

1	2	3	4	5
				merely affirming, adopting or endorsing words written or spoken in proceedings in Parliament, if the liability would not arise but for those proceedings. No amendment to legislation has yet been made.
5.	Clerk of Parliament, Antigua and Barbuda	-	No	-
6.	House of Commons, Canada	-	No	In May 2005, the Supreme Court of Canada in <i>Vaid vs House of Commons</i> , 2005 SCC 30 reaffirmed the general framework for the courts when examining parliamentary privileges claimed by the House of Commons. Courts may determine whether or not a privilege exists and the scope of any claimed privilege. In effect, once a privilege has been found to exist, that is the end of the court's inquiry. As a result, the only issue for the courts to decide is the existence or scope of any claimed privilege.
7.	Parliament of Sri Lanka	Yes	-	Facts in brief of the case are:— Once in June, 2001 The Supreme Court consisting of 3 judges issued a Stay Order restraining the Speaker from appointing a Select Committee of Parliament to inquire into the conduct of the Chief Justice consequent on a

1	2	3	4	5
				<p>Motion of Impeachment against him, being forwarded to the Speaker, in terms of the Constitution and Standing Orders. This unprecedented move by the Supreme Court to intervene and interfere with the proceedings of Parliament was ruled on by the Speaker.</p> <p>The ruling of the then Speaker Hon. Anura Bandaranaike is the first such ruling that has upheld Parliament's Supremacy over the Judiciary.</p> <p>Then Speaker, Hon. Anura Bandaranaike delivered in Parliament his detailed ruling on this matter on 20 June 2001 upholding the powers of the Speaker.</p>
8.	Parliament office, Public Buildings, Georgetown, Guyana	-	-	No reply
9.	Mauritius National Assembly	-	No	-
10.	Senate of Canada	-	No	-
11.	House of Commons, UK		No	In 2006, Joint Parliamentary Committee concluded that "court have no role in adjudicating on possible breaches of parliamentary convention".
12.	Clerk of Tynwald, British Isles	-	No	-
13.	National Assembly, Nigeria	-		In this jurisdiction, the principle of separation of

1	2	3	4	5
				powers is strictly adhered to by the three arms of government; the National Assembly has not experienced nay such judicial activism.
14.	National Assembly of Belize	-	No	-
15.	Parliament of New South Wales, Australia	-	No	-

Question No. 6 Any other comments/suggestions which you may like to make in the matter

Sl.No.	Reply received from	Remarks
1	2	3
1.	Parliament of Fiji	The Review of the Parliamentary Powers and Privileges Act and the Parliamentary Evidence Rule, which was slated for 2003, could not take place. The issue of review would now come up before new Parliament.
2.	House of Representatives, Republic of Cyprus	-
3.	House of Representatives Parliament of Australia	Nil
4.	Office of the Clerk of the House of Representatives, New Zealand	Nil
5.	Clerk of Parliament, Antigua and Barbuda	-
6.	House of Commons, Canada	SC has confined that Parliamentary Privileges form part of the Constitution of India. Hence Rights cannot take precedence over it.
7.	Parliament of Sri Lanka	No reply
8.	Parliament office, Public Buildings, Georgetown, Guyana	Nil

1	2	3
9.	Mauritius National Assembly	-
10.	Senate of Canada	Nil
11.	House of Commons, UK	Nil
12.	Clerk of Tynwald, British Isles	-
13.	National Assembly, Nigeria	Nil
14.	National Assembly of Belize	An application for judicial review on the findings of a Senate Special Select Committee investigating the Securitization Programmes of the Belize Social Security Board was rejected by the Supreme Court on the high constitutional principle of the Courts not interfering with proceedings of Parliament. The case is now before the Court of Appeal.
15.	Parliament of New South Wales, Australia	The Parliamentary Privileges Act, 1987 applies only to the Commonwealth of Australia Parliament and not to other Parliaments in Australia. New South Wales, has, however, not defined its privileges in legislation and recourse is made to the common law to determine its privileges. This lack of legislation has not raised any impediments to the operation of the privileges of the New South Wales Parliament. The extent of parliamentary privilege in New South Wales is determined by the Courts. One consequence of this is that the Parliament's privileges are uncertain and open to adaptation to contemporary conditions by the Courts. There have been no initiatives to define the privileges of the New South Wales Parliament in legislation in recent years. However, it should be noted that there has previously been a number of attempts to confer the powers, privileges and immunities of the House of Commons have been made by the Legislative Assembly.

II. UNITED KINGDOM SPECIFIC QUESTIONS

Question No. 1 Have there been any instances where motions/decisions of the House penalizing persons for breach of privilege and contempt of the House, been challenged in courts of law?

Response: **No.** Article 9 of the Bill of Rights of 1689 provides: *"That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament."* More recently, in 1995, the judicial committee of the Privy Council summed up the position: *"So far as the courts are concerned, they will not allow any challenge to be made to what is said or done within the walls of Parliament in performance of its legislative functions and protection of its established privileges."* The House has long claimed, and succeeded in maintaining, the right to be the sole judge of the lawfulness of its own proceedings and to determine its own codes of procedure.

In a judgment in an action brought by a businessman against a former Member of the House seeking to have a defamation suit struck out on the ground that it had already been determined by the Parliamentary Commissioner for Standards and the Committee for Standards and Privileges it was argued that the legal action would amount to a collateral attack on Parliament's own investigation and on the conduct of one of the parties as a Member of Parliament. The Court of Appeal concluded that provided parliamentary proceedings were not impeached, it was permissible for a court to consider the same facts and circumstances as were before Parliament.

Question No. 2 Have there been any occasions, where it was felt that the judiciary has transgressed into the domain of Legislature in the matters of parliamentary privileges?

Response: **Yes.** The House of Commons has intervened to defend its privileges, most recently in the

case of *Bradley and others vs the Department for Work and Pensions*. Other instances are *Wilson & others vs Secretary of State for Trade and Industry, 2003* and *Weir & others vs Secretary of State and Department of Transport, 2005*.

Question No. 3

The Joint Committee on Parliamentary Privilege which was set up with broad terms of reference “to review parliamentary privilege and make recommendations”, presented their First Report to both Houses of Parliament of UK in March, 1999. The Committee in their Report recommended that there should be a Parliamentary Privileges Act, bringing together changes recommended by the Committee in related laws and codifying parliamentary privileges as a whole.

Has any further action been taken by the Parliament of UK in the matter so far? If so, kindly give details thereof. If not, is there any initiative in this direction?

Response:

The report of the Joint Committee on Parliamentary Privilege was debated on a motion for the adjournment on 27 October 1999. Opening that debate, the Leader of the House said: *The report recommends that we have a parliamentary privileges Act. Some of the recommendations made could be implemented in other legislation or, indeed, not necessarily in primary legislation but by resolutions of the House or by administrative action. However, it seems to the Government that the bulk of the reforms proposed could not be put in place fully without a new Bill.*

Equally, however, such a Bill has to compete with other priorities for legislative time, and I cannot at this stage promise the House early action. Obviously, the Government will consider how such legislation might be introduced. Perhaps this is just such an issue on which a draft Bill might well be prepared. It is exactly the sort of matter that might well benefit from pre-legislative scrutiny.

Yes. The House of Lords has implemented recommendation 15 of the Joint Committee on Parliamentary Privilege, which was as follows: “The sub judice rules of the two Houses [*which forbid consideration of matters currently before a court*] should be harmonised by the adoption of the updated and comprehensive resolution set out in our report. There will be little change in practice. The House of Lords should introduce powers of discretion in the exercise of the rule similar to those at present exercisable by the Speaker in the Commons.” It did so by resolution on 11 May 2000. The discretion is exercised by the Lord Speaker.

Question No. 4

Any other comments/ suggestions which you may like to make in the matter.

Response:

- (i) The Houses of Parliament are covered by the provisions of the Freedom of Information Act 2000. That Act exempts information “*if exemption...is required for the purpose of avoiding an infringement of the privileges of either House of Parliament.*” (s34). The Department for Constitutional Affairs, the Department with responsibility for the Act, has published guidance on the material which is covered by the privilege exemption.

A private Member’s Bill “*to amend the Freedom of Information Act, 2000 to exempt from its provisions the House of Commons and House of Lords and correspondence between Members of Parliament and public authorities*” is due to be considered by the House of Commons on Friday 20th April, 2007.

- (ii) In 2006 a Joint Committee was set up to consider the practicality of codifying the key conventions on the relationship between the two Houses of Parliament which affect the consideration of legislation. In its report, the Committee did “*not recommend legislation, or any other form of codification which would turn*

conventions into rules, remove flexibility, exclude exceptions and inhibit evolution in response to political circumstances.” It concluded that: “The courts have no role in adjudicating on possible breaches of parliamentary convention. Parliament is accountable to the electorate, not to the judiciary.” Both Houses took note “with approval” of the report of the Joint Committee.

III. AUSTRALIA SPECIFIC QUESTION

Question No. 3 **What has been the experience *vis-a-vis* operation of the Parliamentary Privileges Act, 1987?**

Response: Since the passage of the Parliamentary Privileges Act, the concerns that existed in the 1980s have diminished. Generally the Parliamentary Privileges Act has operated satisfactorily.

Question No. 4 **Has there been any initiative for review of the Act or any fresh initiative with regard to Parliamentary Privileges?**

Response: There have been no reviews of the Act nor are there any current initiatives to review the Act. There have been no major changes in the framework for Parliamentary privilege.