

4. Freedom Of Speech – Polity

The legal and constitutional framework of freedom of speech in India creates a dual-layered system- one for the general citizen and a more robust, privileged version for Members of Parliament (MPs) to ensure the independence of the legislative process.

1. What is Freedom of Speech?

Freedom of speech refers to the fundamental right to express one's opinions, ideas, and beliefs through various mediums—speech, writing, printing, or visuals—without fear of government censorship or legal retribution.

Parliamentary Privilege

This is a special set of rights and immunities enjoyed by each House of Parliament collectively, and by members of each House individually. These are essential for Parliament to function effectively and independently of the executive and the judiciary.

2. Constitutional Framework- Citizens vs. MPs

The Indian Constitution differentiates between the general right to speech and the functional immunity required for legislators.

Feature	General Freedom (Article 19)	Parliamentary Freedom (Article 105/194)
Constitutional Provision	Article 19(1)(a)	Article 105 (Parliament) / Article 194 (States)
Scope	Includes journalism, digital content, social media, and creative arts.	Covers anything said or any vote given within the House or its committees.
Legal Immunity	No immunity; subject to defamation and criminal laws.	Absolute immunity from civil or criminal proceedings in any court.
Restrictions	Subject to "Reasonable Restrictions" under Article 19(2).	Subject to the Rules of the House and Standing Orders regulated by the Speaker.

Reasonable Restrictions for Citizens (Article 19(2))

The State can limit speech if it affects-

1. Sovereignty and integrity of India.
2. Security of the State and Public Order.
3. Friendly relations with foreign states.
4. Decency, morality, or Contempt of court.
5. Defamation or incitement to an offence.

3. Freedom of Speech in Parliament

Key Constitutional Safeguards

Article 105(2)- No Member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament.

Article 121- Prohibits any discussion in Parliament regarding the conduct of a Judge of the Supreme Court or a High Court, except during a motion for their removal (impeachment). This maintains the "Separation of Powers."

Core Features of Parliamentary Speech

Immunity from Courts- Statements made on the floor of the House cannot be used as the basis for a lawsuit.

Committee Protection- This immunity extends to testimonies and statements made during Parliamentary Committee proceedings.

Unfettered Debate- Allows members to criticize government policies and raise national concerns without external pressure or fear of "Contempt of Court."

4. Judicial Interpretation and Evolution

The Supreme Court has clarified the extent of these privileges through landmark judgments-

Tej Kiran Jain v. N. Sanjiva Reddy (1970)– The Court ruled that immunity is absolute. The word "anything" in Article 105(2) is used in the widest sense, placing parliamentary speech beyond judicial scrutiny.

P.V. Narasimha Rao v. State (1998)– Confirmed that MPs enjoy immunity even in cases of alleged bribery if the act is directly linked to their speech or vote in the House.

Raja Ram Pal v. Hon'ble Speaker (2007)– Stated that while privileges are broad, they are not above the Constitution. Judicial review is possible if fundamental rights are violated.

Kaushal Kishor v. State of UP (2023)– Clarified that a Minister's personal statement is not automatically the "official position" of the Government unless formally adopted.

5. Internal Regulation– Expunging of Remarks

While the courts cannot intervene, the Speaker of the Lok Sabha acts as the internal guardian of decorum.

The Power of the Speaker (Rule 380)

Under Rule 380 of the Lok Sabha Rules of Procedure, the Speaker can order the expunction (removal) of specific words from the official record if they are–

1. Indecent or undignified.
2. Defamatory or unparliamentary.

Once expunged, these remarks technically "do not exist" in the eyes of the parliamentary record.

Rules Governing Debate

Sub Judice Matters– Members cannot discuss matters currently being tried in a court of law.

Personal Allegations– No defamatory allegations can be made against individuals without giving prior notice to the Speaker.

Decorum– Rules discourage questioning the "good faith" of fellow members.

6. Challenges and the Way Forward

Despite these protections, the quality of parliamentary discourse faces several hurdles.

Modern Challenges

Misuse of Privilege– Using the floor to make unverified or politically motivated personal attacks.

Disruptions– Frequent "shouting in the Well" and slogan-shouting leads to lost working hours.

Polarization– A shift from constructive, evidence-based debate to partisan confrontation.

Proposed Solutions

Strict Enforcement– The Speaker and Rajya Sabha Chairman must rigorously apply the Code of Conduct.

Evidence-Based Debate– Encouraging MPs to use Parliamentary Standing Committee reports and research data.

Capacity Building– Orientation programs by the Bureau of Parliamentary Studies and Training (BPST) for new members to improve the technical quality of their speeches.

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