



Power of parliament to punish the contempt

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Introduction

A breach of privilege of either House of Legislature constitutes 'contempt' of the House which is punishable, as if it was a contempt of a Court of record.

Contempt of Parliament is a very wide expression comprising different categories of acts, the common feature of which is obstruction or interference (actual or constructive) with the functions of the House or any member or officer thereof in the discharge of his duty. The sweep of this expression is, however, very wide and has been interpreted to include anything, which directly or indirectly tends to infringe the 'privileges' of the Legislature ^[1].

In the words of D. D. Basu ^[2] "a contempt may be committed by any act or utterance which undermines the dignity of the House, even though it may not involve the violation of any specific privilege of Legislature." Thus, of the numerous instances of contempt of Parliament which are capable of being committed by or through the press, in particular, may be enumerated, without being exhaustive as follows:

1. Any publication which reflects on the dignity of a House of Parliament or any Committee thereof even though no specific privilege of the House may have been involved, and even though there may be an exact precedent for such offence.
2. Publishing words reflecting upon the character, conduct or proceedings of the House ^[3].
3. Publishing any reflection upon a Member, relating to his capacity as a Member of the House, e.g., an article imputing that Member's act, as such, under the influence of intoxication, bribe or the like ^[4].
4. Any attempt to influence the Parliamentary conduct of a Member by improper means, e.g., by publishing a poster that the names of Members who vote or against a particular measure before Parliament would be published as public 'enemies' ^[5].
5. Any act when even indirectly brings the House into 'odium', contempt or ridicule ^[6].
6. Publishing false ^[7] or perverted ^[8] reports of debates or proceedings in the House or any Committee thereof, or of any particular member's speech therein, ^[9]
7. Premature publication of the report of a Committee or its Minutes of Dissent or the evidence taken by it, before the Committee's report is presented to the House, constitutes contempt. But there is no such contempt unless the Committee had been appointed by the House or by the Government in pursuance of a resolution of the House, or otherwise at its instance.

8. To publish or give for publication, any Question, Resolution or Motion, before they are admitted by the Chair. The Rules also prohibit the publication of answers to questions proposed to be given by Ministers before they have actually been given on the floor of the House ^[10].
9. Comment on a matter which is pending the decision of the Speaker or of the Committee of Privileges is regarded as a contempt on the analogy of Contempt of Court committed by commencing on matter 'sub judice'.
10. While lawfully admitted to the House, a journalist should desist from any misconduct which interrupts or disturbs the proceedings of the House or of any Committee thereof ^[11].

It is, however, difficult to enumerate all instances of contempt of the House. Comments in newspapers or statements made by individuals casting reflections on the proceedings of the House, or on the character or conduct of the members collectively, or of individual members, and thereby lowering their prestige in the eyes of the public; comments on the officers of the House casting aspersions on them, misreporting or misrepresentation of the proceedings of the House or of the speech of a member are some of the examples which have been held to constitute contempt ^[12].

In India, the common modes used for punishing its contempt by the House are, admonition, reprimand, imprisonment, exclusive as established and recognized by Indian precedents. A few cases may be mentioned her to illustrated the point.

In *Janagarajana* case (1965) ^[13], the newspaper carried an article : "Why does Bhansaheb Bandokar not attend the Assembly" ? it criticized the tamasha going on in the Assembly, which was described as a fish market where many members spoke at once and which was "a waste of public money and time". The Committee of Privileges found that the above comment brought the speaker, the House and its legislatures into ridicule and contempt. The House, therefore, has no opinion but to imprison the Editor for contempt after the refused to tender an apology.

In *Karanjia's* case ^[14], reprimand was awarded after Karanjia appeared in response to a notice issued by the House. Reprimand was resorted to in Parliament, in the case of the Editor of the Blitz Weekly of Bombay, who had published a derogatory criticism of the speech of Member (Acharya Kripalani) in the House of the People. The Committee of Privileges of the house reported it to be a case of gross breach of privilege and recommended that the Editor should be called to the Bar of the House and reprimanded, while the press Gallery Card (for attending sitting or Parliament) of New

Delhi correspondent of the Journal should be cancelled until he gives a full and adequate apology. The House accepted this recommendation ^[15]. After an unsuccessful attempt to move the Supreme Court under Article 32, the Editor submitted to the notice of the House to attend and received the reprimand of the date fixed thereof.

In another case, Mr. K. K. Tewary, a Minister in the Previous Government, was similarly reprimanded by the Speaker, for having brought the House into indignity ^[16].

In *Thaniram* case ^[17], a severe reprimand was given to a person who had questioned the partiality of the Speaker is not permitting a question about the Bangla Leader. Mujibur Rehman.

In *Madhya Pradesh Vidhan Sabha* ^[18], four persons had been removed from the visitors' gallery by the Marshal, when they began shouting slogans and distributing leaflets, interrupting the proceedings of the House. The Committee of Privileges, which met on a short notice, described the action of these persons as "objectionable and condemnable" and "against the dignity of the House." The Committee recommended that since they had refused to express regret, they should be sent to jail. The House ordered that the members be imprisoned 'until further orders'. They were released after six days upon a motion of the Leader of the House ^[19].

For similar misconduct, a member of the Chhatra Sangharsa Samiti was sentenced to seven days' imprisonment, by the Bihar Assembly ^[20].

In *Nagrik* case ^[21], an Editor who made critical remarks on the alleged leak of a budget by the Chief Minister was subjected to simple imprisonment for a day.

Obviously these cases show that the Legislature has used these powers keeping in view the attitude of the journalist. Secondly, the House has been using this power against the Editor to assert its authority rather than finding solution to the issue. Thus, inconsequential press reportings even if harsh in tone are not taken seriously. In the *Hindustan Times* case ^[22] the Uttar Pradesh Vidhan Sabha refused to proceed even though members of Parliament had been compared to streetgangs.

Since the Legislature cannot be supposed to be vindictive against an individual, it would ordinarily accept unconditional apology as exonerating contempt, in ordinary cases, provided it is offered at a proper stage of the proceedings ;

In *Aryavarat's* case ^[23], on August 26, 1968 Shri Yogendra Sharma a member of Parliament from Bihar sought to raise a question on privilege on the ground that a Hindi Daily, the *Aryavarata* published from Patna had misreported his speech in Lok Sabha on Czechoslovak crisis. The *Aryavarat* pleaded that it has published the report as it had obtained from 'Hindustan Samachar', a news Agency, though it profusely apologized for publishing the report without knowing that it was not a correct report. 'The *Hindustan Samachar*', though it pleaded that in the rush and hurry of publication certain discrepancies are bound to creep without any malafide involved in it, also offered apologies for the incorrect report. The News Agency thereafter published a clarification and the clarification was published in the *Aryavarata*. In that circumstances, the Committee of Privileges did not take any further action.

In *Maharashtra Time's* case ^[24], Shri D.N. Patodia, a member

of the Lok Sabha raised a question of privilege against the editor. Printer and publisher of a Maharashtra daily the 'Maharashtra Times' and on Shri B.B. Pranjape on the ground that a report had appeared in that daily to the effect that the said Pranjape had told some correspondents of that daily that "he has detailed information about how much money Father Ferrer has paid to some of the M.P.'s to help him to get the extension order." The matter was referred to the Committee of Privileges. The editor and Printer and Mr. Pranjape regretted for the news published regarding Father Ferrer's affairs and offered apologies. The Committee recommended for no further action in this respect and the House accepted this.

In *Organiser's* case ^[25] in its issue of the 15th March, 1969, the 'Organiser' carried a comment on the alleged speech of Shri Venkatasubbiah a Congress Party Parliamentary Secretary, where the honourable member is reported to have said that he was not surprised of the election in West Bengal because he saw it as a result of "the impact of Peking-Pindi axis on the West Bengal People". In its comment of "organizer" said that Shri Venkatasubbiah did not give his reasons for astounding assertion" may be because ... or better still because nothing shames a congressman more than to confess that he is born of Hindu Mother."

The speaker thought fit to ask the Editor of the Newspaper to state what he had to say in the matter before he took any further action. The Editor of the 'the Organizer' expressed his regret that the 'half sentence' crept into the comment. No further action was taken in the matter by the House after his expression of regret by the Editor of 'the Organizer'.

In 'Kalinga's case ^[26] Shri P.K. Deo, a M.P. from Orissa raised a question of privilege on July 13, 1967 in the Lok Sabha against the the 'Kalinga', on Oriya daily, on the ground that the paper maliciously misreported his speech on July 3, 1967. The matter was referred to the Committee of Privileges which took serious view of the matter. Although the Editor regretted for the incorrect publication of Mr. Deo's speech in Parliament, the Committee was not satisfied with this regret and it ordered the Editor to publish its contradiction. After the publication of necessary correction and regret by Editor of the 'Kalinga', the committee recommended that no further action should be taken in the matter.

In '*Hindustan Times*' Case ^[27] Shri Madhu Limye raised a question of privilege on June 6, 1967 against the Editor, columnist and proprietor of the 'Hindustan Times' for publishing an article entitled "Shades of Star Chamber" in its issue of the 4th June, 1967 wherein reflection were case on proceedings of Lok Sabha in course of the debate on the Birla affairs. The matter was referred to the committee of Privileges, which called Shri Mulgaokar, the writer of Article to give evidence before it. Both in his written statement and his evidence before the Committee, Shri Mulgaokar said that he had no intention to cast reflection on the Parliament or its Member was not prepared to go beyond that. The committee accepted his explanation and dropped the case. The same matter was, however raised as a question of Privilege in Rajya Sabha by Shri Chandra Shekhar and it was referred to committee of Privileges. The Committee of Privileges of Rajya Sabha took just contrary views to the finding of committee of Privileges of the Lok Sabha and the article taken as a whole "does not, in the opinion of committee, constitute a

breach of privilege or contempt of the House.” The committee also quoted, with approval, the observations made by Mr. Gladstone in 1888 in ‘the Times’ case:

“Breach of privilege is very wide net, and it would be very undesirable that notice should be taken in this House of all cases in which honourable members are unfairly criticized. Breach of privilege is not exactly to be defined. It is rather to be held in the air to be exercised on proper occasions when in the opinion of the House, a fit case for its exercise occurs. To put this weapon unduly in force is to invite a combat upon unequal terms wheresoever and by whomsoever carried on... Indeed, it is absolutely necessary that there should be freedom of comment. The freedom of comment may, of course, be occasionally abused; but I do not think it is becoming the dignity of the House of notice that abuse of it.”

The committee of Privileges of Rajya Sabha, therefore recommended that no action is called for on this complaint and House accepted the report of the committee^[28].

This case of Hindustan Times is important for the two different attitude to the article taken by the two House of Parliament.

In the *Indian Express* case^[29] a special correspondent was excused for falsely reporting that a legislator had apologized for what he had said because there was no question of malafide on his part. An expression of regret and a warning was considered appropriate to dispose of the case.

In *Hindustan’s* case^[30] the Hindustan’s leading daily of Hindi of Delhi published an editorial article on June 2, 1967 related to the conduct of the members of Parliament while discussing Hazare report. On this editorial question were raised in both Rajya Sabha and in Lok Sabha. In Rajya Sabha the matter was referred to committee of privilege and before the committee the Editor, of course, tendered his “deep and unqualified regret”. The committee however came to the finding that “a perusal of the impugned editorial will leave no doubt in the mind of any one that it has been written in bad taste and without a sense of responsibility, while the committee is conscious that Press should have the liberty to express freely its views without fear or favour on matter of public importance, it should not be abused by distorting facts and attributing motives.” In view of the unqualified regret expressed by the Editor, the committee considered that no further action would be taken in the matter^[31].

These cases also show that the question of bonafide or malafide has no fixed content, as the plea is invoked freely and mechanically. In fact, it means an expression of regret which the newspapers also do not seem to take seriously^[32]. Professor Dhawan, has stressed the desirability of having some ground rules for determining the true relationship between the Legislature and the press. Dhawan cautions by saying that: “where no consensus ground rules for Government by institution are worked out, the press becomes a primary political arena competing with and often surpassing the institution of Government”^[33].

It is submitted that from the discussion of the cases referred to above, it is clear that in India laws on parliamentary privileges of the House in relation to the right in newspapers to publish Parliamentary proceedings are uncertain. Neither the Parliament nor the State legislatures have defined by legislation, the precise powers, privileges and immunities

which they possess in regard to their contempt by newspapers and procedures for enforcing those contempt by newspapers and procedures for enforcing those contempt orders. Some of the cases referred to above disclose over sensitiveness on the part of the legislatures to even honest criticized. When the decision of the High Court and Supreme Court are liable to be criticized without any action being taken for contempt of court, there appears no reason why legislatures should claim excessive immunity from criticism in Press or Public^[34].

References

1. See Wilson, *Cases and Materials on Constitutional Law*, 1966, p. 273 (276).
2. *Supra* note 24.
3. *Supra* note 29 at p. 295 (296).
4. *Id.* At pp. 2990-94.
5. The case of *Face the Facts*, (1945-46) H.C. 181.
6. *Piratin’s case*, (1946-47) H.C. Paper No. 36.
7. *Woodfall’s case*, (1765) L.J. 212.
8. Case of *Daily News*, (1893-94), CJ 324.
9. Case of the *Morning Herald*, (1819–20) C.J. 436; 451.
10. Rule 59 of the Rules of the council; V. 73 of the Rules of the House.
11. E.g. by Slogans, see : *Sharma v. Sri Krishna*, AIR 1959 SC 395 (422).
12. Jain, M.P., *Indian Constitution Law*, (1987) at p. 64.
13. Privilege Digest, Vol. XI at 9–11, Goa, Daman and Diu, Legislative Assembly (1966, hereinafter cited as P.D.).
14. P.D., Vol. V at 28-36 (Lok Sabha, 1961).
15. *Statesman*, 20-8-1961, P.1.
16. *Ibid.*, 2-6-1990.
17. P.D., Vol. x at 49 (Kerala L.A., 1975).
18. *Sunday Statesman*, 3-4-1960, p. 1.
19. *Ibid.*
20. *Statesman*, 29-7-1978, p. 1.
21. P.D., Vol. XXIV at 19 (Tripura L.A., 1978).
22. P.D., Vol. XXVI at 26 (U.P. Vidhan Sabha, 1981).
23. P.D., Vol. XIV, No. 1, pp. 3-5 quoted from A.P. Chatterjee, M.P’s book. ‘Parliamentary Privileges in India’ (July 1971 Edition), p. 126.
24. P.D., Vol. XIV, No. 1, pp. 5-6.
25. P.D., Vol. XIV, No. 1, pp. 6-7 quoted in A.P. Chatterjee’s *Parliamentary Privileges in India*, p. 127.
26. P.D., Vol. XIII, No. 1, pp. 2-3.
27. P.D., Vol. XIII, No. 1, pp. 3-6.
28. P.D., Vol. XXIII, No. 1, pp. 11–12 quoted from A.P. Chatterjee’s *Parliamentary Privileges in India*, p. 129.
29. P.D., Vol. IX at 7-8 (Rajya Sabha, 1964).
30. P.D., Vol. XII, No. 2, pp. 115-116.
31. See also P.D., Vol. XII, No. 2, pp. 129-131, quoted in A.P. Chatterjee’s *Parliamentary Privileges in India*, pp. 132-133.
32. Dhawan Rajeev, *Only the Good News: On the Law of the Press in India*, 1st Edn. 1987 at pp. 201-35.
33. *Id* at 237.
34. Report on Press Commission (India) Part I, p. 531.