

SENATE SECRETARIAT

REPORT OF THE COMMITTEE ON RULES OF PROCEDURE AND PRIVILEGES ON THE MATTER OF CODIFICATION OF PRIVILEGES.

(Report No. 16 of 2016)

1, Chairman of the Committee on Rules of Procedure and Privileges, have the honour to present report of the Committee on the matter of codification of privilege.

2. The composition of the Committee is as under:-

1.	Senator Dr. Jehanzeb Jamaldini	Chairman
2.	Senator Zahida Khan	Member
3.	Senator Hilalur Rehman	Member
4.	Senator Atta Ur Rehman	Member
5.	Senator Nighat Mirza	Member
6.	Senator Syed Muzafar Hussain Shah	Member
7.	Senator Iqbal Zafar Jhagra	Member
8.	Senator Saud Majeed	Member
9.	Senator Saeed Ghani	Member
10.	Senator Zaheerud Din Babar Awan	Member
11.	Senator Aitzaz Ahsan	Member
12.	Senator Farooq Hamid Naek	Member
13.	Minister for Parliamentary Affairs.	Ex-Officio Member

3. Senators Farhatullah Babar, Col. (R) Syed Tahir Hussain Mashhadi and Mushahid Hussain Syed attended some meetings as special invitees.

4. The details of the matter before the Committee were that a proposal regarding codification of privileges came under discussion in the meeting of the Business Advisory Committee which, after some discussion, was referred to the Committee on Rules of Procedure and Privileges. The Committee discussed this matter in its meetings held on 15th June, 8th July, 11th August, 21st August, 31st August, 3rd November, 26th November, 23rd December, 2015 and 8th January, 2016.

The Secretary Parliamentary Affairs and some senior officers of the Ministries of Law and Justice and Parliamentary Affairs were invited in a number of meetings to give their point of view on the subject matter. The Committee was provided some material and models on the subject matter under consideration.

5. The Committee, in its meeting held on 8th July, 2015, after some discussion, formed a sub-committee consisting of the following Members to examine the matters of codification of privileges and formation of committee on Ethics:-

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| 1. Senator Iqbal Zafar Jhagra | Convener |
| 2. Senator Syed Muzafar Hussain Shah | Member |
| 3. Senator Saeed Ghani | Member |

6. It is pertinent to mention here that the meeting of the said sub-committee could not be held due to non-availability of the members concerned. As it was getting late, the full Committee started consideration of the matter again. It is also pertinent to mention that in most of the meetings of the committee, consideration of this matter was deferred due to absence of majority of the committee members. The committee intended to have the input of majority of the members particularly of those who are senior parliamentarians. It is also brought to the notice of the Chairman Senate and the Business Advisory Committee that in the early meetings of this Committee, the Members were of the view that the House can not take appropriate action against the persons who breach the privilege of the House, its Committee and Members in absence of an Act in this regard. However, during the later meetings, after knowing about the work done on this topic by various Ministries/Divisions of the Government, the said point of view was changed.

7. The Chairman Committee stated that some parliaments of other countries like New Zealand have codified their privileges but the parliaments of neighboring countries including India have not codified the same. Some neighboring countries

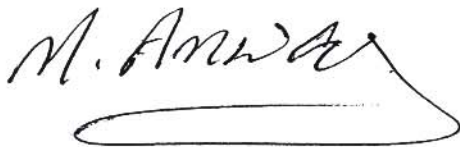
have been considering this matter but at the end they left it open. He was of the view that the Chairman Senate has the authority under the rules to take action in the cases of breach of privilege of the Senate, its Committees and Members. He drew the attention of the Committee Members towards rule 70 of the Rules of Procedure and Conduct of Business in the Senate, 2012, in which some bases of breach of privilege have been defined. He said that almost all the issues have been covered by the Rules. He was of the view that if the privileges will be codified, the powers of the Parliament will be restricted to those and the authority of the Parliament will become limited. He stated that the Chairman Senate has sufficient powers to deal with the cases of breach of privilege and there was no need to codify the same. He proposed that it should be left to the Chairman Senate and the House to decide the matters of privilege on case to case basis. The Chairman Senate and the House should decide that which action cause a breach of privilege. He referred the Supreme Court of Pakistan and stated that the court has not codified the matters relating to contempt of court. He stated that there may be countless actions causing breach of privilege and it is difficult to codify all such actions.

8. The Secretary, Ministry of Parliamentary Affairs, informed the Committee that in 2006 a summary relating to codification of privileges was sent to the Cabinet Division. The opinion of the Law Division was also obtained on the matter. The Cabinet Division and Law Division opposed the same on the ground that it will lower the prestige of the sovereign Parliament and its Members. After considering all aspects and having input from Ministry of Law and Justice, the Cabinet dropped the idea of codification of privileges. Quoting an example, he said that if the Committee calls a person and he fails to appear in the Committee meeting it is a breach the privilege. In such case if the Committee wants to get the

concerned person arrested, they will have to write to the local police which will present the violator before the court and then the court can summon any Member or the Chairman of the Committee to appear before it as witness, thus, it will lower their prestige. The Committee was informed that the courts have not codified the matters of contempt of the court. It is their discretion to decide about the matters which come in the ambit of contempt of the court. Similarly, it is the prerogative of the House to decide that what causes a breach of privilege. He was of the view that by such codification the House will lose its executive authority to decide what causes a breach of privilege.

9. The Draftsman, Ministry of Law, informed the Committee that in India extensive research was done on this subject and they identified twenty to twenty five advantages and same number of disadvantages of the codification of the privileges. After detailed consideration they prefer not to codify the privileges.

10. In the meeting of the Committee held on 8th January, 2016, all the members present were of the view that it is more appropriate to leave the matters of privileges and action to be taken in cases of breach of privilege to the Chairman and the House. The Chairman Senate and the House should decide that which action cause breach of privilege and what and how the action should be taken in such cases. The Committee recommended that codification of privileges should not be done.



(Muhammad Anwar)
J.S. / Secretary Committee



(Senator Dr. Jehanzeb Jamaldini)
Chairman

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