



EXAMINING THE POLITICIANS WHO ARE CLAIMING MORE IMMUNITY FOR BREAKING THE LAW

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Abstract

Given worries about corruption and the erosion of democratic duties, political immunity—a fundamental component of democratic governance—is being scrutinized. Legislators may make judgments that advance the interests of the public because they shield them from improper influence. It may also, however, allow legislators excessive discretion, which raises moral questions regarding the self-regulation of parliament. While it keeps lawmakers in line with morality in deliberative democracies, it can also result in political abuse. The integrity of the legal system must be preserved, and abuse of power must be avoided by lowering political immunity. Free speech in parliament is likewise protected by it, although discussions over its restrictions and censorship present new difficulties in the future.

Keywords: *Political immunity, democracy, court, law, parliament.*

Introduction

Political corruption and political immunity in democracies are under scrutiny due to concerns about their potential to promote lawmakers' interests over their constituents. This divide often results from politicians prioritizing their own interests over their democratic duties. In addition, public dissatisfaction necessitates government accountability and transparency, with a global movement to reduce immunity as a means to combat unethical conduct. For example, the Supreme Court has denied a petition for the execution of pre-arrest norms, arguing that the political licensing and weaponizing of law enforcement organizations threatens democracy. The petitioners demanded that courts adhere to the maxim "bail as a rule, jail as an exception," particularly when dealing with non-violent offenses. People are increasingly dissatisfied with political immunity, believing it encourages corruption and is detrimental to democracy. This disappointment has led to increased pressure to restrict or amend the immunity's use to ensure legislators are subject to the laws they are sworn to obey. Globally, political immunity is dwindling as countries recognize the usefulness of restricting protection to deter unethical behavior in power corridors. Maintaining accountability, openness, and trust is crucial in democratic nations, as political immunity protects elected officials from abuses of power and weakens the rule of law. To preserve accountability and public confidence, political immunity must be limited, as people may feel alienated and distrustful if they believe their representatives can act without consequence. A country's dedication to justice and equality is demonstrated by discussions around political immunity. Moreover, reforming political immunity is in line with international initiatives to boost openness, combat corruption, fortify democratic institutions, and



enhance political settings. Encouraging stability and public trust in government is crucial for maintaining the well-being and efficacy of democracies around the globe. The following sections discuss a general overview and the legal implications and parliamentary system of political immunity. Legislators are empowered by political immunity to make choices that serve the public interest, even when those choices conflict with those of powerful interest groups or the majority. This idea emphasizes the relationship that exists in democratic regimes between responsible governance, free thought, and public involvement. The focus of deliberative democracy is on rational discourse within democratic processes, which is the origin of political corruption. Parliament's legal equality and accountability have been impacted by misconceptions and legal challenges resulting from the lack of clarity concerning political immunity in India. Legal deadlocks between the legislative and judicial branches are brought about by procedural norms that are created when laws are not codified. The study highlights how crucial it is to protect parliamentary integrity and implement appropriate sanctions. The third section follows the relationship between political immunity and democracy. In order to facilitate the shift from monarchical to representative democracies, political immunity—which transfers power from a single ruler to the people—is an essential component of democratic governance. Legislators may be encouraged to prioritize their interests through immunity legislation, according to critics, which might result in corruption. A balance between public accountability and legislative independence is necessary, as the discussion around the position of political immunity in democracies has shown. The idea has been developed by strategic political events, which have produced distinctive models in many historical and cultural contexts..

Political immunity overview

The debate surrounding the efficacy of political immunity in democracies highlights the complexity of this concept. Legislators must be free to carry out their duties without fear of legal consequences from faulty trials or outdated legislation, but this immunity can also grant them excessive latitude in carrying out or disregarding their democratic obligations. The difficulty lies in striking a compromise that keeps these officials safe from overbearing judicial intervention without allowing them to abandon their democratic duties. For example, political parties petitioned the Supreme Court to establish pre-arrest policies and have them enforced, but their request was denied. They claimed that mass arrests of politicians are an indication of authoritarianism and that politicians are subject to the same laws as regular people and do not have any special immunity. The Supreme Court rejected the petition, holding that politics, not the legal system, should provide the solution. Legislators should be free to carry out their responsibilities without worrying about facing legal consequences from perhaps faulty trials or out-of-date legislation. But this protection can also give them too much freedom to disobey or perform their democratic obligations. Further in-depth investigation of the rationale for political immunity is necessary to improve scholarly debate and advance political and legal studies. Political immunity is a legal doctrine that safeguards specific powers of representatives in



democracies, enabling them to carry out their responsibilities without worrying about facing legal consequences. However, a deeper understanding of what representation in a democracy essentially involves is necessary to discern whether actions or behaviors are morally acceptable under the cover of such an exemption. A more complex understanding of how representatives represent and carry out the wishes and interests of their people may be gained from Hannah Pitkin's concept of representation, which places an emphasis on the making present of something. The Supreme Court, as demonstrated above, has decided that the Members of Legislative Assembly (MLA) and Parliamentary Members (MPs) cannot claim political immunity to escape punishment for bribery. This ruling demonstrates the court's determination to uphold the integrity of the legislative process and hold elected officials accountable for any misconduct. The text underscores the significance of political representation in democratic systems, stating that representatives should effectively represent the interests and will of their constituents. This involves independent assessments of reasons and choices that are supported and justifiable after careful consideration, rather than just delegates carrying out explicit directives from voters. Political immunity was introduced to safeguard representatives from undue influence from the public or pressure from particular interest groups. This concept highlights the delicate balance between constituent representation, independent judgment, and accountable governance in democratic systems. In order to enact laws and programs, legislators must put their people's interests first. Political immunity protects their judgment and accountability when it comes to making judgments that are best for their citizens. The PV Narasimha case has significantly transformed the legal framework in India against political corruption. The Supreme Court of India overturned an earlier decision that had shielded MPs from accepting bribes in exchange for their votes, highlighting that accepting a bribe is unlawful regardless of the legislator's final vote. This ruling reinforces the legal framework against corruption in politics and ensures lawmakers behave more in accordance with moral standards accepted by the public and the judiciary. This decision could have a significant impact on democratic principles and election results' credibility, as well as on political accountability in India. A democracy is a system where rational public discourse takes precedence over interest-based competition, which aligns with deliberative democracy, which stresses reasoned conversation in democratic procedures. Political corruption is rooted in the deliberative theory of representation, which dictates the moral duties and public-interest commitments that accompany holding public office. This theory is based on justifiable logic and fairness, but it is undermined when representatives fail to uphold their democratic duty due to personal prejudice, self-interest, or political gains. Deliberative democracy emphasizes reasoned public discourse, but political corruption can erode democratic values of reasonable justification and equity, impacting representative governance. Legal legislators are shielded by political immunity from improper influences and may be protected from corrupt activity. However, this immunity goes beyond assigned responsibilities, creating a void unaffected by general law until a specific legal action is taken. This unstable equilibrium allows legislators to pursue agendas that could involve actions



of political motivation or personal benefit. Parliament's dependence on self-regulation presents ethical questions as it puts lawmakers in a position to evaluate their own activities, potentially leading to conflicts of interest. The broad application of political immunity serves a dual purpose of insulating lawmakers from improper influence and encouraging corrupt behavior. However, it leaves a large scope for political and personal benefit, failing to precisely define the duties that representatives should do. Representative obligations can only be legally enforced when conventional laws collide with their conduct, allowing them to pursue objectives such as election fraud or illicit campaign financing. Legislators are shielded from improper influence and corrupt actions by political immunity, but it lacks defined obligations, allowing them to pursue political or personal interests. The doctrine aims to preserve the integrity of the deliberative process and ensure decisions are made with appropriate regard for the general good. Nevertheless, some argue that a wide interpretation of political immunity is unnecessary, citing concerns about elected officials discharging their obligations out of self-interest or political ambition. Glaucon argues that people could lose moral behavior if they became invisible to the law. The pessimistic view of human nature is reflected in the opposition to a broad interpretation of political immunity, which suggests elected representatives can perform their duties without legal coercion. Another concern is the possibility of legal pressure influencing representatives' decision-making. The deliberative process is influenced by outside forces, such as interest groups and strong institutions, or by time or information constraints. The ultimate goal of political immunity is to shield elected officials from unwarranted intervention that would impair their capacity to decide for the public good. Political immunity safeguards members from external influences and maintains the integrity of decision-making by prioritizing the public interest over legal or other factors. It also brings up legal influences that could sway decision-making, such as those motivated by political or personal gain. Nonetheless, the fundamental justification for political immunity—executive intimidation—does not seem to apply anymore. Political immunity ensures equal consideration of all perspectives, preventing the formation of a court-dependent society that could potentially lead to a citizen exodus. The three branches that directly threaten political immunity are the enacted legislation, the judiciary, and the executive. Withal, outside parties can successfully file charges if the law, the courts' interpretation, or the police's application benefit them. The executive's initial justification for political immunity is no longer relevant, but the risk of intervention by other power sources remains a significant concern. Political immunity serves to preserve the government's division of powers, defend against judicial overreach, and guarantee the government's efficacy. It is a useful instrument that lets lawmakers carry out their responsibilities without always worrying about facing legal repercussions. This feature of immunity is advantageous regardless of how strong the legal protections for individual rights are and becomes more important in situations when such rights are less certain.(Wigley, 2003)



Parliamentary systems and Legal implications of Political immunity

. As indicated earlier, democracies are scrutinizing political immunity due to concerns that it might favor legislators' interests over citizens'. This has led to a global movement to reduce or eliminate political immunity to prevent power abuses and maintain the integrity of the legal system. International initiatives aim to improve political settings, combat corruption, promote transparency, and strengthen democratic institutions by reducing political immunity. Maintaining the health and effectiveness of democracies worldwide depends on fostering stability and public confidence in the government. An incident in the Rajya Sabha elections involved a leader being charged with accepting a bribe to support a candidate. The Supreme Court ruled that lawmakers who accepted bribes were exempt from punishment as long as they carried out their "legislative function"—voting or speaking. Political immunity is a crucial aspect of political privilege. Thus, ensuring legislators are not subject to coercion or censorship and defining the legislature's functions and boundaries. Notwithstanding, current discussions on the boundaries of free speech, driven by growing demands for censorship and culture, suggest that the right to free expression may face new challenges in the future. This cultural shift is essential to understanding how the form and extent of political immunity may change. Legislators are allowed to express their opinions freely during parliament sessions and are not limited by political immunity. It also protects them from testifying in court. Parliamentary processes, including written regulations and unwritten standards adapted from other parliaments, are associated with political immunity. As a result, discussions about the limits of free speech, which are fueled by the growing calls for censorship and suppression of culture, may pose problems for political immunity. The concept of political immunity is complex and varies depending on the jurisdiction. Absolute immunity allows legislators to freely express themselves without fear of legal consequences. While qualified immunity safeguards against deliberate wrongdoing and acts done in good faith. Legislators can speak and act without fear of external legal repercussions through absolute immunity. This, however, prioritizes correcting any possible injustices committed by the ruling majority. Qualified immunity only offers protection if it is demonstrated that the legislator acted or spoke in good faith and without malice. Besides, this view casts doubt on the parliamentary system's basic workings and division of powers, potentially endangering its smooth operation. Legal frameworks like rules, regulations, statutes, and constitutions enable lawmakers to enforce their rights, especially with respect to freedom of expression. Similarly, the characteristics of political immunity vary greatly among legislatures. In India, the lack of systematization of political immunity has led to legal problems and misunderstandings. Parliamentarians are perceived as above the law due to contentious situations and the uncertainty surrounding them. The qualification of contempt of parliament is complicated by the lack of political will among Indian lawmakers to explicitly define parliamentary rights and associated crimes. Otherwise, clearer legislation can prevent misunderstandings, ensure uniform application across



jurisdictions, and prevent legal deadlocks between the legislative and judicial branches. Singh (1965) highlighted the importance of systematizing parliamentary powers to avoid legal disputes and judicial encroachment into the legislative branch. Chauhan (2016) emphasized the uncertainty surrounding political immunity in India, emphasizing the many ways different judicial and legislative authorities have interpreted the law. The idea that Indian parliamentarians are above the law is strengthened by the fact that, despite their legislative laziness, they lack the political drive to create parliamentary privileges. Therefore, political immunity is essential for parliamentary democracy, but its use varies across legislatures. The lack of systematization raises questions about misunderstandings and potential legal disputes, which threaten legal equality and accountability. This paper explores the meaning of parliamentary contempt, explains its consequences, and makes a distinction between parliamentary privilege violations and contempt of parliament. The research lists five sanctions for parliamentary disrespect: censure, fine, suspension, expulsion, and jail. It emphasizes the significance of upholding integrity and setting proper limits for discipline, along with the gravity and rarity of the worst punishments. Parliamentary systems often use light penalties for contempt, encouraging lawmakers to engage in a more active and transparent exchange of ideas. A balance between preserving order and granting freedom of expression is essential for democratic institutions to function. In legislative assemblies, the Speaker's role is crucial for upholding fairness and enforcing the law. In the past, this role has served as a pillar for political neutrality and independence. With this in mind, more recent legislative bodies often struggle to maintain these customs, putting their leaders' dependability and efficiency to the test. According to the research, parliamentary systems are essential for upholding the law and fostering democratic discourse. It implies that stiffer contempt fines improve free speech protection and motivate lawmakers to hold more candid conversations. The research highlights the importance of clearer legislation to protect minority voices in parliament and ensure their rights. It also highlights the need for a more balanced approach to disciplinary actions and the importance of maintaining political neutrality and independence in parliamentary systems. Political neutrality and independence have been significant aspects of parliamentary systems for centuries. Better still, modern legislative bodies often struggle to maintain these customs, putting their leaders' dependability and efficiency to the test. In smaller parliaments, leaders' impartiality is crucial for making just decisions and maintaining the integrity of the legislative process. These values were passed down to nations after their foundation as sovereign states. A nation's parliamentary system is significantly influenced by its independence, ensuring equality and impartiality for all parliamentarians. To maintain order and foster democratic discourse, lenient legislative procedures and contempt penalties must be used. The Speaker must remain impartial to ensure impartial decisions and maintain the integrity of the legislative process (Negoiță, 2014).



The relationship between political immunity and democracy

As we shall see, the legislative system is vulnerable to politicization, which can compromise its protective role, including immunity. This politicization can undermine the integrity of legislative rules and self-regulation, particularly in protecting lawmakers from corruption accusations. Parliamentary privileges can create an uneven barrier between lawmakers and the public. Thus raising concerns about the link between them and equality. To preserve the integrity and democratic values of the parliamentary system, clear rules for accountability and openness must be established. Further, parliamentary standards and MP autonomy have been jeopardized by the politicization of political immunity. This has led to the strategic setting of priorities and the debating tactics. Correspondingly, the legitimacy of the parliamentary privilege system, general accountability norms, and transparency in the legislature are all at risk due to this weakness. The misuse of parliamentary privileges to avoid accountability for independent institutions raises concerns about the connection between parliamentary privilege and equality. In contrast, the parliamentary system's integrity and democratic values require a balanced approach to political immunity and a transparent, accountable framework that upholds the rights of all parties. Parliamentary immunity is crucial for preserving the democratic process, but misuse can erode public confidence and lead to corruption. A robust system that differentiates between legal obligations and immoral or illegal conduct is vital for preserving public trust in the democratic system. By putting checks and balances in place, parliaments may preserve the protective function of immunity while preserving democratic standards of accountability and transparency. The checks prevent abuse of immunity, preserve its protective function, and defend democratic standards of transparency and accountability. The parliament's connection to democracy is enhanced by its political immunity, which safeguards it as an institution rather than its individual members. This paper explores the complex relationship between political immunity and democracy, emphasizing the latter's vital role in advancing representative democracy and defending democratic institutions. The text emphasizes the connection between democracy and political immunity, emphasizing its importance in understanding its role in democratic governance. This means that political immunity is a vital safeguard in a political system that has evolved over time due to democratic influences. The text facilitates the transfer of power between centralized and representative democratic systems, supports the independence and integrity of the legislative branch, and favors power division. To put it simply, it has been criticized for potentially encouraging corruption, straying from democratic standards, and prioritizing private interests over public ones. Political immunity is a crucial component of democracy, protecting the independence and integrity of the legislative branch. It allows lawmakers to carry out their constitutional responsibilities without interference from the executive or judicial branches, promoting the separation of powers and facilitating the transition from a centralized to a representative democratic system. Furthermore, legislators are urged by opponents of immunity legislation to put their own interests ahead of the



public's, which might result in corruption. The debate over political immunity's place in democracy continues due to its dual character, suggesting a balance between public responsibility and legislative independence. Political immunity shields parliaments from other governmental institutions; it was initially designed as a defense against centralized dictatorship but has evolved to safeguard the power and autonomy of legislative members. Strategic political events have shaped the concept's evolution, leading to unique models in various historical and cultural settings. The research links political immunity to more general democratic ideals such as political representation, separation of powers, human rights, and the rule of law. The study highlights how political immunity is not just a safeguard for people but also an essential part of the contemporary democratic state structure. The relationship between democratic expansion and political immunity highlights how crucial these protections are to maintaining an unbiased and representative political system. Moving on to political immunity, which provides the protection of parliaments' independence from other branches of government, Thus, ensuring the power of parliamentary members remains unchanged despite criticism. This exemption is linked to democratic principles like the rule of law, political representation, human rights, and power division. In political and legislative systems, political immunity is an essential concept that protects the independence and integrity of the legislative body. It refers to the ability to withstand external threats and uphold the division of powers and democratic procedures in a government. Over time, the idea of political immunity has evolved, with historical nuances and shifts in significance across different eras. A key feature of the parliamentary system is political immunity, which guarantees the independence and integrity of the legislative body throughout time. Its roots are in the original Latin word, which upholds democratic procedures and the division of powers. The paper examines how political immunity has changed in the context of modern legislation, moving from a theoretical instrument to a strong institution that supports the independence and cohesion of parliament. The paper combines well-known theoretical frameworks to make sense of its consequences and advance knowledge. From a theoretical to an institutional standpoint, political immunity has improved its role within legislative activities as it has developed from an abstract idea to established norms and practices. The study provides a comprehensive analysis of how political immunity has influenced legislative processes and the division of authority between the legislative and executive branches. Consequently, the conceptual history of political immunity highlights its importance in contemporary legislative contexts by emphasizing its impact on power balance and shaping legislative procedures. The importance of political immunity in maintaining democratic principles and effective parliamentary democracy is emphasized in the paper. It is an essential piece of legislation that upholds the rule of law. Yet, it ensures the separation of powers and protects individual liberties—all of which are fundamental components of modern democratic regimes. Still, it upholds human rights by preserving the independence of elected officials and promoting the rule of law. Ironically, the transition from monarchy to democracy has resulted in the transfer of immunity from common law, which is now utilized to safeguard parliamentary procedures. In



contemporary democratic regimes, political immunity is essential for preserving the autonomy and defense of elected officials, supporting individual rights, and upholding the rule of law. Erskine May and other academics contend that it is paradoxical that safeguarding parliamentary activities led to the removal of protection from ordinary law. A more philosophical viewpoint looks at how the nation and its representatives are symbolically given the monarch's holiness and inviolability. Consequently, reinterpreting the holiness of the monarch is necessary in order to defend the democratic representation of the people via their elected officials. To sum up, political immunity is a crucial legal tool that supports the division of powers, protects individual liberties, and advances human rights in modern democracies. It has evolved from a royal privilege to a protection for democratic representatives (Negoiță, 2014).

Conclusion

Altogether, political immunity, a crucial element of democratic governance, has been under scrutiny due to public dissatisfaction with its potential to encourage corruption and undermine democratic obligations. This has led to a global movement to reduce or abolish immunity in an effort to enforce responsibility and stop unethical behavior. Lawmakers can do their duties without fear of legal consequences because of political immunity, but it can also grant them excessive discretion. The Supreme Court's decision that bribery transactions are not covered by political immunity highlights the importance of political immunity in protecting lawmakers from improper influence. Political representation puts the needs of the public before personal preferences, and more research into political immunity is required to enhance academic discourse and progress in political and legal studies. Legislators are protected by political immunity from undue public or interest-group influence, enabling them to make choices that serve the interests of the people. However, political immunity can also lead to political corruption, as lawmakers can pursue agendas motivated by politics or personal gain. Thereby, a vacuum is created that is untouched by general law until a special legal action is taken. This raises ethical concerns regarding parliament's ability to self-regulate. Legal immunity is essential for protecting free speech in parliament, but discussions about the limits of free speech and calls for censorship suggest that further challenges to the right to free speech may arise in the future. Understanding cultural shifts is crucial to anticipating future changes to political immunity. Legal immunity is a fundamental feature of parliamentary democracy, enabling members to use certain laws to uphold their rights, particularly those related to freedom of speech. However, disagreements with the court have resulted from India's lack of definitions of parliamentary powers. The study highlights the importance of maintaining parliamentary integrity, appropriate limits for disciplinary actions, and the Speaker's duty to enforce the law. Political immunity promotes the separation of powers and facilitates the transition from centralized to representative democracies. However, its position in democracy remains debated, with proponents calling for a balance between parliamentary independence and public accountability.



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