

Parliament-Executive Relations & Parliamentary Privileges

A comprehensive examination of common misconceptions about **Parliament-Executive relations** and **Parliamentary privileges** in the **Indian constitutional system**. This document covers **collective responsibility**, **confidence motions**, **oversight mechanisms**, **impeachment processes**, and the complex framework of **parliamentary privileges and immunities**.

Collective Responsibility & Confidence Motions

Council of Ministers Responsibility

Misconception: Council of Ministers is responsible to Parliament.

Reality: Responsible only to Lok Sabha (Art. 75).

No-Confidence Motion Venue

Misconception: No-Confidence Motion can be moved in either House.

Reality: Only in Lok Sabha.

Censure vs No-Confidence

Misconception: Passing of Censure Motion removes Government.

Reality: Censure = criticism; No-Confidence = removal.

Confidence Motion Initiation

Misconception: Confidence Motion can be moved by Opposition.

Reality: Only ruling Government may move it.

Constitutional Basis

Misconception: No-Confidence Motion is in Constitution.

Reality: It's in Rules of Procedure, not text of Constitution.

Bill Defeat Consequences

Misconception: Defeat of any Bill = automatic fall of Government.

Reality: Only defeat of Money Bill / No-Confidence Motion = fall.

Adjournment Motion Purpose

Misconception: Adjournment Motion = equivalent to No-Confidence.

Reality: Adjournment = discussion on urgent matter, not removal.

Cut Motion Impact

Misconception: "Cut Motion" defeats Government.

Reality: Symbolic tool to test strength, but if majority rejects grants → government loses majority indirectly.

Vote of Thanks Certainty

Misconception: Vote of Thanks is always passed.

Reality: Can be amended/rejected → strong indictment of Govt.

Motion of Thanks Defeat

Misconception: Defeat of Motion of Thanks = dissolution of LS.

Reality: Not automatic; but implies loss of confidence.

Parliamentary Questions & Debates Control

Question Hour Suspension

Misconception: Question Hour cannot be suspended.

Reality: Can be suspended (e.g., during Emergency, COVID-19 session).

Zero Hour Constitutional Status

Misconception: Zero Hour = Constitutional provision.

Reality: Parliamentary innovation (1960s), not in Constitution.

Calling Attention Basis

Misconception: Calling Attention is constitutional.

Reality: Exists only in Rules, not Constitution.

Short Duration Discussion Voting

Misconception: Short Duration Discussion ends with voting.

Reality: Only discussion, no voting.

Half-an-Hour Discussion Duration

Misconception: Half-an-Hour Discussion = half an hour of session.

Reality: Limited to 30 minutes on specific matter; usually 3 days/week.

Sub-judice Questions

Misconception: Questions on sub-judice matters are fully prohibited.

Reality: Allowed if presiding officer permits, provided it doesn't prejudice trial.

Question Admissibility Authority

Misconception: Speaker alone decides admissibility of Questions.

Reality: Rules Committees & Ministries also play role in scrutiny.

Ministerial Response Obligation

Misconception: Ministers can refuse to answer Parliament questions.

Reality: They are bound to give information, unless classified (security/interest exceptions).

Parliamentary Accountability Tools

Misconception: Question Hour is the only tool of accountability.

Reality: Many tools: motions, debates, committees, censure, adjournment.

Oversight Scope

Misconception: Parliamentary oversight is limited to Government Bills.

Reality: Extends to policies, actions, expenditure, delegated legislation.

Financial Oversight & Budget Control

Budget Approval Authority

Misconception: Budget is approved by both Houses equally.

Reality: Only Lok Sabha votes on Demands for Grants.

Cut Motions in Rajya Sabha

Misconception: Cut Motions are permitted in Rajya Sabha.

Reality: Only in Lok Sabha.

Consolidated Fund Voting

Misconception: Parliament can vote on Consolidated Fund expenditure fully.

Reality: Charged expenditures (Art. 112) not voted, only discussed.

PAC Policy Scrutiny

Misconception: Public Accounts Committee scrutinises "policy" of expenditure.

Reality: Examines legality, economy, effectiveness — not policy.

CAG Reports Debate

Misconception: CAG reports are directly debated in Parliament.

Reality: Examined first by PAC/Committees.

Budget Amendment Powers

Misconception: Parliament can amend Annual Financial Statement directly.

Reality: Can reduce/deny demands; not alter new tax proposals without Govt Bill.

Vote on Credit Nature

Misconception: Vote on Credit = part of ordinary Budget.

Reality: For emergency expenditure beyond Vote on Account.

JPC Findings Authority

Misconception: Joint Parliamentary Committee (JPC) findings are binding.

Reality: Only recommendatory.

Committee Report Examination

Misconception: Estimates Committee examines CAG reports.

Reality: PAC examines CAG, Estimates Committee focuses on efficiency of schemes.

Budget Speech Authorization

Misconception: Finance Minister's Budget speech itself authorises expenditure.

Reality: Requires Parliamentary approval through Appropriation & Finance Bills.

Business Advisory Committee & Emergency Spending



Business Advisory Committee

Misconception: Business Advisory Committee only advisory.

Reality: Its allotments of time are **binding**.



Emergency Government Spending

Misconception: Government can spend without Parliamentary approval in urgent cases.

Reality: Needs Vote on Account, Vote on Credit, or Ordinance → later approval compulsory.

The **Business Advisory Committee** plays a crucial role in parliamentary proceedings by allocating time for various legislative and non-legislative business. Its decisions on time allocation are not merely suggestions but **binding commitments** that structure the parliamentary agenda.

Even in emergency situations, the government cannot bypass parliamentary financial controls entirely. **Constitutional mechanisms** like Vote on Account and Vote on Credit provide temporary authorization, but subsequent parliamentary approval remains **mandatory**.

Impeachment & Removal Procedures

01

Presidential Impeachment Majority

Misconception: Parliament impeaches President by simple majority.

Reality: By special majority of both Houses separately (Art. 61).

02

Supreme Court Judge Removal

Misconception: Judges of Supreme Court removed by LS only.

Reality: Removal requires special majority in both Houses.

03

Impeachment Initiation

Misconception: RS alone can initiate impeachment of President.

Reality: Either House can initiate.

04

CAG Removal Process

Misconception: CAG removal decided by President.

Reality: Same process as SC Judge → by Parliament.

05

Speaker Removal Authority

Misconception: Speaker removed by President.

Reality: Removed by resolution of LS (effective majority).

Vice-President, PM & Minister Removal



Vice-President Removal

Misconception: Vice-President removed by LS.

Reality: Initiated & passed by RS (effective majority), concurred by LS (simple majority).

PM Removal Process

Misconception: PM removed by President directly.

Reality: President acts only when LS withdraws confidence.

Minister Removal

Authority

Misconception: Ministers removed by LS resolution.

Reality: President removes Ministers on advice of PM.

SC Judge Removal Joint Sitting

Misconception: Motion to remove SC Judge = Joint Sitting.

Reality: No joint sitting; both Houses act separately.

CEC Removal Initiation

Misconception: Lok Sabha alone can initiate CEC removal.

Reality: Removal of CEC follows SC judge procedure → both Houses.

Collective Responsibility to President

Misconception: Council of Ministers is collectively responsible to President.

Reality: Collectively responsible to LS.

PM Election by Parliament

Misconception: PM is elected by Parliament.

Reality: President appoints; leader of majority in LS conventionally chosen.

Treaty Approval & Governor Removal

Treaty Parliamentary Approval

Misconception: Parliamentary approval needed for all treaties.

Reality: Executive power (Art. 253); only some treaties require Parliamentary legislation.

Governor Removal by Parliament

Misconception: Parliament can remove Governor by resolution.

Reality: Removed by President, not Parliament.

Government Ignoring Parliament Motions

Misconception: Government can ignore Parliament motions without consequence.

Reality: Political & moral consequences, e.g., fall of Government after defeat.

The executive's treaty-making power under Article 253 demonstrates the separation of powers, where Parliament's role is primarily legislative rather than directly approving international agreements. However, treaties requiring domestic law changes need parliamentary legislation.

The Governor's position as a constitutional head appointed by the President reflects the federal structure, where state governors are not subject to parliamentary removal procedures, maintaining the balance between Union and state authorities.

Source & Nature of Parliamentary Privileges

1

Codification of Privileges

Misconception: Parliamentary privileges are codified in an Act.

Reality: Still uncodified; governed by Constitution (Arts. 105, 194), British practice, judicial rulings.

2

Absolute Nature of Privileges

Misconception: Privileges are absolute and unlimited.

Reality: Not absolute; subject to fundamental rights & judicial review (Searchlight Case 1959, Raja Ram Pal 2007).

3

Parliament's Self-Definition Power

Misconception: Parliament can define its own privileges permanently.

Reality: Parliament has power but has not codified; operates on case-to-case basis.

4

Parliament vs State Legislature Privileges

Misconception: Privileges of Parliament ≠ Privileges of State Legislatures.

Reality: Identical under Art. 105 (Parliament) and Art. 194 (States).

5

Constitutional vs Parliamentary Committees

Misconception: Parliamentary Committees are constitutional.

Reality: Most are statutory or created by rules; Constitution mentions none explicitly except PAC-type roles implied.

6

Contempt Power Scope

Misconception: Parliament can punish citizens for contempt.

Reality: Yes, but subject to judicial review.

7

Privilege Codification Status

Misconception: Parliamentary privileges are codified.

Reality: Still uncodified; based on British practice & SC judgments.

8

Privilege vs Fundamental Rights

Misconception: Parliamentary privilege always overrides fundamental rights.

Reality: Balance needed; SC can review (Art. 32, 226).

9

Parliament's Privilege Determination

Misconception: Parliament alone decides limits of its privilege.

Reality: Subject to constitutional interpretation by SC.

10

Privilege Permanence

Misconception: Parliamentary privileges are permanent and uniform.

Reality: May evolve with time; flexible, uncodified, interpreted differently by SC & Parliament.

Freedom of Speech in Parliament

Fundamental Right vs Parliamentary Right

Misconception: Freedom of Speech of MPs = Fundamental Right under Art. 19(1)(a).

Reality: It's a separate constitutional right under Art. 105(1), not subject to Art. 19 restrictions.

Unrestricted Speech Freedom

Misconception: MPs enjoy unrestricted freedom of speech.

Reality: Subject to rules, Standing Orders, and Presiding Officer's authority.

Expunging Parliamentary Words

Misconception: No words can be expunged from Parliamentary proceedings.

Reality: Speaker/Chairman can expunge words deemed unparliamentary.

Defamation Prosecution Immunity

Misconception: MPs can be prosecuted in court for defamatory statements made in House.

Reality: Absolute immunity for statements inside House.

Inside vs Outside Parliament Speech

Misconception: MPs' freedom of speech = freedom outside Parliament.

Reality: Immunity applies only inside Parliament, not outside.

The distinction between parliamentary speech immunity and fundamental rights under Article 19 is crucial for understanding the constitutional framework. Parliamentary speech enjoys broader protection within the House but is limited to that specific context.

Publication, Media & Parliamentary Proceedings



Publication Permission Requirements

Misconception: No one can publish Parliamentary proceedings without permission.

Reality: Art. 361-A grants immunity for fair and true reporting.



Broadcasting Constitutional Mandate

Misconception: Radio/TV broadcast of proceedings is constitutionally mandated.

Reality: By Parliamentary resolution/convention since 1989, not in Constitution.



Authorised Text Court Admissibility

Misconception: Only authorised text of debates is admissible in court.

Reality: True, but reports in media have qualified immunity.



Breach of Privilege Scope

Misconception: Breach of privilege applies to MPs only.

Reality: Applies to outsiders (journalists, officials) as well.



Media Privilege Breach Immunity

Misconception: Media cannot be held for breach of privilege.

Reality: Can be summoned for misreporting debates.

Immunity from Proceedings & Arrest

Prosecution for Parliamentary Votes

Misconception: **MPs** can be prosecuted for votes in **Parliament**.

Reality: Complete **immunity** under **Art. 105(2)**.

Arrest During Entire Tenure

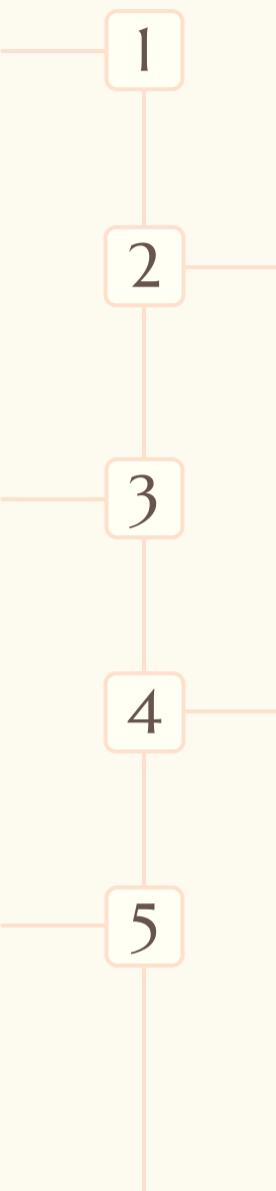
Misconception: **MPs** cannot be **arrested** during entire tenure.

Reality: Only during **session** → cannot be **arrested** in **civil cases** 40 days before/after **session**.

Arrest Permission Requirements

Misconception: **MPs** need **Speaker's permission** before being **arrested**.

Reality: **Police** must inform **presiding officer**, not seek prior **permission**.



Immunity Scope Extension

Misconception: **Immunity** extends to acts outside the **House**.

Reality: **Immunity** applies only to **speeches, votes, committee proceedings** inside **House**.

Criminal Case Immunity

Misconception: **Immunity from arrest** covers **criminal cases**.

Reality: Applies only to **civil cases**, not **criminal cases** or **preventive detention**.

Automatic Seat Loss on Arrest

Misconception: If **arrested**, **MP** automatically loses **seat**.

Reality: **Disqualification** only after **conviction** under **RPA**.

Presidential Privilege Extension

Misconception: **Privileges** extend to **President**.

Reality: **President** has separate **constitutional immunities** (Art. 361), not under **parliamentary privilege**.

Supreme Court Judge Contempt

Misconception: **Parliament** can punish **SC judges** for **contempt**.

Reality: **Parliament** can punish anyone, but **removal of judges** only via **Art. 124(4)**.

Courts vs Parliament Contempt

Misconception: **Courts** have exclusive power of **contempt**, not **Parliament**.

Reality: Both have independent **contempt powers**.

Judicial Review of Expulsion

Misconception: **Privilege immunity** prevents **judicial review of expulsion**.

Reality: **SC** in **Raja Ram Pal (2007)** said **review** possible if **mala fide**.

Contempt, Expulsion & Suspension Powers



Breach vs Contempt Distinction

Misconception: Breach of privilege = contempt of House.

Reality: All breaches are contempt, but not all contempts are breaches.



Citizen Breach Capability

Misconception: Only MPs can commit breach of privilege.

Reality: Any citizen can.



Judicial Review of Breach Proceedings

Misconception: Breach of privilege proceedings immune from judicial review.

Reality: Courts can review if fundamental rights are violated.



Expulsion Power Existence

Misconception: Parliament has no power to expel its members.

Reality: Supreme Court (Raja Ram Pal, 2007) upheld Parliament's power to expel.



Indefinite Suspension Authority

Misconception: Speaker can suspend member indefinitely.

Reality: Limited to session (SC in 2021 stayed indefinite suspensions by Maharashtra Assembly).

The complex interplay between parliamentary privileges, judicial review, and fundamental rights continues to evolve through constitutional interpretation and judicial precedents, maintaining the delicate balance between legislative autonomy and constitutional supremacy.