

LETTER FROM THE EXECUTIVE BOARD

Greetings Members!

It gives us immense pleasure to welcome you to this simulation of All India Political Parties Meet Committee at SHIS MUN 2024. We look forward to an enriching and rewarding experience.

This study guide is by no means the end of research, we would very much appreciate if the leaders are able to find new realms in the agenda and bring it forth in the committee. Such research combined with good argumentation and a solid representation of facts is what makes much as possible, as fluency, diction or oratory skills have very little importance as opposed to the content you deliver. So just research and speak and you are bound to make a lot of sense. We are certain that we will be learning from you immensely and we also hope that you all will have an equally enriching experience. In case of any queries feel free to contact us. We will try our best to answer the questions to the best of our abilities.

We look forward to an exciting and interesting committee, which should certainly be helped by the all-pervasive nature of the issue. Hopefully we, as members of the Executive Board, do also have a chance to gain from being a part of this committee. Please do not hesitate to contact us regarding any doubts that you may have.

All the Best!

Valid Sources

1. Government Reports (Each ministry publishes its own reports including External Affairs Ministry)
2. PTI, PIB
3. Government Websites
4. Government run News channels i.e., RSTV, LSTV, DD News
5. Standing Committee Reports/ Commission Reports
6. RTI Proofs
7. Parliamentary Standing Committee reports
8. Questions and Answers of the parliament

INTRODUCTION

One of the most significant rights that members of parliament possess is the freedom of expression. Nonetheless, this independence is limited by the need to uphold decorum and order during discussions. Therefore, the success and effective operation of parliamentary institutions depend greatly on the discipline, decorum, and dignity of the legislature. Concerns regarding the erosion of legislative bodies' decorum, discipline, and dignity have been voiced all throughout the world.

Members of Parliament are expected to follow specific parliamentary etiquette guidelines. For instance, the Lok Sabha rules states that during debates, MPs are not allowed to hiss or make running commentary, interrupt others' speeches, or remain silent. In 1989, newer forms of protest prompted a modification to existing regulations. It is now forbidden for members to play cassette or tape recorders in the House, yell slogans, exhibit banners, or rip up documents in protest. Similar provisions apply to the Rajya Sabha. The rulebook also grants the presiding officers of both Houses certain comparable authorities to ensure smooth operations.

What are the rules and procedures for suspension of MPs?

About	Lok Sabha	Rajya Sabha
Power to suspend	Speaker	Chairman
Rules of procedure and conduct of business	Rules 373, 374, and 374A	Rules 255 and 256
Procedure for suspension	Rule 374A allows the Speaker to automatically suspend an MP for five days or the remaining part of the session	Automatic suspension is not available here, a motion has to be moved and adopted by the House to suspend an MP
Authority of presiding officers	To direct, name, and suspend MPs for disorderly conduct, as per the rules of procedure and conduct of business in each House	
Mild offences	<ul style="list-style-type: none"> • They are punished by admonition or reprimand. • Admonition is a <i>milder form</i> of reprimand, and is usually given by the Presiding Officer in the House. • Reprimand is a <i>more severe form</i> of admonition, and is given by the <i>President</i> or the <i>Vice-President of India</i> in the Central Hall of Parliament, in the presence of both Houses. 	

Punishment of withdrawal	<ul style="list-style-type: none"> • If the Presiding officers is of the opinion that the conduct of any member is grossly disorderly, may direct such Member to withdraw immediately from the House. • The member so ordered to withdraw shall do so forthwith and shall remain absent during the remainder of the day's sitting.
Punishment of suspension	<ul style="list-style-type: none"> • Continuing to disregard the Presiding Officer's directions can invite the punishment of suspension. • A member can be suspended, at the maximum, for the remainder of the session only.
Reinstate suspended member	The house at any time can reinstate a suspended member by passing a motion.
Extreme misconduct	The House may expel a member "to rid the House of persons who are unfit for membership."

Why is the Provision for Suspension of MPs Required?

1) **Violation of Parliamentary Rules:** The provision allows for the suspension of members who violate the established rules and norms of conduct within the house. This includes disrupting proceedings, disregarding the authority of the chair, using unparliamentary language, etc.

2) **Maintaining Order in the House:** The provision for suspension is intended to maintain the dignity, decorum, and smooth functioning of the parliament.

3) **Disruption of Proceedings:** Continuously disrupting the normal functioning of the house by shouting slogans, staging protests, obstructing debates prevents the house from conducting its business.

As per the PRS, the **16th Lok Sabha (2014-19) lost 16% of its scheduled time** to disruptions.

4) **Financial cost of disruption:** The cost of running Parliament is about Rs 2.5 lakh per minute. Any disruption in its functioning not only affects its efficiency but also has a monetary cost attached.

5) **Refusal to Obey the Speaker/ Chairperson:** Disregarding the authority of the Speaker/Chairperson by refusing to comply with their directions or orders during the proceedings and impacts its dignity.

6) **Maintaining Parliamentary Etiquette:** MPs are required to adhere to certain rules of parliamentary etiquette. For example, the Lok Sabha rulebook specifies that MPs are not to

interrupt the speech of others. But untoward behaviour by MPs such as shouting slogans and displaying placards adversely impacts India's democratic credibility.

7) **Clearing Logjam in the House:** The rules are meant to clear obstruction in the House so that business can be conducted without obstruction.

Court intervention in matter of suspension of MPs

- **Article 122-** It protects the parliamentary proceedings from judicial scrutiny and grants immunity to the presiding officers and MPs from any legal action for their conduct in Parliament.
- **Exceptions to Article 122-** The courts can intervene in some cases where the procedural rules of the legislature are violated or the fundamental rights of the legislators are infringed.
 - For example the courts can review the validity of the anti-defection law or the expulsion of MPs from the House.
- **Maharashtra Legislative Assembly case-** The Supreme Court stayed the suspension of 12 MLAs and observed that it was disproportionate and arbitrary, and violated the principles of natural justice.

What are the Issues Associated with Suspension of MPs?

1) **Convention of Suspension as a Last Resort not followed:** Suspension is usually resorted to as a last step. However, it is being used rampantly.

2) **Suspension on Unprecedented Grounds:** Some MPs have been suspended on the grounds of pending investigation by the privileges committee of the House. This ground of suspension is not in accordance with any rule or conventions.

3) **Erosion of Democratic Values:** The suspension of a substantial number of Opposition MPs casts a shadow over democratic values, raising concerns about the fair representation of diverse voices within the legislative process.

4) **Lack of Meaningful Opposition in Parliament:** The absence of a vibrant opposition challenges the system of checks and balances, potentially impacting the quality of debate and scrutiny in parliamentary affairs. This leads to a lack of legislative scrutiny.

5) **Erosion of Public Trust:** Trust in the democratic institutions may face erosion if citizens perceive a lack of transparency, accountability, and a conducive environment for meaningful discourse.

6) **Against Freedom of Expression of MPs:** Suspension might be seen as a way of silencing dissent or differing opinions.

7) **Partisan Decision Making:** Decisions to suspend members can sometimes be subjective, influenced by **political motives** rather than the actual violation of parliamentary rules. This can raise concerns about fairness and impartiality.

8) **Excessive Length of Suspension:** Sometimes, the duration of suspension might be seen as excessive, especially if it hampers the member's ability to represent their constituency effectively for an extended period.

9) **Deteriorating Quality of Bills:** Lesser debates will eventually deteriorate the quality of the bills due to a lack of debate and discussion in the absence of Opposition MPs.

10) **Diplomatic Implications:** The global community often observes the functioning of democracies, and any perceived challenges to democratic norms can influence international perceptions of India. For example, India's standing in indices such as the Global Democracy Index may suffer.

Addressing these issues requires a delicate balance between maintaining parliamentary decorum and ensuring that the disciplinary measures are fair and transparent, allowing for the representation of diverse views in a democratic setting.

PARLIAMENTARY PRIVILEGES

- Parliamentary privileges are special rights, immunities and exemptions enjoyed by the two Houses of Parliament, their committees and their members. They are necessary in order to secure the independence and effectiveness of their actions.
- So far, neither Parliament nor any State legislature has enacted legislation that defines the powers, privileges and immunities of the Houses, or that of its members and committees.
- These immunities are presently governed by precedents by British parliamentary conventions.

- These privileges are mentioned in Article 105 for Parliament, and in Article 194 for the state legislatures.

COLLECTIVE PRIVILEGES	INDIVIDUAL PRIVILEGES
<ul style="list-style-type: none"> • The Indian Parliament can decide if its reports, debates, and proceedings should be published or not. • The Parliament has the right to exclude outsiders from its proceedings. • It can conduct secret sessions if needed. • Parliament can make rules for regulating its procedures, business conduct, and work adjudication. • It can suspend or expel members for violating privileges. • Parliament can reprimand, admonish, or even imprison individuals who breach privileges. • The Parliament is informed about the arrest, detention, conviction, imprisonment, and release of its members. • The Parliament can initiate inquiries and call witnesses. • The proceedings of the Parliament and its committees cannot be questioned in court. • No arrests or legal processes can occur within the House precincts without the presiding officer's permission. 	<ul style="list-style-type: none"> • Members of Parliament cannot be arrested (civil offences only) during sessions, 40 days before and after sessions. • They have freedom of speech in Houses and are immune from court proceedings for their speech in Parliament. • They are exempt from jury service and can refuse to give evidence or appear as witnesses during sessions.

PRIVILEGE MOTION

- If members of Parliament feel that the parliamentary privileges have been breached, they can raise a privilege motion. Any member of Parliament can raise this with the consent of the chairperson of the house.
- When a privilege motion is raised, the chairperson can refer it to the “Privileges Committee.”

BREACH OF PRIVILEGES

- Breach of privilege is the violation of respective rights or immunities of the members of either House of Parliament or the State Assembly.
- When any member of the House or any outsider tries to devalue the power, privilege and immunity granted to members of the Houses as well as constituted committees, it is said that they are committing an offence of breach of privilege.
- Breach of privileges is a punishable offence. The form of punishment is decided as per the severity of the breach in accordance with the general law of Parliament.

PUNISHMENT FOR BREACH OF PRIVILEGES

- The authority to decide the punishment lies with the House. A person found guilty of breach of privileges or contempt can be reprimanded, warned, or sent to prison.
- The period for which the House can commit an offender to custody or prison for contempt is limited to the duration of the session of the House.
- In case its member is found guilty, the MP can be suspended from the House or face expulsion.

SUPREME COURTS STAND ON FREEDOM OF SPEECH OF MINISTERS

- **Principle of collective responsibility:**
 - A statement by a Minister, even if traceable to any affairs of the state or for protecting the government, cannot be attributed vicariously to the government by invoking the **principle of collective responsibility**.

- It is not possible to extend this concept of collective responsibility to any and every statement orally made by a Minister outside the House of the People/Legislative Assembly.
- A Minister's statement, if traceable to any affairs of the State or for protecting the government, can be attributed vicariously to the government by invoking the principle of collective responsibility, so long as such statement represented the view of the government too. If such a statement is not consistent with the view of the government, then it is attributable to the Minister personally.
- **Reasonable Restrictions:**
 - Reasonable restrictions on free speech for citizens, including Ministers and public functionaries, were **exhaustive**.
 - Besides, the state has an affirmative duty to protect when there is a threat to personal liberty, even by a non-state actor.
 - The fundamental right to free speech and right to dignity could be **enforced against private parties**.
 - There was no need to bring in further shackles on free speech in the guise of protecting the competing fundamental right to life and dignity under Article 21 of persons at the receiving end of a Minister's comments.
 - But a derogatory speech which closely resembled hate speech did not fall within the ambit of the free speech right
- **Whip not possible in multi party systems:**
 - In a country like India, where there is a multi-party system and where coalition Governments are often formed, it is not possible at all times for a Prime Minister/Chief Minister to take the whip whenever a statement is made by someone in the Council of Ministers.
- **Constitutional Tort – Punishment or Fine:**
 - No one can either be taxed or penalised for holding an opinion which is not in conformity with the constitutional values.
 - It is only when his opinion gets translated into action and such action results in injury or harm or loss that an action in tort will lie.
- A proper legal framework was necessary before taking action as a constitutional tort.
- The Parliament could enact a legislation or code to restrain citizens in general and public functionaries in particular from making provoking remarks against fellow citizens.

- Similarly, political parties could come up with a code of conduct to regulate and control the actions and speech of their functionaries and members.
- **Article 21:**
 - Public functionaries and other persons of influence and celebrities, having regard to their reach, owe a duty to the citizenry at large to be more responsible and restrained in their speech.
 - Therefore, when such speech has the effect of infringing the fundamental right under Article 21 of another individual, it would not constitute a case which requires balancing of conflicting rights.
- **Hate Speech:**
 - Hate speech struck at the foundational values and violated the fraternity of citizens from diverse backgrounds.
 - The Preamble of the Constitution assures that the dignity of individuals cannot be denied by means of unwarranted speech being made by fellow citizens, including public functionaries.

What is the Way Forward?

1) **Striking a Distinction:** There is a need to strike a distinction between deliberate disruption and raising of uncomfortable but important issues.

2) **Alternative Methods of Discipline:** Some experts argue that there should be alternative ways to discipline members, such as warnings, fines, or other measures that don't completely exclude MPs from participating in parliamentary affairs. A former Speaker had suggested that TV cameras be focussed on the demonstrating members so that people could see for themselves how their representatives were behaving.

3) **Suspension Should be Considered as a Last Resort:** The House needs the uninterrupted services of all its members and hence, suspension of MPs has to be a last resort.

4) **Due Process:** The provision for suspension is intended to maintain the dignity, decorum, and smooth functioning of the parliament. However, its application should adhere to the principles of fairness, due process, and the rule of law.

5) **Cooperation Between Government and Opposition:** The ruling party responsible for governing should take other parties into confidence. The Opposition should play a constructive role in Parliament and be allowed to put forward its views and express itself in a dignified manner.

6) **Giving Powers to the Opposition:** Letting the Opposition set the agenda for debate in the two Houses can be a possible reform. The Parliament should incorporate specific days for the Opposition in its calendar for deliberating on issues that the Opposition considers important (**like in the UK House of Commons**).

7) **Political Maturity:** To protect the sanctity of the Parliament, political maturity on the part of both, the government as well as the opposition, is the need of the hour. While the government must engage Opposition in a meaningful manner, it is the responsibility of the Opposition to present its dissent in a orderly fashion.