

Conduct of Legislators in the House

- Corruption or abuse of office by MPs/MLAs should be brought within the purview of Lokpal/Lokayukta.
- Elected representatives are public servants, and should be explicitly declared so under Lokpal/Lokayukta legislation, so that Prevention of Corruption Act applies to them automatically.
- However, conduct of an elected legislator in the House is a different matter. Under Article 105(2), no MP shall be liable to any court proceedings in respect of anything said or any vote given by him in Parliament or any committee thereof.
- Such immunity to elected legislators is granted in all countries so that they can freely participate in debates, raise questions, and vote in case of a division (subject to anti-defection provisions).
- If a member misbehaves in the House, it is for the House to act against him; no external authority or Court can monitor or discipline them.
- However, such immunity does not apply to corruption or abuse of authority. If, for instance, a legislator takes money to ask questions or vote in a certain manner, it is an act of corruption. If the MP LAD funds are misutilized, or commissions are collected for sanctioning works, it is both corruption and abuse of office. All such matters should be under Lokpal/Lokayukta's jurisdiction.
- The Supreme Court, in P V Narasimha Rao vs State (CB/SPE) held in 1998 that the MPs who received bribes for voting against no-confidence motion are immune from prosecution under Art 105(2). This is a clear case of misinterpretation of the limited immunity granted to MPs under Article 105(2).
- Corrupt practices of legislators in discharge of their Constitutional duties should, and do, come under the Prevention of Corruption Act., and Lokpal/Lokayuktas should have

jurisdiction in all such matters. But the actual conduct in the House should be left to the House it self.

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