

THE CONSTITUTION (ONE HUNDRED AND THIRTIETH) AMENDMENT BILL, 2025: A CRITICAL EXAMINATION OF ACCOUNTABILITY OF MINISTERS AND CONSTITUTIONAL SAFEGUARDS IN INDIA

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Abstract

The Constitution (One Hundred and Thirtieth) Amendment Bill, 2025, was introduced in the Lok Sabha by Home Minister on August 20, 2025. The bill proposes automatic removal of the Prime Minister, Chief Ministers, and other ministers upon 30 consecutive days of detention. The detention must be on charges punishable by imprisonment of five years or more. The removal has been proposed even without conviction. This paper explores various issues relation to this Constitutional Proposal viz. (a) the legislative trajectory of the Bill (b) the constitutional and statutory framework of bill (c) how the bill deviates from current law and constitutional norms. It critically assesses the Bill's adherence to fundamental legal principles viz. (a) due process and presumption of innocence (b) the implications of the bill on federalism, separation of powers, and democratic representation (c) the practical obstacles and risks of misuse it entails. The paper also contrasts the Bill with existing provisions, such as the Representation of People Act and judicial precedents like *Aradesh Kumar v. State of Bihar*. Although the Bill is a way to strengthen accountability, it imperils the rule of law and constitutional safeguards. The conclusion proposes various alternatives to uphold constitutional morality, protecting democratic integrity, institutional balance, and civil liberties.

Keywords : Constitutional Amendment, Accountability , Detention, due Process, Separation of Power, Rule of Law.

Introduction

The confidence of public in India is eroding in India's democratic institutions due to the prevalence of serious criminal charges against the elected officials. The demand for reform of political accountability is reinforced when the ministers continue to discharge government duties from prison. The bill has been introduced by the Ministry of Home Affairs, Government of India in the backdrop of these developments. The bill compels removal of ministers—including the Prime Minister and Chief Ministers—from office if detained for 30 consecutive days on serious criminal charges punishable by at least five years' imprisonment, irrespective of conviction. The supporters of the bill argue it restores constitutional morality and ethics in governance. The opponents of the bill see it as an authoritarian tool easy to misuse.

This paper examines the Bill's legislative milieu, analyzes its legal structure, and compares it against existing Indian law and related doctrines. Finally the paper critically appraises its constitutional merits and flaws.

The paper tries to maintain the equilibrium by analyzing various perspectives related to the bill. On the one side the Amendment aims to deter ministerial criminality. The same Amendment contravenes basic legal principles like due process, separation of powers, and electoral integrity. The paper examines the impact of Amendment upon federalism and democratic norms.

The Context of the Constitution (One Hundred and Thirtieth) Amendment Bill, 2025 and Its Legislative History

The 130th Amendment Bill was introduced in the Lok Sabha on August 20, 2025 alongside two other Bills concerning Union Territories. The other two bill were the Government of Union

Territories Act (Amendment) Bill and the Jammu & Kashmir Reorganisation (Amendment) Bill.
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The Bill was referred to a Joint Parliamentary Committee (JPC) for detailed scrutiny after its introduction.² The pioneering bill garnered both political support and sharp backlash. The supporters welcomed the bill as a necessary deterrent to governance from jail. They cited cases like Delhi Chief Minister Arvind Kejriwal's continued tenure during incarceration. They argued that such cases stress the need for reform.³

The opponents out rightly declared the Bill as draconian. They labeled the bill a threat to Indian democracy. They see the bill as indicative of a "Super-Emergency". They termed the bill as reminiscent of authoritarian overreach, danger to democratic fabric. They assert that the central agencies could weaponize detentions to topple opposition governments.⁴

The supporters defended the legislation because it is aimed to preserve national integrity. They pointed that the bill was democratic in view of the fact that the bill was subject to Parliamentary scrutiny. It was under the prescribed majorities under Article 368 of the Constitution of India. So far the bill has escalated the political polarization. It is seen as both a bold corrective and a potential instrument of executive overreach.

Provisions of the 130th Amendment Bill

The **130th Constitution Amendment Bill** proposes the following major changes:

I. Eligibility for Removal

A minister—including the Prime Minister, Chief Ministers, Union Ministers, State Ministers, and ministers of Delhi—is subject to removal if (a) accused of an offence punishable with imprisonment of five years or more, and (b) Arrested and detained in custody for 30 consecutive days.⁵

II. Procedure for Removal

At Union Level, under Article 75, the Prime Minister must advise the President to remove the Union Minister by the 31st consecutive day of detention. It is to be noted that failure to advise results in automatic cessation of office. The Prime Minister or Minister may subsequently be reappointed upon release.⁶

At State Level, under Article 164, a similar mechanism exists involving the Chief Minister advising the Governor, with automatic removal. In the same way if no action is taken by the 31st

¹The Constitution (One Hundred and Thirtieth) Amendment Bill, 2025, Statement of Objects and Reasons (India).

²Parliament of India, Monsoon Sess., Lok Sabha Debates (Aug. 20, 2025) (introduction of the Bill by Amit Shah).

³"Bills to remove convicted PM, CMs, ministers from power introduced in Lok Sabha, sent to JPC," *The Economic Times* (Aug. 20, 2025).

⁴"130th Constitution Amendment Bill sparks Opposition uproar in Parliament," *The Economic Times* (Aug. 21, 2025).

⁵"Chief Ministers could lose posts after 30 days of arrest under new bills, opposition says Centre targeting non-BJP leaders," *IndiaTimes* (Aug. 20, 2025).

⁶The Constitution (One Hundred and Thirtieth Amendment) Bill, 2025, PRS Legislative Research.

day that failure to advise results in automatic cessation of office. The Chief Minister or Minister may subsequently be reappointed upon release.⁷

In Delhi under Article 239AA, the President of India, on advice of the Delhi Chief Minister, exercises equivalent authority over Ministers of Delhi Government.⁸

III. Scope and Reach

The Bill also extends its provisions to Union Territories such as Puducherry and Jammu & Kashmir via supplemental legislation.⁹

IV. Statement of Objects

The Bill is positioned as an effort to uphold constitutional morality and public trust. It aims to achieve such objectives by preventing detained individuals from supersede executive institutions and undermining ethical governance of these institutions.¹⁰

No doubt, the Bill underscores swift action against criminality among ministers, but its reliance on detention as the basis for removal, rather than conviction, introduces significant legal and constitutional questions.

Comparison with Existing Indian Laws

I. Constitutional Conventions & Ministerial Tenure

Under the Indian Constitution, ministers including the Prime Minister and Chief Ministers serve “at the pleasure” of the President of India or Governor of a State in India. This arrangement conventionally requires resignation or a no-confidence measure to remove the Ministers at Centre or State Level. There is no provision in the Constitution of India supporting removal upon mere arrest or detention. The 130th Amendment uniquely disciplines ministers based on detention, an unprecedented shift in constitutional practice.¹¹

II. Presumption of Innocence & Due Process

Indian law enshrines the principle that individuals are innocent until proven guilty. The Representation of the People Act, 1951, disqualifies only those convicted of specified offenses with a minimum sentence of two years, not those merely arrested. Article 14 and Article 21 of the Constitution of India support such legal safeguards. The 130th Amendment circumvents these safeguards. The Amendment is allowing removal in absence of trial or conviction. This undermining due process of law and presumption in the favour of accused.¹²

III. Procedural Safeguards: *Arvesh Kumar v. State of Bihar (2014)*

The Supreme Court in *Arvesh Kumar v. State of Bihar* restricted automatic arrests for offenses punishable by up to seven years. The Hon’ble Court mandates careful justification and assurance against arbitrary detention. The reliance of 130th Amendment on detention acts as a trigger for ministerial removal. It collides with these procedural protections. It also invites potential conflict in implementation of the amendment and the precedents of the Hon’ble Supreme Court.¹³

⁷All That Is Wrong With The 130th Constitution Amendment, *The Wire* (Aug. 24, 2025).

⁸In Numbers: Making Sense of The 130th Constitution Amendment Bill,” *The Wire* (Aug. 23, 2025).

⁹“Criminal-Justice: ‘History will absolve me’: What the 130th Constitution Amendment Bill truly purports to achieve,” *The Leaflet* (Aug. 26, 2025).

¹⁰Singh, Vijaita. “130th Constitutional Amendment Bill to Strengthen Morality, Good Governance in Politics: BJP.” *The Hindu*, (Aug. 20, 2025).

¹¹“Constitution (130th Amendment) Bill, 2025: Key Provisions,” *Fox Mandal* (Aug. 25, 2025).

¹²“Constitution (130th Amendment) Bill 2025: Provisions & Concerns,” *PIB* (Aug. 26, 2025).

¹³“PK supports bill for resignation of leaders jailed for 30 days,” *Times of India* (Aug. 20, 2025).

IV. Federalism & Executive Overreach

Concerns have been expressed that the Amendment empowers central agencies like the Central Bureau of Investigation or the Enforcement Directorate or to arrest opposition ministers in politically motivated cases. This will prompt removal. This might deepen federal tensions and risk undermining opposition-led state governments. There is apprehension of “Viceroy-like” control in the hands of Governors, L-Gs, and the President. Many states flagged dangers to separation of powers and regional autonomy.¹⁴

V. Basic Structure Doctrine & Constitutional Safeguards

The Amendment challenges foundational constitutional values like rule of law, separation of powers and fair trial. The Critics argue that the amendment erodes the basic structure by imposing removal without judicial determination. This process will thereby shift power from the executive. In long run it will undermine institutional equilibrium.¹⁵

VI. Equality of Treatment & Existing Disciplinary Measures

The Public servants, upon extended remand, are typically suspended pending inquiry. They are not summarily removed. The Amendment imposes a uniquely onerous rule on ministers. This process raises issues of unequal treatment before law. It is also one of the best examples of disproportionate penalization.¹⁶

Critical Assessment & Practical Challenges

I. Ambiguities related to Law and its Drafting

The instances of detention spanning 30 consecutive days for serious charges are relatively rare. This position has emerged after legal checks like *Arnesh Kumar's case*. Thus, the Bill's premise may be based on an infrequent scenario. This will challenge the practical utility of bill.

II. Vacuum of Governance and Instability

The Bill lacks vision on interim governance. How can a Chief Minister be removed mid-crucial negotiations? Who will govern? The law fails to address fill-in mechanisms. The continuity protocols of governance have been ignored. This will create vacuums of administrative leadership. This will lead to further misuse of Article 356.¹⁷

III. Reappointment Undermines Accountability

A minister removed under the Bill may be reappointed after his release. This reappointment negates the intended deterrent effect. The reappointment highlights a logical contradiction within the amendment's moral claim.¹⁸

IV. Arbitrary 30-Day Timeline

The 30-day threshold appears arbitrary. The fixation of detention period is without legal or policy rationale. It aligns too conveniently with remand cycles. It potentially prompts strategic delays in bail hearings to trigger removal.

¹⁴“Modi slams INDIA bloc for opposing jail-resignation bill,” *Economic Times* (Aug. 22, 2025).

¹⁵“Shouldn't make a fuss: Amit Shah speaks at length on Constitution Amendment Bill,” *Times of India* (Aug. 25, 2025).

¹⁶“Hemant hits out at Centre and BJP over constitutional amend bid,” *Times of India* (Aug. 29, 2025).

¹⁷*State of Tamil Nadu v. Governor of Tamil Nadu*, (2025).

¹⁸Representation of the People Act, 1951 (India).

V. Potential for Political Weaponisation

The amendment can facilitate engineered detentions to force the ouster of opposition chief ministers or minister. It can subvert electoral mandates instead of reinforcing accountability. These are the potential risks of the amendment given India's political history.¹⁹

VI. Erosion of Democratic Norms

The opponents of bill decry the law as reminiscent of authoritarian eras. Its removal mechanism undermines the electorate's mandate and bypasses democratic adjudication. Many anticipate legal challenges under the basic structure doctrine fixed in the case of *Kesavananda Bharati Sripadagalvaru v. State of Kerala*.²⁰

Constructive Alternatives

Instead of pre-emptive removal based on detention, reforms should take following steps:

I. Strengthen Judicial Processes

There should be fast-track trials for ministers to avoid prolonged remand periods without conviction.

II. Enhanced Transparency:

It should be mandatory candid disclosure of criminal charges and assets, enforce political party accountability in denying tickets to tainted candidates at each level of election in India.

III. Empowerment of Ethics Committees

There should be implementation of binding Codes of Conduct for ministers. There should be regular oversight of Ministers through credible ethics panels.

IV. Apply Uniform Standards of Disqualification Standards

The disqualification of a Minister should be only upon conviction. It will be according to the Representation of People's Act, 1951. It will preserve the fundamental presumption of innocence.²¹

V. Bolster Institutional Checks

This will shield investigative agencies from political influence. This will ensure safeguards against misuse during detentions.

V. Expand Legal Recourse

There should be minimum continuity arrangements. This will avoid administrative vacuums if a minister is removed upon detention.

These measures align with democratic and constitutional norms while upholding integrity and due process.

Conclusion

The **130th Constitutional Amendment Bill, 2025**, emerges from legitimate concerns about criminality in politics. The bill intends to reinforce exclusion of tainted leadership. By enabling removal based solely on detention, it smashes constitutional safeguards and robs individuals of due process. It centralizes power, threatens federal balance, and risks eroding the separation of powers and democratic stability. Without appropriate safeguards, clarity on succession, or enhancement of judicial procedures, the Bill jeopardizes the very principles it aims to protect. Therefore, it is self-contradictory in nature.

¹⁹*Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.

²⁰Constitution of India, arts. 14, 21, 75, 164, 239AA, 368.

²¹Representation of the People Act, 1951 (India).

The Parliament of India and judicial review must ensure that any reform promoting accountability also upholds constitutional core values. The bill must respect for fundamental rights, rule of law, and electoral fairness. The promises of cleanliness in governance should be met without compromising democratic integrity.

References

1. The Constitution (One Hundred and Thirtieth) Amendment Bill, 2025, Statement of Objects and Reasons (India).
2. Parliament of India, Monsoon Sess., Lok Sabha Debates (Aug. 20, 2025) (introduction of the Bill by Amit Shah).
3. "Bills to remove convicted PM, CMs, ministers from power introduced in Lok Sabha, sent to JPC," *The Economic Times* (Aug. 20, 2025).
4. "130th Constitution Amendment Bill sparks Opposition uproar in Parliament," *The Economic Times* (Aug. 21, 2025).
5. "Chief Ministers could lose posts after 30 days of arrest under new bills, opposition says Centre targeting non-BJP leaders," *IndiaTimes* (Aug. 20, 2025).
6. The Constitution (One Hundred and Thirtieth Amendment) Bill, 2025, PRS Legislative Research.
7. *All That Is Wrong With The 130th Constitution Amendment*, *The Wire* (Aug. 24, 2025).
8. "In Numbers: Making Sense of The 130th Constitution Amendment Bill," *The Wire* (Aug. 23, 2025).
9. "Criminal-Justice: 'History will absolve me': What the 130th Constitution Amendment Bill truly purports to achieve," *The Leaflet* (Aug. 26, 2025).
10. Singh, Vijaita. "130th Constitutional Amendment Bill to Strengthen Morality, Good Governance in Politics: BJP." *The Hindu*, Aug. 20, 2025,.
11. "Constitution (130th Amendment) Bill, 2025: Key Provisions," *Fox Mandal* (Aug. 25, 2025).
12. "Constitution (130th Amendment) Bill 2025: Provisions & Concerns," *PIB* (Aug. 26, 2025).
13. "PK supports bill for resignation of leaders jailed for 30 days," *Times of India* (Aug. 20, 2025).
14. "Modi slams INDIA bloc for opposing jail-resignation bill," *Economic Times* (Aug. 22, 2025).
15. "Shouldn't make a fuss: Amit Shah speaks at length on Constitution Amendment Bill," *Times of India* (Aug. 25, 2025).
16. "Hemant hits out at Centre and BJP over constitutional amend bid," *Times of India* (Aug. 29, 2025).
17. *State of Tamil Nadu v. Governor of Tamil Nadu*, (2025).
18. Representation of the People Act, 1951 (India).
19. *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.
20. Constitution of India, arts. 14, 21, 75, 164, 239AA, 368.