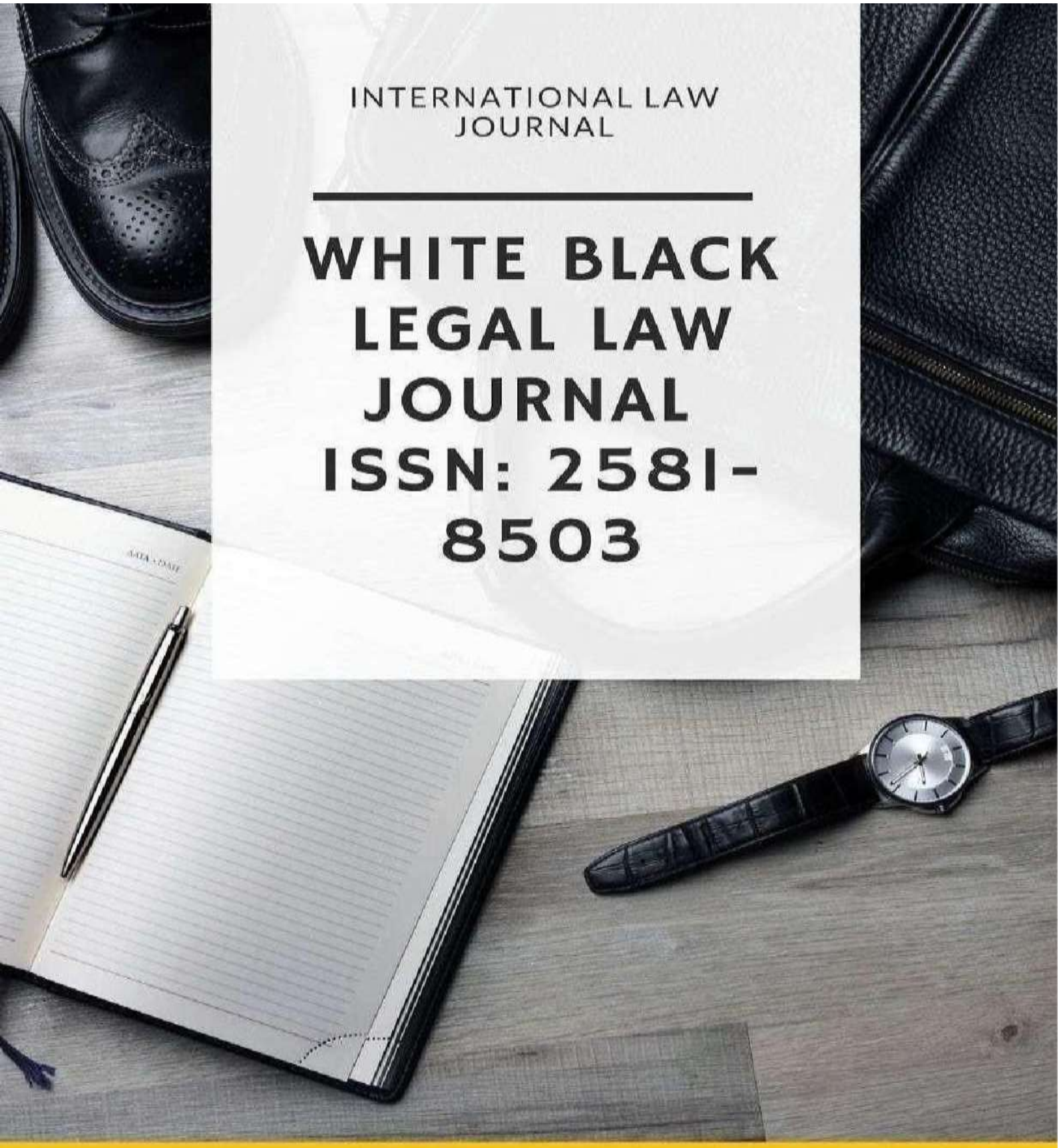

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FEDERALISM, JUDICIAL OVERSIGHT, AND DEMOCRATIC SAFEGUARDS: REASSESSING THE CONSTITUTION (ONE HUNDRED AND THIRTIETH AMENDMENT) BILL, 2025

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Abstract

The introduction of the Constitution (One Hundred and Thirtieth Amendment) Bill, 2025 seeks to disqualify ministers facing criminal charges, aiming to strengthen accountability and integrity in public office. While the Bill aspires to curb criminalization of politics and restore public trust, it raises significant constitutional, democratic, and federal concerns. By linking disqualification to the mere framing of charges, the Bill risks undermining the fundamental principle of 'presumption of innocence' and may open the door to political misuse through motivated prosecutions. Furthermore, the Bill blurs the delicate balance of powers between the legislature, executive, and judiciary, inviting potential conflicts in governance. This article critically examines the Bill through the lens of constitutional morality, judicial pronouncements, and comparative democratic practices. It highlights the tension between the urgent need to address criminalization in politics and the imperative of safeguarding democratic rights and federal stability. The article concludes that while reforms are essential, legislative overreach without adequate safeguards may erode the constitutional framework it seeks to protect.

Keywords: Presumption of Innocence, Criminalization of Politics, Federalism, Democratic Accountability, Constitutional Morality.

1. Introduction

The constitutional scheme of governance in India carefully regulates the appointment and tenure of Ministers at both the Union and State levels. Article 75 of the Constitution empowers the President to appoint the Prime Minister, while the other Ministers are appointed on the aid and advice of the Prime Minister.[1] It further provides that a Minister who is not a member of

[1] INDIA CONST. art. 75, cl. 1.

either House of Parliament for a period of six consecutive months ceases to hold office at the expiration of that period.[2] This arrangement signifies that ordinarily, only members of Parliament can be appointed as Prime Minister or Ministers, though a non-member may be appointed for a short duration subject to subsequent election. A parallel provision is contained in Article 164, which governs the appointment of the Chief Minister and Ministers in the States.[3]

In addition, the Constitution under Article 102 prescribes the grounds for disqualification of Members of Parliament, one of which is disqualification by or under a law made by Parliament.[4] It is in this context that Section 8 of the Representation of the People Act, 1951 assumes importance.[5] The section disqualifies a member upon conviction for specified offences: if the punishment is only a fine, disqualification operates for six years from the date of conviction; if the sentence is imprisonment, disqualification operates from the date of conviction and continues for six years after release.[6] Consequently, while a convicted person stands disqualified from membership, there exists no direct constitutional provision for removal of a Minister who is merely in custody pending trial, even if the offence alleged is grave.

It is to address this perceived gap that the Government introduced the Constitution (One Hundred and Thirtieth Amendment) Bill, 2025[7] during the Monsoon Session of Parliament. The Bill, piloted by the Union Home Minister Shri Amit Shah, was passed in the Lok Sabha by a voice vote and subsequently referred to a Joint Parliamentary Committee (JPC) for detailed scrutiny. The Statement of Objects and Reasons attached to the Bill sets out its rationale: elected representatives are expected to uphold public trust and act solely in the interest of the people; the conduct of Ministers must remain beyond reproach; the continued tenure of a Minister facing serious criminal charges and kept in custody undermines constitutional morality and good governance; there is, however, no constitutional mechanism for their removal in such cases; and therefore, amendments to Articles 75, 164, and 239AA[8] are required to provide a legal framework for removal of the Prime Minister, Union Ministers,

[2] INDIA CONST. art. 75, cl. 5.
[3] INDIA CONST. art. 164.
[4] INDIA CONST. art. 102, cl. 1(e).
[5] The Representation of Peoples Act, 1950, § 8, No. 43, Acts of Parliament, 1950 (India).
[6] *Id.*
[7] The Constitution (One Hundred and Twenty-Fourth Amendment) Bill, Bill No. 111 of 2025.
[8] INDIA CONST. art. 239AA.

Chief Ministers, and State Ministers, including those in the National Capital Territory of Delhi.[9]

The introduction of this Bill is significant not merely because it proposes to amend key constitutional provisions but also because it raises fundamental questions. India already has a statutory framework under the Representation of the People Act, 1951 to disqualify convicted legislators, yet the proposed amendment introduces a new ground i.e., detention in custody for more than thirty days in relation to an offence punishable with imprisonment of five years or more. This raises an important debate as to whether such reform should have been pursued through statutory law, or whether a constitutional amendment was indeed warranted.

2. Key Provisions of the Constitution (One Hundred and Thirtieth Amendment) Bill, 2025

The Bill proposes changes to three important Articles of the Constitution i.e., Article 75 (Union Ministers), Article 164 (State Ministers), and Article 239AA (Special provisions for Delhi). These changes deal with what happens if the Prime Minister, Chief Ministers, or other Ministers are arrested and kept in custody for a certain period of time.

2.1.Union Government- Amendment to Article 75

- If a Union Minister is arrested and kept in custody for 30 consecutive days on charges of an offence punishable with five years or more imprisonment, the Prime Minister must advise the President to remove that Minister by the 31st day.[10]
- If the Prime Minister does not give such advice, the Minister automatically loses his office after the 31st day.[11]
- If the Prime Minister himself is arrested and kept in custody for 30 consecutive days on such charges, he must resign by the 31st day.[12]
- If he does not resign, he automatically ceases to be Prime Minister from the next day.[13]

[9] The Constitution (One Hundred and Twenty-Fourth Amendment) Bill, Bill No. 111 of 2025, Statement of Objects and Reasons.
[10] The Constitution (One Hundred and Twenty-Fourth Amendment) Bill, Bill No. 111 of 2025, cl. 2.
[11] *Id.*
[12] *Id.*
[13] *Id.*

- However, both a Minister and the Prime Minister can be reappointed to their positions by the President once they are released from custody.[14]

2.2. State Governments- Amendment to Article 164

- The same rule applies at the state level.
- If a Minister in any State is arrested and in custody for 30 days or more on similar charges, the Chief Minister must advise the Governor to remove the Minister. If no advice is given, the Minister automatically ceases to hold office.[15]
- If the Chief Minister himself is in custody for 30 days, he must resign by the 31st day, failing which he automatically loses his position.[16]
- Like in the Union case, both the Chief Minister and Ministers can be reappointed after being released from custody.[17]

2.3. Union Territory of Delhi - Amendment to Article 239AA

- Special provisions have been made for Delhi, which has a unique governance structure.[18]
- If a Delhi Minister is in custody for 30 days, the Chief Minister must advise the President to remove the Minister. If no advice is given, the Minister automatically loses office.[19]
- If the Chief Minister of Delhi himself is arrested and kept in custody for 30 days, he must resign by the 31st day, or else automatically loses office.[20]
- As with the Union and States, the Chief Minister and Ministers of Delhi can also be reappointed after their release.[21]

In simple terms, the Bill seeks to create a uniform rule across the Union, States, and the National Capital Territory of Delhi regarding disqualification from holding executive office in cases of serious criminal charges. The Bill provides that if the Prime Minister, a Chief Minister, or any other member of the legislature is taken into judicial custody for a continuous period of thirty days, they would automatically lose their position. This ensures that individuals facing

[14] *Id.*
[15] The Constitution (One Hundred and Twenty-Fourth Amendment) Bill, Bill No. 111 of 2025, cl. 3.
[16] *Id.*
[17] *Id.*
[18] The Constitution (One Hundred and Twenty-Fourth Amendment) Bill, Bill No. 111 of 2025, cl. 4.
[19] *Id.*
[20] *Id.*
[21] *Id.*

prolonged custody on grave charges cannot continue to exercise executive authority. However, the Bill also introduces a balancing mechanism by allowing reappointment once the individual is released, thereby preserving the principle of fairness while upholding the integrity of public office.

3. Upholding Constitutional Morality: Government's Justification for Automatic Disqualification of Ministers in Custody

From the government's perspective, the justification for the Bill rests on the principle that elected representatives are entrusted with the hopes, confidence, and aspirations of the people of India. They are expected to rise above narrow political or personal interests and act only in the larger public interest. The legislative intent is clear that those who occupy high constitutional offices must maintain a morally sound character and conduct so that they remain fit for the responsibilities of their position. Ministers, in particular, are expected to lead by example, demonstrating integrity that is free from even the slightest suspicion of criminality or corruption. This high standard of conduct is considered essential to preserve people's faith in democracy and in the constitutional institutions that govern them.

The Bill also reflects a concern that if a minister is facing allegations of serious criminal offences and is arrested and kept in custody, such a situation could undermine constitutional morality, good governance, and the trust that the public has reposed in that office. A minister in custody is effectively in conflict with the ethical foundations of the Constitution and cannot be seen as a credible custodian of public interest. Moreover, the government has highlighted a critical lacuna i.e., the Constitution at present does not provide a clear mechanism for the removal of the Prime Minister, Chief Minister, or any minister who remains in custody on serious criminal charges. This absence of an explicit provision leaves room for individuals in custody to continue holding high office, thereby creating a contradiction between democratic ideals and political reality.

By proposing amendments to Articles 75, 164, and 239AA of the Constitution, the Bill seeks to address this gap and establish a uniform legal framework for removal in such situations. The government's broader justification is that this measure would reinforce constitutional morality, strengthen governance, and ensure that the highest offices of the Union, the States, and the National Capital Territory of Delhi remain untarnished by the shadow of criminal allegations,

thereby protecting the dignity of democratic institutions and the trust of the people.

4. Constitutional and Legal Concerns Surrounding (One Hundred and Thirtieth Amendment) Bill, 2025

4.1. Undermining Presumption of Innocence and Risk of Double Jeopardy

One of the most significant criticisms directed against the Bill is that it undermines the cardinal principle of criminal jurisprudence i.e., the presumption of innocence until proven guilty. By mandating the automatic removal of the Prime Minister, Chief Minister, or any other minister solely on the ground that they remain in custody for a period of thirty days in relation to an offence punishable with a minimum of five years' imprisonment, the Bill effectively equates 'accusation' with 'guilt'. This is in direct conflict with long-settled constitutional and criminal law doctrines. The Supreme Court, in State of Maharashtra v. Sushil Kumar Singh[22] and more emphatically in Maneka Gandhi v. Union of India[23], underscored that any restriction on personal liberty must be 'just, fair and reasonable'. Equating pre-trial custody with culpability is neither just nor fair, as custody is not a judicial finding of guilt but merely a procedural safeguard during investigation. Similarly, in Narendra Singh v. State of M.P.,[24] the Court reiterated that every accused person is entitled to the presumption of innocence until conviction by a competent court.

A second constitutional concern arises from the doctrine of 'double jeopardy', guaranteed under Article 20(2) of the Constitution.[25] By introducing automatic disqualification merely on the basis of an accusation leading to custody, the Bill imposes a punitive consequence (removal from office) even before the trial concludes. If, thereafter, the accused is convicted, he or she would again face the statutory disqualifications imposed under Section 8 of the Representation of the People Act, 1951, which bars a convicted individual from contesting elections for the duration of conviction and an additional six years post-release.[26] In effect, the same alleged offence triggers two distinct disqualifications: one pre-trial (loss of ministerial office) and another post-trial (electoral disqualification). This sequencing, it may be argued, tilts the balance against the accused and places them in a worse position than what constitutional protections were designed to permit.

[22] State of Maharashtra v. Sushil Kumar Singh, 1978 SCC (Cri) 127 (India).
[23] Maneka Gandhi v. Union of India, (1978) 1 SCC 248 (India).
[24] Narendra Singh v. State of M.P., (2004) 10 SCC 699 (India).
[25] INDIA CONST. art. 20, cl. 2.
[26] The Representation of Peoples Act, 1950, § 8, No. 43, Acts of Parliament, 1950 (India).

Further, such a provision may also encourage politically motivated arrests. Given the intensely adversarial nature of Indian politics, the possibility of misuse of investigative powers cannot be ruled out. If mere police custody of thirty days is made the trigger for disqualification, a motivated investigation could be sufficient to unseat a democratically elected Prime Minister or Chief Minister without any judicial finding of guilt. This may dilute the principles of constitutional democracy and popular mandate, reducing governance to the whims of investigative agencies and political rivalries, rather than judicial adjudication.

Taken together, these concerns suggest that while the Bill may be animated by the laudable goal of ensuring integrity in public office, its operational design risks eroding fundamental criminal law protections and destabilising democratic functioning.

4.2.Erosion of Federal Autonomy and Centralising Tendencies

From an opposition lens, the Bill's design appears to compress State-level autonomy by hard-wiring a central, functionary-driven removal mechanism into the Constitution. At the State level, the proposed Article 164(4A)[27] obliges the Chief Minister to advise removal of a Minister who has been in custody for thirty consecutive days for an offence punishable with five years or more; failing such advice, the Minister automatically vacates office from the next day. The Chief Minister, if similarly in custody for thirty days, must resign or is deemed to cease holding office. Although the Governor's act of removal is formally on the Chief Minister's advice, the constitutional trigger is now automatic and time-bound, leaving little political space for a State's elected leadership to assess context, proportionality, or misuse. In Delhi, the asymmetry is starker i.e., the President (a Union authority) effects removal on the Chief Minister's advice, placing the Union squarely in the chain of action within a territory that the Supreme Court has repeatedly described as requiring collaborative federalism and respect for the elected executive under Article 239AA.[28]

It may be argued that such architecture recentres power in Union-appointed authorities (President/Governor) and creates a ready constitutional lever to dislodge State executives whenever custody crosses thirty days-an outcome that can be precipitated by central investigative agencies. This sits uneasily with the Court's federalism jurisprudence:

[27] The Constitution (One Hundred and Twenty-Fourth Amendment) Bill, Bill No. 111 of 2025, cl. 3.
[28] The Constitution (One Hundred and Twenty-Fourth Amendment) Bill, Bill No. 111 of 2025, cl. 4.

Kesavananda Bharati v. State of Kerala[29] constitutionalised the basic structure doctrine; S.R. Bommai v. Union of India[30] treated federalism as part of that basic structure and subjected central interventions in State governance to searching review; the Government of NCT of Delhi v. Union of India, [31] in which the Constitutional Bench decision stressed that the elected government must retain meaningful control over executive functions in Delhi, limiting central encroachment; Nabam Rebia v. Deputy Speaker[32] and Shivraj Singh Chouhan v. Speaker, MP Legislative Assembly,[33] confined gubernatorial discretion to prevent destabilisation of elected governments; and B.P. Singhal v. Union of India,[34] underscored constitutional neutrality and limits around the use of centrally placed offices to unsettle State political configurations. Read together, these decisions articulate a through-line i.e., Union actors cannot, directly or indirectly, be given open-ended instruments to alter State political equilibria outside tight constitutional guardrails.

On this view, the Bill's automaticity and its central-node implementation risk diluting the 'triple chain of accountability' i.e., people-legislature-council of ministers, that the Court has emphasised, particularly in the government of NCT's context. Even if the Chief Minister's 'advice' remains formally necessary, the non-advice automatic vacancy clause reduces that advice to a mere stopwatch function. The pleasure doctrine under Articles 75 and 164 has historically operated through democratic accountability (PM/CM advice), not a mechanical clock tied to pre-trial custody. By constitutionalising a rigid, custody-based disqualification, actionable through central constitutional offices, the amendment can be portrayed as recalibrating the federal balance in favour of the Union, inviting basic-structure scrutiny on federalism grounds.

4.3.Conflict and Confusion with Existing Law and Judicial Precedent

One of the gravest concerns with the proposed Bill lies in its potential conflict with the already existing framework under the Representation of the People Act, 1951 (RPA), which comprehensively governs the disqualification of members of Parliament and state legislatures. The RPA specifically addresses disqualifications arising from criminal offences, providing a

[29] Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225 (India).
[30] S.R. Bommai v. Union of India, (1994) 3 SCC 1 (India).
[31] Government of NCT of Delhi v. Union of India, (2018) 8 SCC 501 (India).
[32] Nabam Rebia v. Deputy Speaker, Arunachal Pradesh Legislative Assembly, (2016) 8 SCC 1 (India).
[33] Shivraj Singh Chouhan v. Speaker, Madhya Pradesh Legislative Assembly, (2020) 9 SCC 1 (India).
[34] B.P. Singhal v. Union of India, (2010) 6 SCC 331 (India).

balanced scheme that protects both the integrity of public office and the rights of elected representatives.

4.3.1. Conflict with the Disqualification Provisions under the Representation of the People Act, 1951

Section 8 of the RPA makes it clear that disqualification from holding public office arises only upon conviction for certain offences. The scheme reflects the fundamental principle of presumption of innocence, ensuring that mere accusation, arrest, or detention does not strip a democratically elected representative of their office. The proposed Bill, however, introduces a radical departure by prescribing automatic cessation of office if a Chief Minister or Minister is in police custody for 30 days, irrespective of conviction. This creates a parallel and conflicting regime of disqualification that undermines the legislative clarity of the RPA.

Such a scheme not only disrupts legal certainty but also offends the doctrine of occupied field under Article 246,[35] as Parliament has already enacted an exhaustive law governing this subject matter. The simultaneous operation of two contradictory regimes is bound to cause legal vagueness, administrative confusion, and constitutional inconsistency.

4.3.2. Supreme Court Precedent in Lily Thomas v. Union of India

In Lily Thomas v. Union of India,[36] the Supreme Court categorically held that under Section 8(3) of the RPA, an elected representative stands disqualified from the date of conviction if the sentence imposed is two years or more. The Court struck down Section 8(4) of the RPA, which previously allowed sitting members to continue in office pending appeal. By doing so, the Court reaffirmed that conviction is the definitive threshold for disqualification, ensuring both accountability and fairness.

The Court's judgment emphasizes that conviction, not mere accusation or custody, is the constitutionally and statutorily recognized basis for disqualification. The proposed amendment, by shifting the threshold to mere custody of 30 days, not only dilutes the authoritative position settled by the Supreme Court but also creates the possibility of arbitrary misuse through motivated arrests.

[35] INDIA CONST. art. 246.
[36] Lily Thomas v. Union of India, (2013) 7 SCC 653 (India).

4.3.3. Judicial Recognition of the Legislative Framework

Earlier in K. Prabhakaran v P. Jayarajan[37], the Court noted that the purpose of Section 8 RPA is to maintain the purity of the legislative process and public offices by disqualifying those who have been duly convicted. The Court carefully balanced the objective of maintaining integrity with the need to avoid unjust exclusion on the basis of frivolous allegations or politically motivated cases.

The proposed amendment ignores this careful balance struck by Parliament and judicial interpretation by equating custody with conviction, thereby introducing an unjustified harsher standard against Ministers compared to other legislators, and by extension, voters' democratic choices.

4.3.4. Principle of Constitutional Harmony and Basic Structure Doctrine

The Supreme Court has consistently held that constitutional provisions must be interpreted to maintain harmony between existing laws and the Constitution. By creating a conflicting regime with the RPA and judicial pronouncements, the Bill risks violating the principles of legal certainty, federalism, and democratic accountability, all of which form part of the basic structure of the Constitution.

Overall, the proposed provisions are not only redundant but may also be declared unconstitutional, as they clash directly with the RPA's framework and the Supreme Court's settled position in Lily Thomas and Prabhakaran. Rather than strengthening accountability, they introduce legal confusion, undermine the presumption of innocence, and open doors for political misuse.

4.3.5. Political Weaponization through Central Investigative Agencies: Credibility Concerns and Statistical Reality

A critical concern surrounding the proposed Bill lies in the danger of political weaponization through central investigative agencies such as the Central Bureau of Investigation (CBI) and the Enforcement Directorate (ED). In practice, these institutions are intended to serve as neutral enforcers of the law, have frequently been perceived as instruments in the hands of the ruling dispensation. This perception is reinforced by statistical evidence. Reports indicate that nearly 95% of ED investigations disproportionately target opposition leaders, while the conviction

[37] K. Prabhakaran v. P. Jayarajan, (2005) 1 SCC 754 (India).

rate in such cases remains strikingly low.[38] Out of 193 cases initiated against opposition leaders, only two have resulted in convictions, accounting for a meagre 1% success rate.[39] Such a glaring gap between prosecution and conviction not only raises doubts about the evidentiary strength of these investigations but also exposes the possibility of probes being launched with political motivations rather than purely legal considerations.

The Supreme Court has itself expressed apprehension about the independence of central agencies. In Vineet Narain v. Union of India[40], the Court famously remarked that the CBI had become a 'caged parrot' speaking in its master's voice, underscoring its vulnerability to political interference. When judicial recognition of such limitations exists at the highest level, the fear of agencies being weaponized for partisan purposes cannot be dismissed as unfounded. In this backdrop, allowing constitutional amendments that expand disqualification on grounds such as custodial detention without conviction may significantly erode public faith in the constitutional order. If investigative bodies are already mistrusted due to their selective targeting and low credibility, vesting their outcomes with constitutional consequences like disqualification risks converting them into tools for silencing political dissent. This situation not only undermines the democratic principle of free and fair competition among political parties but also diminishes the trust of the general public in the sanctity of the Constitution itself.

5. Potential Constitutional & Legal Infirmities in Bill

5.1.Article 14 - Equality, Non-Arbitrariness, and Unequal Treatment

5.1.1. Unequal treatment between "members" and "ministers."

The Bill singles out holders of executive office (PM/CM/Ministers) for an automatic loss of office on the 31st day of continuous custody, even though ordinary MPs/MLAs remain governed by the Representation of the People Act, 1951, which disqualifies only upon conviction. The State may argue there's an intelligible differentia i.e., ministers wield day-to-day executive power, but the automaticity of the trigger (mere custody for 30 days on any offence punishable with five years or more) risks failing the nexus and proportionality components of Article 14 review. From the judgments of the Supreme Court in E.P. Royappa's

[38] Padmakshi Sharma, 95% of Political Leaders Investigated by CBI & ED Are Opposition Leaders: Non-BJP Parties Tell Supreme Court, *LiveLaw*, March 24, 2023, https://www.livelaw.in/top-stories/95-of-political-leaders-investigated-by-cbi-ed-are-opposition-leaders-non-bjp-parties-tell-supreme-court-224653

[39] Neeraj Chauhan, 2 convictions in 193 ED cases against politicians, *Hindustan Times*, Mar. 20, 2025, https://www.hindustantimes.com/india-news/2-convictions-in-193-ed-cases-against-politicians-101742411296895.html

[40] Vineet Narain v. Union of India, (1998) 1 SCC 226 (India).

case,[41] arbitrariness is the antithesis of equality; later benches have treated 'manifest arbitrariness' as a ground to invalidate legislation. If the classification (ministers vs other legislators) is overbroad and the consequence (automatic ouster) is disconnected from adjudicated guilt, courts could see it as arbitrary.

5.1.2. 'Manifest arbitrariness' in the design

The Bill's bright-line rule neither considers case-specific safeguards (e.g., judicial findings on misuse of process) nor gradations of offences; 'punishable with five years or more' sweeps in a vast range of charges, many with no minimum sentence. The Supreme Court has invalidated statutes for manifest arbitrariness where they confer disproportionate consequences untethered to a principled standard held in Shayara Bano's case,[42] and thereafter, followed in several other cases. While Shreya Singhal's case[43] was in other context, it is instructive on vagueness/overbreadth and the need for tailored, least-restrictive measures, standards relevant to equality and reasonableness review as well.

5.1.3. Procedural reasonableness as an equality check

Even when removal is formally 'on advice,' its automatic fallback (ceasing to hold office on day 31) leaves no room for individualized assessment or a fair opportunity to contest misuse of process. The Supreme Court's Article 14[44] jurisprudence reads arbitrariness into equality review as held by the Supreme Court in the case of EP Royappa[45] and Ajay Hasia[46], and has also insisted that executive removal powers affecting constitutional offices meet standards of reason and fairness.[47]

5.2. Article 21- 'Just, Fair & Reasonable' Procedure; Proportionality

In the case of Maneka Gandhi,[48] it was held that any law that deprives a person of liberty or status must prescribe a procedure that is just, fair and reasonable. Modern proportionality asks legality; legitimate aim; rational connection; necessity/least-restrictive means; and adequate safeguards.[49] The Bill pursues a legitimate aim (integrity in high office) but ties a severe civil

[41] E.P. Royappa v. State of Tamil Nadu, (1974) 4 SCC 3 (India).
[42] Shayara Bano v. Union of India, (2017) 9 SCC 1 (India).
[43] Shreya Singhal v. Union of India, (2015) 5 SCC 1 (India).
[44] INDIA CONST. art. 14.
[45] *Id.*
[46] Ajay Hasia v. Khalid Mujib Sehravardi, (1981) 1 SCC 722 (India).
[47] B.P. Singhal v. Union of India, (2010) 6 SCC 331 (India).
[48] Maneka Gandhi v. Union of India, AIR 1978 SC 597 (India).
[49] Modern Dental Coll. & Rsch. Ctr. v. State of Madhya Pradesh, (2016) 7 SCC 353; AIR 2016 SC 2601 (India).

consequence (loss of constitutional office) to pre-trial custody, an investigative stage often influenced by variables extraneous to culpability (e.g., bail delays, case backlog). The absence of built-in judicial scrutiny, case-specific assessment, or a hearing before deprivation would likely be tested against Article 21's fairness and proportionality requirements.

5.3.Separation of powers & constitutional offices.

Basic structure cases, as propounded in Kesavananda Bharti[50] and further affirmed in Indira Nehru Gandhi,[51] protect separation of powers and the integrity of constitutional offices. A rule that allows investigative custody, without a judicial finding of guilt, to mechanically terminate a constitutional tenure may be seen as collapsing the separation between investigation and adjudication, and as compromising the electorate's mandate without the discipline of judicial determination. Courts have also policed executive removals of constitutional functionaries for arbitrariness.[52]

5.4.Vagueness, Overbreadth, and Risk of Misuse

The threshold 'punishable with imprisonment which may extend to five years or more' is extremely capacious; many offences with widely varying gravity meet this ceiling. When sweeping standards trigger severe consequences, the Court has been wary of vagueness and overbreadth, insisting on precise tailoring and safeguards.[53] A custody-based trigger, without a contemporaneous judicial satisfaction on the bona fides of the arrest/remand and the necessity of removal, could be seen as over-inclusive and susceptible to political misuse, a concern courts have repeatedly flagged while structuring controls over executive power.

The Bill's aim to preserve integrity in high office is constitutionally weighty. Its means, automatic removal keyed to 30 days' custody for broadly defined offences, risk collision with Article 14's anti-arbitrariness doctrine, Article 21's fairness/proportionality, the limited reach of Article 20(2) notwithstanding, and the basic-structure commitments to federalism and separation of powers. Courts are likely to scrutinize whether equally effective, less-restrictive tools exist that respect due process and the federal balance while still addressing the governance concerns the Bill identifies.

[50] Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225; AIR 1973 SC 1461 (India).
[51] Indira Nehru Gandhi v. Raj Narain, 1975 Supp. SCC 1; AIR 1975 SC 2299 (India).
[52] *Id.*
[53] *Id.*

6. Conclusion

The introduction of the Constitution (One Hundred and Thirtieth Amendment) Bill, 2025 is undoubtedly rooted in a well-intentioned objective: to ensure that holders of high constitutional offices, such as the Prime Minister, Chief Ministers, and other ministers, adhere to constitutional morality and remain committed to acting solely in the public interest. By seeking to prescribe mechanisms for their removal when accused of offences, the Bill attempts to fill a gap that the framers of the Constitution left open. However, while the intention may be commendable, the approach taken in the Bill raises serious constitutional and democratic concerns.

First, the provision for automatic removal of ministers merely on the basis of accusation or suspicion runs contrary to the well-established doctrine of 'innocent until proven guilty.' Such an approach risks undermining the principle of personal liberty guaranteed under Article 21 of the Constitution. Second, while the Constitution may not explicitly contain a provision for the removal of ministers in such circumstances, the Representation of the People Act, 1951, already addresses disqualification arising from conviction. Overlapping or conflicting standards between constitutional provisions and ordinary legislation could create inconsistencies and weaken the overall legal framework.

Moreover, the Bill disproportionately empowers the Union executive, the Governor, and the President, while leaving state-level leadership with no meaningful role in the process. Such centralization of power risks disturbing the delicate balance of federalism envisaged under the Constitution. A more balanced model would require that the principle of cooperative federalism be respected by granting state leadership equivalent authority in relation to state ministers.

In addition, the current drafting of the Bill leaves vague the category of offences that would invite automatic removal. Simply relying on a five-year imprisonment benchmark is arbitrary and fails to distinguish between offences of varying gravity. Without a clear, rational classification, the provision may be open to misuse for political ends.

Therefore, any reform in this regard must proceed cautiously and uphold both constitutional morality and democratic values. Judicial oversight could provide the necessary balance, ensuring that allegations against ministers are subject to impartial scrutiny before

disqualification. At the same time, more effective mechanisms can and should be developed to check corruption and misuse of office without undermining the presumption of innocence, the independence of the judiciary, or the federal character of the Constitution.

In sum, while the Bill identifies a real concern i.e., strengthening accountability of constitutional office holders, it requires significant reconsideration. Only reforms that simultaneously protect integrity in public life and preserve the fundamental democratic principles of fairness, liberty, and federalism can be considered both legitimate and sustainable.