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Operationalising Constitutional Morality: A Jurisprudential Justification for Mandatory Executive Accountability under the 130th Constitutional Amendment Bill, 2025

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Abstract:

This paper advocates for the Constitution (One Hundred and Thirtieth Amendment) Bill, 2025 as a considered constitutional measure addressing the ongoing issue of the criminalisation of politics. The Bill's main principle, mandatory temporary suspension of the Prime Minister, Chief Ministers, and Ministers who are in judicial custody for an extended period of 30 days or more, concerning serious offences, does not assume guilt beforehand. Rather, it views the executive position as a constitutional duty that must consistently align with both institutional integrity and democratic legitimacy. Utilizing the Supreme Court's interpretation of constitutional morality and the proportionality principle, the paper argues that the amendment brings about a constitutional (as opposed to penal) outcome aimed at safeguarding governance continuity and public trust. Additionally, it claims that the custody-based trigger represents a justifiable categorization under Article 14 and does not violate Article 21 since it governs the holding of office rather than personal freedom, while remaining subject to judicial scrutiny. The paper concludes that implementing constitutional morality through measured executive accountability can enhance democratic culture, provided that execution is managed with procedural precision and strong protections against misuse.

Keywords:

Constitutional Morality, Executive Accountability, Criminalisation of Politics, Proportionality, Parliamentary Democracy.

1. Introduction

The ongoing criminalization of politics has become one of the most significant constitutional obstacles confronting Indian democracy. While the electoral system still operates formally, the increasing presence of individuals with serious criminal charges occupying positions of executive power has gradually diminished public trust in democratic institutions. This issue raises not only ethical concerns but also threatens the foundation of constitutional governance, where legitimacy derives from both popular mandate and commitment to constitutional values as well as institutional integrity.

Historically, discourse on the Indian Constitution has heavily depended on electoral accountability as the primary means of holding political figures accountable. However, experience has shown that elections by themselves cannot effectively tackle the deeper structural issue of individuals with serious criminal allegations occupying executive posts, which further erodes public trust in the governance. It is within this context, that the Constitution (One Hundred and Thirtieth Amendment) Bill, 2025 (hereinafter mentioned as the Amendment) assumes constitutional significance. By requiring the temporary suspension of Prime Ministers, Chief Ministers, and Ministers who are in custody for a specified period, the Bill aims to recalibrate executive accountability without presuming criminal guilt.

The Amendment indicates a transition from a strictly outcome-oriented democratic framework to one that emphasizes constitutional morality as an operative standard of governance. Instead of viewing accountability as dependent solely on legal conviction or electoral loss, the Amendment acknowledges that wielding executive power entails heightened constitutional obligations. Holding a public office, especially at the highest levels of executive authority, should not be seen as a personal right but as a constitutional duty that must align with standards of institutional propriety.

This paper contends that the Constitution (130th Amendment) Bill, 2025 is not a deviation from democratic ideals but rather a constitutionally valid response to democratic dysfunction. By promoting constitutional morality

through mandatory executive accountability, the Amendment Bill enhances democratic legitimacy, maintains institutional equilibrium, and reinforces the essential belief that constitutional governance must be both lawful and ethically sound. The ensuing discussion provides a jurisprudential rationale for the Amendment, contextualizing it within established constitutional principles, fundamental rights jurisprudence, and democratic theory.

2. Constitutional Morality: Conceptual and Jurisprudential Foundations

The idea of constitutional morality has progressively emerged as a key interpretive principle within the realm of Indian constitutional law. Although the term is not explicitly defined in the Constitution, judicial interpretations have consistently regarded constitutional morality as a guiding principle that ensures adherence to the Constitution's values, structures, and limitations, even when such adherence may clash with popular opinions or political expediency (*Navtej Singh Johar v. Union of India*, 2018).

At its essence, constitutional morality obliges constitutional actors to exercise their powers in a way that honors institutional roles, protects democratic values, and maintains the rule of law. It stands apart from popular or social morality, which can vary with public sentiment. Constitutional morality, instead, is rooted in the enduring principles laid out in the constitutional text, liberty, equality, accountability, and democratic responsibility. As noted by the Supreme Court, democracy under the Constitution is not simply a matter of majority rule but has a constitutional nature, necessitating restraint, discipline, and ethical governance from those in positions of public authority (*Government of NCT of Delhi v. Union of India*, 2018).

The jurisprudential significance of constitutional morality lies in its capacity to connect constitutional structure with constitutional practice. While the Constitution defines the formal entities of governance, constitutional morality ensures that these entities operate in alignment with democratic legitimacy. In this context, executive accountability is not merely a discretionary political virtue but a constitutional requirement that emanates from the essence of public office. Ministers earn their authority not only from electoral victories but also through ongoing adherence to the constitutional expectations of integrity and accountability.

Basically, constitutional morality has never been limited to mere symbolic gestures. Indian constitutional law has increasingly stressed its practical

application, especially concerning institutional accountability and misuse of power. This doctrine has been invoked to support judicial intervention in situations where constitutional values are threatened by executive actions or inactions, thereby strengthening the principle that constitutional governance must remain normatively justifiable (*Puttaswamy v. Union of India*, 2018).

When examined through this legal perspective, the 130th Constitutional Amendment Bill represents an effort to transform constitutional morality into enforceable constitutional practice. By associating prolonged detention in serious criminal cases with temporary removal of executive power, the Amendment does not imply guilt but recognizes that the ongoing exercise of executive authority under such conditions undermines institutional credibility. Thus, operationalized constitutional morality serves as a protective mechanism, shielding democratic institutions from degradation while upholding the presumption of innocence that is fundamental to criminal law.

3. Executive Accountability within the Framework of the Indian Constitution

Accountability of the executive plays a crucial role in the structure of the Indian Constitution. In a parliamentary democracy, the authority of the executive is inherently linked to its responsibility, with the legitimacy of governance relying on the ongoing confidence of constitutional bodies rather than solely on electoral victories. Articles 75 and 164 enshrine this principle by establishing the doctrine of collective responsibility of the Council of Ministers to the legislature. These articles not only govern political relationships; they institutionalize accountability as a necessary precondition for the exercise of executive power.

The Supreme Court has consistently viewed executive authority as a constitutional function rather than merely a personal right. In *Rai Sahib Ram Jawaya Kapur v. State of Punjab* (1955), the Court emphasized that executive power must function within constitutional constraints and is subject to legislative and constitutional oversight. Likewise, in *Shamsher Singh v. State of Punjab* (1974), the Court clarified that real executive authority is vested in elected officials, who are obligated to adhere to constitutional norms, conventions, and mechanisms of accountability.

Significantly, the Constitution does not regard ministerial positions as individual entitlements that persist regardless of the situation. Instead, the exec-

utive office is perceived as a public trust, the continuation of which hinges on the preservation of constitutional propriety. While the Constitution does not specifically list all grounds for the removal of Ministers, this silence should not be interpreted as a constitutional restriction. The principles of constitutional governance often depend on implicit limitations, conventions, and evolving standards of accountability, particularly when democratic legitimacy is at stake.

The doctrine of collective responsibility further emphasizes this view. point. Ministers do not operate independently; their actions directly affect the credibility and stability of the executive as a whole. When the ongoing presence of a Minister in custody for serious criminal offenses jeopardizes public trust and institutional integrity, constitutional accountability necessitates corrective measures. The lack of a conviction does not diminish the constitutional ramifications of such situations, especially when the governance process itself is undermined.

From this perspective, the 130th Constitutional Amendment Bill, 2025 does not present a foreign notion in constitutional practice. Instead, it expands upon the established framework of executive responsibility by providing a constitutional response to scenarios where executive authority conflicts with institutional credibility. The Amendment aims to clarify and formalize what has long been an implicit constitutional expectation, that those entrusted with executive power must consistently meet standards of constitutional trustworthiness.

4. The 130th Constitutional Amendment Bill, 2025: Legal Architecture and Objectives

The Constitution (One Hundred and Thirtieth Amendment) Bill, 2025 introduces a precisely defined yet constitutionally important process for enhancing executive accountability. The Bill requires the temporary suspension of the Prime Minister, Chief Ministers, and Ministers at both the Union and State levels if they are held in judicial custody for a specified continuous duration in cases involving significant criminal charges. The basis for removal is not the initiation of charges or political accusations, but maintained custody sanctioned by judicial proceedings.

An essential aspect of the Bill is its careful differentiation between criminal liability and constitutional accountability. The Amendment does not label the individual as guilty, nor does it impose indefinite disqualification from public office. Rather, it addresses the constitutional inconsistency that surfaces

when individuals vested with executive power are unable to perform their duties effectively due to extended custody. The emphasis is firmly on maintaining the integrity and continuous operation of governance rather than punishing the individual.

The Bill has two primary goals. First, it aims to tackle the long-standing issue of the criminalization of politics, which has often raised judicial concerns but has seen limited legislative responses. Second, it seeks to rebuild public trust in democratic institutions by asserting that executive authority must always exhibit institutional credibility. In doing so, the Bill concretizes constitutional morality by converting abstract ethical standards into enforceable constitutional principles.

The custody-based criterion established by the Bill functions as an objective and verifiable benchmark, minimizing the potential for arbitrary or politically motivated actions. Judicial custody is not a matter of political discretion but rather the result of judicial examination, thus introducing an external constitutional check into the process. This design choice indicates a careful attempt to reconcile competing constitutional principles, presumption of innocence on one side, and democratic accountability on the other.

Importantly, the Bill does not undermine the federal or parliamentary framework of governance. The temporary removal activates established constitutional procedures for the appointment and continuation of executive roles, safeguarding administrative continuity. Therefore, the Amendment strengthens, rather than undermines, constitutional governance by preventing institutional paralysis and maintaining public confidence.

When considered as a whole, the legal framework of the 130th Constitutional Amendment Bill demonstrates a measured and principled method of reform. It neither extends executive authority nor infringes on individual liberties beyond what is constitutionally allowable. Instead, it strives to align executive power with constitutional morality, ensuring that the use of public authority is consistent with democratic legitimacy and institutional integrity.

5. Jurisprudential Basis for Compulsory Executive Accountability

The main constitutional issue raised by the 130th Constitutional Amendment Bill concerns the justification for the mandatory temporary

removal of executive officials during extended judicial custody without infringing upon fundamental principles of criminal justice. The resolution lies in understanding the jurisprudential difference between penal consequences and constitutional consequences. While criminal law deals with individual guilt, constitutional law oversees the legitimacy and operation of public institutions. The Amendment clearly falls within the latter category.

Indian constitutional jurisprudence has long recognised that certain outcomes may arise from behavior or situations without constituting punishment. In *Union of India v. Tulsiram Patel* (1985), the Supreme Court acknowledged that constitutional outcomes, such as removal from office, can be justified on the basis of institutional necessity rather than individual blame. This distinction is essential for assessing the Amendment. The temporary removal outlined in the Bill does not signify a declaration of guilt; it is a protective measure intended to maintain the integrity of executive governance when the effective execution of constitutional responsibilities is objectively hindered.

From a jurisprudential perspective, holding public office, particularly at the executive level, has never been regarded as an unrestricted personal right. Instead, it is a position of trust governed by constitutional expectations relating to propriety, availability, and institutional credibility. The sustained exercise of executive authority by someone in prolonged custody raises valid concerns about administrative continuity, public trust, and the constitutional image. In such cases, constitutional law is justified in prioritising institutional legitimacy over individual incumbency.

The Amendment also aligns with the doctrine of proportionality, which is now a key aspect of constitutional interpretation in India (*K.S. Puttaswamy v. Union of India*, 2017). The measure taken is limited in extent, activated only after extended judicial custody, and is temporary in nature. It does not impose permanent disqualification nor does it obstruct political rehabilitation following release. The means employed have a rational connection to the goal of ensuring credible governance and are clearly less restrictive than alternatives such as blanket disqualifications or removals based on conviction that might occur after long delays.

Significantly, the Bill takes into account the practical realities of governance. Executive authority is not merely ceremonial; it necessitates ongoing involvement, decision-making, and institutional presence. When prolonged custody prevents such involvement, constitutional accountability requires a measure

ured approach. Mandatory temporary removal guarantees the continuity of governance while upholding the presumption of innocence, thus achieving a constitutionally acceptable balance.

Therefore, when examined from a jurisprudential perspective, the Amendment illustrates a valid application of constitutional design. It translates ethical accountability expectations into enforceable standards without blurring the line between criminal adjudication and constitutional accountability. In doing so, it enhances democratic governance by confirming that executive authority must continuously align with constitutional trust.

6. Compatibility with Fundamental Rights

6.1 Article 14: Equality, Non-Arbitrariness, and Reasonable Classification

A common criticism of executive removal based on custody is that it infringes upon the equality guarantee outlined in Article 14 by establishing an impermissible distinction between executive officials and other citizens. Nevertheless, this perspective fails to acknowledge a well-established constitutional principle that equality does not necessitate uniform treatment across different situations. The doctrine of reasonable classification allows for varying treatment when it is based on an intelligible differentia and has a rational connection to a legitimate constitutional aim (*E.P. Royappa v. State of Tamil Nadu*, 1974).

The Amendment clearly meets this criterion. Executive office-bearers hold constitutionally unique roles that involve increased public trust, institutional accountability, and continuity of governance. A significant duration of judicial custody creates an objectively measurable condition that directly hinders their capacity to fulfill these roles. Consequently, the classification is neither arbitrary nor conjectural; it is rooted in functional necessity and institutional reasoning.

Furthermore, the custody threshold acts as a neutral and judicially regulated trigger, substantially minimizing the potential for political exploitation. In contrast to allegations or arrests, judicial custody reflects an independent judicial assessment, thereby introducing procedural objectivity into the constitutional framework. The connection between the classification and the objective, maintaining executive credibility and administrative continuity, is direct and constitutionally justifiable.

6.2 Article 21: Personal Liberty and Due Process

The concerns surrounding Article 21 mainly focus on the possible violation of personal liberty and procedural fairness. However, these concerns mistakenly equate loss of office with loss of liberty. The Amendment does not authorize detention, limit movement, or infringe upon personal freedoms; any such effects would stem, if at all, from separate criminal proceedings governed by existing legal protections. The constitutional measure pertains solely to the status of holding office, rather than to the individual's freedom.

Indian constitutional jurisprudence has consistently recognized a distinction between personal liberty and the holding of public office. In *Maneka Gandhi v. Union of India* (1978), the Court stressed that due process entails fairness, reasonableness, and proportionality in actions taken by the state. The Amendment fulfills this requirement by relying on judicial custody as a trigger confining the outcome to temporary removal while preserving channels for judicial review.

Moreover, the Amendment conforms to the principle that public office comes with conditions that are inherent to its constitutional nature. Temporary loss of office during extended periods of custody should not be viewed as punitive deprivation. Rather, it represents a procedural adjustment aimed at ensuring effective governance while also protecting individual rights. The presumption of innocence remains intact, as reinstatement after release is neither prohibited nor contingent on acquittal.

Thus, the Amendment does not undermine fundamental rights but rather redefines the relationship between individual liberty and institutional responsibility. It acknowledges that while personal liberty is essential, the continuous and credible operation of constitutional governance is equally vital to a democratic society.

7. Federalism, Institutional Balance, and Judicial Review

An additional concern related to the 130th Constitutional Amendment Bill involves its impact on federalism and the equilibrium among constitutional institutions. In India's federal parliamentary system, it is crucial that executive accountability functions uniformly without compromising the autonomy of States or disrupting cooperative federalism. The Amendment addresses this concern by applying a standard constitutional approach to executive officials at

both Union and the State levels, thereby strengthening rather than undermining federal symmetry.

Uniform standards of accountability enhance federalism; they foster constitutional unity. The Amendment does not concentrate executive power nor modify the distribution of legislative or executive functions between the Centre and the States. Instead, it establishes a shared constitutional benchmark rooted in judicial custody, while preserving current constitutional mechanisms for appointments, continuations, and interim governance. In this way, the Amendment bolsters cooperative federalism by ensuring that standards of ethical governance are uniformly applicable across different jurisdictions. The functions of constitutional authorities, especially the President and Governors, continue to be shaped by established constitutional practices and judicially recognized limits. The Amendment does not broaden discretionary authority or invite arbitrary actions. Rather, it offers constitutional clarity in situations that previously relied on political discretion or convention. Judicial review maintains its role as a constitutional safeguard, ensuring that decisions regarding removal are subject to review for legality, proportionality, and adherence to procedure.

The presence of judicial review is particularly critical in preventing misuse and maintaining institutional equilibrium. Courts possess the authority to evaluate whether the conditions warranting removal have been satisfied and if constitutional processes have been adhered to. This oversight reinforces the separation of powers by ensuring that accountability mechanisms remain within constitutional discipline.

8. Safeguards against Misuse and Concerns of Political Motivation

Any constitutional amendment that introduces mandatory outcomes inevitably leads to concerns about potential misuse or political vendetta. While these worries are understandable in theoretical terms, they are not exclusive to the 130th Amendment. Every accountability measure, from anti-defection laws to preventive detention acts, carries an inherent risk of misuse. The constitutional approach to addressing this risk has never been to forgo reform but to integrate procedural safeguards and institutional checks.

The Amendment includes several structural protections designed to reduce the risk of abuse. Firstly, the trigger for removal is extended judicial custody, not arrest, accusation, or political assertions. Judicial custody results

from an independent judicial evaluation, thus placing a neutral constitutional entity between political conflict and constitutional consequences. Secondly, the consequence is temporary and reversible, ensuring that the action is corrective rather than punitive.

Moreover, the ongoing availability of judicial review guarantees that constitutional remedies are accessible. Courts can intervene in cases of mala fide custody, procedural errors, or constitutional doubts. This layered protective framework exemplifies a mature constitutional design that acknowledges political realities while upholding institutional integrity.

Crucially, the possibility of misuse cannot overshadow the proven damage caused by unchecked criminalization of executive authority. Constitutional morality requires proactive engagement with democratic deterioration, even when faced with challenging trade-offs. The Amendment embodies such engagement, aiming to safeguard public trust while honoring constitutional limits.

9. Conclusion

The Constitution (One Hundred and Thirtieth Amendment) Bill, 2025 represents a pivotal development in the constitutional history of India, showcasing a deliberate attempt to address the ongoing issue of the criminalization of politics through principled constitutional measures. Instead of compromising democratic principles, the Amendment strengthens them by asserting that executive power must consistently align with constitutional morality and the credibility of institutions.

This paper contends that the mandatory temporary suspension of executive officials during extended periods of judicial custody is a constitutionally valid and jurisprudentially sound response to democratic dysfunction. By differentiating between criminal liability and constitutional duty, the Amendment maintains the presumption of innocence while ensuring the integrity of governance. Its framework is proportionate, respects fundamental rights, and functions within the recognized parameters of parliamentary democracy and federalism.

When viewed simply as an abstract ideal, constitutional morality provides minimal protection against the degradation of institutions. The genuine measure of constitutional dedication is the readiness to actualize normative values into enforceable constitutional practices. The 130th Amendment Bill embodies this commitment, translating constitutional morality into a practical

approach that enhances accountability while upholding fairness.

In a time characterized by decreasing public confidence and increased ethical demands, the Amendment posits a measured constitutional response that connects democratic legitimacy with institutional accountability. Rather than undermining democracy, it reinforces the core principle that the exercise of public authority must always be accountable to the Constitution itself.

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