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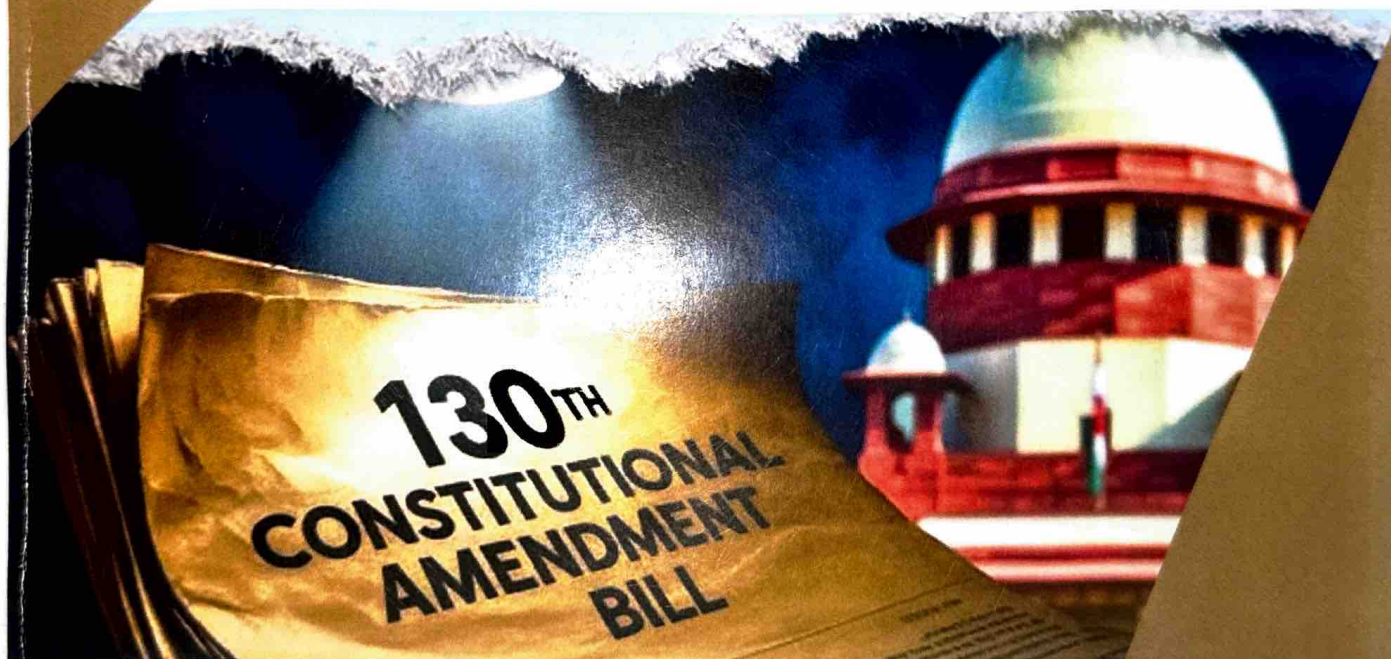
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**The Constitution 130th Amendment Bill 2025
and the Future of Indian Democracy:
Ethics, Law, and Politics**

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Legal Accountability Of Ministers In India : Evaluating The Impact of The 130th Constitutional Amendment

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Abstract

The Constitution (130th Amendment) Bill, 2025, is a significant constitutional reform proposal that aims to enhance the accountability of the executive under the Constitution. It has attracted considerable attention and debate because it attempts to clearly define limits on executive power and ensure greater transparency and responsibility in governance. Ministerial accountability is a central pillar of India's parliamentary democracy, rooted in constitutional provisions and democratic conventions. However, in recent years, concerns regarding the criminalisation of politics and the continued exercise of executive authority by leaders facing serious criminal proceedings have raised pressing questions about the integrity of public office. The Constitution (130th Amendment) Bill, 2025, emerges in this context, seeking to strengthen legal accountability by restricting individuals in judicial custody, including Ministers, Chief Ministers, and the Prime Minister, from exercising executive powers while incarcerated.

This article examines the legal framework of ministerial accountability in India, critically evaluates the 130th Amendment, and analyses its impact on constitutional governance.

Keywords:

130th Constitutional Amendment, Disqualification of Ministers, Criminalisation of Politics.

INTRODUCTION

In a good civil society, people expect the government to act fairly, responsibly, and effectively. Good governance requires that government institutions and administrative systems function efficiently, honestly, and fairly, without misuse or waste of public resources. Decision-making processes should be just, transparent, reasonable, and focused on the needs of citizens. These expectations of fairness, responsibility, and effectiveness in governance are deeply rooted in the Constitution of India. The Constitution of India, as the supreme law of the land, guarantees fundamental rights to every individual while simultaneously prescribing reasonable restrictions and laying down the Directive Principles of State Policy. These provisions reflect a balanced constitutional philosophy, one that recognises that societal development, transparency in governance, and the functioning of a healthy democracy require not only rights but also corresponding responsibilities.

Like every dynamic system in nature, a Constitution cannot remain static. It must evolve in response to society's changing needs, aspirations, and challenges. The Indian Constitution is often described as a "living document" precisely because it adapts over time. Article 368 of the Constitution empowers Parliament to amend its provisions, ensuring that the constitutional framework remains relevant and effective. India is the world's largest democracy, often celebrated as a remarkable achievement of constitutional design. However, its democratic values have been repeatedly challenged by the rising problem of criminalisation in politics. The introduction of the Constitution (One Hundred and Thirtieth Amendment) Bill, 2025, marks an important effort to address this issue. The Bill aims to ensure that individuals facing serious criminal charges do not continue to hold high public office while they are in custody. At its core, the amendment reinforces the idea that public office is a responsibility built on trust, not a personal privilege, and that honesty and integrity must guide those who govern. (Satarkar, G. S. (2025).

The 130th Constitutional Amendment Bill, 2025, assumes critical significance. The Bill seeks to introduce constitutional limitations on ministerial appointments and continuance in office where serious criminal charges are

involved, thereby attempting to strengthen executive accountability and public trust in governance. While the proposed amendment represents a decisive step toward addressing the criminalisation of the executive, it also raises complex constitutional questions relating to due process, separation of powers, federal balance, and administrative efficiency.

This paper examines the legal accountability of ministers in India with reference to the proposed 130th Constitutional Amendment Bill, 2025. It explains the purpose of the amendment, the constitutional issues involved, the challenges it may create in practice. The paper also assesses its possible impact on democratic governance and the functioning of the executive in India.

MINISTERIAL ACCOUNTABILITY UNDER THE INDIAN CONSTITUTIONAL FRAMEWORK

Accountability can broadly be defined as the obligation of those who hold power to take responsibility and be held answerable for their behaviour and actions. This obligation may stem from a moral or ethical need to account for one's behaviour, or from a legal requirement. It is a relational concept, as it concerns the relationship between those who perform an action or deliver a service and those on whom the service has an effect.

Ministerial responsibility is fundamental to the parliamentary system as it guarantees the government's answerability to the legislature and, consequently, to the population. Ministers, known as the Council of Ministers in India, have both collective and individual responsibilities to the parliament. Ministerial accountability in India operates at two closely connected levels: legal and political accountability. Legal accountability requires ministers to act within the limits of the Constitution and the law, rendering their actions subject to judicial review in cases of unconstitutionality, illegality, or *mala fide* exercise of power. As public authorities, ministers are bound by the rule of law and may be held accountable by courts for violations of constitutional or statutory provisions. At the same time, political accountability arises from the parliamentary form of government, under which ministers are answerable to the legislature for their policies, decisions, and administrative conduct. This accountability is enforced through parliamentary mechanisms such as debates, questions, and motions of no confidence, and ultimately through the principle of collective responsibility, which may require resignation upon loss of legislative confidence. Political accountability thus functions as a preventive and corrective mechanism aimed at ensuring transparency, responsiveness, and ethical governance.

nance rather than imposing penal consequences.(PRS Legislative Research)

Article 75(3) mandates that the Council of Ministers at the Union level shall be collectively responsible to the House of the People, while Article 164(2) imposes a similar responsibility on the Council of Ministers to the Legislative Assembly of the State. Although ministers formally hold office at the pleasure of the President or the Governor, acting on the advice of the Prime Minister or Chief Minister, the real focus of accountability lies with the legislature. This constitutional arrangement reinforces the democratic principle that executive power must remain subordinate to elected representatives, a position consistently affirmed by the Supreme Court as reflecting the core features of parliamentary democracy in India. (Centre for Law and Policy Research Dec 2025)

HISTORICAL CONTEXT: CRIMINALISATION OF POLITICS IN INDIA

The connection between crime and politics in India can be traced back to the period following the Emergency. Several important reports, most notably the Vohra Committee Report (1993), exposed the growing nexus between politicians, bureaucrats, and criminal networks. Over time, this relationship has weakened the integrity of democratic institutions.

The judiciary has attempted to address this issue through various interventions. In *Lily Thomas v. Union of India* (2013), the Supreme Court disqualified legislators upon conviction in criminal cases. However, existing legal gaps continue to allow individuals facing serious criminal trials to contest elections and hold public office. Data published by the Association for Democratic Reforms (ADR) reveals the seriousness of the problem. In the 2019 general elections, more than 43% of Members of Parliament declared criminal cases, with nearly 29% involving serious offences. These trends highlight a decline in public trust in democratic governance and demonstrate the pressing need for meaningful constitutional and legal reforms. (Satarkar, G. S., 2025).

The quantity of criminalisation in Indian politics may be assessed from diverse studies and reviews. According to statistics from the Association for Democratic Reforms (ADR), in the 2024 Lok Sabha elections, 46% of elected Members of Parliament (MPs) had crook instances pending against them, with 31% facing serious charges like murder, rape, and kidnapping. This represents a worrying fashion in comparison to preceding elections, highlighting the growing influence of criminal elements in the political sphere. (Srivastava, S. K., & Dubey, N. K., 2025).

THE 130th AMENDMENT BILL, 2025

The Constitution of India is designed as a flexible yet stable legal framework that must evolve with the changing needs of society. Recognising that no constitution can remain static, the framers incorporated a formal mechanism for constitutional change through Article 368, which empowers Parliament to amend the Constitution. A constitutional amendment, therefore, refers to an alteration, whether by addition, variation, or repeal of any provision of the Constitution through a procedure established by the Constitution itself.

The 130th Amendment Bill proposes an important change that if a Prime Minister, Chief Minister, or any Union or State Minister is kept in judicial custody for more than 30 days for a serious criminal offence, they must be removed from their position. This change aims to achieve three key goals:

1. To ensure clean governance by preventing individuals facing serious criminal charges from continuing in powerful public offices.

2. To strengthen political accountability and uphold the moral integrity expected from public leaders.

3. To rebuild citizens' trust in the democratic system.

The amendment is connected to Articles 75(2) and 164(2) of the Constitution which state that the Council of Ministers is collectively responsible to the legislature. By adding the requirement that ministers in prolonged custody must step down, the Bill reinforces the idea that holding public office is a responsibility, not a privilege and supports the broader constitutional vision of transparent and ethical governance. (Satarkar, G. S. 2025).

The 130th Constitutional Amendment is important in the context of political and legal reforms as it seeks to strengthen accountability and uphold the rule of law in governance. The amendment addresses situations where individuals holding high constitutional offices continue to exercise executive powers despite being in judicial custody for serious offences. By introducing clear constitutional restrictions in such cases, it aims to ensure fairness, transparency and ethical conduct in public office. From a reform perspective, the amendment responds to changing political realities and reinforces public confidence in democratic institutions. It emphasises that the exercise of political power must remain subject to legal processes and responsibility. Overall, the 130th Constitutional Amendment represents a meaningful step towards improving

governance standards and promoting integrity in India's political and legal system. (Dewanshu, A. C. (2025).

OBJECTIVES AND BACKGROUND OF THE 130TH CONSTITUTIONAL AMENDMENT BILL, 2025

The main aim of the 130th Constitutional Amendment Bill, 2025, is to ensure that persons holding high constitutional offices, such as the Prime Minister, Chief Ministers, and Ministers, do not continue to exercise executive powers while they are in judicial custody. The Bill proposes a clear and orderly system under which such leaders are temporarily disqualified from performing their official duties when they are detained in connection with serious criminal offences.

This reform responds to evolving political realities that the constitutional framers could not have fully anticipated. In recent decades, instances of political leaders continuing in office despite being in judicial custody or facing serious criminal charges have raised significant concerns regarding ethical governance and public confidence in democratic institutions. The proposed amendment seeks to address this constitutional gap by reinforcing a foundational principle of democratic governance: executive authority should be exercised only by individuals who are not subject to custodial restraints and who are capable of discharging their constitutional responsibilities without legal impediments. While introducing the Bill, Union Home Minister Amit Shah characterised the measure as an effort to “re-establish ethical standards in governance” and to ensure that “no leader governs from behind bars.” According to the government, the amendment strengthens the rule of law and affirms the normative expectation that public office is a position of public trust and responsibility, rather than a personal or political privilege. (Bhardwaj, N., 2025, November 7)

LEGAL CHALLENGES MENTIONED IN THE BILL (PI Raj IAS Academy, 2025, August 27)

The 130th Amendment Bill has faced considerable criticism, with opponents pointing out several potential issues.

1. Undermining the Presumption of Innocence:

The foremost objection is that the Bill permits the removal of a minister solely based on detention, rather than conviction. This approach is seen as con-

flicting with the well-established legal principle of innocent until proven guilty. Critics contend that such a provision may infringe Article 14 of the Constitution by creating a distinct class of ministers who suffer serious consequences without a judicial determination of guilt. It is also argued that the measure may encroach upon Article 21, which guarantees the right to life and personal liberty.

2. Scope for Political Misuse:

Opposition parties have expressed apprehension that the provision could be misused for political ends. Investigative agencies such as the Central Bureau of Investigation (CBI) and the Enforcement Directorate (ED), which function under the Union government, could allegedly be employed to arrest and detain ministers belonging to opposition-ruled states, thereby facilitating their removal from office.

3. Impact on Federalism:

The Bill is further criticised for posing a threat to India's federal structure. By introducing a mechanism that could be influenced by the central government to disqualify state ministers, the amendment is viewed as promoting centralisation of power and undermining the constitutional autonomy of state governments.

4. Prospective Judicial Scrutiny:

If enacted, the Bill is likely to be subjected to judicial review. It may be challenged under the Basic Structure Doctrine, particularly because it compromises the separation of powers and interferes with the independence of the executive.

5. Administrative paralysis and governance gaps(130TH CONSTITUTIONAL AMENDMENT BILL 2025- Dec 2025)

The sudden removal of a Prime Minister, Chief Minister, or senior minister can create a leadership gap, leading to delays in decisions and disruption of ongoing work. Supporters argue that effective governance is not possible when leaders are in custody, while critics maintain that established procedures such as appointing acting leaders or conducting floor tests are sufficient to ensure continuity. However, recent instances suggest that the detention of

leaders has, in practice, affected the smooth functioning of administration.

SAFEGUARDS AND REFORM OPTIONS FOR BALANCED CONSTITUTIONAL MECHANISM (Srivastava, S. K., & Dubey, N. K. (2025).

Although the 130th Amendment has some limitations, its primary purpose of promoting honesty and integrity in public life remains important. With suitable safeguards and reforms, this objective can be achieved without weakening constitutional values or allowing political misuse. These measures, based on constitutional principles and experiences from other democracies, aim to ensure ethical governance while maintaining fairness and balance within institutions, which are as follows

1. Judicial Oversight before Disqualification:

Making judicial review compulsory before disqualification takes effect would help prevent arbitrary or politically motivated arrests. A special bench of the High Court could examine whether the detention is fair, constitutionally valid, and supported by prima facie evidence justifying continued custody. This approach is consistent with the Supreme Court's emphasis on judicial neutrality as a safeguard against misuse of executive power.

2. Replacement of "Detention" with "Framing of Charges"

The Law Commission, in its 244th Report, suggested that disqualification should begin only when a court formally frames charges for serious offences. This approach ensures judicial involvement and avoids dependence on police or investigative discretion. Since the framing of charges indicates that a court has found enough evidence to proceed with a trial, it is a more reliable and fairer standard than mere detention.

3. Independent Constitutional Accountability Commission (ICAC)

India could set up an independent statutory or constitutional body to examine cases involving ministers accused of serious criminal offences. Inspired by bodies like the UK's Committee on Standards in Public Life, this commission could recommend or decide on suspension or resignation. Such an institution would limit political interference and help protect the process from misuse and vendetta politics.

5. Narrowing the Meaning of "Serious Offence"

At present, any offence punishable with five years or more of imprisonment is treated as "serious," which is too broad and open to misuse. A narrow definition should be adopted, limited to offences such as corruption, grave violence, sexual offences, and crimes against the State. Laws with strict bail provisions, like the UAPA or PMLA, should not automatically trigger disqualification unless a court has first examined the case.

6. Protection against Political Misuse by Investigative Agencies

To prevent misuse of investigative powers, the Supreme Court's Prakash Singh guidelines on police reforms must be properly implemented across all States. In addition, parliamentary oversight committees should regularly review the workings of central investigative agencies to ensure they function fairly and without political bias.

7. Time-Limited Trigger

The current 30-day detention limit should be reconsidered. Since custody can often extend due to procedural delays rather than the seriousness of the case, a longer period, such as 90 days, would reduce the risk of manipulation. At the same time, it would preserve the amendment's intent to deter serious misconduct.

CONCLUSION

Ministerial accountability is an important part of a democratic system. The Constitution of India follows the Westminster model and expects ministers to be responsible to the legislature and to the people. However, the Constitution does not clearly lay down detailed ethical standards or strict legal rules to deal with situations where ministers face serious criminal charges. Over time, the growing criminalisation of politics has shown that depending only on political morality and public pressure is no longer sufficient to ensure honest and responsible governance.

The historical development of criminalisation in Indian politics shows that many individuals accused of serious offences have continued to hold ministerial positions. This situation weakens public trust in government institutions and raises serious concerns about the quality of governance and respect for the

rule of law. In this context, the 130th Constitution Amendment Bill, 2025, is an important attempt to strengthen legal accountability within the executive. The objectives of the proposed amendment focus on improving transparency, integrity, and responsibility in public office. By suggesting clearer rules regarding the appointment and continuation of ministers, the Bill aims to ensure that executive power is exercised by individuals who meet acceptable ethical standards. At the same time, the Bill raises certain legal concerns, such as the risk of political misuse and the need to protect the principle of presumption of innocence. These concerns make it necessary to design the amendment carefully. To achieve a fair and balanced system, proper safeguards must be included. Clear criteria, procedural fairness, and judicial oversight are essential to prevent misuse of the law. Such safeguards can help maintain a balance between accountability and democratic rights.

In conclusion, the 130th Constitutional Amendment has the potential to improve the legal accountability of ministers in India. If implemented with care and fairness, it can strengthen public confidence, promote clean governance, and support the constitutional values of responsibility and integrity in public life.

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