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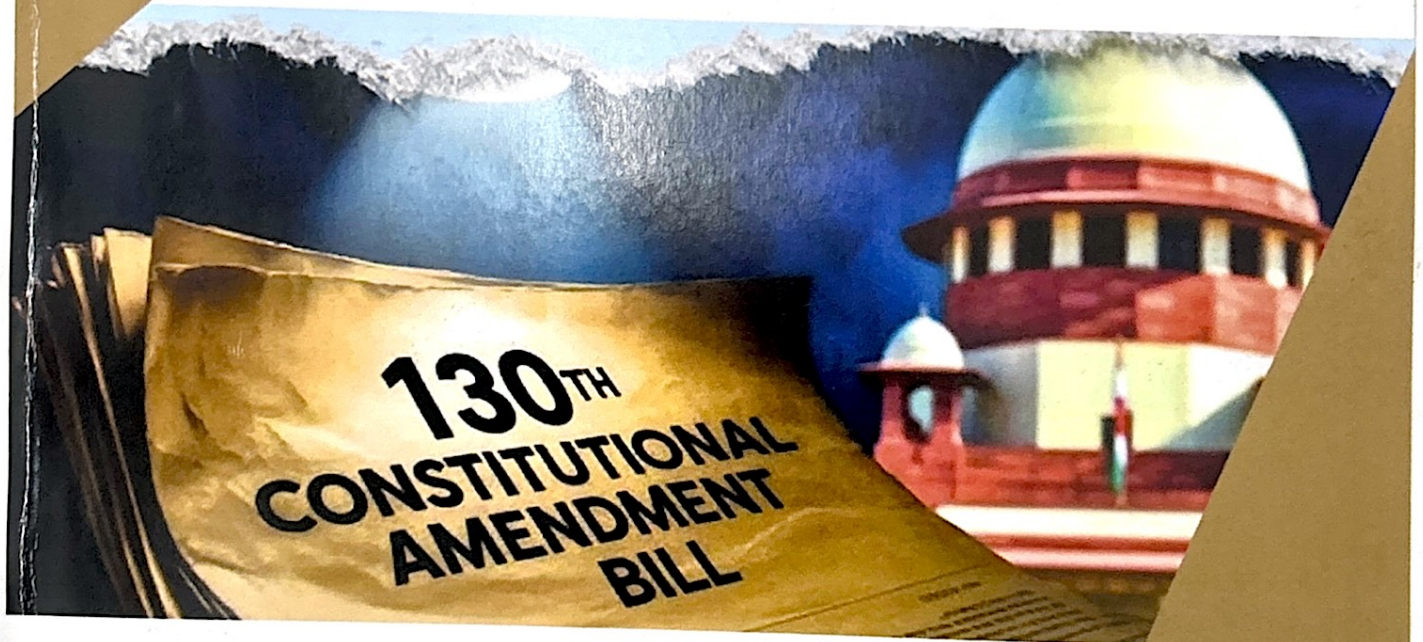
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**The Constitution 130th Amendment Bill 2025
and the Future of Indian Democracy:
Ethics, Law, and Politics**

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CONTENT

1) Criminalization of Politics: A Comparative Legal Analysis from India, USA and UK	Amropali Bhattacharjee	4
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2) Criminalisation of Politics in India: Judicial Pronouncements, Candidate Disclosure, and the Conviction Threshold under the Representation of the People Act	Arundhati Kumbharikar Tejashree Daunde	15
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3) Operationalising Constitutional Morality: A Jurisprudential Justification for Mandatory Executive Accountability under the 130th Constitutional Amendment Bill, 2025	Ashutosh Naik Rohan Bavadekar	26
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4) Future of Representation : "Evolving Jurisprudence on Criminalization of Politics and the Erosion of Democratic Ideals in India"	Dr. Rohini Honap Vidhya Shetty	38
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5) A Critical Analysis of Criminalisation of Politics and its Impact on Indian Democracy	Dr. Gauri Kala Ms. Disha Sharma	51
--	--	----

6) Media Trials and the Rule of Law: A Legal Analysis of Contempt and Prejudicial Reporting in the Context of Articles 75, 164, and 239AA and the 130th Constitutional Amendment Bill 2025	Prajakta S. Balveer	61
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Future of Representation : Evolving Jurisprudence on Criminalization of Politics and the Erosion of Democratic Ideals in India

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Abstract :

The integrity of representative democracy in India rests on the constitutional promise that elected officials act as trustees of the people's will and uphold the values of equality, liberty, and justice. However, the persistent criminalization of politics has eroded this ideal, weakening both democratic legitimacy and public confidence in governance. A significant proportion of legislators facing criminal charges many involving serious offences poses a structural threat to constitutional morality and the rule of law. Over the years, the Supreme Court has developed a robust jurisprudence promoting transparency, accountability, and ethical governance through landmark decisions of the Supreme Court of India. While these rulings have strengthened disclosure norms and emphasized informed voting, their transformative impact has been limited by systemic delays, weak statutory provisions, and parliamentary inaction.

The jurisprudence highlights a normative vision of ethical representation, yet structural constraints long trials, low conviction rates, political incentives, and loopholes in the Representation of the People Act continue to enable candidates with serious criminal backgrounds to contest and hold office. The proposed 130th Constitution Amendment Bill offers an opportunity to embed

judicially articulated principles into institutional design by strengthening disqualification norms, enhancing Election Commission powers, and promoting ethical political conduct. Nevertheless, it must balance presumption of innocence with electoral purity while addressing deeper issues of party financing, internal democracy, and administrative autonomy. A holistic reform agenda judicial, legislative, and civic is essential to restore the spirit of constitutional

Key Words

Criminalization of Politics, Constitutional Morality, Electoral Reforms, Democratic Representation, Judicial Jurisprudence, Ethical Governance

Introduction :

The concept of representation - government of, by, and for the people is the foundation of democracy in its purest form. The Representation of the People Act, 1951 (RPA) and Articles 101, 102, 190, and 191 of the Constitution, which govern the qualifications and disqualifications of Members of Parliament and State Legislatures, provide institutional expression of this concept within the Indian constitutional framework. By guaranteeing that individuals who enact laws on behalf of citizens are selected through a free and fair process and continue to be accountable to the electorate, these clauses serve as the cornerstone of India's representative democracy. However, the criminalization of politics, a phenomena that has steadily undermined the moral underpinnings of Indian governance, has become a growing threat to the health of this representational democracy.

Criminalization of politics in India refers to the growing number of people with criminal charges or convictions running for office and winning seats in legislative bodies in India. This tendency has a big influence on democratic values, governance, and the rule of law.

In a democracy, representation and the constitutional promise signify not only electoral choice but also moral agency and popular confidence. The Indian Constitution's authors intended representatives to be individuals who embodied the principles of equality, liberty, and justice trustees of the people's will. By establishing eligibility requirements, disqualifications, and election procedures, the RPA, 1951, puts this vision into practice and establishes the legal founda-

tion for participatory governance.

The strong foundation of India's constitutional democracy is being threatened by the criminalization of politics. According to the Constitution, representative government should be used as a fiduciary trust for the benefit of the people, not as a means of obtaining criminal protection or personal advantage. The framework for free and fair elections is established by Articles 324 and 326 of the Constitution, which assume that voters select candidates who uphold rather than violate constitutional values. In *People's Union for Civil Liberties Union of India v. the Supreme Court*, the Supreme Court noted that informed choice is the "heart of democracy" and that hiding criminal history taints representation itself.

The Supreme Court has reaffirmed this principle in *Government of NCT of Delhi v. Union of India*, where it emphasized that constitutional morality demands accountability and fidelity to democratic values. However, the ideal of representation is only meaningful when representatives act morally and uphold constitutional morality.

The growing link between politics and criminals is causing a crisis of legitimacy for the Indian system, despite constitutional protections. About 4% of members of parliament and state legislative assemblies have been the subject of criminal cases, according to a 2023 analysis by the Association for Democratic Reforms (ADR), of these, 17% involve serious offenses like murder, attempted murder, and crimes against women.

The electoral process is distorted by this concerning trend, which also erodes public trust in representative institutions. In the 2019 case *Public Interest Foundation v. Union of India*, the Supreme Court noted that "criminalization of politics is the bane of society and negation of democracy." The fundamental tenet of democratic legitimacy is that power must come from legitimate sources and moral authority. The legitimacy of the representative institution is weakened and governance runs the risk of becoming what the Court described as "a termite in the citadel of democracy." Articles 14, 19(1)(a), and 326 ensure the right to vote and representation, which entails not only procedural equality but also substantive trust that representatives carry out their constitutional duties. Criminalization weakens the republican ideal of accountability and erodes this trust.

As a result of this development, elections are no longer a contest of ideas but rather one of strength and wealth. In the case of *Manoj Narula v. Union of India*, the court also bemoaned the "unsettling state of affairs" at

said that although the judge cannot rule against a candidate based only on pending criminal charges, Parliament must take the situation seriously.

Ethical governance embraces substantive morality in public life in addition to procedural legality. Three pillars support it: accountability, public trust, and constitutional morality. Constitutional morality must be developed via institutional discipline and devotion to constitutional methods, as Dr. B.R. Ambedkar pointed out during the Constituent Assembly Debates. These pillars are undermined when criminalization erodes ethical governance because members who have been implicated in major crimes jeopardize the state's moral authority and the validity of the legislative process.

Furthermore, public officeholders must respect the rule of law and probity as part of ethical governance, which is based on the Directive Principles and constitutional morality. In *Lily Thomas v. Union of India*, the Supreme Court ruled that lawmakers found guilty of major crimes must be immediately dismissed, highlighting integrity as an unavoidable need for holding public office. In a similar vein, the Court aligned electoral openness with moral governance in *Union of India v. Association for Democratic Reforms*, by basing candidate disclosure on citizens' right to information under Article 19(1)(a).

Therefore, from a normative perspective, criminalization is a constitutional sickness rather than just a policy flaw. It erodes trust in governmental institutions, violates equality before the law and threatens the people's sovereignty. Democracy's legitimacy is based on the moral value of representation as much as election results. Democracy cannot endure "merely by form," as B.R. Ambedkar warned in the Constituent Assembly, but rather by adhering to its spirit of virtue, moderation, and constitutional morality. The Constitution's guarantee of moral self-government is seriously jeopardized until politics is cleansed of criminal taint.

The Supreme Court has frequently cited the idea of constitutional morality to reiterate that accountability and transparency, not opportunism or expediency, should be the foundation of governance. Therefore, in order to practice ethical governance, the political elite must operate both legally and in accordance with the Constitution's spirit.

Factors that drive the criminalisation of politics

It is often known that financial and coercive resources play a significant

role in Indian political politics. Milan Vaishnav makes the case in his book titled, "When Crime Pays: Money and Muscle in Indian Politics," that people with criminal or quasi-criminal reputations typically have or mobilize resources of money and muscle, and parties frequently favor such candidates because they combine local organization, vote-bank appeal, and the capacity to intimidate or win.

Institutional weaknesses: weak disqualification, sluggish judicial process, appeal-pendency :

The fact that the law only disqualifies a candidate upon conviction (under Section 8 of the Representation of the People Act, 1951) rather than upon being charged is a major institutional motivator. "The current practice of disqualification upon conviction has been unable to curb the criminalization of politics, owing to long delays in trials and rare convictions," the 17th Law Commission stated in its summary. The 1993 Vohra Committee Report previously warned of a "parallel government" and emphasized the connections between politicians, bureaucrats, and criminal organizations.

Thus the interplay of structural incentives (money, muscle), institutional permissiveness (delayed law, weak disqualification), and behavioral party-system dynamics ensures the persisting criminalisation of politics.

In summary, the criminalization of politics undermines the core normative foundations of democratic governance: accountability, equality before law, representation, fair competition and integrity. If left unchecked, it risks transforming public office into a tool for illicit power rather than public service.

Jurisprudence on Criminalisation of Politics & Disqualification of Representatives

The criminalisation of politics has long been recognised as one of the most insidious challenges to India's democratic governance. It undermines the integrity of electoral representation and corrodes public faith in constitutional institutions. The Supreme Court of India (SC), through a series of judgments, has shaped a jurisprudence that attempts to balance democratic representation, voter rights, and the rule of law. This section traces key judicial pronouncements concerning the disclosure of criminal antecedents, disqualification of elected representatives upon conviction, and the ethical contours of governance in a democracy.

Disclosure and Transparency :

Union of India v. Association for Democratic Reforms, marked the beginning of judicial action in electoral transparency, wherein the Supreme Court ruled that all candidates running for office in Parliament or State Legislatures must submit an affidavit detailing their criminal history, educational background, assets, and liabilities. The Court reasoned that since voters have a fundamental right to assess the suitability and integrity of their candidates, such disclosure is essential for guaranteeing an informed electorate. Further in People's Union for Civil Liberties v. Union of India, the Court acknowledged the "right to know" as a crucial component of the freedom of expression under Article 19(1)(a) of the Constitution, further strengthening this principle. The Court underlined that voters' fundamental rights would be violated if important information regarding a candidate's criminal history were suppressed, as informed voting is the cornerstone of democracy. This development of jurisprudence connected electoral openness to the more general constitutional principle of participatory democracy.

Together, these rulings created a disclosure regime that requires candidates to be truthful, turning voting from a private political act into a procedure that is subject to constitutional accountability. The judiciary's demand for disclosure also shows an effort to balance the electorate's inherent right to know with the statutory right to run for office.

Disqualification on Conviction :

India follows the Adversarial system of administration of Criminal justice, and is based on the principle of presumption of innocence, till the person is proved guilty beyond reasonable doubt. The disqualification of representatives following a criminal conviction is the subject of the second line of jurisprudence. According to Sections 8(1)–(3) of the Representation of the People Act, 1951 (RPA), a person convicted of certain offenses is barred from running for office or serving as a lawmaker. However, in the past, sitting Members of Parliament (MPs) and Members of Legislative Assemblies (MLAs) were given three months under Section 8(4) of the RPA to appeal their conviction and remain in office while doing so.

The Supreme Court ruled that Section 8(4) of the RPA, was unconstitutional in Lily Thomas v. Union of India, The court ruled that the protection granted to sitting legislators went against both the integrity of the parliamentary

process and the equality principle. It decided that disqualification would soon as a person was found guilty and given a minimum two-year prison sentence. The ruling upheld the idea that politicians cannot be lawbreakers. It represented a major step toward purging legislatures of guilty individuals.

The Court addressed the question of whether those accused of crimes but not found guilty could be appointed as ministers in *Manoj Narula v. Union of India*. Despite bemoaning the "rising trend of criminalization," the Court declined to extend disqualification to individuals who were only accused of crimes. According to this ruling, the Prime Minister and Chief Minister have a moral and political obligation to make these nominations.

The Court then subsequently to the criminalization of politics as anathema to the sacredness of democracy, a "progressive malady" and "criminalization of politics is a termite to the citadel of democracy" in *Interest Foundation v. Union of India*, The Court reaffirmed, nevertheless, it lacked the constitutional authority to establish grounds for disqualification other than those established by Parliament. Rather, it mandated that in order for voters to make informed decisions, political parties and candidates must publicly disclose any current criminal proceedings against them in print and electronic media. Thus, within the bounds of statutes and the constitution, the Court aimed to increase political actors' moral accountability.

Reflections on the Jurisprudence:

Both normative advancements and structural constraints have emerged from the Supreme Court's developing body of precedent. Positively, the Court has often recognized that criminalizing politics is a serious danger to democratic legitimacy and the rule of law. It signaled the judiciary's commitment to moral leadership and openness by strengthening the disqualification framework and extending the freedom of knowledge through the Association for Democratic Reforms and Lily Thomas.

However, the Court's capacity to address systemic issues has been limited by its adherence to the separation of powers principle. The Court has made it clear that only Parliament could change the RPA and declined to judicially enact additional disqualification standards. Despite being constitutionally sound, this restriction has allowed those who are facing serious criminal charges to continue running for office. Despite endemic delays in the criminal justice system, the jurisprudence's practical usefulness has been weakened.

the stress on "conviction" rather than "framing of charges" as the standard for disqualification.

Furthermore, the disqualification regime's deterrent effect is undermined by the procedural realities of India's legal system, which include lengthy trials, frequent delays, and chronic case backlogs. Convictions are frequently suspended by appeals and interim reliefs, enabling convicted representatives to return to politics. Therefore, even while the Supreme Court's actions have improved the normative conversation about electoral ethics, they have not yet resulted in a thorough purification of political institutions.

A constitutional conflict between judicial activism and legislative passivity is ultimately revealed by the jurisprudence surrounding the criminalization of politics. Through its emphasis on accountability and openness, the Supreme Court has illuminated the way toward better electoral probity; yet, Parliament is ultimately responsible for institutionalizing these norms. India can only get closer to the constitutional goal of a representative democracy free from criminal influence by legislative change, such as time-bound trials for political offenses, stronger disclosure standards, and campaign finance control.

Institutional and Legal Reforms Judicial, Electoral & Party-Level Remedies

Reforming the criminalisation of politics requires a multi-pronged strategy that strengthens judicial efficacy, electoral law, and internal party democracy.

Institutional Strengthening

Enforcing ethical electoral procedures requires the Election Commission of India (ECI) to be empowered. In order to confirm the veracity of candidates' statements and to de-register political parties that consistently field candidates with criminal histories, the ECI should be granted quasi-judicial authority. Cross-verification of candidate data can be enhanced by cooperation between the Central Bureau of Investigation, Central Vigilance Commission, and ECI. In order to improve informed voting, institutional design should also allow the public to obtain verifiable financial and criminal information in real time via official portals.

Judicial and procedural reforms.

The first step is expediting criminal trials against legislators. Pursuant to *Ashwini Kumar Upadhyay v. Union of India*, the Court directed the establishment of special courts to conclude cases involving MPs and MLAs within one year. However, compliance has been uneven due to inadequate judicial capacity and resource constraints. Institutionalising time-bound trials under the Code of Criminal Procedure, 1973 by statutory amendment or judicial rule-making would operationalise Article 14's guarantee of equality before law. Parallel reforms should strengthen prosecution independence and prevent withdrawal of politically sensitive cases without judicial scrutiny, as directed in *Vineet Narain v. Union of India*.

Accelerating criminal trials against lawmakers is the first step. The Court ordered the creation of special fast track courts to resolve disputes involving MPs and MLAs within a year in *Ashwini Kumar Upadhyay v. Union of India*. However, due to resource limitations and insufficient judicial competency, compliance has been patchy. Article 14's promise of equality before the law would be operationalized by institutionalizing time-bound trials under the Criminal procedural law through statute modification or judicial rule-making. As directed in *Vineet Narain v. Union of India*, parallel reforms should bolster prosecution independence and prohibit the withdrawal of politically sensitive cases without judicial review.

Electoral and Legislative reforms

The Representation of the People Act, 1951 (RPA) presently disqualifies candidates only upon conviction (s. 8). The Law Commission in its 244th Report (2014) proposed disqualification at the framing of charges for serious offences punishable by five years or more, subject to judicial safeguards. Such reform would balance the presumption of innocence with the public interest in probity. Moreover, Section 33A (disclosure of antecedents) and 33B (attempt to nullify the Court's decision in *Union of India v. ADR*, (2002) 5 SCC 294) require harmonization to ensure comprehensive, public, and verifiable declarations. Introducing state funding of elections and ceilings on party expenditure as envisaged by the Election Commission's 2016 White Paper, could further diminish the influence of money and muscle power in candidate selection.

Candidates are currently only disqualified upon conviction under Section 8 of the Representation of the People Act, 1951. In its 244th Report

(2014), the Law Commission suggested that major offenses carrying a sentence of five years or more be disqualified at the time of charging, subject to court protections. The presumption of innocence and the public interest in probity would be balanced by such a reform. The punishment for filing false affidavits as recommended in this report should be enhanced to a minimum of two years imprisonment, and this offense should also be made a ground for disqualification.

Linking the 130th Constitution Amendment Bill and the Quest for Ethical Governance

In light of this, the proposed 130th Constitution Amendment Bill, 2024, which aims to improve morality in public life, becomes extremely significant. The Bill's goal of promoting ethical governance, openness in public office, and procedures to limit criminalization supports the constitutional commitment to a clean and responsible polity, even though its exact details are still being discussed. If properly executed, it might reinforce the value of representation in Indian democracy and operationalize the morals envisioned by the founders of the constitution.

Proposed Constitutional Amendment :

The proposed 130th Constitutional Amendment intended to enhance electoral accountability must be operationalised through enabling legislation and institutional mechanisms. Such synergy between constitutional reform and statutory execution would enable sustainable governance transformation founded in the ideals of integrity and democratic legitimacy under Articles 102 and 191 of the Constitution of India.

A holistic reform strategy against criminalisation of politics must move beyond judicial measures to systemic transformation. The constitutional promise of clean governance and the democratic ideal envisioned under the Preamble is made up of strengthening institutions, improving legislative design, and fostering an ethical political culture.

Political-party accountability :

Political parties act as the primary gatekeepers of democracy. Party reform is essential since the nomination process is the entry point to public office. The Court has time and again directed political parties to disclose the rationale behind their choice of candidates with criminal histories. Penalties for non-compliance and statutory codification of these disclosure obligations under

the RPA would improve deterrence. Furthermore, party behavior could be in line with constitutional morality by strengthening the anti-defection framework under the Tenth Schedule and ensuring internal democracy through regular audits by the Election Commission under Article 324.

Voter-Centric and Civic measures :

Lastly, in addition to institutional design, reform must foster civic ethics. Voter behavior can be influenced by electoral literacy efforts, media transparency, and civil society monitoring (ADR's National Election Watch), of which support the constitutional goal of informed participation under Article 326 of the Constitution

A multifaceted reform plan involving legislative, institutional, judicial and political interventions is required due to the continued criminalization of Indian politics.

An informed electorate is also essential for sustainable reform. It is crucial to empower voters by making verified candidate information easily accessible through media partnerships, the Association for Democratic Reforms (ADR), and ECI websites. Campaigns for civic education should encourage moral voting and a knowledge of constitutional principles in order to create a political culture in which illegal activity is no longer viable from an electoral standpoint.

Conclusion

The foundation of India's constitutional democracy lies on the interrelationship of representation, jurisprudence, and moral governance. According to the framers, representation is an ethical trust between the governed and those in power rather than just a numerical total of votes. However, this fundamental ideal is undermined by the widespread criminalization of politics, which turns electoral legitimacy into a tool of coercive authority. Through the concepts of openness, accountability, and moral integrity, the Supreme Court of India's jurisprudence has consistently sought to regain this ethical component; yet, there is still a significant gap between political reality and constitutional aspirations.

However, in spite of the numerous Supreme Court rulings as narrated earlier, transformative potential has not yet been fully realized. The percentage of lawmakers with ongoing criminal proceedings has increased despite court-mandated disclosures and requests for expedited adjudication. Despite being normatively valid, the Court's interventions are constrained by structural factors such as political inertia and the division of powers. Thus, while jurisprudence

established the framework, in spite of the number of rulings as narrated earlier, it was unable to build a strong edifice of ethical representation

There is a chance to close this normative gap with the 130th Constitution Amendment Bill, 2025. The Bill aims to institutionalize many of the ethical ideas expressed in judicial dicta by proposing higher disqualification standards, required party ethics codes, and more powers for the Election Commission. The Bill seeks to institutionalize many of the ethical principles articulated in judicial dicta. A systematic framework for political accountability could be operationalized if it is successfully implemented, moving from voluntary disclosure to mandatory compliance.

Nevertheless, the Bill's design invites critical examination. Firstly notwithstanding its good intentions, the proposed disqualification upon the framing of charges for serious offenses runs the risk of failing of the basic principle of Criminal law viz., the presumption of innocence. Such a law might turn into a partisan manipulation weapon in the absence of procedural protections against politically motivated prosecutions. Secondly, while it is normatively desirable to empower the Election Commission, true autonomy necessitates fixed tenure and transparent recruitment procedures principles emphasized in *Anoop Baranwal v. Union of India*. Thirdly, the Bill says nothing about systemic problems with intra-party democracy and political financing two major causes of criminalization that are responsible for opacity and patronage.

In spite of several shortcomings that require to be overcome before it may get passed, the Bill represents a turning point in India's democratic development. In line with the constitutional goal of clean government, it shows a legislative willingness to incorporate judicial principles into institutional design. The Constitution's fundamental framework includes the "purity of elections," as the Supreme Court has noted time and time again. The difficulty is in putting this ideal into practice through visible, enforced processes rather than in articulating it.

Eventually the development of legal the criminalization of politics demonstrate the strength and weakness of Indian democracy. The legislature must now institutionalize the moral vision of ethical representation that the courts have defined. A democracy that is both aspirational and existential is one in which criminality has no influence on representation and where governance is moral and responsible. India must transition from episodic judicial moralism to sustained institutional ethics in order to protect the integrity of the Republic. The Constitution's promise of a government of, by, and for the people won't be realized in its most democratic form until this transition is complete,

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A Critical Analysis of Criminalisation on Indian Democracy

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Abstract:

One of the biggest threats to the Indian democracy is the criminalization of politics. Accused of crimes nonetheless run for and win elections. Electoral reforms and constitutional protection of political elements that support the ongoing rule of law in India are critically examined in this paper. The inclusion of candidates with criminal records is a major concern. Mechanisms, drawn-out legal proceedings and electoral coercion.

The paper also looks at how this process weakens governance and distorts electoral mandates. The study assesses measures including mandatory disclosures, disqualification orders, based on court rulings, Election Commission orders from recent elections. In order to reduce criminalization of politics.