



# Criminalisation of Politics in India & the Constitution (130th Amendment) Bill, 2025

Published On: 05-07-2026

## Recent Developments:

- The **Joint Parliamentary Committee (JPC)** examining the **Constitution (130th Amendment) Bill, 2025** is expected to adopt its report shortly before the Bill is taken up for further parliamentary consideration.
- Reports indicate that the JPC may retain the proposed **30-day custody provision** while recommending safeguards against possible political misuse.

## Background:

- **Criminalisation of politics** refers to the increasing participation and election of individuals with criminal backgrounds in legislatures.
- The **Constitution (130th Amendment) Bill, 2025** seeks to introduce **prolonged judicial custody**, instead of conviction, as a constitutional ground for vacating ministerial office.
- The proposal has triggered debate over the balance between **political accountability, constitutional morality**, and the **presumption of innocence**.

## Constitution (130th Amendment) Bill, 2025:

- The Bill was introduced in **2025** and later referred to a **Joint Parliamentary Committee (JPC)** after extensive parliamentary opposition.
- The Bill proposes amendments to **Articles 75, 164 and 239AA** relating to the tenure of the **Prime Minister, Chief Ministers and Ministers**.
- A Minister would vacate office if:
  - The Minister is accused of an offence punishable with **five years or more imprisonment**.
  - The Minister remains under **continuous judicial custody for 30 consecutive days**.
- If the **Prime Minister** or a **Chief Minister** remains in custody for **30 consecutive days**, resignation becomes mandatory, failing which office automatically ceases on the **31st day**.
- The **President** or **Governor** may remove a Minister on the advice of the **Prime Minister** or **Chief Minister**, respectively, or removal occurs automatically after the prescribed period.
- Similar legislative proposals have also been introduced for **Delhi, Jamm& Kashmir and Puducherry**.

## Present Constitutional Position:

- Ministers presently leave office through:
  - **Resignation**.
  - **Dismissal** by the Prime Minister or Chief Minister.
  - **Disqualification** after conviction under the **Representation of the People Act, 1951 (RPA)** or constitutional provisions.
- The Constitution does **not** presently treat **arrest or detention** as a ground for removal from ministerial office.

## Objectives of the Bill:

- **Strengthen integrity** of public office.
- **Enhance public confidence** in executive institutions.
- Prevent individuals facing **serious criminal proceedings** from continuing in executive positions for prolonged periods.
- Promote **ethical governance** and greater political accountability.

## Major Constitutional Issues:

- The proposal links removal from office with **custody instead of conviction**, raising concerns regarding the **presumption of innocence**.
- Critics argue that investigative agencies could be misused for **political vendetta**.
- The Bill raises questions relating to the **Basic Structure Doctrine**, particularly:
  - **Democracy.**
  - **Federalism.**
  - **Rule of Law.**
  - **Natural Justice.**
- The proposal also revives the debate between **constitutional morality** and **individual legal rights**.

## Criminalisation of Politics:

- Criminalisation of politics refers to the increasing election of individuals with **pending criminal cases** or **criminal backgrounds**.
- A **serious criminal offence** generally includes:
  - Offences carrying a **maximum punishment of five years or more**.
  - **Non-bailable offences**.

## Status in India:

- The share of **Lok Sabha MPs** facing serious criminal cases increased from **14% (2009)** to **31% (2024)**.
- Around **29% of MLAs** elected in **2024** faced serious criminal cases, amounting to over **1,200 legislators**.
- **Andhra Pradesh** recorded the highest proportion (**56%**) of such MLAs, followed by **Telangana (50%)**.

## Reasons for Criminalisation of Politics:

- **Weak disqualification framework**, the **RPA, 1951** generally disqualifies candidates only after conviction, while criminal trials often continue for several years.
- **Money power and muscle power** make influential candidates electorally attractive.
- **Identity-based voting** frequently overshadows candidates' criminal backgrounds.
- **Political parties** prioritise electoral winnability over ethical considerations.
- **Judicial delays** and repeated adjournments enable prolonged participation in elections.

## Impact of Criminalisation of Politics:

- **Weakens representative democracy** by limiting voters' genuine electoral choices.
- **Promotes corruption**, voter intimidation, electoral violence, booth capturing and the use of illicit funds.
- **Reduces public trust** in democratic institutions and electoral processes.
- **Distorts policy-making** by protecting criminal networks instead of advancing public welfare.
- **Weakens governance quality** and administrative accountability.

## Existing Legal Framework:

- **Representation of the People Act, 1951**

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- Provides disqualification mainly after conviction for specified offences.
- Prescribes additional disqualifications for corrupt practices and certain electoral violations.
- **Articles 102 and 191**
- Lay down constitutional grounds for disqualification of Members of Parliament and State Legislatures.
- **Articles 75 and 164**
- Govern appointment and tenure of Union and State Ministers.
- **Tenth Schedule**
- Provides disqualification on grounds of defection.

### Key Committee Recommendations:

- **Indrajit Gupta Committee (1998), Second Administrative Reforms Commission (2007)**
- Recommended **partial State funding of elections** to reduce dependence on black money.
- **National Commission to Review the Working of the Constitution (2002)**
- Recommended statutory audit of political party accounts.
- Recommended mandatory disclosure of candidates' assets and liabilities.
- **Law Commission of India (244th Report, 2014)**
- Recommended disqualification once **charges are framed** for offences punishable with **five years or more**.
- Recommended **Fast-Track Courts** for trials involving sitting MPs and MLAs.

### Supreme Court Judgments:

- Lily Thomas v. Union of India (2013)
- Immediate disqualification upon conviction carrying **two years or more imprisonment**.
- Public Interest Foundation v. Union of India (2018)
- Political parties must publicise criminal antecedents of candidates.
- **Supreme Court Order (2020)**
- Political parties must publish criminal records of selected candidates on:
  - Official websites.
  - Social media platforms.
  - Newspapers.
- Parties must also explain reasons for selecting candidates with pending criminal cases.

### Challenges in Addressing Criminalisation:

- Slow investigation and prolonged trials.
- Weak internal democracy within political parties.
- Opaque political funding.
- Low electoral literacy.
- Limited deterrence before conviction.
- Balancing **individual rights** with **public interest** remains constitutionally complex.

### Way Forward:

- Ensure **time-bound disposal** of criminal cases involving legislators through dedicated Fast-Track Courts.
- Increase transparency in **political funding** and strengthen financial disclosures.
- Strengthen **internal democracy** within political parties.
- Improve voter awareness regarding criminal antecedents of candidates.
- Introduce carefully designed reforms that uphold **constitutional morality** without compromising **due process** or **natural justice**.
- Balance electoral integrity with the **presumption of innocence** through constitutionally sustainable safeguards.

## Value Addition for UPSC:

### *Important Constitutional Articles:*

- **Article 75** – Appointment and tenure of Union Ministers.
- **Article 164** – Appointment and tenure of State Ministers.
- **Article 102** – Disqualification of Members of Parliament.
- **Article 191** – Disqualification of Members of State Legislatures.
- **Article 239AA** – Special provisions relating to the National Capital Territory of Delhi.
- **Tenth Schedule** – Anti-defection provisions