

Lok Sabha

SOMUN 2025

Agenda:- Scrutinising the predicament of politicians with offence history apropos of the 113th constitutional amendment

Speaker:- Sai Sushankh Jetty

Deputy Speaker:- Khyati Gulati

Scribe:- Bellamkonda Ragha Shloka



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LETTER FROM THE SPEAKER

Dear Delegates,

Welcome to the 2025 SILVER OAKS MODEL UNITED NATION (SOMUN) and to the **Lok Sabha**. My name is Sai Sushankh Jetty, and I will be serving as your Speaker for the Lok Sabha at SOMUN 2025. The committee will be headed by both me and your Deputy Speaker, Khyati Gulati. We both are very excited and cannot wait to meet you all!

To all the veterans of Model Parliament, I promise you a very enriching debate, one that you've never experienced before, and to all the newcomers out there, we are thrilled to be a part of your **maiden voyage**.

As our nation continues to struggle with the critical issue of criminalization of politics and as the public trust in our institutions is constantly scrutinized, the importance of our generation being **ready enough** to tackle the various challenges that lie ahead of us can hardly be overstated. My expectations from the delegates do not revolve around their experience or eloquence, rather I want to see how well he/she can respect the disparities and differences of opinion on a matter as sensitive as **"Scrutinising the predicament of politicians with offence history apropos of the 113th constitutional amendment,"** work around them, while extending their own party's policy so that it also encompasses others perspectives without compromising your own stance, thereby reaching a unanimously acceptable practical solution. **Remember, a true politician is not simply someone who holds an opinion, but one who possesses the power and right mindset to make it a shared conviction.**

This particular background intends to guide you with the nuances of the agenda as well as the House. The Guide chronologically touches upon all the different aspects that are relevant and that will pave the way to fruitful debate in the House. It will provide you with a bird's eye view of the issue.

However, it has to be noted that the background guide only contains just the basic information which may form the foundation for your debate, research and understanding. I encourage you to go beyond this background guide and delve into the extreme depth of the agenda to further enhance your knowledge of this burning national issue.

You are the representative of your allotted constituency, and it is our hope that you put in wholehearted efforts to research and comprehensively grasp all important facets of the diverse agenda. All the delegates should be prepared well in order to lead the House and the debate in a productive direction.

Warm Regards,

Sai Sushankh Jetty.

Rules of Parliamentary Procedure:-

Seating Arrangements:

Right of The Speaker- Ruling Party

Left of The Speaker- Opposition Party

Language to be used:

In the parliament, both the languages Hindi and English are permitted, but one at a time, there will be no mixing of both languages by any member.

Procedure:

1. National Anthem
2. Statements from the members of the house
 - There shall be only 8 speakers who give their statements
 - 4 from the government and 4 from the opposition party with a maximum speaking time of 2 minutes per speech.
 - The leader of the house of the people is by default the first speaker and the leader of the opposition is by default the last speaker.
3. Question hour: the question hour is the initial first house when the house is in session. This hour is utilised by MPs to question each other on prior notice and by the discretion of the speaker. The question can be in reference to the agenda or any national emergency. There are two types of question that can be asked during this hour;
 - Starred: these questions are asked with the expectation of an oral answer. ●Unstarred: these questions are asked with the expectation of a written answer.

An MP may ask a follow-up question with the Speaker's permission after getting a reply.

A maximum of 3 starred questions and 20 unstarred questions can be directed to a member. Any extra starred questions are turned into unstarred ones, and any extra unstarred questions are sent back to the sender.

Each MP can send or receive up to 20 questions each day (starred plus unstarred).

4. Zero Hour:

The zero hour begins right after the question hour. The zero hour is when the members of the house can question each other without any prior notice given to the speaker.

Discussions in the Zero hour are mainly focused on discussing immediate national issues, for example war situations, change in policy or public concerns The

duration of the zero hour is not fixed and can be extended by the permission of the speaker.

During the Zero Hour, the speaker is not obliged to answer all the questions, but is expected to be ready to respond to any.

5. Discussion hour:

The discussion hour begins at the end of a session, where any sub agendas put across by a member are discussed. Similar to the question hour, the sub agendas that the members wish to raise will only be taken into debate after the speaker grants permission for it. Without any prior notice, no member is to raise a sub agenda on the floor for discussion.

The maximum time for the discussion of the sub agendas is 30 minutes with the maximum individual speaking time being 60 seconds.

6. Motions:

In a Lok Sabha committee there are many motions that can be put on the floor, they are as follows:

- Half an hour discussion- by the discretion of the speaker, any MP can raise a motion if they were unsatisfied with the answer given by another member and they can seek to extend the question hour for the answer they expect.
- Adjournment Motion- If there is any issue that needs immediate national attention and has not been discussed during Zero Hour, MPs can put forward a motion to address it. The only rules for raising this motion are to be clear and precise with the wording and direct about what you want to address as an MP.
- No-Confidence Motion – A formal motion by which the Lok Sabha expresses that it no longer has confidence in the Council of Ministers. The council of ministers along with the Prime Minister have to leave. A member of Parliament may raise this motion with the Speaker's permission, providing viable evidence.

7. The Bill Format or Legislative Business:

First Reading- The first reading of the bill introduces it. The MP reads the bill clause by clause. This includes the statements of object and reason, as well as the importance, legal aspects, and application of the bill. In simpler terms, this provides a detailed description of the bill.

• Second Reading- The second reading of the bill is when questions are asked. There's no need for prior permission. MPs can raise their placard and ask questions once the Speaker recognizes them.

• Third Reading- The third and final reading of the bill allows for any changes or

amendments to make the bill acceptable to everyone and improve its chances of passing.

- After Passing- Once the Lok Sabha passes the bill, it goes to the Rajya Sabha and is then signed by the President of India.

8. Privileges to the MPs

- Point of Information- MPs may use this to ask questions about procedural matters, which must be addressed to the speaker and it cannot interrupt a MP during the speech. The speaker has the right to accept or decline the POI
- Point of Order- MPs may use this point to correct procedural errors. It's directed towards the speaker and can interrupt a MP during their speech. The speaker has a right to either accept or decline the POO.
- Point of Personal Privilege- This point may be raised when a MP feels personal discomfort. And concerns the MP's personal needs. It can interrupt a speaker.
- Point of Parliamentary Inquiry- Can be raised to ask for clarification on the rules of procedure. The speaker can choose to accept it or decline it. This point cannot interrupt a speaker.

Flow of Lok Sabha Proceedings (Conference Model)

This outlines a three-day flow for a parliamentary conference or a similar model of Lok Sabha proceedings.

Day 1: In-depth Debate and Discussion

- **Committee Session:** The proceedings begin with the committee coming into session at the discretion of the Speaker.
- **Question Hour:** This is the first order of business. Members of Parliament (MPs) are allowed to ask questions, which can be either **starred** (requiring an oral answer) or **unstarred** (requiring a written answer).
- **Zero Hour:** Immediately following the Question Hour, this session allows for the discussion of urgent or immediate matters without prior notice.
- **Discussion Hour:** After Zero Hour, members can raise motions and begin discussions on sub-agendas related to the main topic.
- **Objective:** The primary goal of the first day is to engage in a thorough debate and gain a deep understanding of the agenda.

Day 2: Resolution and Amendment Drafting

- **Continued Flow:** The day follows the same structure as the first, starting with the **Question Hour**, followed by the **Zero Hour**, and then the **Discussion Hour**.
- **Making the Bill:** The key difference on the second day is that delegates are expected to begin discussing and drafting potential resolutions or amendments. This marks the start of the bill-making process.

Day 3: Bill Readings and Conclusion

- **Bill Readings:** The final day is focused on the bill readings, following the three-reading procedure outlined in the Rules of Procedure and Conduct of Business.
 - **First Reading:** The bill is formally introduced.
 - **Second Reading:** There is a detailed discussion on each clause of the bill.
 - **Third Reading:** Any required changes are made, and the final bill is prepared.

The Stain on Democracy: History of Criminality in Indian Politics

Indira Gandhi's alleged misuse of public funds for her Rae Bareilly campaign during the general elections of 1971 became a landmark case in Indian political history. The accusations included using Prime Minister's Secretariat gazetted officer Yashpal Kapoor for campaign work prior to his formal resignation and directing government resources, including officials, electricity, and jeeps, for electioneering.

Public Works Department engineers built a rostrum for her speeches, and government employees allegedly handled duties like planning rallies and providing public resources. She was found guilty on two specific counts by the Allahabad High Court in its 1975 ruling: the PWD's construction of the campaign stage and Yashpal Kapoor's premature involvement.

The Fodder Scam in Bihar was a high-profile scandal where funds were embezzled that were meant to provide medicines and feed animals. The then Chief Minister, Lalu Prasad Yadav, was implicated in the fraud involving treasury withdrawals. In 2013, a Special CBI Court found Lalu and 44 others guilty, sentencing them to five years in prison and resulting in Lalu disqualification from Lok Sabha.

In 2025, the Jharkhand High Court admitted CBI's plea for an enhanced sentence in regards to another case - Deoghar Treasury case, in which Lalu was found guilty of embezzling ₹89.27 lakh. The CBI argued that the fraud was serious in nature and sought an increased

sentence as the original 5-year sentence was inadequate in light of the state maximum sentence of seven years.

In one of the most notorious corruption cases in Haryana, Om Prakash Chautala, who was the chief minister, and his son, Ajay Chautala, were found guilty for facilitating a large-scale teachers' recruitment scam that took place in 1999-2000 in 2013. Specifically, this involved the unlawful appointment of almost 3000 junior basic trained (JBT) teachers in exchange for bribes, undermining accountability and meritocracy in the education system. The Central Bureau of Investigation (CBI) proved that fake documents were prepared, and government processes were manipulated to ensure that people who paid bribes received teaching jobs. A court in Delhi found the father and son guilty of corruption, forgery, and conspiracy. At the time of judgment, Om Prakash Chautala was 78 years old, but was sentenced to ten years hard labor while his son got ten years in reclusion, to be served consecutively. The conviction meant they were both immediately disqualified from holding office in the future, following the Supreme Court's judgment in Lily Thomas under the Representation of the People Act. This case was a clear demonstration of how political power can be used to deflect resources belonging to the public for self-gain, but also a significant step to hold politicians accountable in India.

In 2014, J. Jayalalithaa, then Chief Minister of Tamil Nadu and AIADMK chief, was held guilty in a disproportionate assets case in 1996. She was found guilty, together with her close associates Sasikala Natarajan, V.N. Sudhakaran, and J. Ilavarasi, of accumulating wealth in excess of Rs.66 crore, far in excess of known sources of income during the first term as CM. A Bengaluru special court convicted them of corruption, sentenced Jayalalithaa to four years' imprisonment, and fined her Rs.100 crore. This automatically disqualified her from the Tamil Nadu Assembly and stripped her of her Chief Minister's office. Though she was placated in 2015, the conviction marked a turning point in Indian politics.

The Representation of the People Act, 1951 (RPA) is the major legislation that regulates the management of elections in India. The Parliament passed it to introduce a complete framework for the electoral process of the nation, as prescribed in the Constitution. The Act establishes the legal provisions for:

Conduct of Elections: It specifies the rules for the conduct of elections to the Houses of Parliament and the State Legislatures, such as the process of nomination of candidates, poll, and counting.

The Status Quo: Flaws and Gaps in The R.P.A. 1951 (Disqualification Law)

Qualifications and Disqualifications: The Act defines qualifications a candidate must satisfy

in order to become a Member of Parliament or a State Legislator. More significantly, it lays down the reasons on which a candidate is disqualified from becoming, or continuing to be, an MP or an MLA. Electoral Offences: It establishes what is "corrupt practice" and other electoral crimes, like bribery, undue influence, and false statements, and imposes punishments for them. Election Disputes: The RPA provides for a system of redressal of disputes and doubts about elections by the High Courts and, in exceptional cases, the Supreme Court. In reality, the RPA, 1951, is a cornerstone of legislation that guarantees India's democratic elections are conducted in a manner that is fair and free from corruption. Still, it is in its provisions on disqualification that it has the most serious shortcomings. Shortcomings and Lapses in the Disqualification Act (RPA, 1951) Notwithstanding its imperative, the RPA has come under attack as being inadequate in stopping the criminalization of politics. The following are its key shortcomings and lapses:

A. Disqualification Based on Conviction: The Fundamental Shortcoming

The greatest flaw in the RPA is that it disqualifies a candidate only after their conviction for a criminal charge.

The Loophole: According to Section 8 of the Act, an individual who is convicted of an offence and given two or more years' imprisonment is barred for six years from release. The weakness in this is that the Indian judiciary is very slow. Politicians with grave charges such as murder, rape, and kidnapping can have their cases pending for years, or even decades.

The Consequence: This enables people with serious charges leveled against them to contest and win elections with impunity. Provided they are not convicted, they are within the law to assume public office. This nullifies the very spirit of a clean and transparent democracy.

B. No Disqualification for Pending Charges

The legislation strictly differentiates between a person who has been convicted and one who has an outstanding charge sheet against them.

Legal Principle and Public Interest: While the legal principle of "innocent until proven guilty" is one of the pillars of justice, its application in this regard has turned into a grand loophole. Someone who has serious charges can serve multiple terms in office while their trial continues. The Supreme Court has repeatedly urged Parliament to address this, but it has not legislated on the matter, arguing that it is the legislature's role to create such a law.

C. Inadequacies in Addressing Corrupt Practices and False Information

The RPA also falls short in effectively tackling corrupt practices and ensuring complete transparency.

False Affidavits: Although the candidates are to make disclosure of their criminal history,

educational background, and assets in an affidavit, the offences for furnishing false information are usually not a proper deterrent. Giving a false affidavit is not a "corrupt practice" under the Act, which restricts the basis of disqualification of a candidate. Limited Grounds for Disqualification: The list of offenses that lead to disqualification is not exhaustive. There are arguments that certain other offenses, especially those related to corruption and misuse of public office, should also lead to immediate disqualification.

The Final Word: Supreme Court Rulings on Ministerial Accountability

The Supreme Court of India, as the **guardian** of The Indian Constitution, has intervened several times to address the criminalization of politics, focusing on appointing and holding ministers accountable. While the judiciary cannot write laws, its landmark judgments have set new standards and pressured the legislature to act.

A. Mandating Transparency: The Right to Know (2002)

In the key case of *Union of India v. Association for Democratic Reforms* (2002), the Supreme Court made a strong move for electoral transparency. The court ruled that voters have the right to know about the candidates, including their criminal records, assets, and educational qualifications. This right is part of the fundamental **right to freedom of speech and expression under Article 19(1)(a) of the Constitution**.

Impact: This ruling required all candidates to file a sworn affidavit with their nomination papers, revealing their criminal, financial, and educational history to the Election Commission of India. This judgment established a new legal duty that helped voters make informed choices, a crucial part of a healthy democracy.

B. The Lily Thomas Ruling: Immediate Disqualification (2013) The *Lily Thomas v. Union of India* (2013) judgment directly addressed a major flaw in the Representation of the People Act, 1951 (RPA). Before this ruling, **Section 8(4) of the RPA** let a sitting MP or MLA, even if convicted of a crime, keep their seat for three months to file an appeal.

Impact: **The Supreme Court declared Section 8(4) unconstitutional and void.** It ruled that any elected representative convicted of a crime and sentenced to two or more years in prison is immediately disqualified from the date of conviction. This landmark judgment closed a significant legal gap that had allowed convicted politicians to remain in public office.

C. The Public Interest Foundation Case: Acknowledging Legislative Domain (2018)

In *Public Interest Foundation v. Union of India* (2018), the Court examined whether people with serious criminal charges against them should be barred from running for elections. This issue was central to the **predicament of politicians with offence history**. The Court was asked to legislate directly on this and disqualify such candidates.

Impact: The Court's five judge Constitution Bench unanimously ruled that it could not disqualify candidates based solely on charges being framed against them. The Court cited the principle of separation of powers, stating this would interfere with the legislative domain. It emphasized that making such laws is the Parliament's responsibility. While recognizing the seriousness of the issue and urging Parliament to act, the Court issued a strong set of directives:

- Political parties must publish the criminal histories of their candidates on their websites and in widely circulated newspapers and social media.
- They must also provide the reason for selecting a candidate with a criminal background, citing their **winnability** instead of their qualifications.
- This information must be published within **48 hours** of candidate selection or at least **two weeks** before the first date for filing nominations.

The Due Process Dilemma: Presumption of Innocence vs. Public Office

The debate over barring politicians with criminal charges from contesting elections is at the heart of a profound legal and ethical conflict in India, known as the **due process dilemma**. This is a direct clash between two fundamental principles: the **presumption of innocence** and the imperative of maintaining the integrity of **public office**.

The Principle of Presumption of Innocence

This is a cornerstone of India's criminal justice system and a key component of due process. The principle, which is implicitly protected by **Article 21 (Right to Life and Personal Liberty)** of the Constitution, holds that a person is considered innocent until their guilt is proven **beyond a reasonable doubt** in a court of law.

- **Argument against disqualification:** Opponents of a ban on charge-sheeted politicians argue that disqualifying them would violate this foundational principle. They contend that a person should not be deprived of their right to contest an election merely on the basis of an accusation. In a highly competitive political climate, this could lead to the easy misuse of the legal system by rivals filing frivolous or fabricated cases to eliminate opponents.

- **The flaw in the argument:** This perspective, however, fails to address the unique nature of public office. It equates a politician's right to contest an election with an ordinary citizen's right to their job, overlooking the fact that public office is a position of immense power and trust.

The Doctrine of Public Office as a Public Trust

This doctrine, which has been recognized by the Indian judiciary, holds that individuals holding public office do so not for personal gain but as trustees for the people. This position requires a higher standard of ethical and moral conduct than is expected of a private citizen.

- **Argument for disqualification:** Proponents of this view argue that the integrity of public office must be protected from individuals facing serious criminal charges. The framing of charges by a court is not an arbitrary act; it is a judicial finding that there is a prima facie case against the accused. The presence of a significant number of lawmakers who are also lawbreakers erodes public faith in the rule of law and the democratic system itself. It sends a message that accountability is not a prerequisite for holding power.
- **The flaw in the argument:** This perspective can be seen as undermining due process by essentially presuming guilt based on an accusation. It runs the risk of disenfranchising a person who might later be acquitted, and could be a tool for political vendetta, creating more problems than it solves.

This due process dilemma remains a central point of conflict. While the judiciary, in the **Public Interest Foundation v. Union of India (2018)** case, has repeatedly recognized the gravity of the problem, it has also held that it cannot disqualify a person on the basis of charges. The Supreme Court has firmly stated that such a decision would be an overreach of its powers and has left the responsibility to the **Parliament** to resolve this fundamental conflict. The issue, therefore, highlights the tension between an individual's right to due process and the collective public interest in clean and accountable governance.

The 113th Bill: Provisions, Intent, and the Political Calculus of the 30-Day Rule

The agenda before this committee is to scrutinize a legislative proposal that strikes at the very heart of India's democratic and constitutional principles. The **Constitution (One Hundred and Thirtieth Amendment) Bill, 2025**, It is not merely a legal document; it is a profound statement on governance, morality, and the balance of power and open view of criminalised/corrupted/brutal politicians. This briefing provides a concise and meaningful overview of its core components, its stated purpose, and the deeply contentious political calculus that has ignited a nationwide debate.

The Legislative Framework: The 130th Constitutional Amendment Bill, 2025

The Bill, introduced in the Lok Sabha by **Union Home Minister Amit Shah on August 20, 2025**, proposes significant amendments to **Articles 75, 164, and 239AA** of the Constitution. Its primary purpose is to address the legal vacuum that allows ministers to retain their posts while in judicial or police custody.

- **The 30-Day Rule:** The central provision is that any minister at the Union or State level, including the Prime Minister or Chief Minister, will be removed from office if they are held in custody for **30 consecutive days**. This removal is triggered only for serious criminal offenses, defined as those punishable by five or more years of imprisonment.
- **Mandatory Removal:** The Bill removes the discretionary power of the head of government. If a minister is detained for 30 consecutive days and the Prime Minister or Chief Minister fails to advise their removal by the 31st day, the minister is automatically removed from office on the 32nd day. The same rule applies to the Prime Minister and Chief Minister themselves, who face automatic cessation of office if they do not resign.
- **No Bar on Reappointment:** A key provision of the Bill allows a minister who has been removed to be reappointed to their post if they are subsequently released on bail or acquitted by a court. The government presents this clause as a safeguard against potential violations of due process.

The Political and Legal Calculus

The Bill has set the stage for a dramatic showdown between the government and the opposition, each side arguing from a position of moral and constitutional high ground.

The Government's Argument: A Moral Imperative The ruling party has framed the Bill as a necessary, long-overdue reform to cleanse politics and uphold public trust. Their arguments center on the principle of **constitutional morality**.

- **Ending "Governance from Jail":** Union Home Minister Amit Shah has been the leading voice for the Bill, arguing that it is morally untenable for a leader to govern from behind bars. In a statement to the press on August 25, 2025, he said, "The people of the country must decide whether it is appropriate for a minister, chief minister, or prime minister to run the government from jail?" He added that the Bill aims to "elevate the declining standards of morality in public life and bring integrity to politics."
- **Alignment with Public Standards:** The government points out the hypocrisy of a system where an ordinary government employee is suspended after just 48 hours in custody, while ministers facing grave charges can continue to hold office. They argue the Bill corrects this anomaly by applying a fairer standard to those in positions of power.
- **Safeguard through Judiciary:** The government dismisses the opposition's fears of

misuse, stating that the courts are the ultimate check on arbitrary power. As Minister Shah argued, "Our courts are sensitive, and when someone could lose their positions, then definitely the courts will decide on bail within the time limit," implying that politically motivated arrests would not survive the legal process for 30 days.

The Opposition's Argument: A Threat to Due Process and Federalism

The opposition has vehemently opposed the Bill, calling it a "draconian" legislative weapon. Their arguments focus on the legal and constitutional dangers they believe the Bill poses.

• Weaponization of Central Agencies:

The issue of "weaponization" of government agencies such as the Central Bureau of Investigation (CBI) and the Enforcement Directorate (ED) has turned into a major point of contention in Indian politics. It poses an important question: are these powerful investigative agencies functioning as neutral tools of law and order or as weapons of political revenge, picking and choosing to target critics of the ruling party?

-> **The Agencies: Purpose and Powers:** The Central Bureau of Investigation (CBI) and the Enforcement Directorate (ED) are both amongst India's most dominant federal investigating agencies, which fall under the administrative jurisdiction of the Central Government.

-> **The CBI:** Being India's top investigation agency for serious offenses, the CBI gets its powers from the Delhi Special Police Establishment Act, 1946. Its own jurisdiction in a state is usually dependent on the state government's permission, although courts may direct an inquiry without it.

-> **The ED:** Operating within the Department of Revenue, the ED probes money laundering offenses and foreign exchange law violations. It derives its far-reaching powers from landmark legislations such as the Prevention of Money Laundering Act (PMLA) and the Foreign Exchange Management Act (FEMA). The ED, unlike the CBI, does not need the cooperation of state governments in order to initiate investigations, hence enjoying considerable autonomy.

A. Allegations of Politicization: A "Caged Parrot"?

-> Both the CBI and ED have long been accused of taking instructions from the ruling political party. This prompted the Supreme Court to famously term the CBI a "caged parrot speaking its master's voice." Critics, however, contend that the purported abuse of these bodies has increased.

-> Opposition political parties always charge the ruling party with utilizing the CBI and ED

to intimidate, harass, and neutralize political rivals. They cite concrete examples and figures to support their arguments.

-> **Disproportionate Targeting:** A study by The Indian Express, in 2023, found that among the 121 high-profile politicians to be in the ED's crosshairs since 2014, 115—or 95%—were from the opposition. This extremely disproportionate targeting is quoted as irrefutable evidence of political bias.

-> **The "Washing Machine" Effect:** There are allegations that some opposition politicians charged with corruption have seen the agencies give them a clean chit after they defected to the ruling party. For instance, Himanta Biswa Sarma was charged by the BJP in a 2015 booklet of being a **key suspect** in the Louis Berger fraud, and his residence was raided by the CBI in relation to another case. But once he joined the BJP, the probe did not re-call him again in that matter. Equally, the properties of Ajit Pawar, who was accused in a benami case, were taken over by the Income Tax department, but he was cleared of the accusation by the tribunal after joining the BJP government in Maharashtra. According to a report presented by The Indian Express, 23 top opposition leaders under investigation received the benefit of doubt in their cases, either of which were closed or pending, after defecting to the ruling party.

-> **Low Rate of Conviction:** In spite of such a large number of cases, the conviction rate in ED has been a matter of dispute. The government has informed that the ED has achieved a conviction rate of approximately 92% in cases for which a judgment has been pronounced. Critics, however, argue that this figure is calculated on a very minute sample size. Based on official reports, the ED has registered thousands of cases, but convictions were only obtained in 193 cases against politicians filed between 2015 and 2025. Two convictions have been achieved. Critics argue that the "process is the punishment," as the aim is to tarnish the reputations of opponents and hold them engaged in long legal battles and not to gain convictions.

- **The Argument for Genuine Investigation:-**The government and its allies justify the move by the CBI and ED saying that they are only curbing corruption irrespective of political leaning. They argue that the large number of cases against opposition politicians is a sign of entrenched corruption in their midst, rather than a political witch-hunt. They contend that the low rate of convictions is a reflection of the sophistication of economic offenses and the capability of the accused persons to use their resources to delay legal processes. They also refer to high-profile matters where huge assets have been seized and laundered funds traced, including cases against Vijay Mallya and Nirav Modi.
- **Undermining Due Process:** Critics argue that the Bill fundamentally undermines the legal principle of **presumption of innocence**. They contend that the Bill punishes an

individual based on mere detention, not a judicial conviction. As senior advocate and politician Abhishek Manu Singhvi has stated, this legal maneuver reduces democracy to **competitive authoritarianism**, where elections exist but the institutional bias ensures that they rarely change power.

- **Violation of Federalism:** The opposition has also framed the Bill as an attack on India's federal structure. They argue that it gives the central government immense power to interfere in the autonomy of states by providing a legal pathway to remove a democratically elected Chief Minister.
- People feel this bill is useless to discuss in the parliament and the government has even more serious cases to deal with. But in reality, whenever we choose our leader, we believe he's going to fulfil our wishes to some extent or at least recognises our needs and wants and will be the reason for a cause. But when the power itself is within the wrong hands like a corrupt/brutal/rapist politician, we're willing to stand by them and discuss this very important bill within the whole parliament because, if the power is in the right hands then there will be a rise in the economy.

The Stakeholder Analysis

The Stakeholders: Identifying the Key Actors

The first step in any stakeholder analysis is to identify everyone with a vested interest in the issue. For the Constitution (One Hundred and Thirtieth Amendment) Bill, 2025, the stakeholders are a diverse group with intersecting and often conflicting interests.

Political Parties: The Ruling Party (and its allies): These are the primary proponents of the Bill. Their interest is to fulfill a long-standing promise of electoral reform and project an image of being tough on corruption. They hold the most power in this dynamic, as they have the authority to introduce and pass legislation, provided they can garner the necessary two-thirds majority in both Houses of Parliament.

The Opposition Parties: This group is the most vociferous in its opposition. Their interest is in preventing a law that they believe could be used to politically target their leaders and destabilize their governments. Their power lies in their ability to mobilize protests, shape public discourse, and potentially block the Bill in Parliament.

The Judiciary: The Supreme Court is a critical, though not a direct, player. While it cannot legislate, its previous rulings have highlighted the need for this kind of legal reform and have set the constitutional principles that the Bill must not violate.

Central Investigative Agencies: Agencies like the Central Bureau of Investigation (CBI) and the Enforcement Directorate (ED) are at the center of the political calculus. Their power lies in their ability to conduct investigations and make arrests, a power that the opposition alleges could be weaponized under the new law.

The Executive: The President and Governors are key executive stakeholders. The Bill mandates that they act on the advice of the Prime Minister and Chief Ministers for the removal of ministers, but the automatic nature of the removal after 32 days places a new and significant obligation on their constitutional roles.

Civil Society and Electoral Watchdogs: Organizations such as the Association for Democratic Reforms (ADR) are key stakeholders with high interest but indirect power. They have consistently published data on the criminalization of politics, providing the factual basis for the Bill. Their influence is in their ability to inform the public and generate pressure on political parties.

The Electorate: The general public is a crucial stakeholder. The Bill is framed as a response to their frustration with corruption. However, voter behavior is complex. While they may want clean politics, local allegiances based on caste, community, or a candidate's perceived ability to "get things done" can often override concerns about criminal records.

The Media: Both traditional and new media platforms play a vital role in shaping the public's perception of the Bill. Their power is in their ability to amplify or question the arguments of both the government and the opposition.

Analyzing and Mapping Stakeholders: The Power/Interest Grid

A useful tool for understanding these relationships is the Power/Interest Grid. It helps to strategically categorize each stakeholder based on their influence and vested interest in the Bill.

High Power, High Interest (Manage Closely): The Ruling Party and the Opposition Parties fall into this quadrant. The government must manage its internal factions and keep its allies on board, while the opposition must be closely monitored to anticipate their every move. The Supreme Court, though not a direct part of the legislative process, holds immense power through its constitutional interpretation, making it a critical stakeholder to "keep satisfied" through a bill that adheres to its past pronouncements.

High Power, Low Interest (Keep Satisfied): Governors, who are appointed by the Union government, have significant power but may not have a direct, day-to-day interest in the Bill.

The ruling party must ensure they are on board and understand their new constitutional obligations.

Low Power, High Interest (Keep Informed): Civil society organizations, electoral watchdogs like the ADR, and a section of the electorate fall into this category. They are deeply invested in the Bill's outcome and should be kept informed. They are also the primary

targets of public awareness campaigns by both sides, as they can become a powerful force if mobilized.

Low Power, Low Interest (Monitor): This quadrant would include stakeholders with minimal power or interest, such as international observers, non-political actors or a section of the public that remains largely disengaged from the political process.

Arguments for and Against the Amendment

A. In Favor of the Amendment

Maintaining Constitutional Morality: The Bill's main argument is that a person who is behind bars, charged with a grave offense, cannot be relied upon to maintain the high standards of a constitutional office. It seeks to put an end to the anachronism of "governance from jail," which they argue is a denigration of the dignity of a democratic republic. The Supreme Court in a case of 2014 had clarified that morality is inherent in the constitutional scheme, cautioning against appointing individuals facing serious criminal charges as Ministers.

Closing a Legal Gap: The current law, the Representation of the People Act, 1951, disqualifies a legislator only on conviction. The Bill seeks to close this important legal gap by establishing a provision for temporary removal pending the duration of a serious investigation and detention.

Standards Alignment: The argument is that the Bill merely brings the standard for ministers into line with that for regular government servants, suspended within 48 hours in custody. It thus applies an equal standard of accountability to government posts.

A Check on Impunity: The Bill has come to be laid out as a forceful opposition to criminalization of politics, aimed at infusing people's trust in the government and giving a culture of accountability. Union Home Minister Amit Shah has been one of the prime supporters, asserting, "We cannot be so shameless that we continue to occupy Constitutional positions while facing serious charges."

B. Against the Amendment

Threat to Due Process: The strongest argument against the Bill is that it offends the principle of "presumption of innocence". Others claim that identification with custody is a perilous precedent that penalises an individual on the basis of an executive action (arrest) instead of a judicial determination of guilt. According to one legal scholar, this cuts asunder the "golden thread that runs through the fabric of criminal jurisprudence."

Weaponization of Central Government Agencies: Opposition is complaining that the Bill is a political tool with strength that can be utilized to scare and neutralize competitors. They are

concerned that central government-controlled federal agencies such as the CBI and ED may arrest a minister and detain them for 30 days on false charges, thus constitutionally taking out a political competitor from politics without an election.

Attack on Federalism: The provisions of the Bill are regarded as an attack on the federal character of India. It grants the central government unprecedented absolute power to meddle in the functioning of state governments by offering a legal avenue to oust a democratically elected Chief Minister.

The "Revolving Door" Issue: Although the Bill provides for reappointment at the time of release, critics point out that this could give rise to political unrest and a "revolving door" of ministers being dumped and reinstated, resulting in legal and administrative confusion. The provisions of the Bill also provide an inconsistency whereby a convicted legislator can remain an MP for longer than an arrested minister who is still not convicted.

A Better Solution: Rather than the Bill, critics suggest a better and constitutional solution: expediting criminal proceedings against politicians in special courts. This will provide the result of convictions or acquittals as quickly as possible, thus safeguarding both due process and public interest.

The Governance Crisis: Accountability from Jail and Federal Overreach

Governance from jail / political credibility

There have been instances of elected leaders remaining in office while in custody (under trial or even after arrest), and sometimes even exercising authority from jail. The amendment is pitched as a measure to ensure that serious criminal charges do not allow a dissonance between power and accountability.

The idea is: public trust and effective governance are harmed when leaders are incapacitated or unavailable due to incarceration, or when governance processes are interrupted because signatures, orders, etc, are held up by legal constraints.

Filling a gap between arrest and conviction: Under current law, disqualification from office (say, for a legislator or minister) generally flows only from conviction, not mere arrest or prolonged detention. This means that a person accused of serious crimes could hold power for years pending trial.

The 130th Amendment seeks to impose a standard whereby prolonged custody becomes in itself a basis for removal, in order to address this accountability deficit.

Constitutional / Legal Concerns & Critiques: While its aims seem toward accountability, there are several concerns and criticisms raised, especially when viewed through the lens of “governance crisis” and “federal overreach”:

Presumption of innocence vs mere detention: A major constitutional principle is that someone accused of a crime is considered innocent until proven guilty. Arrest and detention are part of the process, not proof of guilt. Critics argue this amendment risks punishment without trial.

Risk of misuse for political ends: Because detention (especially pre-trial) can be prolonged, and because many cases are politically sensitive, there's a concern that central investigative agencies (CBI, ED, etc.) might selectively target opposition leaders to politically weaken them by pushing them into custody long enough to force removal. Without conviction or proof, removal after 30 days could become a tool of political vendetta.

Federalism & Central vs State Powers: The amendment implicates the balance between union power and state autonomy. Since law & order, criminal law, policing, and arrest are often local or state matters, while many investigative agencies are under central control or influence, there is a chance of overreach: central agencies could indirectly influence state governments by using arrests/detentions as levers. Governors who are part of state government or other constitutional authorities may be put under pressure to act (or cease to act) in politically sensitive ways, affecting state executive stability.

Constitutional validity, separation of powers, basic structure doctrine: Because this amendment seeks to alter Articles 75, 164, etc, it changes fundamental parts of the constitutional scheme concerning how ministers are held accountable and how executive offices are removed. Some have argued that this could run into conflict with the basic structure doctrine (i.e, certain features of the Constitution cannot be altered even by amendment).

Governance Crisis: Accountability from Jail

In terms of governance, this amendment is directly targeted at the issue of leaders being in jail:

-> It aims to make sure that if someone is incarcerated for an extended period (for 30 days), they are no longer in position, so governance is not hampered and there are no delays in decision making or signature/status issues.

-> It seeks to protect the dignity and the functioning of democratic institutions: the idea that governance can't be operated from inside prison, or from behind bars. There's also a symbolic element: political morality, public trust, and the optics of accountability. Leadership by example showing that ministerial office isn't a shield.

Federal Overreach / Risks to Federal Structure

-> The amendment risks expanding the influence of central authorities and investigative agencies over state political leadership indirectly. By providing a constitutional mechanism

for removal tied to detention, which is often under control of police, courts, or federal investigative agencies, it could enable the central government to tilt the balance of power. -> State governments may see this as an intrusion: state CMs being removable not by their legislative assemblies but by an external incident of arrest (especially if the arrest is by central agencies). This undermines the democratic mandate at state level. -> Also, in federalism, the roles of governors are sometimes contested; this amendment involves removal or cessation of office via constitutional mechanism which may involve governors which adds tension between center state relations.

Balancing Act & Possible Safeguards

- > Clear, narrow definition of **serious offence**, possibly only certain categories to avoid trivial or politically motivated arrests.
- > Fast-track trials for cases involving ministers to reduce delays.
- Judicial oversight/review mechanism to ensure removals are not triggered just because of detention
- > Protection of the right to bail and ensuring bail is the norm in non-violent or non-serious offences.
- > Limiting central agency overreach, reinforcing the role of state institutions in overseeing arrests and detentions in state matters.

This amendment bill raises constitutional and political risks, especially for federalism, due process, separation of powers, and potential misuse. Now the questions that should be considered are, whether it will strengthen democracy or open doors for political engineering depends heavily on how narrowly and fairly it is implemented, and what safeguards should accompany it.

High Profile Case Studies of Jailed MPs

1. Jayalalithaa Jayaram (AIADMK, Tamil Nadu)

Jayalalithaa, a Member of Parliament and later Chief Minister of Tamil Nadu, was convicted in 2014 in a disproportionate assets case. She was sentenced to four years in prison. Her imprisonment triggered political instability in Tamil Nadu and highlighted the problem of corruption among top leaders.

2. Shibu Soren (Jharkhand Mukti Morcha, Jharkhand)

Shibu Soren, a former Union Minister and Member of Parliament, was convicted in 2006 for his role in a murder case dating back to the 1990s. Although later acquitted on appeal, his time in jail created debate about the ethical standards expected from elected representatives.

3. Mohammad Shahabuddin (Rashtriya Janata Dal, Bihar)

Shahabuddin, a four-time MP from Siwan, Bihar, was convicted in several criminal cases, including murder. His imprisonment revealed the influence of "muscle power" in Indian politics, where leaders with strong criminal backgrounds still managed to secure electoral victories.

4. Pappu Yadav (Independent/RJD, Bihar)

Rajesh Ranjan, popularly known as Pappu Yadav, served as an MP from Bihar. He was convicted in 2008 for his involvement in the murder of a CPI(M) leader and was sentenced to life imprisonment. Despite his conviction, he continued to maintain a strong political presence, reflecting how criminal cases do not always end political careers in India.

Comparative framework of Other nations

Brazil:

Through the Clean Record Law, also known as the "Lei da Ficha Limpa" (2010), which modified the Law of Inelegibility (1990), Brazil has imposed stringent regulations to restrict the political participation of individuals with criminal records. Brazil has implemented strict rules to limit political activity for individuals with criminal records, especially with the Clean Record Law (Lei da Ficha Limpa, 2010), which later amended the Law of Inelegibility (1990). It restricts candidates for public office if the court finds that the candidate has been found guilty by a court of just cause for crimes of greater importance, or has been removed from office for breach of public trust, also with the option of resigning to avoid impeachment proceedings, and prohibits them from running for election for a period of eight years. With regard to accountability issues addressed by the Indian example under consideration of the proposed 130th Amendment, the Brazilian regime is now living law after being adhered to its Supreme Court. The retroactive application of the Clean Record Statute, with the constitutional provisions disqualifying officeholders found guilty of "crimes of responsibility," is a way of reinforcing public accountability and limits the public roles from people with offence driving public office in Brazil.

Japan:

Japan has created criteria under its Public Offices Election Law, providing a system for banning people with criminal or electoral offence histories from participation in politics. Those who have committed a serious violation immediately lose both the right to vote and the right to run for public office - this loss of rights typically lasts five years from the date a conviction becomes final. If the serious violation includes incarceration, the disqualification period includes incarceration and then the same length as the prison sentence, but disqualification may last as long as ten years for repeat or serious violations. While India proposes its 130th Amendment that is still in discussion among political parties it is important to note Japan enforces similar standards even to the extent of nullifying election outcomes

from candidates whose campaign workers have engaged in electoral violations. This highlights Japan's cautious but strong approach to protecting its electoral systems.

The United States Of America:

The Constitution of the United States sets out the minimum eligibility requirements; unlike the government's system in India, the Constitution does not generally bar persons convicted of a crime from the privilege of running for or holding political office. The notable exception is found in Section 3 of the Fourteenth Amendment, disqualifying anyone who has taken an oath to the Constitution and then engaged in rebellion or insurrection. State law varies wildly, but most states will impose some restrictions on felons until their rights have been restored, whether temporarily or permanently. Additionally, there will be prohibitions on holding political office for felons who have committed some federal offenses like treason or bribery. While India's proposed 130th Amendment would disqualify political candidates in a broader manner and to a greater degree, disqualifications in the United States are applied inconsistently and with narrower scope, as access to the ballot is more important in the United States.

The United Kingdom:

In the United Kingdom, the Representation of the People Act 1981 states that anyone found guilty of an offence and sentenced to a term of imprisonment of over a year becomes an automatic disqualification from being a Member of Parliament (House of Commons) while they are still in prison. The UK Electoral Commission also states that a person may not stand as a candidate if, at the time of their nomination or on polling day, they are imprisoned (or otherwise unlawfully at large) owing to that sentence for a year or more. In addition to imprisonment, disqualification periods are triggered by convictions for corrupt or illegal practices (or any associated offences relating to campaign donations); for example, corrupt practices trigger a disqualification period of five years, and illegal practices of three years.

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ALL THE BEST!!!