
THE 130TH AMENDMENT AND THE EROSION OF THE PROCEDURAL BASIC STRUCTURE

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I. INTRODUCTION

The One Hundred and Thirtieth Amendment Bill of 2025 (130th Amendment Bill)² arrives a very particular and perilous journey in the India's constitutional journey, marked by the period characterized by an increasing societal and political impatience with the procedural technicalities in the face of a perceived moral crisis with the body politic. The Bill's central proposition is the automatic vacation of any office for any Minister, Chief Minister or even Prime Minister, who has been in judicial custody for thirty consecutive days. The bill follows a theme of the criminalization of politics, by targeting the phenomena of governance from jail.³ The implication of the Bill is to safeguard the dignity of the constitutional offices, ensuring that those who pilot the Great Ship of State do so from the cabinet room rather than a prison cell.

The legislative intent leans towards the normative framework of *constitutional morality*, a concept popularized and refined by the Supreme court in the case of *Manoj Narula v. Union of India*⁴. The court, here, observed that the Prime Minister and Chief Ministers serving as custodians of public trust, suggest that their discretion in appointing and retaining ministers should be guided by a high moral compass and expectation of the institutions' integrity. The 130th Amendment Bill attempts to take the judicial sentiment of aspirational hope as expressed in the above noted case and deforms it into a rigid, self-executing constitutional command.⁵

However, in the architecture of a liberal democracy, the structure, implementation and the perceived meaning of a policy matters more as compared to its declared goal. While the Bill presents itself as an ethics code designed to cleanse the executive, in reality, it is a profound

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² The Constitution (One Hundred and Thirtieth Amendment) Bill, 2025 (Bill No. 111 of 2025, Lok Sabha)

³ Ashish Chandra Dewanshu, "The 130th Constitutional Amendment Bill, 2025: Presumption of innocence versus Constitutional Morality in ministerial tenure" 11 *International Journal of Law* 98 (2025)

⁴ *Manoj Narula v. Union of India*, (2014) 9 SCC 1

⁵ Peeyush K. Mehta and Namita Jain, "The Constitution (One Hundred and Thirtieth) Amendment Bill, 2025: A Critical Examination of Accountability of Ministers and Constitutional Safeguards in India" 23 *Lex Localis – Journal of Local Self-Government* 233 (2025)

structural intervention that threatens to fundamentally rewrite the rules of political survival in India. By grafting a custodial trigger, the Bill intends to create a new modal of executive removal that operates entirely outside the will of Legislative, by amending the constitutional provisions of Articles 75⁶, 164⁷ and 239A⁸.

The mechanism seeks to introduce a structure that is constitutionally incompatible with India's Westminster system by failing to distinguish between the administrative state and the democratic executive. In the administrative sphere, suspension of officers after forty-eight hours of custody is a neutral, procedural measure aimed at maintaining departmental efficiency and discipline. However, applying a similar approach to the democratic executive is misplaced, as elected officials do not hold office through contractual employment. Their tenure is instead rooted in the popular mandate and sustained by the confidence of the legislature. This merging of the two separate concepts disregards the constitutional foundations of representative governance and blurs the distinction between bureaucratic regulation and democratic legitimacy.

The main issue of the 130th Amendment bill lies in its attempt to solve a complex political and ethical problem through criminal procedure shortcut. The Bill serves to oppose the *Constitutional Morality*, as presented by Dr. B.R. Ambedkar, as an unwavering commitment to the essential procedures of the constitution, focusing on the 'how' of governance rather than for a popular desire for a 'clean' outcome at any cost.⁹ The Bill proposes a morality of outcome that risks sacrificing the morality of procedure. By bypassing the legislature's exclusive right to determine who commands its confidence, the Bill introduces '*Custodial veto*' that is alien to the logic of responsible government. It effectively grants investigative agencies and the lower judiciary the power to deactivate an elected government without a single vote being cast on the floor of the House.¹⁰

If the 130th Amendment Bill is allowed to stand, it marks a seismic shift from a democracy of Mandates to a Democracy of Clearances. It hollows out the Basic Structure Doctrine by elevating the pre-trial suspicion to the level of constitutional disqualifier and potentially

⁶ The Constitution of India, art. 75

⁷ *Id.*, art. 164

⁸ *Id.*, art. 239A

⁹ Shubham Kumar, "130th Amendment Bill: Constitutional Morality on Trial" *The India Forum*, Sept. 3, 2025, available at: <https://www.theindiaforum.in/law/constitutional-morality-trial> (last visited on March 31, 2026)

¹⁰ PRS Legislative Research, "The Constitution (One Hundred and Thirtieth Amendment) Bill, 2025", available at: <PRS Bill Track Page> (last visited on March 31, 2026)

leaving the autonomy of high office vulnerable to the whims of the criminal procedural state. As the bill sits before a Joint Parliamentary Committee in the early 2026, the central question remains; Whether a reform seeking to protect the sanctity of an office actually ends up destroying the very independence that makes that office worth protecting?

II. THE PRESUMPTION OF INNOCENCE AND THE INVERSION OF ARTICLE 21

The immediate victim of the 130th Amendment Bill is the Presumption of Innocence. In the Indian constitution, the presumption of innocence is not merely evidentiary courtesy extended to a defendant but a vital aspect of the expansion of Right to life and personal liberty under Article 21 of the Constitution¹¹ along with the it being a cornerstone of the Rule of Law. By separating the survival of a democratic mandate and binding it to a rigid thirty-day custodial timeline, the Amendment effectively casus an inversion of justice. The cause and result of such a ticking clock is a transformation of procedural state of suspicion into a substantive constitutional verdict altogether in itself.

a. Custody as a Proxy for Guilt

The structural flaw in the 130th Amendment Bill lies in its failure to separate judicial custody from judicial conviction. In the landmark case of *Selvi v. State of Karnataka*¹², the Supreme Court expressed its opinion on the constitutional protections, specifically on that of the right against self-incrimination and the right to fair trial. The Court stated that the protection of these rights is a must as to prevent State organs to extract “procedural penalties” using its investigative machinery. When the Constitution is amended to mandate that a Minister, Chief Manister or even the Prome Manister must vacate office simply because they have been in custody for 30 days, the State is extracting the ultimate political penalty without having to prove a single fact beyond reasonable doubt.

This shift directly contradicts the opinion of Supreme Court in the case of *Public Interest Foundation v. Union of India*¹³. In the above noted case the Supreme Court rejected the plea to disqualify individuals upon the framing of criminal charges, asserting that disqualification is a

¹¹ The Constitution of India, art. 21.

¹² *Selvi v. State of Karnataka*, (2010) 7 SCC 263

¹³ *Public Interest Foundation v. Union of India*, (2019) 3 SCC 224.

legislative domain strictly governed by Section 8 of the Representation of People Act¹⁴. The Article 21 of the constitution protects the life and liberty of individuals, and by maintaining these protections the court established a firewall against the political vendettas, protecting those until the final and formal verdict of conviction is secure. The 130th Amendment Bill effectively eradicates this firewall as established by the court, treating remand not as a neutral investigative necessity but as a de facto proof to be seen as unfit to govern.

b. The “Process as Punishment” in the Indian Context

The Indian criminal justice system is notoriously characterised by the grim reality that “the process is the punishment”. The National Crime Record Bureau (NCRB) reveals in its statistics that nearly 75% of India’s prison population consists of undertrials.¹⁵ In many high profile political cases, judicial custody is extended not because of a prima facie establishment of guilt, but because of the influence of the accused, may it be financial, social or political in nature.

By attaching this “constitutional guillotine” to the interim state, the Amendment Bill declares that the duration of an investigation is a legitimate proxy characterised to the fitness of a leader. This creates a presumption of unfitness that the accused must rebuild by securing bail within the thirty day window provided.

Within the Prevention of Money Laundering Act (PMLA)¹⁶ or the Unlawful Activities (Prevention) Act (UAPA)¹⁷, the task of securing bail in such short time is rendered nearly impossible, where the burden of proof for bail is effectively reversed.

c. The Weaponization of the Remand Process

The idea of using arrest as part of politics is nothing new. In the case of *Arnesh Kumar v. State of Bihar*¹⁸, the Supreme Court recognized the power of arrest. The idea that arrest can be used as a tool for “humiliating” and can be misused by the executive to settle political agendas or even as a tool to extract their personal vendetta. The 130th Amendment Bill raises the stakes of this misuse to a structural level, the idea that an investigative agency under the direct control

¹⁴ The Representation of the People Act, 1951 (Act 43 of 1951), s. 8.

¹⁵ IndiaSpend, “Half a Million Indians Behind Bars, 74% Still Awaiting Trial”, Oct. 13, 2025, *available at*: <https://www.indiaspend.com/governance/half-a-million-indians-behind-bars-74-still-awaiting-trial-968804> (last visited on March 21, 2026)

¹⁶ The Prevention of Money Laundering Act, 2002 (Act 15 of 2003).

¹⁷ The Unlawful Activities (Prevention) Act, 1967 (Act 37 of 1967).

¹⁸ *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.

of a political rival can successfully argue for a thirty day remand, they might be able to achieve a change in regime itself by a mere court order of a Magistrate rather than the floor of the Assembly.

This creates a perverse incentive for the state to over-investigate or delay the filing of a chargesheet to ensure the thirty day threshold is met, effectively bypassing the high bar of conviction required by the Representation of the People Act¹⁹, and replaces it with significantly lower bar of investigative remand. The following results in the brazen violation of the “Golden Triangle” of Articles 14²⁰, 19²¹ and 21²². That the right to hold office, a fundamental subset to the right to political participation, is extinguished by a non-adjudicatory process like a remand order, then the procedure established by law cannot be said to be fair, just or reasonable, failing the test established in *Maneka Gandhi v. Union of India*.²³

d. The “Innocent Until Proven Detained” Fallacy

The idea of “constitutional hardball” notes that measures as of automatic vacation in the thirty day of custody is being employed in the language of moral reform to hide the actual reason, having its core concept resembling that of authoritarianism. By allowing the executive’s investigation to dictate the tenure of legislative’s leaders, the Amendment Bill collapses the vital distinction between the accuser and the judge. A Magistrate, in extending the custody to thirty-one day, can effectively act as an executioner to the democratic mandate, simply on the grounds that a longer time period is required for the investigation process.

Any Amendment which makes a democratic mandate contingent upon the ‘efficiency’ or ‘discretion’ of police investigation violates the core idea of Rule of Law. The Presumption of Innocence must remain as a part of basic structure of the constitution, protecting the individuals from the state overreach. To otherwise allow such judicial and executive action in the working of the legislature would imply that the framework where “Ship of State” can be compromised by mere splashes of unproven accusation, leaving the autonomy of elected offices vulnerable to the whims of the criminal procedure.

¹⁹ *Supra* note 13.

²⁰ The Constitution of India, art. 14.

²¹ *Id.*, art. 19.

²² *Id.*, art. 21.

²³ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

III. THE PROCEDURAL BASIC STRUCTURE AND THE DISPLACEMENT OF THE FLOOR TEST

*Kesavananda Bharti v State of Kerala*²⁴ gave the basic structure doctrine in India, shielding the integral constitutional values including secularism, judicial review, and the federal character of the union. But a more defined understanding of the Indian constitutionalism provides for “Procedural Basic Structure”. The principle provides for specific models through which power can be exercised and legitimized; through a two-third majority. This is an essential building tool for the Constitution, giving its ever-evolving identity. The 130th Amendment Bill introduces us to a custodial trigger for removal of legislative members via executive and judicial action, and by merely adding a rule the Bill may be able to collapse the entire building ground on which our constitution stands.

a. The Displacement of the Floor Test

At the heart of Westminster system, as followed in India, lies the principle of Collective Responsibility under Article 75(3)²⁵ and 164(2)²⁶ of the Indian Constitution. A Minister’s rights and their function to govern is not delivered from the pleasure of the President or the Governor, but from the “confidence of the House”. In the landmark case of *S.R. Bommai v. Union of India*(1994)²⁷, the Supreme Court constitutionalized the “floor test” as the only legal and valid method of determining the legitimacy of an executive action. Prior to this, the President or the Governors had the power to dismiss state government based on subjective reports of instability. The Court provided that, it is to be decided by the floor of the Assembly whether a Chief Minister enjoys confidence in the House or not, and not by the President’s or the Governor’s subjective opinion. This shifted the power from the executive discretion to legislative accountability, reinforcing federalism, controlling the arbitrary use of the Article 356²⁸ of the Constitution.

The Amendment Bill introduces a modal of removal where it creates a situation where a Chief Minister might command a majority in the Legislative Assembly, yet e constitutionally removed form the position, merely because a Magistrate might sign a remand order that crosses

²⁴ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

²⁵ The Constitution of India, art. 75(3).

²⁶ *Id.*, art. 164(2).

²⁷ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

²⁸ The Constitution of India, art. 356.

thirty day threshold. This creates a “collateral removal mechanism” that exists entirely outside the Legislative’s will. By allowing this extra executive action to overstep the legislation confidence of the house, the Bill serves the essential link between the Executive and the Legislature. This shift clashes with the precedent set in the case of *Rambabu Sing Thaur v. Sunil Arora*²⁹. Here the Supreme Court enforced the disclosure of norms for candidates without encroaching on the primacy of the floor test. The boundary which the Amendment ill now seeks to eradicate.

b. The Clash of Political and Criminal Time

The Constitution operates on “Political Time”, measured in five year mandates that represents the window during which the electorate’s will is translated into polity. While the Indian criminal justice system operates on “Criminal Time” which often spans over decades starting from initiating a FIR to a final acquittal.

The Bill attempts to create a “Criminal Time” trigger onto the “Political Time” of the Legislative office. The Bill deals with suspension, unlike the disqualification mandate as provided in the case of *Lily Thomas v. Union of India*³⁰, dealing with conviction. If a leader is removed on the basis of the thirty day custody and is later found innocent, the constitution would have done irreversible damage in form of “democratic theft”, rather than for its intended purpose of facilitating of a “clean up”. The reappointment provision is included in the bill as a form of remedy against this, but a temporary procedural state of forced removal of a legislative member for thirty days is sufficient to fracture the democratic will as enshrined in the constitution, this may trigger a leadership crisis or even allow the Governor to invite a rival to form a government, violating the ecosystem of the Indian politics.

c. The End of “Responsible Government”

The term “Responsible Government” implies that the executive is responsible to the people through their elected representatives. The Bill subtly changes the object of that responsibility. If a minister knows that their tenure can be terminated by the process of investigation rather than through a proper legislative procedure of a vote in the house, they may no longer be held responsible to the legislature itself. Rather, they shall become bound to the investigative

²⁹*Rambabu Singh Thakur v. Sunil Arora*, (2020) 3 SCC 733.

³⁰*Lily Thomas v. Union of India*, (2013) 7 SCC 653.

agencies and that of the judiciary.

This shift in the locus of political survival for the House confidence towards the Confidence of the Police and the Judiciary. Any and all amendments that replaces the political logic of removal of a legislative member from their position in the house via a proper constitutional procedure changes the “Basic Identity” of the constitution itself. It moves the nation away from a Parliamentary form of governance towards a form of “Systematic Custodial Sovereignty”, where the jailer holds the power of veto, rather than the vote being held in the House itself.

IV. SYSTEMATIC DISRUPTIONS: FEDERALISM, SEPARATION OF POWERS, AND THE GOVERNOR

The 130th Amendment Bill shifts the relationship between the Union and the States and reveals itself to be a tool that may act as a “Constitutional Hardball”. In the Indian federation, the division of powers is done in a delicate equilibrium which is often described by the Supreme Court as a “basic feature of the Constitution”. However, the Bill introduces is with a vulnerability which may potentially allow centrally controlled investigative agencies to direct the survival of the members of legislature.

a. The Weaponization of “Automatic” Removal

The concern lies with the role of the Governor, under the Art. 75³¹ and 164³² of the constitution, the Governor acts on the “aid and advice” of the Council of Ministers. The power to dismiss a government is strictly limited to the instances where the government has lost the confidence of the House, the Bill seeks to grant the Governor and the President a “non-discretionary” power of removal, triggered by an external and non-political event of the thirty day judicial custody.

In the political landscape, the investigative agencies like the Central Bureau of Investigation (CBI) and the Enforcement Directorate (ED) are perceived as extension of the Executive itself. This creates an unrecorded incentive. The investigative agencies may arrest a state level Minister, Chief Minister or even the Prime Minister and ensure a custody extending that of thirty days under any specialised statutes where bail is difficult to be gained, the Governor can in a sense constitutionally mandate the removal of that Minister from their office, following

³¹ *Supra* note 5.

³² *Supra* note 6.

the then established procedure. This bypasses the protections established in the case of *S.R. Bommai v Union of India* (1994)³³, sought to end an era of arbitrary dismissals following the implementation of procedure as established in Art. 356³⁴, leading to the fall of the Government in its entirety. The Bill effectively creates a backdoor for this without the need of a formal proclamation or parliamentary approval.

b. The Nabam Rebia Precedent and State Autonomy

In the case of *Nabam Rebia v. Deputy Speaker*³⁵, the Supreme Court provided that the Governor cannot act independently of the Council of Ministers in matters regarding the summoning or prologuing of the House, emphasizing that the Governor acts as a “constitutional sentinel” and not as a parallel power centre. The Bill, however, directs the Governor to perform what can only be termed as “surgical strikes” on the House members based solely on police investigation.

This disrupts the Separation of Power, here a Magistrate can extend custody for the purpose of greater investigation and may trigger a constitutional vacuum at the state level. The Governor then may be able to stem in this vacuum to enforce the removal. This effective chain of events is created via Criminal Procedure, following actions from the Police and the Magistrates and followed by the Governor’s actions. This effects the federal autonomy of the state through the Union’s agencies via its investigative discretion. The Supreme Court in the case of *Rameshwar Prasad v. Union of India*³⁶ warns us where the Governor’s office should not be used for political ends. The Amendment Bill risks making the Governor as the instrument of removing the elected rivals.

c. The Chilling Effect on Federal Policy Making

The 130th Amendment Bill imposes a Chilling Effect on the federal spirit. If Chief Ministers are aware that their tenure is only thirty days of custody away from complete termination from their position, their ability to challenge the Union on chief political matters governing the economy of the country to the implementation of various social welfare schemes is hindered and is severely compromised. The custodial Veto becomes a tool for political discipline rather

³³ *Supra* note 26.

³⁴ *Supra* note 27.

³⁵ *Nabam Rebia v. Deputy Speaker*, (2016) 8 SCC 1

³⁶ *Rameshwar Prasad v. Union of India*, (2006) 2 SCC 1.

than being used for legal accountability.

The Bill allows the Governor, as appointed by the Union, the power to terminate a State Minister's tenure based on an ongoing investigation, violating the federal character of the constitution. Federalism implies that the state governments are sovereign within a specific sphere, the powers though limited do have certain freedoms for some specific statewide implementation of some provisions. The same being upheld in the case of *State of West Bengal v. Union of India*³⁷. By making that sovereignty contingent based upon the thirty day remand clock under the investigation authority as may be controlled but the union, the Bill replaces what once was "Cooperative Federalism" with "Coercive Constitutionalism". The threat of custody serves a sword over the heads of members of legislature, hollowing out the federal identity from the Indian republic.

V. COMPARATIVE PERSPECTIVE AND THE FALLACY OF "GOVERNANCE FROM JAIL"

For a proper understanding of the 130th Amendment Bill, there is a need to examine how other Westminster derived systems and modern democracies manage the tension between criminal suspicion and executive offices. The most advanced democracies provide the Constitutional Conventions and Political ethics as a solution from "governance from jail", instead of a rigid and automated constitutional trigger that the Bill seems to provide. By turning a matter of political ethics into a mandatory constitutional command, India may end up creating a "rigidity trap", that sacrifices systemic stability for a shallow moralistic outcome.

a. The Westminster Model: Resignation by Convention

In the United Kingdom, Ministerial Code³⁸ governs the conduct of the members of the House. And though the Ministerial Code is a "soft law", the conventions surrounding the same are effective in providing a moral code of conduct. When a Minister is embroiled in a criminal or any other scandal, the Prime Minister is expected to demand their resignation for preserving the "integrity of the Government". The action largely remains a Political Decision.

³⁷ *State of West Bengal v. Union of India*, AIR 1963 SC 1241.

³⁸ Government of India, "Ministerial Code" (Cabinet Office, UK Government), available at: <https://www.gov.uk/government/publications/ministerial-code> (last visited on March 29, 2026).

During the “Sleaze”³⁹ scandals of the 1990s or even the recent inquiries of “Partygate”⁴⁰, the question of removal remained within the realm of political accountability. There is no provision in the UK that can automatically terminate a Minister’s tenure based on the duration of detention. The Prime Minister must remain the ultimate judge to see who sits in their Cabinet, and the House of Commons must remain the ultimate judge for the Prime Minister. By constitutionalizing this process, the Bill has effectively legalized what should have been a political responsibility, by directly removing the nuance required to distinguish between a “political arrest” and “criminal arrest”.

b. Australia and Canada: The Finality of Conviction

The Section 44⁴¹ of the Australian Constitution provides the grounds for disqualification. The Section triggers only upon the conviction for an offence punishable by imprisonment for one year or more. Until the point of conviction, the individual retains their mandate, reflecting a commitment to the Presumption of Innocence as a democratic right.

In Canada, the Conflict of Interest Act⁴² and its Ministerial Mandate allows for a leave of absence during the time of an investigation, but the automatic vacation of office is not part of the political landscape, nor is enforced via any statutory provision.

Their jurisdiction recognises that investigation can be a long, complicated and a politically motivated process. By holding the line of conviction a bay, these countries ensure a democratic mandate is followed and can only be overridden when a final verdict is reached after a proper and independent trial process. The Bill provides of a custodial trigger that treats the investigation process itself as a for of judicial result. In India itself, president as laid down in the case of Lily Thomas v. Union of India (2013)⁴³ and the Public Interest foundation (2018)⁴⁴, rejected the Law Commission’s earlier proposal for disqualification at the framing of charges

³⁹ an Cawood, “A History of British Political Sleaze – and Why We Should Worry About the Johnson Government” *University of Stirling Public Policy Blog*, May 31, 2021, available at: <https://policyblog.stir.ac.uk/2021/05/31/a-history-of-british-political-sleaze-and-why-we-should-worry-about-the-johnson-government/> (last visited on March 31, 2026).

⁴⁰ Nicholas Allen, “Why Partygate Matters” *London School of Economics Politics and Policy Blog*, April 20, 2022, available at: <https://blogs.lse.ac.uk/politicsandpolicy/why-partygate-matters/> (last visited on March 30, 2026).

⁴¹ The Commonwealth of Australia Constitution Act, 1900, s. 44.

⁴² The Conflict of Interest Act, S.C. 2006, c. 9 (Canada).

⁴³ *Supra* note 29.

⁴⁴ *Supra* note 12.

stage, prioritizing the final conviction over the procedural shortcuts.

c. The Fallacy of “Governance from Jail”

The sole justification of the 130th Amendment Bill is the perceived impossibility of a moral failure, leading to governance from a prison cell. The idea of “Constitutional Morality” is an absolute bar giving rise to the Bill. However, the physical inability of a Minister to perform their duties is not only leads to constitutional vacancy but also can be seen as an administrative and political failure at its core.

There must be a democratic solution to this problem. The party of the terminated minister may elect a new leader of the house to represent them or may even move a no confidence motion in the house, expressing their dissatisfaction with the current political landscape and demand a change.⁴⁵ Or, even if the party elects to remain with the terminated and jailed leader, they must face the ultimate judge, the people who voted for them. In the end the ultimate power lies with the people, and the leaders must not forget the office that they hold is only for them to represent the collective.

The State, by stepping in with the 130th Amendment Bill, as a “constitutional guillotine”, suggests its lack of faith in the Legislature or the Electorate to make the morally correct choice.⁴⁶ The “paternalistic constitutionalism” undermines the representative democracy. The assumption that the Constitutional State must protect the Democratic state from its own elected leaders represents a path that suggests to the erosion of the very democratic spirit that it claims to protect.

VI. CONCLUSION

The 130th Amendment Bill represents a change in the constitution that can only be termed as “Constitutional Hardball”, where the amending power under Article, 368⁴⁷ is utilized to achieve such results that are fundamentally opposite to the constitutional order. Though framed as a moral reform to cleans the legislature, the Bill structurally changes the identity of the

⁴⁵ What Is the New Bill to Remove PM, CM and Ministers? Explained” *The Hindu*, Aug. 20, 2025, available at: <https://www.thehindu.com/news/national/what-is-the-new-bill-to-remove-pm-cm-and-ministers-explained/article69972764.ece> (last visited on March 31, 2026).

⁴⁶ Law Commission of India, “244th Report on Electoral Disqualifications” (February, 2014) available at: <https://indiankanoon.org/doc/182027145/> (last visited on March 31, 2026).

⁴⁷ The Constitution of India, art. 368.

Indian Constitution. The pre-trial detention being turned into a constitutional penalty is upsets the Rule of Law, as a part of the Basic structure of the Constitution. The Bill shatters the “floor test” via a custodial timeline, weaponizing the federalism identity of the country, granting the investigative agencies the *de facto* veto over the state mandate.

In the landmark judgement of *Minerva Mills v. Union of India*⁴⁸, the Supreme Court provided for the limited the amending power of the parliament as part of the basic structure doctrine. The same amending power cannot be used to turn the Constitution against its own essence. A government that is responsible to a police remand, rather than to the House itself is a blasphemy against the constitution and the spirit of democracy enshrined within. The Bill serves as a litmus test for judiciary, compelling it to choose between the “morality of outcomes” and “constitutional morality”. The Presumption of Innocence remains the final barrier protecting the autonomy of the political landscape in India, which is now being challenged by the 130th Amendment Bill.

⁴⁸ *Minerva Mills v. Union of India*, (1980) 3 SCC 625.