Date: 6th March 2026

Suggestions from Association for Democratic Reforms (ADR), New Delhi to the Joint Parliamentary Committee on The Constitution (One Hundred and Thirtieth Amendment) Bill, 2025

The Constitution (130th Amendment) Bill, 2025, introduced by the Central government and referred to the Joint Parliamentary Committee (JPC) (Chair: **Ms. Aparajita Sarangi**), seeks to amend Articles 75, 164, and 239AA of the Constitution. The Bill puts forth a mechanism mandating the automatic cessation of office for the Prime Minister, Chief Ministers, and Ministers upon being arrested and detained for 30 consecutive days for serious criminal offences. The following key observations and recommendations evaluate the constitutional validity of this proposed framework and suggest alternative legal measures to genuinely address the growing criminalisation of politics.

The Constitution (One Hundred and Thirtieth Amendment) Bill, 2025 was introduced in the Lok Sabha by the Hon'ble Home Minister on 20th August 2025. **The key rationale behind the Bill is to safeguard constitutional morality, constitutional trust and enable good governance by restoring citizen's faith in democracy**. The Bill seeks to amend Articles 75, 164, and 239AA of the Constitution and states that the *Ministers in Power* i.e*., the Prime Minister, Chief Minister and the Cabinet Ministers* cannot frustrate these canons. The key acme of the proposed Bill is a mechanism of automatic cessation of office of Union/State Ministers who face allegations of a serious criminal offences punishable by 5 years or more and is accordingly arrested and detained for a period of thirty consecutive days. The proposed bill states that anyone jailed for 30 days or more will either resign or automatically be removed from the key positions *i.e. MP, CM, PM and Ministers in the Central or State Governments*.

At the outset, ADR **welcomes any move** aimed at cleaning up politics **by curbing '*criminalization of politics'* and '*governance from jail'***. While the stated objects and reasons intended behind the Bill is indeed admirable, however, **we feel that certain key aspects of the Bill may invite *constitutional challenge, grave propensity of being misused by governments-in-power, time-triggered arrests, focus on pre-trial detention while the core underlying causes behind growing criminalisation remain unaddressed.*** Instead of enacting a genuine, robust and preventive electoral reform, this Bill, at the best may only ***act as political weapon in the guise of procedural law.***

The Hon'ble Home Minister Mr. Amit Shah had stated, *"It is an insult to the country's democracy that a Prime Minister, Minister and Chief Minister run the government from jail. It does not suit our democracy that the Secretary and Chief Secretary of the Government go to jail for orders from the **Prime Minister, Chief Minister and Minister".*** **Press Release: Press Information Bureau https://share.google/lq7MtnMHdCh1L35VM**

Looking at the purported intention behind the Bill and words of Hon'ble Home Minister, the commonality that can be arrived at this juncture is that ***"law-makers shouldn't be the law-breakers".*** However**, the Bill in its current form and shape fails to justify the purpose behind which it was enacted in the first place.**

It is a fundamental, constitutional and statutory right of citizens to have *'free and fair'* elections and a '*clean democratic polity'* which is not infested with criminals. Afterall, it is the electorate, who has to suffer on account of "criminalization of politics" and often can do little but helplessly participate in the election. **In this backdrop, ADR would also like to take this opportunity to appeal to the Hon'ble Members of the Joint Parliamentary Committee (JPC) to consider our views and suggestions on the proposed Bill in order to make a robust, clean and democratic system of governance and to de-criminalise the Indian political and electoral system**. The submission covers following three areas namely;

A) Key substantive objections to the proposed Bill.
B) Magnitude of the growing problem of criminalization.
C) Recommendations and Suggestions by ADR.

A. Key substantive objections to the proposed Bill:

1. **"Temporary cessation" of Ministerial Office doesn't lead to actual disqualification of tainted law-makers:**

   The Bill fundamentally fails to prevent candidates with serious and heinous crimes from entering politics or holding public office. **It merely introduces a "*temporary cessation*" of *Ministerial Office*, rather than empowering the already existing disqualification criteria given under various provisions of law more specifically Section 8(1),(2)&(3) of the RP Act,1951**. The Bill only creates a new ground for temporary removal of Ministers upon arrest and detention for 30 consecutive days which is distinct from the disqualification criteria. The Bill will only result in ***temporary constitutional disability and not vacation of a seat and loss of membership of the House.***

   The continued presence of members with serious criminal charges in legislative bodies risks undermining public trust in equal measure. Limiting the cessation mechanism only to Ministers leaves intact the ability of MPs/MLAs with pending serious criminal cases to shape governance and influence executive agencies.

2. **<u>The Bill doesn't target those against whom '*charges are framed*' by the Court of law:</u>**

The Bill should be applied against whom *'charges have been framed by the court of law'*. **<u>In a trial, *'framing of charges'* by the court is a crucial step where the investigation by police is complete, trial has begun, cognizance of the offence is taken by the court, presence of judicial application of mind and a prima facie founding of the guilt.</u>** The word "jailed" on the other hand or the fact that a Minister can be removed from office on merely being accused of an offence goes against the universal principles of natural justice as there is no uniformity on those who are jailed. **<u>To attract disqualification and constitute an offence it has to be admitted and triable by courts.</u>** The 244th Law Commission Report explicitly evaluated and rejected police action or the filing of a charge-sheet as a trigger for disqualification. Instead, the Commission recommended disqualification at the stage of the **"framing of charges"** by a competent court for serious offenses punishable by at least five years of imprisonment reasoning that this is the stage where the judge applies judicial scrutiny and the prosecution must establish a *prima facie* case.

The Central/State agencies like the ED, Police, IB and CBI can arrest someone and jail them without even a formal trial and conviction by a judicial officer. Therefore, in this framework, this Bill can be seen as ***arbitrary***, ***unconstitutional*** and ***untenable*** in the eyes of law due to **<u>time-trigged arrests by the executive and no mechanism for redressal</u>**. The Ministers can spend more than 30 days in jail, and after that the trial which takes months, years or more can exonerate them. But they would have to demit office after 30 days. **<u>On the other hand, framing of charges is independent of the party in power and is done by a Court of Law.</u>**

3. **<u>Procedural, Not Preventive: The Re-appointment Loophole:</u>**

<u>The bill expressly permits re-appointment upon release. It doesn't put a bar on re-appointments</u> *since a Minister who is removed from office under these provisions, may be re-appointed after being released from custody.* The proposed provisos to Articles 75(5A) and 164(4A) explicitly state that nothing shall prevent the Minister or Chief Minister from being *subsequently reappointed* to their post upon their release from custody. This indicates that the Bill doesn't really rationalize the idea behind which it was brought in the first place i.e de-criminalization of politics and is rather seen as a tool for political exclusion. Once the individual is freed on bail after 30 days, he/she can immediately resume his/her Ministerial office. At the same time that same person remains accused of the exact same serious criminal offence yet continues to rule and exercise executive power. *No reasonable proportionality can be seen in a scenario where a Minister merely accused of an offence (punishable by 5 years and above) and who is in jail for 30 consecutive days is removed from the office whereas those MPs/MLAs who have*

reached at the far-end of their trials, at the stage of charges framed continue to rule us. The bill, therefore, **is not a preventive measure or provides a comprehensive solution to the underlying systemic issues of criminalisation in politics**. **The bill is a punitive short-cut, focuses only a post arrest measure and certainly doesn't stop the entry of candidates with criminal background or candidates charged with serious/heinous offences**.

4. **Core causes behind criminalization completely sidelined:**

The bill also doesn't address the root-causes behind the breeding criminalization in politics i.e. *criteria for ticket distribution, disqualification* at the *'stage of framing of charges', winnability based on money and muscle, accountability of key office bearers of the political parties, withdrawal of cases by governments-in-power, no comprehensive law on political parties functioning and monitoring etc.*

5. **Time trigged arrests: An Abuse of Power and a Political Weapon:**

This bill has a serious propensity of being misused and abused by various Central/State agencies and government-in-power at the Centre and States. There is no rule in legal jurisprudence that allows a person without a trial to be incarcerated by executive fiat and is eventually removed from office only because he/she was lodged in jail for 30 days. **There is no analogous safeguard in the Bill against illegal detentions or misuse of power.** Recent data shows that an overwhelming number of persons jailed were from Opposition parties. After a long period, most of them were exonerated. If this law had been in existence, they would have all had to demit office. Meanwhile, there are a large number of sitting Ministers in the Central and State Government who have had charges framed against them for serious offenses. They are not arrested and hence they continue in office. **This leads to following glaring issues;**

(a) **Executive Tool for Destabilisation:** The Bill is susceptible to being weaponized by the government in power. Because the trigger for removal is a mere "arrest" (an executive action) followed by a 30-day detention, it bypasses the judiciary's substantive determination of guilt.

(b) **Abysmal Conviction Rates by Agencies:** Central investigative agencies like the Enforcement Directorate (ED) operate under stringent bail laws like the Prevention of Money Laundering Act,2002 (PMLA), where securing bail within 30 days is extremely difficult. Data available from various sources shows that while the ED has registered 193 cases against politicians in the last decade, the conviction rate is an abysmal 1%.

(c) **Encouraging Horse-Trading:** By using frivolous arrests to detain opposition Chief Ministers or Ministers for 30 days, the Ruling party can automatically unseat rival governments. This makes the Bill a tool for political vendetta, creating a strong push for the destabilisation of coalition governments and encouraging unconstitutional horse-trading.

The proposed mechanism mandating the automatic cessation of ministerial office after 30 days of detention creates a dangerous structural vulnerability that the government-in-power can easily abuse to unseat a political opponent. Under Section 35 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), investigative agencies possess wide discretionary powers to arrest individuals without a warrant based merely on "reasonable suspicion," while Section 187 permits magistrates to routinely extend judicial custody up to 60 or 90 days before default bail is even possible. The Unlawful Activities (Prevention) Act (UAPA) and the Prevention of Money Laundering Act (PMLA),where Section 45 imposes nearly insurmountable "twin conditions" for bail and Section 24 reverses the burden of proof onto the accused, securing release within 30 days becomes exceptionally difficult. The Bill will effectively empower any Ruling government to use the police and investigative agencies to arbitrarily arrest and decisively topple opposition Ministers and coalition governments long before any substantive judicial evaluation of their actual guilt ever takes place. Arrests of key ministers, such as Former Delhi C.M, Former Deputy Chief Minister and Jharkhand's Chief Minister may hint at political interference and a possibility of being executed just before or during crucial electoral periods.

6. **Indian Constitution doesn't prescribe separate qualification for Ministers and MPs/MLAs:**

The Constitution does not prescribe any separate qualifications or disqualifications for Member of the House (MPs/MLAs) and Ministers inducted into the Cabinet. The Bill in its present form distinguishes Ministers from other elected representatives without adequate justification or without providing any reasonable classification. One cannot be a Minister without being a Member of the House. Limiting the removal process only to Ministers while ignoring the MPs/MLAs with declared serious criminal cases frustrates the whole idea behind a clean democratic polity.

7. **Violation of the Basic Structure Doctrine:**

The Supreme Court has established in various landmark judgments more specifically in *Kesavananda Bharati v State of Kerala (1973)* that constitutional amendments cannot alter the "Basic Structure" of the Constitution. This Bill, however, threatens several of these essential features. To name a few;

(a) **Breach of Separation of Powers (Violation of Articles 75(3) and 164(2)):** The Supreme Court has articulated a "triple chain of accountability" where the permanent executive is accountable to the government, the government to the legislature, and the legislature to the people. Articles 75(3) and 164(2) of the Constitution specifically mandate that the Council of Ministers shall be collectively responsible to the Lok Sabha and the State Legislative Assemblies, respectively. By granting investigative agencies (the permanent executive) the power to unseat a Prime Minister or Chief Minister through a mere arrest, the Bill bypasses the legislature entirely and disrupts this constitutionally mandated democratic accountability.

(b) **Subversion of Parliamentary Democracy (Infringement of Articles 75(1), 75(2), 164(1), and 164(2)):** The Lok Sabha and State Legislative Assemblies hold the sole and exclusive authority to elect and dismiss the Prime Minister and Chief Ministers based on majority confidence. Furthermore, under Articles 75(1) and 164(1), the selection and retention of the Council of Ministers is the strict "constitutional prerogative" of the Prime Minister and Chief Ministers, who advise the President and Governor respectively. Ministers also hold office during the pleasure of the President/Governor under Articles 75(2) and 164(1). The Bill severely infringes upon these legislative and executive prerogatives by allowing an executive police action to dictate the composition and removal of the Cabinet.

(c) **Violation of the Rule of Law (Infringement of Article 14):** Removing a Minister solely based on 30 days of arrest is arbitrary and discards the rule of criminal justice i.e "innocent until proven guilty". This arbitrariness directly violates the Equality Clause under Article 14. At the 30-day stage, there is no substantive judicial determination of the likelihood of guilt, a judge merely verifies procedural compliance. Substantive evaluation occurs only much later during the "framing of charges". A 30-day removal threshold ensures a minister is removed before any meaningful judicial scrutiny can take place, which is highly arbitrary and undermines the Rule of Law.

8. **Blatant disregard of the Expert Committee Reports and Genuine Reforms:** For over two decades, numerous expert constitutional bodies have suggested concrete, robust and preventive reforms to address the issues relating to growing criminality in elections and to weed out criminal elements from politics but have been quiet conveniently overlooked by various governments in the last 25 years. However, it is on record that various recommendations given by several committees dated as back as 1999 are lying in the backburner with not even one single reform being able to culminate into a ***law, rule or regulation***; *Vohra Committee Report, 1993; The 170h Report of Law Commission of India on Reforms of the Electoral Laws (1999); National Commission to Review the Working of the Constitution, 2000; The Department*

Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice (2007); Ethics in Governance Report: Second Administrative Reforms Commission,2007; The 244th Law Commission of India Report on Electoral Disqualification; Justice J.S Verma Committee Report on Criminal Law Amendment. It is worth noting that all these suggested reforms aimed at de-criminalising politics have been intentionally sidelined and disregarded by various governments over the years as it simply suits their own political interests. Executive and the Legislature are most reluctant to undertake any kind of electoral or political reform because of the obvious bias and prejudice. It is only persons of strong character and vision that should foray into the electoral process. Instead of bringing laws on these well-researched lines to permanently block criminals from entering the legislature, the government has brought a Bill that ignores judicial scrutiny, bypasses electoral disqualification, may target political rivals, confuses the citizens and complicates the easy answers to stop the growing criminality in politics. Some of the suggested reforms are enumerated below;

(a) **Disqualification at the stage of 'Framing of Charges' by the court of law:** The 170th and 244th Reports of the Law Commission of India, the Election Commission of India (1999) and Justice J.S. Verma Committee had strongly highlighted that conviction rates for influential politicians are abysmally low (less than 0.5%). They consistently recommended that disqualification from contesting elections should be triggered at the stage of **"framing of charges"** by a competent court for serious /heinous offences, as this stage involves judicial application of mind and establishes a *prima facie* case.

(b) **Permanent Disqualification for Heinous Offences:** The National Commission to Review the Working of the Constitution (NCRWC) and the Justice J.S. Verma Committee recommended a permanent, lifetime bar from contesting political office for those convicted of heinous offences.

9. Repeated pleadings from the Highest Court of Law:

The Supreme court and High Courts in India have at innumerable occasions ***pleaded before various governments-in-power to come out with a comprehensive legislation to prohibit persons with criminal background from contesting elections to Parliament, State Legislatures and local bodies***. The failure of the Governments for the past 25 years to cure this malignancy by legislating a comprehensive law for an absolute ban on the entry of candidates with tainted background is not only sad but appalling. Indian Judiciary has also given a series of judgments in order to curb the growing criminalization in politics and blatant practice of giving tickets to candidates with criminal background. The Hon'ble Supreme court has, lately given eight orders to de-criminalize Indian political system;

i. **10th March, 2014:** Trial within one year; *2019 (3) SCC 224.*

ii. **27th August,2014:** Duty of P.M & CMs not to appoint minsters with serious criminal background into the cabinet; *(2014) 9 SCC 1.*

iii. **5th February 2015:** Cancellation of election of law makers on suppression of information about pending criminal cases which are within a special knowledge of candidate; *AIR 2015 SC 1921.*

iv. **1st November, 2017**: Special 11 fast-track courts;*2023 INSC 991.*

v. **25th September, 2018:** Publication of criminal cases; *2019 (3) SCC 224.*

vi. **10th August, 2021:** Political parties are to publish information regarding criminal antecedents of candidates on the homepage of their websites with a caption 'candidates with criminal antecedents'*; AIR 2021 SC 4069.*

vii. **13th February, 2020**: Publication of reasons for giving tickets to candidates with criminal cases rather than clean, honest and credible candidates; *AIR 2020 SC 952.*

viii. **24th July 2023:** Electoral/voter's right to know about the full background of a candidate; *WP(C) 6614/2023.*

Unfortunately, none of these orders have been able to ***persuade the government to bring a deterrent law and dissuade the political parties*** from giving tickets to candidates with criminal background rather than entry to clean, credible and untainted candidates.

B. <u>Magnitude of the growing problem of criminalization:</u>

The Constitutional Bench of the Hon'ble Supreme Court in ***Public Interest Foundation and others vs. Union of India and another; 2019 (3) SCC 224*** had categorically asked the Government to implement the aforementioned directions in true spirit and with right earnestness in a bid to strengthen democracy. The Hon'ble Supreme Court had observed in Para No. 118 and119;

*"118. The nation eagerly waits for such legislation, for the society has a legitimate expectation to be governed by proper constitutional governance. The voters cry for systematic sustenance of constitutionalism. The country feels agonized when money and muscle power become the supreme power. Substantial efforts have to be undertaken to cleanse the polluted stream of politics by prohibiting people with criminal antecedents so that they do not even conceive the idea of entering into politics. They should be kept at bay." (***Emphasis added)**

*"119. We are sure, the law-making wing of the democracy of this country will take it upon itself to cure the malignancy. We say so as such a malignancy is not incurable. It only depends upon the time and stage when one starts treating it; the sooner the better, before it becomes fatal to democracy....." (***Emphasis added)**

1. Candidates with declared criminal cases during the Lok Sabha elections:

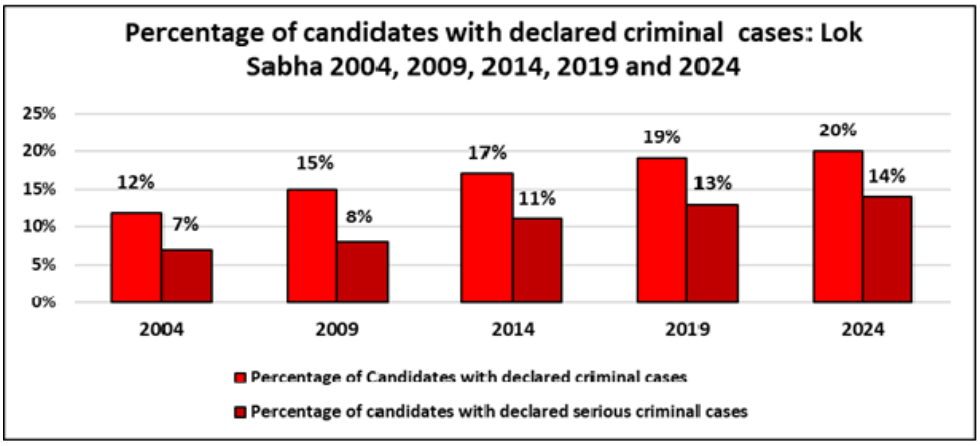
i. During the **Lok Sabha, 2024 Elections**, **1643 (20%)** candidates contesting elections had declared criminal cases against themselves and **1191 (14%)** had declared serious criminal cases like charges related to rape, murder, attempt to murder, kidnapping, crimes against women etc.

ii. During the **Lok Sabha, 2019**, **1500 (19%)** candidates had declared criminal cases against themselves and **1070(13%)** candidates had declared serious criminal cases.

iii. **During the Lok Sabha, 2014 elections**, **1404(17%)** candidates had declared criminal cases against themselves and **908(11%)** candidates had declared serious criminal cases.

iv. During the **Lok Sabha, 2009 elections 1158(15%)** candidates had declared criminal cases whereas **608(8%)** candidates had declared serious criminal cases.

v. During the **Lok Sabha, 2004 elections**, **555(12%)** candidates had declared criminal cases against themselves whereas **320(7%)** candidates had declared serious criminal cases.



2. MPs with Declared Criminal Cases in Lok Sabha:

i. During the **Lok Sabha, 2024 elections, 251 (46%) MPs** had declared criminal cases whereas **170 (31%)** MPs had declared serious criminal cases.

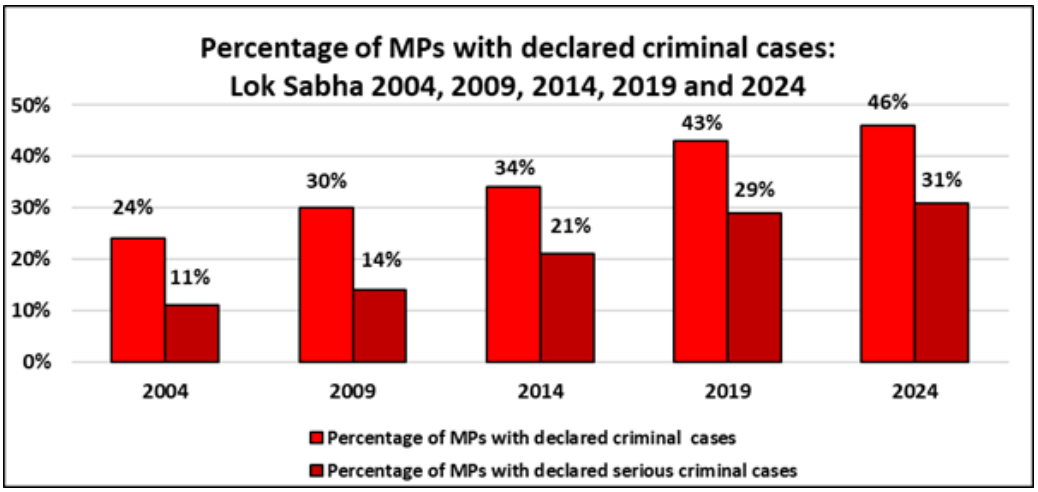
ii. During the **Lok Sabha 2019 elections, 233(43%)** MPs had declared criminal cases against themselves and **159(29%)** MPs had declared serious criminal cases.

iii. During the **Lok Sabha, 2014 elections, 185(34%)** MPs had declared criminal cases against themselves whereas **112(21%)** MPs had declared serious criminal cases.

iv. During the **Lok Sabha, 2009 elections, 162(30%)** MPs had declared criminal cases against themselves and **76(14%)** MPs had declared serious criminal cases.

v. During the **Lok Sabha, 2004 elections, 125(24%)** MPs had declared criminal cases against themselves whereas **60(12%)** MPs had declared serious criminal cases against themselves.

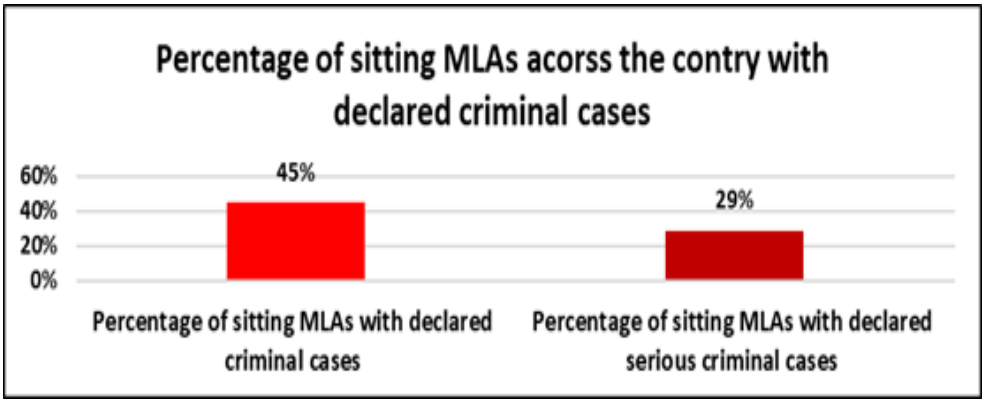
<u>There is an increase of 101% in the number of MPs with declared criminal cases since 2004.</u>



3. <u>Sitting MLAs Across the Country: (Data compiled as of January 2026).</u>

i. **Sitting MLAs with Criminal Cases: 1821** (**45%**) MLAs from State/UT assemblies have declared criminal cases against themselves.

ii. **Sitting MLAs with Serious Criminal Cases: 1172** (**29%**) MLAs from State/UT assemblies have declared serious criminal cases like related to murder, attempt to murder, kidnapping, crimes against women etc.



4. <u>Rajya Sabha Sitting MPs (Data compiled as of January 2026).</u>

i. **Rajya Sabha sitting MPs with criminal cases:** Out of the **226** Rajya Sabha Sitting MPs analysed, **76(34%)** Rajya Sabha Sitting MPs have declared criminal cases against themselves.

ii. **Rajya Sabha sitting MPs with serious criminal cases: 38 (17%)** Rajya Sabha Sitting MPs have declared serious criminal cases against themselves.

C. Recommendations and Suggestions by ADR:

Good governance is only in the hands of good men. There is no dearth of solutions to curb the ever-growing problem of criminality in politics. What is required is the courage and will to do the same. **Only honest, fair, credible, capable and men of character and integrity, should contest elections and be the key policy makers.** The only way to remedy the existing problem of criminalization is to immediately act upon the plausible solutions offered by various committees, civil society and citizens. Problem of criminalization can only be regulated by adopting practical, attainable and stringent measures.

In this backdrop, the Hon'ble JPC members should also take note of the following impediments before taking further course of action concerning the proposed Bill;

a) Already existing gaps, vacuum, void, or infirmity in legislation dealing with criminality in politics.
b) Lack of action on part of the Legislature and the Executive to fill the gap or correct the infirmity.
c) Accountability of political parties and their key office bearers.
d) Unceasing entry of candidates with serious criminal background into the electoral arena.
e) Public interest is suffering.

ADR, therefore, strongly feels and endorses following recommendations that need to be acted upon immediately without causing anymore delay and damage to our *Participatory democracy* and *Rule of Law.*

I. **Disqualification on 'charges framed by the court'**: Problem of criminalization can be tackled if candidates with criminal background are outrightly banned from entering the electoral process based on both stage and degree of crime. This can be achieved by disqualifying candidates from contesting elections to the public offices against whom 'charges have been framed by court' for having committed serious criminal offences punishable by imprisonment of at least 5 years, and the case is filed at least 6 months prior to the election in question.

II. **Permanent disqualification in heinous offences**: It is inexcusable and repugnant to have Lawmakers convicted of heinous crimes making policies for us and this nation. There should be a permanent disqualification of candidates convicted for heinous crimes like murder, rape, smuggling, dacoity, kidnapping, robbery etc.

III. **Criteria for selection of candidates**: There should be a strict criterion for selection of candidates by political parties. As per the *Supreme Court judgment dated 13th February*

2020, political parties are already required to give reasons for selection of candidates and why other individuals without criminal antecedents could not be selected as candidates. As per the judgment the reasons as to selection shall be with reference to the qualifications, achievements and merit of the candidate concerned, and not mere "winnability" at the polls.

IV. **Officer bearers of a political party to file annual information on criminal antecedents:** Political party should annually file the information on criminal antecedents of their Office Bearers such as President, Secretary, General Secretary, Chairperson, Convenor, Treasurer etc and make such records available to the public, including NIL records.

V. **Fast tracking of cases for MLAs/MPs**: All pending cases against MPs and MLAs should be fast tracked and brought to conclusion within a period of one year as mandated by the Supreme Court orders dated 10th March 2014 and 1st November 2017. This will also help in ensuring that the arbitrary and unbridled power given under Section 321 of the CRPC is not misused by the governments of the day by ordering withdrawal of cases pending against powerful politicians, ministers and other rich and powerful people.

VI. **List of political parties to be prepared and shared by ECI**: Election Commission of India is expected to implement the 25th September 2018, 13th February, 2020 and 10th August, 2021 SC orders in its letter and spirit by listing out names of such tainted candidates selected by the political parties along with such reasons for such selection. This list needs to be religiously prepared and submitted to the Supreme Court after every election and the same should be uploaded on ECI's website and published prominently in regional and national newspapers for public inspection.

VII. **De-recognition of political parties**: Failure to abide by the Supreme Court directions dated 25th September, 2018, 13th February 2020 and 10th August 2021 should be treated as a serious breach under Paragraph 16A of the Election Symbols (Reservation and Allotment) Order, 1968. Paragraph 16A gives power to the Commission to suspend or withdraw recognition of a recognised political party for its failure to observe Model Code of Conduct or follow lawful directions and instructions of the Commission.

VIII. **Prior announcement of candidates contesting elections**: List of candidates contesting elections should be announced at least 3 months prior to elections and they should be required to submit affidavits stating specific reasons for changing/joining a particular party and approximate amount to be spent by them in the next elections and of the source thereof. All this information should be placed in the public domain.

IX. **Parties must face consequences for breach**: Political Parties must realize that the appeal to select honest, credible candidates by various stakeholders; citizens, judiciary, constitutional bodies is mandatory and therefore the compliance is not optional. Parties should be held accountable for brazenly defying the Supreme Court's orders dated 25th September,2018, 13th February 2020 and 10th August 2021. There should be a heavy financial penalty levied on them

for making insufficient disclosures, invalid and common reasons, selection of candidates based on winnability, failing to submit the Compliance Report on time etc. Officer in-charge of a political party pertaining to submission of a compliance report should also be held accountable for such a breach.

X. **Introduce provisions for inner-party democracy within political parties**: Inspite of being one of the largest democracies in the world, our political parties which run this democracy are painfully undemocratic in their functioning. Political parties have miserably failed in their 'Code of conduct' and self-initiated reforms for themselves. Therefore, mandatory provisions should be made to introduce inner-party democracy, transparent decision making, ticket distribution, elections of office bearers, financial transparency and stronger organisational discipline within the political parties. This should include mandatory secret ballot voting for all elections for all inner party posts and selection of candidates, as suggested by the 170th Law Commission Report.

XI. **More power to NOTA**: The Supreme Court judgment dated 23rd September, 2013 on provision of NOTA button on the EVMs was introduced to persuade the political parties to field better candidates, however it failed to do so. NOTA button on the EVMs needs to be implemented in its letter and spirit. Hence the next logical steps need to be implemented as follows:

a) If NOTA gets more votes than any of the candidates, none of the candidates should be declared elected, and a fresh election should be held;

b) In the fresh election, none of the candidates in the earlier election, in which NOTA got the highest number of votes, should be allowed to contest.

XII. **Declare Political parties as Public Authorities:** Bringing parties under RTI law will not only empower the citizens to question, audit, review, examine, and assess information like inner party elections, criteria for ticket distribution but it will also allow people to seek definite and direct answers from the office bearers for the kind of candidates being fielded by our political parties. Therefore, it is high time that the Supreme Court of India takes note of this current predicament and upholds and implements the 3rd June, 2013 CIC order by bringing the parties under the ambit of RTI Act.

XIII. **A comprehensive law to regulate political parties' affairs**: Political parties are the ultimate repository and guardian of our whole constitutional, democratic, social-economic set up but we don't have a single comprehensive law entirely dealing with political parties. In absence of a comprehensive law, citizens cannot question, appraise and audit the functioning of political class and politicians. Therefore, there is a dire need for a comprehensive legislation regulating

the functioning of political parties, recognition of their party constitution, election at various levels of party organs, conditions for registration and de-registration, compulsory maintenance of accounts, women representation at organisational positions, as recommended in the '170th Law Commission Report, Part III, Chapter I' and Chapter 8 of the NCRW report.

D. Conclusion:

In this backdrop, it is proposed and suggested that the provisions of the 130th Amendment should read in effect;

"Any Minister, PM, CM, MP or MLA against whom criminal charges have been framed by the court against offences mentioned under Section 8(1), (2) &(3) of the Representation of People Act,1951 and for offences which on conviction would result in a sentence of at least 5 years, would be automatically relieved of his or her position".

Maj. Gen. Anil Verma (Retd) **Head,** Association for Democratic Reforms, National Election Watch 011 4165 4200, adr@adrindia.org, anilverma@adrindia.org	**Prof Trilochan Sastry** **IIM Bangalore (Retd)** **Chairman, Founder Member & Trustee,** Association for Democratic Reforms, National Election Watch tsastry@gmail.com	**Dr Ajit Ranade** **Economist** **Founder Member & Trustee,** Association for Democratic Reforms, National Election Watch ajit.ranade@adrindia.org