

INTERNAL PARTY DEMOCRACY AND RIGHT TO RECALL- AN ANALYSIS OF ALTERNATIVES TO 130TH CONSTITUTIONAL AMENDMENT BILL, 2025

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Abstract

The 130th Constitution Amendment Bill proposes removing the Prime Minister, chief ministers, and ministers from office upon prolonged detention. The bill, in its attempt to imbue accountability and constitutional morality at the higher echelons of the executive branch of government, relies on *ex post* removal, which undermines representative autonomy by converting democratic trust into a punitive sanction. Moreover, the bill, while addressing a symptom of political decay, is in conflict with the hallowed legal principle of the presumption of innocence. The paper posits that more profound and democratically coherent alternatives lie in strengthening two pillars of popular sovereignty: the proactive, structural reform of Internal Party Democracy (IPD) and the reactive, direct accountability of the Right to Recall (RTR). Building on these two pillars, the paper advances a two-tier normative framework: structural accountability, grounded in intra-party democracy, and contingent corrective mechanisms, in which narrowly tailored recall may supplement, rather than replace, structural reforms. In effect, these robust and philosophically sound pathways strengthen Indian democracy more than the narrow legalism of the proposed amendment.

I Introduction

IN INDIA, political parties are the “pivots of democratic forms of government”. They serve as the central linkage between the citizenry and the state, tasked with aggregating public opinion, enrolling individuals as members, presenting candidates for elections, and formulating public policy.¹ However, the functioning of this vital institution in India has been a matter of concern lately for a myriad of reasons. The contemporary political landscape is marred by what has been described as a macabre dance of flagging ethics, opaque functioning, and a growing disconnect between the electorate and their representatives.² The resultant democratic deficit is acutely manifested in the rising criminalisation of politics and the entrenchment of dynasticism. Political parties, in their quest for electoral victory, have increasingly nominated

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1 Konrad Adenauer Stiftung, “Political Parties- Functions and Organisation in Democratic Societies” 16 (2011).

2 Leo Huberts, Muel Kaptein, *et.al.*, “Integrity Scandals of Politicians: A Political Integrity Index” 24 *Public Integrity* (2022).

candidates with criminal records and high net worth, prioritising a nebulous “winnability” over integrity and merit. This has led to a situation where, in the Lok Sabha of 2024, as many as 46% of Members of Parliament (MPs) had pending criminal cases against them, an increase from 43% in 2019.³ The roots of this problem, among other possible reasons, can be traced directly to the lack of intra-party democracy in Indian political parties, which have largely become “closed autocratic and dynastic structures”.

In response to address this crisis of accountability, the government proposed the Constitution (One Hundred and Thirtieth Amendment) Bill, 2025, during the 2025 monsoon session of Parliament. The Bill seeks to amend Articles 75, 164, and 239AA of the Constitution to create a legal framework for the removal of the Prime Minister, a Union Minister, a Chief Minister, or a state minister if they are arrested and detained in custody for 30 consecutive days on an allegation of committing a serious criminal offence.⁴ The stated objective is to uphold “constitutional morality and principles of good governance” by ensuring that individuals facing such serious allegations do not continue to hold high office and diminish the public’s constitutional trust. While the objectives are born from a genuine concern and are laudable, however a closer scrutiny of the bill showcases it as a mere symptomatic treatment that fails to address the underlying pathology. The bill is a reactive response and a state-driven mechanism that introduces significant risks,⁵ including the potential for executive misuse to destabilise elected governments and the erosion of the presumption of innocence.

Instead of this narrow and perilous fix, the paper argues for two principal alternatives. The first is strengthening Internal Party Democracy (hereinafter, IPD), which addresses the problem at its source. By mandating democratic processes for candidate selection and leadership appointments within parties, IPD can act as a pre-emptive filter against the entry of undesirable elements into the political arena. At the same time, it establishes a culture of ethical and moral management in political parties, which ensures that in the event of deviation from allegiance to the constitutionally abided oath,⁶ by a member, then no matter what constitutional post he/she holds, party members, by initiating a

3 Association of Democratic Reforms (ADR), “25 Years of Strengthening Indian Democracy”, *available at*: <https://adrindia.org/content/46-percent-mps-have-criminal-cases-93-percent-are-corepatis-only-14-percent-women-adr-report> (last visited on Feb. 1, 2026).

4 The Constitution (One Hundred and Thirtieth Amendment) Bill, 2025, *available at*: <https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/130th%20eng820202532515PM.pdf?source=legislation> (last visited on Feb. 1, 2026).

5 Manish Tiwari and Srijan Thakur, “Custody is Not Conviction: The Threat to Rule of Law”, *available at*: <https://www.orfonline.org/expert-speak/custody-is-not-conviction-the-threat-to-rule-of-law> (last visited on Feb. 1, 2026).

6 With reference to oaths or affirmations provided under Schedule III of the India Constitution.

democratic process, can ask for his/her resignation.⁷ The second alternative lies in a carefully structured Right to Recall (hereinafter, RTR), a tool of direct democracy that empowers the electorate to hold its representatives accountable for non-performance or misconduct during their tenure.⁸ Where the electorate holds the power to appoint one to these high constitutional offices, the same electorate must have means and modes to recall its representatives if they fail to honour the mandate. The idea is not novel, as the same is in place for panchayats⁹ and has been featured in various private member bills.¹⁰

II Accountability in democratic theory: Theoretical and philosophical underpinnings

At the heart of the debate at hand lies the question of democratic theory and constitutional design. The modern democracies of the 21st century comprise the elements of both procedural democracy (free elections, secret ballots, rule of law) and substantive democracy (social justice, equality, and robust participation). Among the substantive elements, Intra-party democracy is arguably a critical component as it ensures that political power is not monopolised by elites, a practice well aligned with the democratic ideals.¹¹ If the parties are meant to be ‘representatives of the people, for the people, and by the people’, then their internal functioning must reflect the popular will.¹²

The chief architect of the Constitution of India, Dr. B. R. Ambedkar, in his writings, saw the Constitution as an embodiment of ideals of liberty, equality, and fraternity, and he was wary of any tendencies toward authoritarianism- even within democracy itself. He cautioned that “in politics, Bhakti or hero worship is a sure road to degradation and eventual dictatorship”. In other words, unchecked loyalty to a leader (as often happens in party structures) undermines democratic self-governance. It

7 Saurabh Raj, “Exploring New Political Party Experiments in India: Intra-Party Democracy, Transparency, Candidate Selection, and Mobilization” 10 *Journal of Power, Politics & Governance* (2024).

8 Sanjay Kesavan, “Right to Recall: Will the Popular Demand Prevail in India?”, *available at*: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4820032 (last visited on Sept. 1, 2025).

9 *Id.* at 3.

10 The Representation of the People (Amendment) Bill, 2016, *available at*: <https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/3407.pdf?source=legislation> (last visited on Sept. 1, 2025).

11 Association of Democratic Reforms (ADR), “25 Years of Strengthening Indian Democracy”, *available at*: <https://adrindia.org/content/explained-what-meant-intra-party-democracy-and-why-must-more-political-parties-adhere-it> (last visited on Sept. 1, 2025); See also, S. Bagg, and U. Bhatia, “Intra-party democracy: a functionalist account” 30 *Journal of Political Philosophy* (2022).

12 *Ibid.*

was his insights into the inheritance of the principle of democracy that underpins the normative case for internal democracy: if party ‘bosses’ hold unchallenged sway, candidates may be chosen for loyalty or nepotism, rather than merit or public interest.¹³ On Right to Recall, Ambedkar locates its genesis in empowering the masses; for him, mechanisms like recall could educate and engage voters, though he ultimately did not accept such an amendment in 1947.¹⁴ These measures were debated and, though loosely implemented, aimed to denounce personality cults around leaders and empower voters and party members to have meaningful control, lest even a ‘universal adult franchise’ devolve into symbolic ritual under oligarchic parties.¹⁵

At this juncture, two contrasting viewpoints emerge, i.e., of representative democracy theorists¹⁶ (e.g., Madisonian liberalism) and direct democracy theorists¹⁷ (following Rousseau’s concept of general will). Representative theorists hold that elected officials must have some autonomy between elections, fearing that too much direct control (such as recall) would make governance erratic.¹⁸ They argue that stable policy-making and minority protection require insulation from constant political pressures (in consonance with Ambedkar’s reluctance to recall). On the other hand, direct democracy theorists value continuous popular oversight. For them, Right to Recall embodies this ideal- voters retain ultimate sovereignty at all times. Corruption crusader Anna Hazare, too, supported the recall of MPs who reneged on their mandate, framing it as a right of citizens to keep their agents accountable.¹⁹ Modern pluralist thinkers also justify recall as a remedy against corruption and tyranny- a “safety valve” for public frustration.²⁰

13 *Id.* at 7.

14 Richa, “The Right to Recall – A Step Forward to Strengthen the Democracy” 5 *International Research Journal of Commerce and Law* (2018).

15 Philosophically, the universal adult franchise embodies the principle of popular sovereignty. However, when political parties are oligarchically controlled by a small elite and lack internal democracy, they become unaccountable gatekeepers of choice. They present voters with a pre-selected slate of candidates who serve the party elite, not the public. The citizen’s vote is thus reduced to a symbolic ritual: a mere ratification of a choice already made, hollowing out the act of its genuine democratic power.

16 Simon Tormey, “The Contemporary Crisis of Representative Democracy” 1 *Democratic Theory* (2014).

17 Elliot Bulmer, *Direct Democracy* (International Institute for Democracy and Electoral Assistance, Sweden, 2017).

18 *Supra* note 16.

19 Association of Democratic Reforms (ADR), “25 Years of Strengthening Indian Democracy”, available at: <https://adrindia.org/media/adr-in-news/anna-we-need-right-reject-and-right-recall> (last visited on Sept. 3, 2025).

20 Yanina Welp and Laurence Whitehead (eds.) *The Politics of Recall Elections* (Palgrave Macmillan, Oxford UK, 2020).

Pragmatically, however, no mature liberal democracy has fully embraced the ‘right to recall’ at the national level (though this proposition has been countered in succeeding sections). Constitutional design has typically reserved such tools for extreme cases. Ambedkar’s own hesitation reflected concern that a diverse country like India might misuse recall as a constant battleground (as Sardar Patel warned, even one “black sheep” should not provoke disfigurement of entire constituencies).²¹ It is this eternal tension between ideal accountability and political pragmatism that neither lofty abstractions nor the novel 130th Constitution Amendment Bill alone could have answered.

III A Threadbare analysis of the 130th Constitutional Amendment Bill, 2025

The 130th Constitutional Amendment Bill, 2025, is a targeted legislative intervention focused on a specific aspect of political accountability. The Bill proposes the insertion of new clauses into articles 75, 164, and 239AA of the Constitution that govern the executive.

Under Article 75 (Union Council of Ministers), a new clause (5A) would be added, which mandates that a Union Minister who is arrested and detained for 30 consecutive days for an offence punishable with five or more years of imprisonment “shall be removed from his office by the President on the advice of the Prime Minister”. If the Prime Minister fails to tender this advice by the 31st day, the Minister “shall cease to be a Minister” automatically. The same clause applies to the Prime Minister, who would be required to tender their resignation, failing which they would cease to hold office.

Similarly, in Article 164 (State Council of Ministers), a parallel new clause (4A) is proposed for the states. It mirrors the provisions for Union Ministers, empowering the Governor to remove a Minister on the advice of the Chief Minister under the same conditions of arrest and detention. It also contains the same automatic cessation and resignation requirements for Ministers and Chief Ministers, respectively. Article 239AA (Special provisions for Delhi), with the new clause (5A), extends the same framework to the Council of Ministers in the National Capital Territory of Delhi, with the President acting on the advice of the Chief Minister.

The trigger for this entire process is twofold: the *alleged* offence must be punishable with imprisonment for a term of five years or more, and the individual must be arrested and detained in custody for a continuous period of thirty days. The Bill clarifies that nothing prevents such a Minister or Prime Minister from being re-appointed upon their release from custody. Unlike criminal disqualification (under the RoPA, 1951 occurs only upon conviction²²), this provision treats mere detention

²¹ *Supra* note 14.

²² Parv Gupta, “Disqualification of Convicted Representatives of the Electorate and the Legality of the Vote Cast” 2 *International Journal of Legal Science and Innovation*(2020).

as a ground for ouster. The bill further notably dispenses with any need for a court to adjudicate guilt, as the moment the 30-day period elapses, the removal is mandatory. And there is no provision for interim bail or conviction certainty; an *innocent* minister could be ousted simply because a charge was lodged and extended. While the proponents insist the bill addresses *chronic criminalisation*, with the claim that if a minister is clearly engaged in serious criminal conduct (as evidenced by sustained detention), then removing them protects constitutional morality. The core argument here is that when a Minister is arrested and detained for a serious criminal offence, their continued presence in office may “thwart or hinder the canons of constitutional morality and principles of good governance”. The Bill identifies a constitutional vacuum, noting that there is currently “no provision under the Constitution for removal of a Minister who is arrested and detained” under such circumstances.

This rationale is not without merit. It directly confronts the deeply unsettling issue of criminalisation in Indian politics. As data from the Association for Democratic Reforms (ADR) shows, the percentage of MPs from the Bharatiya Janata Party (BJP) and Indian National Congress (INC)- two key political parties, keeps on surging, each passing election.²³ Thus, the bill addresses the concerns at three levels: It fills the legislative vacuum, acts as a potential deterrent to criminals entering politics, and restores public trust in the executive branch of government.

On the other side, critics argue this violates the “innocent until proven guilty” rule. Also, since the Ministerial Code of Conduct²⁴ already provides for resignation or removal upon serious allegations, the bill merely tries to hardwire that into the Constitution, at the cost of principles of natural justice. The bill, in its current form, sets a lower threshold than the existing law. Under Section 8 of the RoPA, 1951, only a conviction carries disqualification, and the Supreme Court in *Lily Thomas*²⁵ affirmed that it is the conviction that triggers the ouster. This lowering of the threshold poses a significant hurdle in cases of UAPA or Money Laundering, where bail is constrained by the twin test under Section 45 of the PMLA.²⁶ Furthermore, custodies are often extended by repeated supplementary complaints filed by the Enforcement Directorate (ED) to delay trials. In effect, 30-day custody is not a marker of guilt, but of how long investigations take and the state’s power to prolong detention. Undoubtedly, the bill calls for reappointment, but it provides no remedy for people’s mandate once

23 *Supra* note 3.

24 Ministry of Home Affairs, Government of India, Code of Conduct for Ministers (Both Union and State), *available at*: <https://www.mha.gov.in/sites/default/files/CodeOfConduct-280513.pdf> (last visited on Sept. 5, 2025).

25 *Lily Thomas v. Union of India*, AIR 2013 SC 2662.

26 Twin conditions for bail under the PMLA, *available at*: <https://www.metalegal.in/articles/twin-conditions-for-bail-under-the-pmla> (last visited on Sep. 5, 2025).

dishonoured, and no reappointment can restore the dignity damaged in public perception.²⁷

The bill further centralises the power, since only the Prime Minister or the Chief Minister can advise on the removal. With this, the bill ensures that the collegial sanctity of the Council of Ministers is reduced to the discretion of one. Not to mention that such a concentration of authority had, in the past, resulted in the abuse of power, the violation of the fundamental rights of citizens, and the undermining of the balance the framers envisaged. The timeframe for custody that led to the removal of the PM, CM, or a Minister constrained the process of judicial review. As in *S R Bommai*,²⁸ the Supreme Court held that, while the advice of the Prime Ministers to the President of India or CM to the Governor cannot be examined, but the factual basis of the action can be tested. The courts may therefore look into whether the 30-day custodial conditions are lawfully met or not. But considering the pace at which judicial machinery operates in India, the elected leader may already be removed and the people's choice set aside by the time courts take up the issue and deliver.

The bill in effect weakens the basic structure of the Constitution by shifting the decisive power from Parliament and the courts to the unelected executive. The bill in its current form offers a punitive, top-down approach that bypasses legislative and judicial processes. It is premised on the view that existing safeguards have failed and that extraordinary constitutional intervention is needed. Yet this very novelty of using detention as a trigger' raises both legal and democratic concerns. In sum, the bill presents a façade of accountability; its potential for misuse and its disregard for fundamental legal and democratic principles make it a problematic solution. This necessitates a search for alternatives that are not only more effective but also more aligned with the democratic ethos they seek to protect.

IV The alternatives

If the 130th Amendment Bill is a reactive cure for a diseased political actor, Internal Party Democracy and Right to Recall are forms of medicine designed to strengthen the health of the entire political ecosystem. In both the principles, *i.e.*, IPD and RTR, the argument is simple yet profound"- A political party or actor which does not respect democratic principles in their internal workings cannot be expected to respect those principles in the governance of the country. It cannot be democratic and ethical principles violators internally and democratic in its functioning outside".²⁹

27 Indian Express, "Bill on removal of ministers — bad in law, liable to misuse", *available at*: <https://indianexpress.com/article/opinion/columns/bill-on-removal-of-ministers-bad-in-law-liable-to-misuse-10240299/> (last visited on Sept. 5, 2025).

28 *S R Bommai v. Union of India*, AIR 1994 SC 1918.

29 *Supra* note 7 and 8.

The concept and significance of internal party democracy

Broadly, intra-party democracy refers to the range of methods used to involve party members in deliberation and decision-making across various party functions. This is not a monolithic concept, as parties can be democratic in very different ways. However, its core can be understood through the principles of ‘inclusiveness’, which relate to the persons responsible for making key decisions, and ‘decentralisation’, which describes the extent to which decisions are delegated outside a single body. The philosophical underpinnings of IPD are threefold.³⁰ First, it has the potential to create a virtuous circle linking ordinary citizens to government, benefiting not only the party but also enhancing the stability and legitimacy of the democracies in which these parties compete. Second, it allows party members to hold their own leaders accountable and participate meaningfully in policy decisions, fostering internal competition and representation. Lastly, in an era of declining party membership, offering members a genuine opportunity to influence decision-making can combat citizen dissatisfaction and provide powerful incentives for participation.

In India, despite the theoretical importance of IPD, its practice remains deeply deficient. The political parties in India, despite being integral to the constitutional process, work in isolated chambers, where there is no comprehensive legislation governing their internal democracy, transparency in funding,³¹ or accountability mechanisms. The only statutory requirement is Section 29A of the RoPA 1951, which mandates that parties provide the Election Commission with certain internal data regarding office-bearers and their constitution, with no mandate for internal democratic elections or primaries within parties. As a result, centralised candidate selection³², scourge of dynasticism,³³ and links to criminalisation³⁴ seeps deep inside their functioning.

Judicially, the Supreme Court has so far refrained from enforcing internal democracy. In *Public Interest Foundation v. Union of India*,³⁵ a nine-judge bench struck down RPA amendments that would have disqualified candidates with criminal charges and, in

30 Susan E. Scarrow, Paul D. Webb, *et.al.* (eds.), *Organizing Political Parties: Representation, Participation, and Power* (Oxford University Press, London, 2017); see also, *Supra* note 7.

31 Centre for Policy Research and Hanns Seidel Foundation, “India’s Political Parties” (2022); see also, Andrew Wyatt, “Introduction: Researching political parties at the grassroots in India” 61 *Commonwealth and Comparative Politics* (2023).

32 Arvind Magesan, Andrea Szabó, *et.al.* “Candidate Selection by Parties: Crime and Politics in India” *University of Houston Press* (2024).

33 Kanchan Chandra (ed.), *Democratic Dynasties- State, Party, and Family in Contemporary Indian Politics* 107 (Cambridge University Press, 2016).

34 Sriya Shubhalaxmi Mishra, “The Concept of Criminalization of Politics in India”, *available at*: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3598954 (last visited on Sept. 9, 2025).

35 *Public Interest Foundation v. Union of India*, AIR 2018 SC 4550.

obiter dictum, noted that only Parliament, not the courts, can prescribe internal-party democracy rules. Similarly, in *S. Subramaniam Balaji v. Tamil Nadu*,³⁶ the Supreme Court indicated that parties are not subject to fundamental duties or fundamental rights in the usual sense, making direct enforcement tricky. So, party regulation would be done *via* statute or EC guidelines, not through the Constitution. Indeed, the court has emphasised that parties' freedom of association is constitutionally protected. This leaves the matter to legislators: to date, no enabling legislation has emerged, despite recurring PILs like that of Ashwini Upadhyay, which seek election norms and party regulations.³⁷

IPD as a proactive solution

Instead of merely removing tainted ministers from their offices, strengthening IPD would prevent many of them from getting there in the first place. This requires decisive state intervention, as parties have shown little interest in reforming themselves, and as stressed above, there is a compelling need for a comprehensive law governing the formation, functioning, and regulation of political parties, a measure recommended by numerous expert bodies. To start with, the 170th Report of the Law Commission of India³⁸ published in 1999, strongly argued for the introduction of a new part in the Representation of the People Act, 1951, dedicated to the "Organisation of Political Parties". The members of the commission observed that:

"...With a view to introduce and ensure internal democracy in the functioning of political parties, to make their working transparent and open and to ensure that the political parties become effective instruments of achieving the constitutional goals set out in the Preamble and Parts III and IV of the Constitution of India, it is necessary to regulate by law their formation and functioning."

Then, in 2002, the National Commission to Review the Working of the Constitution (NCRWC) went further, recommending a "Political Parties (Registration and Regulation) Act". Commission in its Report on Electoral Processes and Political Parties appropriately recognised that "no electoral reforms can be effective without reforms in the political party system". It suggested that this law should make it compulsory for parties to "hold regular elections at an interval of three years at their various levels" and ensure their doors are open to all citizens.³⁹ Taking a stride further, the ARC's 2008 Ethics and Governance report also alluded to the importance of inner-

36 (2013) 9 SCC 659.

37 *Ashwini Kumar Upadhyay v. Union of India and Ors.* WRIT PETITION (CIVIL) NO. 43 OF 2022.

38 Law Commission of India, "170th Report on Reform of The Electoral Laws" (May, 1999).

39 The National Commission to Review the Working of the Constitution, "Report of the National Commission to Review the Working of the Constitution" (March, 2002).

party democracy, noting that corruption is caused by over-centralisation, since “the more remotely power is exercised from the people, the greater is the distance between authority and accountability”.⁴⁰ To walk the talk, in 2011, a draft Political Parties (Registration and Regulation of Affairs, *etc.*) Act, 2011, was prepared under the guidance of Justice Venkatachalaiah and submitted to the Law Ministry. Section 6 of the draft Act envisaged the creation of an Executive Committee for every political party, whose members would be elected by members of the local committees of the State units of the party, and who themselves would elect the office-bearers of the party from amongst themselves (without accepting any nominations).⁴¹ However, the draft couldn’t materialise into law.

Lately, the 255th Report of the Law Commission of India⁴², building upon the aforementioned discourse and taking cues from legislations in operation worldwide, recommended that introducing internal democracy and transparency within political parties is important to promote financial and electoral accountability, reduce corruption, and improve the democratic functioning of the country as a whole. The report reiterated the recommendations of the 170th report titled “Regulation of Political Parties”. The report highlighted that such a law would move the internal functioning of parties from the private sphere into the public, regulated domain, making democratic functioning a prerequisite for their existence.

While regulation is key, cultural change is also necessary. Experiments in IPD, even if flawed, provided valuable lessons in the past. The Congress’s experiment with US-style primaries in 16 constituencies before the 2014 Lok Sabha elections was a pioneering experiment. Though it was criticised for many incumbents or their associates winning, and for controversies arising, it represented a symbolic shift towards broader participation.⁴³ Similarly, the internal elections of the Indian Youth Congress (IYC), managed by an independent NGO, the Foundation for Advanced Management of Elections (FAME), were a unique exercise where an external agency was used to ensure a free and fair process.⁴⁴ This model could potentially be adopted by parent

40 Department of Administrative Reforms & Public Grievances, MoPP and P, Government of India, “Fourth Report of the Second Administrative Reforms Commission, Ethics in Governance” (2007).

41 The Political Parties (Registration and Regulation of Affairs, *etc.*) Bill, 2011 (Draft), *available at*: <https://www.adrindia.org/sites/default/files/Bill%20on%20pol%20parties.pdf> (last visited on Sep. 7, 2025).

42 Law Commission of India, “255th Report on Reform of The Electoral Laws” (March, 2015).

43 The Indian Express, “Primary and practice-The Congress experiment may call forth unintended consequences”, *available at*: <https://indianexpress.com/article/opinion/columns/primary-and-practice/> (last visited on Sep. 7, 2025).

44 The Hindu, “FAME to audit Youth Congress polls”, *available at*: <https://www.thehindu.com/news/cities/Vijayawada/fame-to-audit-youth-congress-polls/article3327745.ece> (last visited on Sep. 7, 2025).

parties to lend legitimacy to their internal polls. Likewise, shedding the older relics, newer political entities like Swaraj India have built robust IPD mechanisms into their very structure, such as a presidium model for collaborative decision-making and a multi-layered, merit-based candidate selection process.⁴⁵ These examples demonstrate that greater internal democracy is not an unattainable ideal. By combining robust legislation and a powerful regulator with a political culture that encourages and learns from such democratic experiments, India can tackle the root causes of political decay. This foundational reform is a far more profound and sustainable alternative than the punitive, post-facto measure offered by the 130th Amendment Bill.

In addition, the recourse to IPD provides twin solutions, *i.e.*, to prevent tainted members of political parties from climbing up high in the party hierarchy and holding constitutional posts, and secondly, even if such members reach those higher offices, the strict democratic functioning of internal works ensures that the majority of party workers and members hold the reins and recall these tainted leaders. IPD, in essence, helps political parties avoid tarnishing their own image among their cadre and masses, thereby encouraging them to adopt the same. Contrarily, the provisions under the Constitution Amendment Bill are both reactive and punitive, which may not go down well with opposition parties, given that arrests of leaders are often politically motivated by law enforcement agencies operating under the direction of the ruling party. Strict enforcement of IPD mitigates these concerns in the first place, as removal, reprimand, or censure of leaders is carried out by their own party members.

The right to recall - A tool for direct accountability

If Internal Party Democracy is the pre-emptive strategy to ensure better representatives are elected, the Right to Recall (RTR) is the ultimate tool of post-election accountability, placing power directly in the hands of the sovereign- the people.⁴⁶ It is a process that allows voters to remove an elected official from office before the end of their term through a direct vote. It transforms accountability from a periodic event at election time into an ongoing process, serving as a “democratic disincentive” for poor performance and abuse of office. The philosophical contours of RTR are rooted in the principle of popular sovereignty. If the people have the right to elect their representatives, it is argued that they should also possess the inherent right to “de-elect” them. Normatively, recall also embodies equality: each voter’s power remains constant throughout the term, reflecting the idea that *mandates* are conditional on ongoing performance.

The primary argument for introducing RTR in India is its potential to remedy the severe accountability deficit. Once elected, often for a five-year term, representatives

45 The Constitution, Swaraj India, *available at*: <https://swarajindia.org/constitution/> (last visited on Sept. 7, 2025).

46 *Supra* note 8.

face no provision for general incompetence or electoral discontent as grounds for vacating their seat. The RTR therefore offers a potent solution to issues of non-performance, corruption, and the empowerment of the electorate. Contrarily, RTR undermines the stability and deliberativeness of representative government, poses a risk of excessive democracy, imposes a logistical & financial burden, has potential for misuse by vested interests, and is compatible with the First-Past-the-Post (FPTP) system⁴⁷. Undoubtedly, there are pitfalls associated with RTR, but on a normative scale, recall is a double-edged sword: it can strengthen accountability but also destabilise. Whether the positives outweigh the negatives depends heavily on design (*e.g.*, required petition size, the office covered, timing constraints) and context (political culture, media environment). For any advocate of recall, these trade-offs must be carefully managed.⁴⁸

Like IPD, the concept of RTR is not novel in India; however, recall in India has been confined to sub-national bodies. Notably, the Uttar Pradesh Panchayat Raj Act, 1947⁴⁹ introduced a recall mechanism for sarpanches *via* a no-confidence motion by the Gram Sabha. Other states gradually adopted similar provisions, and as of 2025, Uttar Pradesh, Uttarakhand, Bihar, Jharkhand, Madhya Pradesh, Chhattisgarh, Maharashtra, Haryana, and Himachal Pradesh allow the removal of Panchayat officials through local vote.⁵⁰ The typical process to initiate RTR requires a petition and a secret ballot by the Gram Sabha after a mandatory “lock-in” period of 1–2 years.⁵¹ At the urban local body level, a few states (MP, Chhattisgarh, Bihar, Jharkhand, Rajasthan) permit recall of municipal leaders. But there is no recall for MPs or MLAs. Over the decades, several attempts to introduce recall at the state or national level have failed. For instance, a 1974 constitutional amendment bill by C.K. Chandrappan (backed by

47 Sonika Bajpeyee, “Right to Recall Elected Representatives: Whether viable in the Indian Scenario?”, *available at*: https://www.indialawjournal.org/archives/volume6/issue_1/article8.html (last visited on Sep. 9, 2025).

48 The Right to Recall creates a profound philosophical trade-off between direct accountability and stable, deliberative governance. While it empowers citizens with continuous oversight, it risks chronic instability and short-term populism. This tension highlights the classic conflict between the delegate model of representation, where officials are mere mouthpieces, and the trustee model, which values independent judgment to protect against a tyranny of the majority. Although recall can act as a safety valve for public frustration, it can also be weaponized, threatening to make the state ungovernable. Its adoption is a fundamental choice about a society’s democratic priorities.

49 Uttar Pradesh Panchayat Raj Act, 1947, s. 14.

50 K.Neelima, “Right to Recall in India”, 49 *Journal of Constitutional and Parliamentary Studies* (2015).

51 *Id.*

Atal Bihari Vajpayee) did not pass.⁵² More recently, MP Varun Gandhi's 2016 private member's bill⁵³ proposed recall of elected representatives, but it, too, lapsed.

Globally, the idea of RTR is gaining traction, with major democracies opting for it. In the US, though the federal constitution contains no recall provision, despite this, currently 39 states allow voters to recall some public officials at the state or local level.⁵⁴ Of these, 19 states allow recall of statewide officials, including governors and state legislators. Notable examples include California's governor (Gray Davis was recalled in 2003) and Wisconsin's governor (Scott Walker in 2012, though a recall attempt against him was unsuccessful). Importantly, US party law (unlike in India) imposes constraints on parties' internal affairs as they rely on primaries, caucuses, and internal rulebooks.⁵⁵

Switzerland's experience is notable here because its strong direct democracy ethos includes recall tools, though they are rarely used. At the federal level, there is no recall of the executive or legislature. However, six of its 26 cantons (states) do provide for the recall of their cantonal legislatures or governments by popular vote.⁵⁶ For instance, the Canton of Uri allows voters to recall the entire cantonal council, subject to 30% of the electorate petitioning for it (even so, actual usage has been extremely limited). Notably, Swiss parties are not required by law to have internal democracy beyond the standard political processes (they do hold membership meetings and primaries by tradition). Thus, Switzerland demonstrates that recall can exist in a mature democracy without disrupting stability, but it tends to remain a measure of last resort. Swiss experts say recall was originally justified as a "security valve" to avoid revolution, but today it is obsolete given other accountability channels.⁵⁷

In the UK, the 2015 Recall of MPs Act introduced limited recall: an MP is subject to a recall petition if, for example, they are convicted and jailed, or suspended following a lengthy parliamentary ethics report. Six petitions have occurred, four succeeded,

52 The Constitution (Amendment) Bill, 1974 (insertion of new article 83A) by C. K. Chandrappan, available at: https://ckcfoundation.in/wp-content/uploads/2024/05/18_15-11-1974.pdf (last visited on Sep. 10, 2025).

53 *Supra* note 10.

54 Timothy Zick, "The Consent of the Governed: Recall of United States Senators" 817 *Faculty Publications* (1999); see also, Edward A. Fallon, "The Constitutional Right of Recall", available at: <https://law.marquette.edu/facultyblog/2011/08/the-constitutional-right-of-recall/> (last visited on Sep. 9, 2025).

55 Matthew J. Geras, "Do Party Rules Matter? An Examination of State Party Bylaws and Congressional Nominations" 51 *American Politics Research* (2022).

56 William E. Rappard, "The Initiative, Referendum and Recall in Switzerland" 43 *The ANNALS of the American Academy of Political and Social Science* (1912); see also, Steffen Schmidt, "Recall system wins ground in Switzerland", available at: <https://www.swissinfo.ch/eng/politics/recall-system-wins-ground-in-switzerland/47543070> (last visited on Sep. 9, 2025).

57 *Id.*

58 The Electoral Commission, "Petition to recall a Member of Parliament – guidance for petition campaigners", available at: https://www.electoralcommission.org.uk/sites/default/files/pdf_file/Recall-spending.pdf (last visited on Sep. 9, 2025).

illustrating a careful, judicially moderated form of recall.⁵⁸ Venezuela provides a high-profile case of executive recall. The 1999 Constitution introduced a unique mechanism: after a President has served half of the first 6-year term, voters can petition for a recall referendum. However, the recall referendum in Venezuela has been legally suspended since 2007, when a constitutional amendment extended the presidential term, resetting the recall clock. However, the Venezuelan model influenced Latin America; similar provisions exist in some constitutions (*e.g.*, Ecuador⁵⁹ and Bolivia⁶⁰).

Despite the global implementation of RTR and the pros associated with percolating deep accountability at the top echelons of the executive branch, introducing recall in India faces legal hurdles. The Constitution's silence on recall means a clear enabling law is needed. If recall is to target legislative representatives, the procedure would likely have to be enshrined by constitutional amendment, such as adding a recall provision to Part XV of the Constitution relating to elections, or by state legislation with Parliament's approval for Assemblies. One must consider consistency with Article 19(1)(c) (right to form associations) and Article 243 (Panchayat and Municipal provisions), although the latter already envisages "recall" *via* no-confidence for sarpanches, treating it as a species of local self-governance. Additionally, recall of MPs may implicate Article 102 (parliamentary membership). A new ground of disqualification (post-election recall) would be unprecedented.

Courts would likely examine challenges that may arise under Article 14 and 19 (if recall is seen as arbitrary or as infringing rights of legislators), but courts elsewhere have generally upheld recall schemes as a valid democratic exercise (importantly, Canadian provinces' right to recall laws have withstood scrutiny on equality grounds⁶¹).

59 The right to recall is primarily enshrined in Article 105 of the Constitution of the Republic of Ecuador, and through this article, the Ecuadorian Constitution grants citizens one of the most robust and expansive Rights to Recall in the world. This power, known as *revocatoria del mandato*, allows voters to remove nearly any elected official before their term ends, from the President down to local parish board members.

60 The right to recall is established in Article 240 of the Bolivian Constitution. The mechanism, better known as *Revocatoria de Mandato*, is detailed in the 2009 Constitution of the Plurinational State of Bolivia.

61 In the landmark case of *Dawe v. British Columbia* (2000), an MLA argued that the Recall and Initiative Act, 1995, violated his equality rights. The British Columbia Court of Appeal held that section 15 of the Canadian Charter of Rights and Freedoms protects against discrimination based on personal characteristics (like race, religion, sex, etc.) and analogous grounds. The court ruled that representing a rural riding is not a personal characteristic that falls under the protection of Section 15. The law doesn't target a person for who they are; it applies a rule to a geographic district. The court further recognized that the Right to Recall serves a legitimate democratic purpose: enhancing the accountability of elected officials, and the high 40% threshold of registered voters was seen as a necessary safeguard to prevent the process from being used frivolously and to ensure political stability.

In India, one predicted challenge is that recall could conflict with the concept of fixed terms and the implied tenure guarantees of Article 172 (states) and 85 (Parliament). Legislators enjoy immunity from floor-crossing, but recall could cut their terms short; the constitutional validity of such a mechanism would be novel territory.

Apart from the above-mentioned challenging legal horizons, the problems associated with RTR can be gauged by expanding recall provisions at the panchayat and municipal levels across all states to foster a culture of direct accountability from the ground up and empower citizens in their most immediate sphere of governance. Further, the thresholds for initiating a recall should be exceptionally high (e.g., supported by a majority of *all registered electors*, not just those who voted) to ensure that a recall campaign has widespread and genuine support. Lastly, instead of allowing recall for vague reasons like “dissatisfaction,” it could be limited to specific, verifiable grounds, such as a criminal *conviction* by a court of law or a finding of gross misconduct by an independent body like the Lokpal. This would prevent its use for purely political or partisan reasons. By adopting this calibrated and cautious approach, India can harness the democratic potential of the Right to Recall to enhance accountability at the levels, while avoiding the risks of instability and misuse.

V The synthesis and conclusion- Weaving the alternatives

The discourse on political reform in India is often caught between cynical inertia and radical, impractical proposals. The 130th Constitutional Amendment Bill, 2025, and the calls for a sweeping IPD and RTR represent two poles of this debate. One is a top-down, legalistic fix, while the others are bottom-up, populist demands. A comparative analysis reveals that a more effective path to accountability lies in a synthesis that prioritises foundational, structural reform over reactive, punitive measures. To chart the best way forward, it is useful to compare the three mechanisms of accountability discussed in this paper, the 130th Amendment Bill, Internal Party Democracy, and the Right to Recall, across key parameters.

Parameter	130th Amendment Bill	IPD	RTR
Nature of Action	Reactive: Triggered <i>after</i> an arrest and prolonged detention.	Proactive: Aims to <i>prevent</i> the election of unsuitable candidates.	Reactive: Triggered <i>after</i> perceived non-performance or misconduct.
Trigger Mechanism	Executive/Legal: Arrest by police and denial of bail by the judiciary.	Internal-Democratic: Regular, fair elections within the party for candidates and leaders.	Direct-Democratic: Petition and vote by the electorate.

Parameter	130th Amendment Bill	IPD	RTR
Target of Reform	A symptom (criminality/misconduct in high office).	The root cause (opaque and undemocratic party structures that select poor candidates).	A symptom (non-performance, corruption, unresponsiveness).
Key Advantage	Provides a clear, automatic mechanism for a specific, egregious situation.	Cleanses the political system from its source; strengthens the entire democratic ecosystem.	Empowers citizens directly; ensures ongoing accountability to the electorate.
Primary Risk	Political Misuse: Can be weaponised to destabilise opposition governments. Undermines presumption of innocence.	Implementation Hurdle: Requires strong political will and faces immense resistance from established parties.	Instability and Misuse: Risks perpetual political turmoil and can be used by vested interests.
Democratic Coherence	Low: Bypasses both the legislature and the electorate to nullify a democratic mandate.	High: Aligns party functioning with democratic principles; enhances representation.	Very High: Embodies the principle of popular sovereignty in its purest form.

The comparative analysis in the above table makes it clear that while all three models aim to enhance accountability, they operate at different stages of the political process and carry vastly different implications. The 130th Amendment Bill is a blunt, high-risk instrument targeting an end-stage problem, and its potential for misuse and disregard for the presumption of innocence make it a flawed and dangerous approach. The Right to Recall is a powerful but holds potential of volatile tool for the public to use post-election. Internal Party Democracy, however, is the foundational reform that addresses the problem before it even begins. A far superior strategy would be multi-pronged, prioritising deep, structural reform while cautiously experimenting with tools of direct democracy.

The cornerstone of any meaningful reforms that the amendment bill seeks to achieve must be the legislative enforcement of Internal Party Democracy. As recommended by the Law Commission and the NCRWC, a comprehensive law must be enacted to regulate the functioning of political parties. This law should, at a minimum, mandate regular, periodic, and transparent elections for all leadership positions and party

committees, from the block level to the national level, ensures democratic and inclusive process for candidate selection, moving away from the nomination-by-fiat model of the 'High Command' culture, and lastly empower the Election Commission of India, with statutory powers to de-register parties that fail to comply with the law.

While IPD addresses the supply side of political candidates, the Right to Recall can energise the demand side by keeping voters engaged and representatives on their toes. However, given its risks, its application must be calibrated. The most logical path forward is to strengthen and systematically study the RTR mechanism where it already exists at the local government level. Legislatures could be given the power to frame laws for the recall of local bodies (if not already present) and even state MLAs, without immediately touching the national Parliament. A parliamentary committee could study recall design, drawing on models such as the UK (10% signature threshold and timed petitions) to recommend an appropriate formula. Recall could be limited to removing an individual MLA (not the entire government) to avoid duplicating no-confidence mechanisms. Adequate petition thresholds (perhaps 25-33% of voters) and binding voter approval (*e.g.*, a referendum requiring majority and quorum) would minimise frivolous attempts. This will allow for the development of robust, fraud-proof procedures and help build a culture of accountability from the grassroots.

In conclusion, deepening India's democracy requires a multi-pronged strategy. Ambedkar's own thought points to the core idea: democracy is not served merely by expanding powers on paper, but by cultivating responsible self-rule among citizens and party cadres. Instituting internal party democracy aligns with the Constitution's promise of social justice and equality by democratizing power within parties. A calibrated recall mechanism, if carefully designed, can be an additional check, but it should not replace the fundamental reform of democratising political institutions. Simply enacting the 130th Amendment might address some cases of ministerial misconduct, but it would do so at the expense of legal and democratic principles and by sidelining the electorate's role. By contrast, empowering people to choose their representatives not just at election time but within parties, and giving them a rightful (though restrained) ability to de-elect truly unworthy lawmakers, would honour the deeper spirit of democracy. Combining internal reforms with targeted recall safeguards may be the balanced path forward, rather than relying solely on sweeping constitutional surgery.