



Mains Practice Question

Q. Growing criminalisation of polity is a threat to the basic structure of the constitution. Discuss. (250 words)

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Approach

- In introduction, you can give the definition of the 'criminalisation of politics' and 'basic structure'. You can also present the data describing the above phenomena.
- Give the reasons for the criminalisation of politics and its impact on society.
- Describe how it is a threat to the basic structure of the Constitution.
- Describe the Supreme Court's actions against the criminalisation of politics.
- Give way forward and conclusion.

Introduction

- According to the Association for Democratic Reforms, 43% of winners of Lok Sabha 2019 have criminal cases against them, an increase from 34% in 2014.
- The Basic Structure doctrine was first given by the Supreme Court in the Kesavananda Bharati Case, and it held that the basic structure of the Constitution could not be abrogated even by a constitutional amendment.
- Socio-economic justice and effective access to justice have been considered to be the part of the basic structure of the Indian Constitution. Lawmakers with criminal background and corruption can, therefore, be a threat to the basic structure.

Body

Impact of the Criminalization

- Lawbreakers become the lawmaker which undermines the credibility of the parliament
- Loss of public faith in the judicial machinery
- It is self-perpetuating
- According to the Padmanabhaiah committee, criminalization of politics is the main reason behind both politicization and criminalization of police

Public Interest Foundation & Others v Union of India, the petitioner held that the criminalization of politics is a threat to the basic structure of the constitution:

- It is against the Supremacy of the Constitution, as the Constitution never aimed that lawbreaker becomes the lawmaker.
- It is against the Secular character of the Constitution, as criminals often use communal statements to garner votes.
- It is against the principle of 'Rule of Law'.
- It is against the unity and integrity of India, as criminals often use divisive politics to win the election.
- It is against the principle of 'individual freedom'

- It is against the principle of free and fair elections

Judiciary action against the criminalization of politics:

- Supreme Court proposed to make political parties accountable for criminalizing politics by inviting criminals on a party ticket
 - It would direct Election Commission to insist that parties get new member to declare criminal cases against him/her
 - Publishes so whole country may know about it
 - EC can deregister party if not adhered
 - Parties should incorporate a clause in membership form requiring member to file an affidavit disclosing criminal activities
- Supreme Court accepted the Center's request to set up 12 fast track courts to prosecute criminal cases pending against MPs and MLAs within 1 year

Way Forward

- Public awareness is needed. They need to choose their leaders carefully.
- Joint supports of political parties is needed. Rapid criminalisation of politics cannot be arrested by merely disqualifying tainted legislators but should begin by "cleansing" the political parties.

Basic structure of the Constitution, essentially highlights the spirit of the document. It is important to ensure that any threat to it is dealt with immediately.

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