



Criminalisation of Politics

For Prelims: [Criminalisation of Politics](#), Association for Democratic Reforms, [Corruption](#), [Contempt of Law](#), [Black Money](#), [RP Act 1951](#).

For Mains: [Criminalisation of Politics](#), its causes and Implications.

Why in News?

Recently, the **Association for Democratic Reforms (ADR)** has revealed that the number of candidates with criminal cases has increased in all major political parties in Karnataka ahead of the 2023 Assembly Elections, highlighting the Issue of [Criminalisation of Politics](#).

- The ADR has **recommended the permanent disqualification of candidates** convicted of serious criminal offenses from contesting elections. However, such disqualifications have not been implemented yet.

What is the Criminalisation of Politics?

▪ About:

- Criminalisation of politics is defined as the **situation when criminals participate in the politics** of the government, i.e., contest elections and get elected to the Parliament and state legislatures.
- This growing menace has become a big problem for our society, affecting the basic principles of democracy, such as fairness in elections, following the law, and being accountable.

▪ Statistics:

- According to data from the ADR, the number of candidates with criminal charges elected to Parliament in India has been on the rise since 2004.
- In 2004, **24% of parliamentarians had pending criminal cases**, which rose to **43% in 2019**.
- In a petition filed in Feb 2023, it was claimed that there has been an increase of **44% in the number of MPs with declared criminal cases since 2009**.
 - In the 2019 Lok Sabha elections, **159 MPs had declared serious criminal cases against them**, including those of rape, murder, attempt to murder, kidnapping, crimes against women.

What are the Causes of Criminalisation of Politics?

▪ Vote Bank:

- Candidates and political parties **often resort to illegal means such as vote-buying** and other illegitimate practices, aided by individuals commonly referred to as "goondas".
- This culture of political crime is often **perpetuated by the close links between politicians and their constituencies** providing a conducive environment for the misuse of power and resources for personal gain, leading to **corruption and criminal activities**.

- **Corruption:**
 - The majority of candidates contesting elections require money, funds, and donations. It is pertinent to note that **corruption** directly gives rise to contempt of the law.
 - There is a **direct relationship between contempt of law and criminalisation of politics**. When **contempt of law** combines with the criminalisation of politics, it gives birth to flourishing corruption.
- **Vested Interests:**
 - People generally vote **through a narrow prism of community interests** and neglect the criminal background of the politicians.
 - This can lead to a situation where politicians with a criminal background are elected simply because **they align with the interests of a particular community, rather than being held accountable** for their actions.
- **Muscle Power:**
 - Politicians make promises to eliminate corruption and muscle power during elections, but rarely follow through.
 - The **First Past the Post (FPTP)** system favors the candidate with the most votes. The ideology behind using muscle power is that **fear and violence can help parties win if they can't gain trust**.
 - The FPTP system is also known as the simple majority system. In this voting method, the **candidate with the highest number of votes in a constituency is declared the winner**.
 - This creates a dangerous nexus between political parties and criminals.
- **Money Power:**
 - **Black money** and mafia funds contribute significantly to the criminalisation of politics. These illegal sources of money are used to buy votes and win elections, leading to a rise in criminalisation in politics.
- **Poor Governance:**
 - The poor governance of the country **also plays an important role in increasing the criminalization of politics**. There is absence of proper laws and rules for governing the procedure of the election.
 - Only the **Model Code of Conduct** is there **which is also not enforced by any statute**.

What are the Implications of Criminalisation of Politics?

- **Against the Principle of Free and Fair Elections:** It **limits the choice of voters** to elect a suitable candidate.
 - It is against the ethos of **Free and Fair Elections** which is the bedrock of a democracy.
- **Affecting Good Governance:** The major problem is that the **law-breakers become law-makers**, this affects the efficacy of the democratic process in delivering good governance.
 - These unhealthy tendencies in the democratic system reflect a poor image of the nature of India's state institutions and the quality of its elected representatives.
- **Affecting Integrity of Public Servants:** The circulation of black money makes it easier for politicians to buy votes and secure their positions, **leading to a situation where corrupt practices are normalized** and become a part of the political system.
 - This makes it difficult for honest public servants to work effectively and **can erode public trust in the government**.
- **Causes Social Disharmony:** It **introduces a culture of violence** in society and **sets a bad precedent for the youth** to follow and reduces people's faith in democracy as a system of governance.

What are the Legal Aspects of Disqualification of Criminal Candidates?

- In this regard, **Indian Constitution does not specify** as to **what disqualifies a person from contesting elections for the Parliament**, Legislative assembly or any other legislature.
- The **Representation of Peoples Act 1951** mentions the criteria for disqualifying a person for contesting an election of the legislature.
 - **Section 8 of the act** provides for **disqualification on conviction for certain offences**, according to which an **individual punished with a jail term of more than two years**

- cannot stand in an election for six years after **the jail term has ended**.
- However, the law **does not bar individuals who have criminal cases pending against them from contesting elections** therefore the disqualification of candidates with criminal cases **depends on their conviction in these cases**.

What are the Initiatives/Recommendations Against Criminalisation of Politics?

- In 1983, [Vohra Committee on Criminalisation of Politics](#) was constituted with an objective to identify the extent of the political-criminal nexus and to recommend ways in which the criminalisation of politics can be effectively dealt with.
- The **244th report (2014)** submitted by the [Law Commission](#) dealt with the need to curb the trend of criminal politicians in **legislature posing serious consequences to democracy and secularism**.
 - The Law Commission **recommended disqualification of people against whom charges have been framed** at least one year before the date of scrutiny of nominations for an offence punishable with a sentence of five years or more.
- In 2017, the Union government started a scheme to **establish [12 special courts for a year to fast track the trial of criminal cases against MPs and MLAs](#)**.
 - The apex court has since then issued many directions, including asking the Centre to **set up a monitoring committee to examine reasons** for delay of investigation in these cases.

What are the SC Judgements Regarding Criminalization of Politics?

- ***Association for Democratic Reforms v. Union of India (2002):***
 - In 2002, the SC ruled that every candidate contesting election has to declare his criminal and financial records along with educational qualifications.
- ***Ramesh Dalal vs. Union of India (2005):***
 - In 2005, the SC had ruled that a sitting MP or MLA will be disqualified from contesting the election if convicted and sentenced for imprisonment for two years or more by a court of law.
- ***Lily Thomas v. Union of India (2013):***
 - The SC has declared that any member of parliament or state legislative assembly who is convicted of a crime and **sentenced to a prison term of two years or more** would be disqualified from holding office.
- ***Manoj Narula v. Union of India (2014):***
 - The Delhi HC held that a person **cannot be disqualified** from contesting elections merely because they have been charged **with a criminal offense**.
 - However, the court also held that political parties **must not field candidates who have a criminal background**.
- ***Public Interest Foundation v. Union of India (2019):***
 - The SC has ordered political parties to **publish the criminal records of their candidates** on their websites, social media handles, and newspapers.
 - The court also directed the ECI to create a framework to ensure that the **information on candidates' criminal records was disseminated effectively**.

Way Forward

- **More Power to ECI:** Committees on electoral reforms have recommended **state funding of elections and strengthening the Election Commission to curb black money** and limit criminalisation of politics.
- **Voters' Duty:** Voters should also be **vigilant about misuse of money during elections**. The judiciary should play a proactive role by considering banning people accused with serious criminal charges from contesting elections.
- **Expeditious Judicial Processes:** Fast-tracking the judicial process **can help weed out the corrupt as well as criminal elements** in the political system. A time-bound justice delivery

system, firmer steps by the ECI and a **proper strengthening of relevant laws.**

- **Amending RPA:** Increasing criminalisation in politics calls for **an amendment in the RPA 1951** to debar the persons from contesting elections against whom any serious Nature of crimes is pending.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Mains:

Q. It is often said that 'politics' and 'ethics' do not go together. What is your opinion in this regard? Justify your answer with illustrations. **(2013)**

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