



Mains Practice Question

Q. Criminalisation of politics will be a blow to our democracy if left unchecked. In light of this statement analyse the measures taken and also suggest some possible solutions. (250 words)

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Approach

- Describe criminalization of politics.
- Enlist and describe the measures taken to eradicate criminalization of Politics.
- Suggest measures to solve problem of criminalization of politics.

Introduction:

The phenomenon of criminalization of politics means that person with criminal antecedents enter the politics and contests elections and become members of Parliament and state legislature, further they may hold influential positions in political parties even if they are not members in legislatures itself.

Measures taken

- In 2004 judgment of the **Patna High Court in Jan Chaukidari v Union of India**— upheld by the Supreme Court in 2013— all those in lawful police or judicial custody, other than those held in preventive detention, will forfeit their right to contest election.
- In **Lily Thomas v. the Union of India**, the Supreme Court declared Section 8 (4) of the Representation of the People Act, 1951, which allowed legislators a three-month window to appeal against their conviction thus delaying their disqualification until such appeals were exhausted, as unconstitutional.
- Supreme court made it mandatory for candidates to **submit an affidavit with full disclosure of criminal cases**, if any, and details of their asset and income.
- **None of the Above (NOTA) option** was also introduced by the judiciary in 2003. NOTA serves as warning to political parties that if clean political leaders are not given tickets to contest, all parties may face NOTA.
- The Supreme Court gave the green signal for setting up **12 Special courts to prosecute** and dispose 1,581 criminal cases pending against Members of Parliament and State Legislative Assemblies within a year. Due to Judicial delay politicians effectively by pass rule of law and fail to face consequences of their action.

Suggestions

- Persons charged with cognisable offences shall be de-barred from contesting in the elections, at the stage when the charges are framed by the competent court if offence is punishable by imprisonment of at least 5 years and case is filed at least 6 months prior to the election in question.
- Increasing number of fast-track courts as politicians are able to delay the judicial process and serve for decades before prosecution.
- Educating people about NOTA so that political parties can be made more accountable to the people.

- Criminalization and election funding: Criminalization and use of illegal funding is inextricably linked thus it is important to make bribery in elections a cognizable offence. The change in law has become necessary as there have been increasing incidents of bribery being detected in all elections, from local body polls to Lok Sabha elections. This is because, currently, bribery is a bailable offence attracting only minimal punishment.
- To ensure financial propriety and transparency in electoral funding, reforms such as compulsory maintenance of accounts by political parties, transparency in accounting and auditing reports of Political Parties, prohibition on anonymous donations, maintenance of separate bank accounts by each contesting candidate for poll expenses, cap on expenditure by political party on a candidate for election campaign, ceiling of campaign expenditure by political parties.

Conclusion:

- Quality of representatives in Parliament and state assemblies determines the success of democratic system of governance in system. Criminalization of Politics strikes at the root of Democracy, therefore its eradication should be top priority within larger electoral reforms.

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