



Criminalisation of Politics

For Prelims: [Criminalisation of Politics](#), [Internal democratic structures](#), [Corruption, RP Act 1951](#), [National Women's Commission](#), [National Human Rights Commission \(NHRC\)](#), [Law Commission](#)

For Mains: Criminalisation of Politics, its causes and key issues involved.

[Source: IE](#)

Why in News?

Recent cases of alleged sexual harassment of women on the various MP, MLA and government employees, sheds light on a concerning aspect of criminalisation of politics and the ethical issues involved like moral responsibility, failure to uphold professional ethics etc.

What does the Criminalisation of Politics Mean?

▪ About:

- **Criminalisation of politics** is when **people with criminal charges or backgrounds** become politicians and are elected to office.
- It can affect the basic principles of democracy, such as fairness in elections, accountability, and following the law.
- 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 [Association for Democratic Reforms \(ADR\)](#), the number of candidates with [criminal charges](#) being elected to Parliament in India has been on the rise since 2004.
- In **the 2009 Lok Sabha**, **30%** of parliamentarians had pending criminal cases, which rose to 34% in the 2014 Lok Sabha.
- In the **2019 Lok Sabha**, **233 (43%)** of 543 Lok Sabha members faced criminal charges.
 - In the 2019 Lok Sabha elections, **112 MPs (21%)** faced **serious criminal cases** against them, including those of **rape, murder**, attempt to murder, kidnapping, crimes against women.

What are the Causes of Increasing Criminalisation of Politics?

▪ Nexus between Politicians and Criminals:

- Many politicians in India have established close ties with criminal elements, often using their money and muscle power to win elections.

▪ Weak Law Enforcement and Judicial System:

- The Indian criminal justice system is often characterised by slow, inefficient, and corrupt processes, making it difficult to effectively prosecute and convict politicians with criminal backgrounds.

- A report by the [National Crime Records Bureau](#) revealed that the **conviction rate for crimes** committed by Members of Parliament and State Legislatures was **only 6% in 2019**.
- **Lack of Internal Party Democracy:**
 - Many political parties in India have **weak internal democratic structures**, allowing party leaders to handpick candidates, including those with criminal backgrounds, based on their **ability to win elections rather than their integrity**.
 - This lack of internal party democracy **undermines the ability of citizens** to hold their **representatives accountable**.
- **Voter Apathy and Lack of Political Awareness:**
 - Some voters, particularly in rural and impoverished areas, may prioritise immediate **tangible benefits** provided by criminal-backed candidates over long-term considerations of good governance and the rule of law.

What are the Ethical Issues Associated with Criminalisation of Politics?

- **Absence of Non-partisanship and Accountability:**
 - The **failure to address misconduct** within the political class, underscores a lack of accountability and ethical standards.
 - Examples of MPs facing serious criminal charges reveal a pattern of defending individuals accused of serious offences relating to women, indicating the **separation from ethical norms** across party lines.
 - This separation often originates from **intense partisanship** and prioritisation of power over ethical conduct.
 - **Lack of Democratic Accountability through Public Outrage:**
 - **Public outrage often serves as the catalyst** for action within political parties, as seen in the case of Prajwal Revanna.
 - However, the reactive nature of political responses to scandals highlights a broader **issue of accountability** within democratic systems.
 - Despite knowledge of misconduct, parties often remain inactive until forced to address public outcry, emphasising the need for more robust mechanisms of accountability beyond public pressure.
 - **Culture of Impunity and Individual Accountability:**
 - A culture of impunity diffuses through the political sphere, where norms and rules are **inconsistently enforced**, placing the burden of accountability on individual women.
 - Despite systemic failures, **courageous women** like the complainant against Revanna or the **Unnao rape survivor** have played pivotal roles in holding perpetrators accountable.
 - However, the **high personal costs of pursuing justice** highlight the **need for systemic reforms** to address impunity and ensure genuine accountability within the political sphere.
 - **Women's Empowerment as a Fallacy:**
 - Despite widespread agendas on women's empowerment, substantive progress on **women's issues** such as **respect, equality, and security** remains unaddressed.
 - While **women are mobilized as voters and beneficiaries of welfare schemes**, their **collective concerns** often remain on the periphery of political agendas.
 - The gap between promises made and action undermines the potential for meaningful progress on women's issues within the political sphere.
 - **Representation vs Empowerment:**
 - **Equitable representation alone is insufficient** for true political empowerment of women. True empowerment requires the ability to set and enforce **normative ethical and moral standards**.
 - The disconnect between representation and empowerment is evident in the limited impact of bodies like the [National Women's Commission](#), [National Human Rights Commission \(NHRC\)](#) etc
- **Nonpartisanship** refers to the state of not being affiliated with or biased toward any particular

political party or ideology. It is the idea of being neutral and unbiased in political matters, and not taking sides with one party or another.

What are the Ethical Implications of Criminalisation of Politics?

- **Societal Perspective:**
 - **Erosion of Moral Fabric:** When people with criminal backgrounds hold power, it sends a message that lawbreaking is acceptable, potentially leading to a **decline in societal ethics** and respect for the law.
 - **Reduced Civic Participation:** There is a **high chance of erosion of trust in the democratic process**. Citizens will be less likely to vote or participate in civic life if they believe the system is corrupt and unresponsive.
 - **Inequality and Exclusion:** Criminalization can **disproportionately affect marginalised communities**, limiting their representation and hindering progress on issues relevant to them.
 - **Focus on Short-Term Gains:** Politicians with criminal backgrounds can **prioritise personal gain or quick fixes** over long-term societal development.
- **Democratic Perspective:**
 - **Undermines Democratic Principles:** A core principle of democracy is electing representatives who can uphold the law. Politicians with criminal backgrounds **lack essential ethical qualities of integrity and honesty** which may lead to favouritism and unfair law-making.
 - **Free and Fair Elections:** Criminalization can distort electoral processes through **money laundering, muscle power**, and intimidation, hindering a fair chance for honest candidates.
 - **Accountability and Transparency:** When criminals hold office, they are less likely to face scrutiny or be held accountable for their actions, **reducing transparency in governance**.
 - **Challenges to India's Development:** Criminalization can hinder India's development by **diverting resources towards personal gain** or stalling crucial reforms due to vested interests.

What are the Constitutional and Legal Aspects of Disqualification of Criminal Candidates?

- **About:**
 - 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.
- **Recommendations Against Criminalisation of Politics:**
 - In **1983, the 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 [Law Commission](#) submitted its 244th report in 2014 which dealt with the need to curb the trend of criminal politicians in the 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](#).
- **SC Judgements Regarding Criminalization of Politics:**
 - **Association for Democratic Reforms v. Union of India (2002):**
 - In 2002, the SC ruled that every candidate contesting an election has to declare his criminal and financial records along with educational qualifications.
 - **PUCL v Union of India (2004):**
 - The SC ruled that a law nullifying the requirement for election candidates to disclose their criminal records was unconstitutional. The Court said voters have a right to know about candidates' backgrounds for fair elections.
 - **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 five-judge bench of the Supreme Court held that a person cannot be disqualified from contesting elections merely because they have been charged with a criminal offence.
 - However, the court also held that political parties must not field candidates who have a criminal background.
 - **Public Interest Foundation v. Union of India (2018):**
 - The SC has ordered political parties to publish the criminal records of their candidates on their websites, social media handles, and newspapers.

Way Forward

- **Strengthening Institutional Mechanisms for Accountability:**
 - **Empowering anti-corruption agencies** and the judiciary to effectively investigate and prosecute political corruption and abuse of power.
 - Establishing **stronger internal party disciplinary processes** that are transparent and impartial.
 - Ensuring the **independence and effectiveness of oversight bodies** like the **ECI, NRHC and National Commission for Women**.
- **Promoting a Culture of Ethical Conduct:**
 - **Developing a comprehensive code of conduct** for elected representatives and political party officials.
 - Mandating **ethical training and sensitization programs** for all members of the political class.
 - Imposing **stringent penalties**, including disqualification, for violations of ethical norms.
- **Empowering Citizens and Civil Society:**
 - **Improving civic education** to enhance political awareness and critical thinking among voters.
 - **Encouraging greater citizen participation** in the political process, including through grassroots movements and advocacy campaigns.
 - Supporting the **role of independent media**, watchdog organisations, and activists in investigating and highlighting issues of political misconduct.

Conclusion

Restoring accountability and ethical standards within the Indian political sphere will be a complex and long-term endeavour. However, a multipronged approach that addresses institutional, cultural, and societal dimensions can help to counter the concerning trends of criminalization and partisan protection that have

undermined the integrity of the democratic process.

Drishti Mains Question:

Q. Discuss about the criminalisation of politics with the help of examples. Also, Mention key ethical issues involved with it.

Q. Enumerate the ethical issues involved with the criminalisation of politics. Also, suggest the ethical implications of it?

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims:

Q.1 Consider the following statements: (2021)

1. In India, there is no law restricting the candidates from contesting in one Lok Sabha election from three constituencies.
2. In the 1991 Lok Sabha Election, Shri Devi Lal contested from three Lok Sabha constituencies.
3. As per the existing rules, if a candidate contests in one Lok Sabha election from many constituencies, his/her party should bear the cost of bye-elections to the constituencies vacated by him/her winning in all the constituencies.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) 1 and 3
- (d) 2 and 3

Ans: (b)

Mains:

Q.1 Discuss the procedures to decide the disputes arising out of the election of a Member of the Parliament or State Legislature under The Representation of the People Act, 1951. What are the grounds on which the election of any returned candidate may be declared void? What remedy is available to the aggrieved party against the decision? Refer to the case laws. **(2022)**

Q.2 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)**