



## News Analysis (26 Sep, 2018)

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### Parliament Should Enact Law to Cleanse Politics: SC

In the *Public Interest Foundation and ors vs. Union of India* judgment SC has ruled that it is the onus of the parliament to frame a law to prevent criminalization of politics.

Five-judges constitution bench also ruled that mere framing of charges cannot be a basis of disqualification of the candidate.

#### Background

- As per the data analyzed by the Association for Democratic Reforms (ADR) on the criminal record of Member of Parliament (MPs) and Member of Legislative Assemblies (MLAs):
  - Among the MPs elected to the 16th Lok Sabha, out of the 542 winners analyzed, 185(34%) winners have declared criminal cases against themselves. 112 (21%) winners have declared serious criminal cases including cases related to murder, attempt to murder, communal disharmony, kidnapping, crimes against women etc.
  - ADR also underlined that the chances of candidates with criminal charges were almost double as compared to clean candidates. The chances of winning of a candidate with criminal cases in the Lok Sabha 2014 elections are 13 percent while for a candidate with a clean record it is 5%.
  - In Karnataka, out of the 221 MLAs analyzed, 77(35%) MLAs have declared criminal cases against themselves. 54(24%) MLAs have declared serious criminal cases including cases related to attempt to murder, kidnapping etc.
  - In Uttar Pradesh, out of the 402 MLAs analyzed, 143(36%) MLAs have declared criminal cases against themselves. 107(26%) MLAs have declared serious criminal cases including cases related to murder, attempt to murder etc.
- The **Goswami Committee on Electoral Reforms**, in 1990, highlighted the crippling effect of money and muscle power in elections.

- The **N.N. Vohra Committee** which submitted its report in October 1993 studied of the problem of criminalization of politics and the nexus among criminals, politicians, and bureaucrats in India.

The committee had concluded that agencies, including the CBI, IB, RAW, had unanimously expressed their opinion that the criminal network was virtually running a parallel government.

- The **Law Commission of India, in its 244th report**, said that instead of politicians having suspected links to criminal networks, as was the case earlier, it was persons with extensive criminal backgrounds who began entering politics.

The Law Commission said that in the 10 years since 2004, 18% of the candidates contesting either national or State elections had criminal cases against them.

- 18th Report presented by a parliamentary committee to the Rajya Sabha in March 2007 expressed feeling that politics should be cleansed of persons with established criminal background". It said, "**criminalization of politics is the bane of society and negation of democracy**".

## SC Judgment

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### **Parliament should enact Law**

- SC left it to the wisdom of parliament to lay down law for disqualification of candidates facing serious criminal charges.
- SC mentioned that **Article 102** of the constitution specifically envisages that a ground for disqualifying one from being chosen as or being an MP is to be prescribed by a law made by the Parliament.
- Parliament should frame a law that makes it obligatory for political parties to remove leaders charged with "heinous and grievous" crimes, such as rape, murder, and kidnapping and refuse ticket to offenders in both parliamentary and Assembly polls.

- **Direction to candidates**

- Candidates must fill up forms provided by the Election Commission and state details of criminal cases pending against them in bold letters.
- A candidate contesting on the ticket of a party must inform the party about the criminal cases and the party, in turn, must put this up on its official website.
- The candidate and the party must then give this publicity by publishing it in widely-circulated newspapers in the area and in the electronic media. This must be done at least three times after the nomination is filed.

- **On Political Parties**

- SC noted that mere disqualification of the tainted legislature will not be effective rather efforts should be made to clean political parties.
- The court observed that cleansing politics from criminal elements begins with purifying political parties itself, as they are the central institution of India's democracy.
- Supreme Court referred to the Law Commission reports which pointed out that political parties have been chiefly responsible for criminalization of politics. Though the Representation of the People Act disqualifies a sitting legislator or a candidate, there is nothing regulating the appointments to offices within the party.
- Convicted politicians continue to influence law-making by controlling the party and fielding proxy candidates in the legislature.
- Political parties act as a conduit through which interests and issues of the people are represented in Parliament. They play a central role in the interface between private citizens and public life.

## Way Forward

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- Through this judgment, SC has tried to maintain the delicate balance of separation of power, as mentioned in the constitution, by not intervening in the law-making sphere of the Parliament. The judgment of the Supreme Court act as a guiding light for parliament and parliament should enforce a law for revoking the membership of person from political parties against whom serious charges are framed.
  - Not only the law, other efforts mentioned time and again should also be taken to address the issue of corruption and criminalization of electoral processes like bringing political parties under the Right to Information, state funding of election and inner-party democracy etc.
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## SC Ruled Legislators Can Continue Legal Practices

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The Supreme Court has ruled that legislators cannot be barred from working as lawyers.

### Background

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- Mr. Ashwini Upadhyay in December 2017, addressed a letter to Chairman of Bar Council of India (BCI) seeking debarment of MPs and MLAs from practicing law.
- However, the BCI sub-committee, formed in response to the letter, had ruled that legislators can be allowed to practice.

- Mr. Upadhyay had then petitioned the Supreme Court, challenging the permission to an individual to perform the dual role of a lawyer and a legislator on grounds of conflict of interest and violation of BCI rules.

## Arguments Against Legislators as Lawyers

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- Rule 49 of the Bar Council of India states that any full-time salaried employee, whether he or she belongs to a corporation, private firm, or the government, cannot practise as a lawyer before a court of law. No public servant can engage in the pursuit of any other vocation and certainly cannot offer his or her services as a lawyer while in service.
- In *Dr. Haniraj L. Chulani v. Bar Council of Maharashtra and Goa (1996)* the Supreme court held that a person qualified to be an advocate would not be admitted as one if he or she is in full-time or part-time service or employment.
- Lawmakers draw their salaries and pensions from the public exchequer and hence could be classified as “employees.”
- The work of a lawyer is a full-time activity. So is the work of MPs and MLAs; they are full-time members of Parliament and Assemblies. They have to take part in the proceedings of the House, meet people in their constituencies and address their issues. To facilitate their work, they are given all the perks like bungalow, car, office, salary. So, they should go and serve the people as India needs dedicated parliamentarians.
- MPs and MLAs who practise as lawyers take a fee from the petitioner and get their salary from the respondent, which is the Central or State government. This is a paradox, as they take public money and argue against the government. It can be also seen as a professional misconduct.
- There is also a conflict of interest as MPs and MLAs have the power to initiate impeachment proceedings against a judge, which means that they can pressurise the judge to give a favourable verdict when they plead before him or her in a case.

## Arguments For Legislators as Lawyers

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- Lawyers are articulate and known for logical thinking. Training in law helps them understand law and legislation better. Ultimately, the country has to be run in accordance with the rule of law.
- Advocates are governed by the Advocates Act and Bar Council Rules, which seek to impose certain restrictions on practitioners of law. The discrimination also lies in the fact that practitioners of other professions — engineers, doctors, etc. — don't face such restrictions under any legislation similar to the Advocates Act.

- The question that is often raised, specifically in the context of the legal profession, is a conflict of interest which arises when a lawyer accepts a brief from a corporate house and is a member of either House. Here, it is very clear that one cannot be appearing for a particular person and lobby for the person in the House.
  - However, this applies to everyone. Parliament is not the place for lobbying. If one has accepted money, or has benefited in any manner, or has been briefed in a particular matter, and has lobbied for that person in Parliament, that is illegal, immoral and unethical.
  - It applies equally to business entrepreneurs who are members of State Assemblies or Parliament. One can inform the Privileges Committee or Ethics Committee in the event of a transgression.

## Supreme Court's Judgement

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- Supreme Court said that legislators cannot be characterised as full time salaried employees as there is no relationship of employer and employee.
- It said the mere fact that legislators draw salary under the 1954 Act (The Salary, Allowances and Pension of Members of Parliament Act, 1954), or different allowances under the relevant Rules framed under the said Act, does not create an employer-employee relationship between the government and the legislators.
- The legislators are deemed to be public servants, but their status is "sui generis" (unique or different than the normal) and certainly not one of a full time salaried employee of any person, government, firm, corporation or concern as such.
- They occupy a special position so long as the House is not dissolved. The fact that disciplinary or privilege action can be initiated against them by the Speaker of the House does not mean that they can be treated as employees.
- Similarly, the participation of the legislators in the House for the conduct of its business, by no standards can be considered as service rendered to an employer.

## Bar Council of India

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- The Bar Council of India is a statutory body created by Parliament under the Advocates Act, 1961 to regulate and represent the Indian bar.
  - It performs the regulatory function by prescribing standards of professional conduct and etiquette and by exercising disciplinary jurisdiction over the bar.
  - It also sets standards for legal education and grants recognition to Universities whose degree in law will serve as qualification for enrolment as an advocate.
  - In addition, it performs certain representative functions by protecting the rights, privileges and interests of advocates and through the creation of funds for providing financial assistance to organise welfare schemes for them.
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## Financial Inclusion Index

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The government announced three initiatives to take banking to the last mile comprising a financial inclusion index, geographical mapping of banking services and hassle-free online loans for Micro, Small and Medium Enterprises (MSMEs).

The initiatives were announced by the Finance Minister after reviewing the annual performance of public sector banks.

## Financial Inclusion Index

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- **Annual Financial Inclusion Index (FII)** will measure access and usage of a basket of formal financial products and services that includes savings, remittances, credit, insurance and pension products.
- It would rate states on their performance on last-mile banking services availability.
- The index will have three measurement dimensions, viz. **(i) access to financial services; (ii) usage of financial services; and (iii) the quality of the products and the service delivery**. These are also the G20 Financial Inclusion Indicators.
- FII will be released by January, 2019 by the **Department of Financial Services (DFS)**, Ministry of Finance.
- Importance of FII-
  - Provide information on the **level of financial inclusion**,
  - Measure financial services for use of **internal policy making**,
  - It can be used directly as a composite measure in **development indicators**,
  - It enables fulfilment of **G20 Financial Inclusion Indicators** requirements.
  - It will also facilitate researchers to **study the impact** of financial inclusion and other macro-economic variables.

## Loans for MSMEs

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- Launch of web portal **www.psbloansin59minutes.com** to enable in principle approval for MSME loans up to Rs. 1 crore within 59 minutes from **SIDBI and 5 Public Sector Banks (SBI, Bank of Baroda, PNB, Vijaya and Indian Bank)**.
- The Portal sets a new benchmark in loan processing and **reduces the time from 20-25 days to 59 minutes**. Subsequent to in principle approval, the loan will be disbursed in 7-8 working days.

- The loans will be undertaken without human intervention till sanction and or disbursement stage. The MSME borrower is not required to submit any physical document for in-principle approval.
- The portal uses sophisticated algorithms to read and analyse data points from **various sources** such as IT returns, GST data, bank statements, MCA21 etc. in less than an hour while capturing the applicants basic details.

## Jan Dhan Darshak

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- It is a banking services infrastructure locator app, which aims to bring banking within reach of every citizen through over 500,000 "**banking touch points**".
- Banking touch points are bank branches, banking correspondents, ATMs, common service centres and post offices.
- The **GIS (Geographic Information System) mapping** of banking services will enable any person to find the nearest banking touch point.
- The app comes with feedback mechanism and will also complement the government's initiative of having banking services available within five kilometres of every household.

## First Assembly of International Solar Alliance

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The Ministry of New and Renewable Energy is organising the First Assembly of International Solar Alliance (ISA) along with the 2<sup>nd</sup> Indian Ocean Rim Association (IORA) Renewable Energy Ministerial Meeting and the 2<sup>nd</sup> Global Renewable Energy Investment Meeting and Expo, (REINVEST- 2018) from 2<sup>nd</sup> to 5<sup>th</sup> October 2018 in New Delhi.

The three events will be inaugurated in a common function by Prime Minister, in the presence of Mr Antonio Guterres, Secretary General, United Nations.

## International Solar Alliance

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- The International Solar Alliance (ISA) is an initiative jointly launched by the Prime Minister of India and the President of France on 30 November 2015 at Paris, on the sidelines of Conference of Parties (CoP 21) to the United Nations Framework Convention on Climate Change.
- Headquarters- National Institute for Solar Energy, Gurugram (Haryana), India.
- It aims at addressing obstacles to deployment at scale of solar energy through better harmonization and aggregation of demand from solar rich countries lying fully or partially between the Tropic of Cancer and Tropic of Capricorn.

- After ratification by minimum number of countries, on 6 December 2017, ISA became the first full-fledged treaty based international intergovernmental organization headquartered in India.
- Till date, out of 121 prospective member countries that lie either fully or partially between the Tropics of Cancer and Capricorn, 68 countries have signed the Framework Agreement of the ISA.

## Indian Ocean Rim Association

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- Indian Ocean Rim Association (IORA) was established in the 1997, IORA is a regional forum that seeks to build and expand understanding and mutually beneficial cooperation through a consensus-based, evolutionary and non-intrusive approach.
- IORA has 21 member states, including Australia, Bangladesh, Comoros, India, Indonesia, Iran, Kenya, Madagascar, Malaysia, Mauritius, Mozambique, Oman, Seychelles, Singapore, Somalia, South Africa, Sri Lanka, Tanzania, Thailand, UAE, and Yemen.
- The Secretariat of the Indian Ocean Rim Association (IORA) is based in Cyber City, Ebène, Mauritius.
  - It manages, coordinates, services and monitors the implementation of policy decisions, work programmes and projects adopted by the member states.
- The association gains importance by the fact that Indian Ocean carries half of the world's container ships, one third of the world's bulk cargo traffic and two thirds of the world's oil shipments.
- It is a lifeline of international trade and transport and the Indian ocean region is woven together by trade routes and commands control of major sea-lanes.
- The last Renewable Energy Ministerial Meeting was held on 21st January, 2014 in Abu Dhabi, UAE.

## Global Renewable Energy Investment Meeting and Expo

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- The REINVEST- 2018 or 2<sup>nd</sup> RE-INVEST aims at accelerating the worldwide effort to scale up renewable energy and connect the global investment community with Indian energy stakeholders.
  - The 2<sup>nd</sup> RE-INVEST will include a three-day Conference on renewables, cleantech and future energy choices, and an Expo of renewables-related manufacturers, developers, investors and innovators.
  - The 2<sup>nd</sup> RE-INVEST is expected to be attended by Ministerial Delegations from across the world, including ISA and IORA Member Countries, over 600 global industry leaders, and 10,000 delegates.
  - The first Global RE-Invest was held in New Delhi from February 15 to 17 in 2015.
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## Important Facts for Prelims (26th September 2018)

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### Parakram Parv

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- Armed forces will observe 'Parakram Parv' from September 28 to 30 to mark the second anniversary of surgical strikes against terror camps across the Line of Control (LoC).
- The main event will be organized India Gate Lawns, Rajpath, New Delhi. Similarly, 53 locations in 51 cities across the Nation shall be showcasing the events highlighting the valor of Indian Armed Forces in general and Special Forces in particular.

### Bru Refugees

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- The deadline for the repatriation of Bru refugee from relief camps in Tripura expired recently. However, many families are yet to be repatriated to their homeland in Mizoram.
- The Home Ministry signed an agreement with the governments of Mizoram and Tripura and the Mizoram Bru Displaced People's Forum, which brought to an end a 21-year wait for over 32,000 Bru tribals, who had been displaced from Mizoram and were living in Tripura.
- Bru (or Reang) tribals inhabit parts of some Northeastern states. In Mizoram, they are largely restricted to Mamit and Kolasib districts.
- In 1995, following a clash between Mizos and Brus, the Young Mizo Association and Mizo Students' Association demanded that Brus be removed from the state's electoral rolls, contending that the tribe was not indigenous to Mizoram.
- This led to an armed movement led by the militant outfit Bru National Liberation Front (BNLF), and a political one by the Bru National Union (BNU).

### India ranked 158 in Human Capital

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- India ranks 158th in the world for its investments in education and healthcare, according to the first-ever scientific study ranking countries for their levels of human capital, published by The Lancet.
- India is behind Sudan (ranked 157th) and ahead of Namibia (ranked 159th) in the list. Finland topped the list, while the U.S. is ranked 27th and China is at 44th.
- The study says that India is ranked at 158 out of 195 countries in 2016, an improvement from its position of 162 in 1990.
- It showed that India is falling behind in terms of health and education of its workforce, which could potentially have long-term negative effects on the Indian economy.
- The study is based on analysis of data from sources, including government agencies, schools, and healthcare systems.

## **Human Capital**

- Human capital refers to the attributes of a population that, along with physical capital such as buildings, equipment, and other tangible assets, contribute to economic productivity.
  - Human capital is characterized as the aggregate levels of education, training, skills, and health in a population.
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