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Rajya Sabha Members Facing Criminal Charges

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Why in News

According to an analysis by the **Association for Democratic Reforms (ADR)**, about 24% of the sitting **Rajya Sabha members** have declared **criminal cases** against themselves.

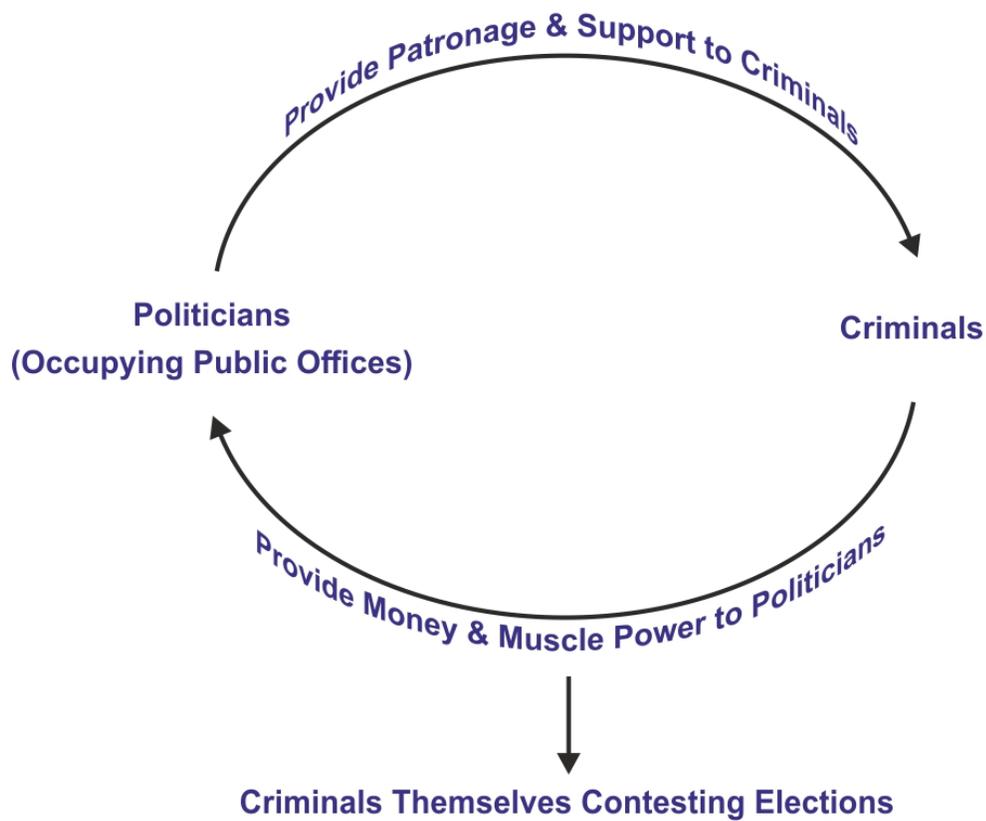
Key Points

- **Data Analysis:** Analysis of 229 of the 233 Rajya Sabha seats showed that 54 MPs had declared criminal cases.
 - Among the **newly-elected representatives 28 or 12%** had declared serious criminal cases.
 - It also found out from their self-sworn affidavits that have declared **assets estimated** at over **Rs. 1 crore**.
- **17th Lok Sabha:** According to the finding of Association of Democratic Reforms, about **43% of members elected** to 17th Lok Sabha are **facing criminal charges** in court of law, while **84% have self-declared assets worth more than Rs. 1 crore**.

This is the highest number of members of parliament facing serious criminal charges like rape, murder and kidnapping, **since 2004**.
- ADR is an Indian non-governmental organization established in 1999 situated in New Delhi.

With **National Election Watch (NEW)**, ADR is striving to bring **transparency and accountability in Indian politics** and reduce the influence of **money and muscle power** in elections.

Criminalisation of Politics



- Criminalization of politics is the **involvement of the candidates with criminal charges** in politics through the elections and even getting elected to the Parliament and state legislature. It takes place primarily because of the nexus between the criminals and the politicians.

- **Reasons:**

- **Lack of Political Will: Section 8** of the Ac the Representation of Peoples (RP) Act, 1951 disqualifies a **person convicted** with a sentence of two years or more from contesting elections. But those **under trial continued to be eligible** to contest elections.

Therefore, in order to curb **criminalisation of politics**, Parliament needs to bring an amendment in the Act.

- **Use of Muscle and Money Power:** Candidates with **serious criminal records** seem to do well despite their **bad public image**, largely due to their ability to finance their own elections and further fund their respective parties for different election activities.
- **Vote Bank:** Criminals are being wooed by political parties and given cabinet posts because their muscle and money fetches crucial votes.
- **Narrow Self-interests of Voters:** Some voters tend to view such candidates through a narrow prism of being able to represent their community interests by hook or by crook.
- **Lack of Choices:** Sometimes voters are left with no options, as all competing candidates have criminal records.

- **Consequences:**

- **Ineffective Democracy:** It affects the efficacy of the democratic process in delivering good governance as law breakers become law makers.
- **Culture of Violence:** It introduces a culture of violence in society and sets a bad precedent for the youth to follow.
- **Black Money:** It also leads to increased circulation of black money during and after elections, diluting probity in public life.

Measures Taken by the Supreme Court

| Case/Year | Judgment/Measures |
|--|---|
| <i>Union of India (UOI) vs. Association for Democratic Reforms, 2002</i> | The Supreme Court held that every candidate, contesting an election to the Parliament, State Legislatures or Municipal Corporation, has to declare their criminal records, financial records and educational qualifications. |
| <i>Ramesh Dalal vs. Union of India, 2005</i> | A sitting Member of Parliament (MP) or Member of State Legislature (MLA) shall also be subject to disqualification from contesting elections if he is convicted and sentenced to not less than 2 years of imprisonment by a court of law. |
| <i>Lily Thomas vs. Union of India, 2013</i> | Section 8(4) of The Representation of the People Act, 1951 was declared unconstitutional which allowed MPs and MLAs who were convicted to continue in office till an appeal against such conviction was disposed of. |

The Supreme Court had directed the Centre to set up **special fast-track courts** to exclusively try lawmakers and politicians facing criminal cases.

- **Election Commission's Recommendations:** In 1997, Election Commission directed all the **Returning Officers (ROs) to reject** the nomination papers of any candidate who **stands convicted** on the day of filing the nomination papers even if his sentence is suspended.
 - It recommended that **if a person is found guilty** by a commission of Inquiry then he shall be disqualified from contesting elections.
 - The **First Past The Post (FPTP) electoral system** shall be replaced by the **2-ballot system** under which a candidate is declared elected from a territorial constituency on the basis of majority principle.
 - If no one wins 50 percent of the vote, all candidates except the top two are excluded and voters are asked to vote a second time. In the second round, the candidate who wins the most votes is elected.
 - The 2-ballot system will make winning elections very difficult for criminals as they will have to garner the widest possible support from the voters to get the majority votes.
 - Along with the 2-ballot system, the **negative vote** shall also be introduced.
- **Other Measures:**
 - **Right to recall:** It confers the **power on the registered voters** in a constituency to recall their elected representatives from the house **on the ground of non-performance**. It could empower the people at grassroot level. The elected representative could be made truly accountable to the people.
 - **State Funding of Elections:** It means the government would extend **financial assistance to the political parties** to contest elections in part or in full, in kind or in cash.
 - Various **committees** (Dinesh Goswami, Inderjeet Committee) on the electoral reforms have recommended for state funding of elections.
 - **State funding of elections** will curb use of black money to a large extent and thereby will have a significant impact on limiting criminalization of politics.

Way Forward

- There is a need for fixing the **governance system and effective regulation of political financing** along with bold **reforms** to break the vicious cycle of criminals and politics. It is crucial to plug the loopholes in the current laws to make the entire governance machinery more accountable and transparent.
- **Citizens** must vote in **elections based on character, conduct and capability** of the candidates and not based on cash, caste, community and criminal prowess. This could be the ultimate solution to check money power in politics.

Source: TH