



## Criminalization of Politics

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### Why in News

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According to the **National Election Watch (NEW)** and **Association of Democratic Reforms (ADR)**, in the Assembly elections in Assam, Kerala, Puducherry, Tamil Nadu and West Bengal, at least 1,157 out of 6,318 candidates have criminal cases against them.

- **NEW** is a nationwide campaign since 2002 comprising more than 1200 **Non-governmental Organizations (NGOs)** and other citizen led organizations working together on electoral reforms, improving democracy and governance in India.
- **ADR** is an Indian NGO **established in 1999** situated in New Delhi.

### Key Points

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#### About:

The criminalization of politics means **the participation of criminals in politics which includes that criminals can contest in the elections and get elected as members of the Parliament** and the State legislature. It takes place primarily due to the **nexus between politicians and criminals**.

### Legal Aspect 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**, i.e. 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.
  - 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.

- **Reasons for Criminalization:**

- **Lack of Political Will:**

- In spite of taking appropriate measures to amend the RPA Act, there has been an **unsaid understanding among the political parties which deters Parliament to make strong law curbing criminalisation of politics.**

- **Lack of Enforcement:**

- Several laws and court judgments have not helped much, due to the lack of enforcement of laws and judgments.

- **Narrow Self-interests:**

- Publishing of the entire criminal history of candidates fielded by political parties may not be very effective, as a **major chunk of voters tend to vote through a narrow prism of community interests** like caste or religion.

- **Use of Muscle and Money Power:**

- Candidates with serious records seem to do well despite their public image, largely due to their ability to finance their own elections and bring substantive resources to their respective parties.
    - Also, sometimes voters are left with **no options**, as **all competing candidates have criminal records.**

- **Effects:**

- **Against the Principle of Free and Fair Election:**

- It limits the choice of voters to elect a suitable candidate.
    - It is **against the ethos of free and fair election** 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:**

- It also **leads to increased circulation of black money during and after elections**, which in turn **increases corruption** in society and affects the working of public servants.

- **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.

- **Recent Steps by the Supreme Court to Curb Criminalization of Politics:**
  - In **February 2020 Supreme Court (SC)** ordered the political parties to publish the entire criminal history of their candidates for Assembly and Lok Sabha elections along with the reasons that forced them to field suspected criminals.
  - The SC in ***Public Interest Foundation vs Union Of India, 2018*** had also directed political parties to publish online the pending criminal cases of their candidates.

## SC LEADS FIGHT TO CLEAN UP POLLS

**CASES THAT LED TO THE RULINGS**

<p><b>2002</b> SC directs all candidates to file affidavit detailing their criminal antecedents, educational qualification and details of their assets. Upholds voters' right to know about a candidate's antecedents to make an informed choice (Association of Democratic Reforms)</p>	<p>(People's Union for Civil Liberties)</p>
<p><b>July 2013</b> SC quashes provision in Representation of the People Act that allowed MPs and MLAs to continue their membership in a House by merely filing appeal against their conviction and sentence of more than two years in a higher court. This meant <b>MPs and MLAs would be disqualified immediately on conviction and sentence of more than 2 years.</b> (Lily Thomas and Lok Prahari case)</p>	<p><b>Mar 2014</b> SC orders trial courts to hold <b>day-to-day trial in criminal cases</b> pending against sitting MPs and MLAs and complete it within one year from framing of charges</p>
<p><b>Sept</b> SC asks EC to provide <b>'none of the above' choice to voters</b> to exercise their right to express no confidence against all candidates in fray</p>	<p><b>Aug</b> SC recommends to <b>PM/CMs not to include persons</b>, against whom charges have been framed in serious offences, in their council of ministers (Manoj Narula)</p>
	<p><b>Mar 2016</b> SC refers to 5-judge Constitution bench whether <b>framing of charge in heinous crimes</b> (which entails imprisonment of five years or more) against an MP or MLA would disqualify him. This also meant—whether a person against whom charges framed in serious offences be debarred from contesting elections (Public Interest Foundation)</p>

### Way Forward

- Various **committees** (Dinesh Goswami, Inderjeet Committee) on the electoral reforms have recommended for **state funding of elections** which will curb use of black money to a large extent and thereby will have a significant impact on limiting criminalization of politics.

- Regulating the affairs of a political party is essential for a cleaner electoral process. Therefore, it is **imperative to strengthen the election commission**.
- Voters also **need to be vigilant** about misuse of money, gifts and other inducements during elections.
- Given the reluctance by the political parties to curb criminalisation of politics and its growing detrimental effects on Indian democracy, **Indian courts must now seriously consider banning people accused with serious criminal charges** from contesting elections.

**Source:TH**