



Criminalisation of Politics

For Prelims: Representation of People's Act, Criminalization of Politics.

For Mains: Reasons, effects and solutions to Criminalization of Politics.

Why in News?

Recently, two **Uttar Pradesh legislators were convicted on criminal charges in recent days, but only one of them has been disqualified** and his seat declared vacant by the State's Legislative Assembly secretariat.

What is Criminalisation of Politics?

▪ 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 Aspects 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 \(RPA\) 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.

▪ Protection against Disqualification:

- Under Section 8(4) of the RPA, **legislators could avoid immediate disqualification until 2013.**
 - Members of Parliament or state legislators will **not be disqualified for three months**, according to the provision.
 - If within that period, the it will not take effect until the disposal of the appeal or application.
- In **Lily Thomas vs. Union of India, 2013**, the **Supreme Court struck down clause (4) as unconstitutional**, thus removing the protection enjoyed by lawmakers.

▪ Related Supreme Court's Power:

- The Supreme Court has the **power to stay not only the sentence, but also the conviction of a person**. In some rare cases, conviction has been stayed to enable the appellant to contest an election.
- However, the **SC has made it clear that such a stay should be very rare and for special reasons**. The RPA itself provides a remedy through the [Election Commission \(EC\)](#). Under Sec. 11 of the Act, the EC may record reasons and either remove or reduce the period of, a person's disqualification.

What are the Reasons for Criminalization of Politics?

- **Lack of Enforcement:** Several laws and court judgments have not helped much, due to the lack of enforcement of laws and judgments.
- **Vested 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.

What are the Effects of Criminalization of Politics?

- **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.

Way Forward

- **State Funding of Elections:** Various committees (Dinesh Goswami, Inderjeet Committee) on the electoral reforms have recommended [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.
- **Strengthening Election Commission:** Regulating the affairs of a political party is essential for a cleaner electoral process. Therefore, it is imperative to strengthen the [Election Commission of India](#).
- **Vigilant Voters:** Voters also need to be vigilant about misuse of money, gifts and other inducements during elections.
- **Proactive Role of Judiciary:** 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.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Q. 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)**

Q. 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)**

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