



# Criminalization of Politics

## Why in News

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

- **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

**2002** 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)



(People's Union for Civil Liberties)

**Mar | 2014** SC orders trial courts to hold **day-to-day trial in criminal cases** pending against sitting MPs and MLAs and complete it within one year from framing of charges

**Aug** SC recommends to **PM/CMs not to include persons**, against whom charges have been framed in serious offences, in their council of ministers (Manoj Narula)

**July | 2013** 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 **MPs and MLAs would be disqualified immediately on conviction and sentence of more than 2 years**. (Lily Thomas and Lok Prahari case)

**Mar | 2016** SC refers to 5-judge Constitution bench whether **framing of charge in heinous crimes** (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)

**Sept** SC asks EC to provide **'none of the above' choice to voters** to exercise their right to express no confidence against all candidates in fray



## 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**

