



Criminalization of Civil Disputes

Why in News?

Recently, [Chief Justice of India Sanjiv Khanna](#) criticized the Uttar Pradesh government for the **increasing tendency of converting ordinary civil matters into criminal cases**.

Key Points

- **Reasons for Criminalization of Civil disputes:**
 - **Desire for speedy justice:** Frustrated by delays in the civil justice process, litigants resort to criminal litigation in order to exert pressure on the other party and obtain a quick resolution.
 - **Strategic use of criminal sections:** There is a growing tendency to criminalise civil cases by using criminal sections such as **Section 420 (cheating), 406 (criminal breach of trust)**. **The aim is often to gain personal or political advantage.**
 - **Lack of legal understanding:** Many times the police and investigating agencies are not clear about the difference between civil and criminal cases. As a result, even normal contractual or business disputes are registered as criminal complaints.
 - **Delay in judicial process:** It can take years for decisions to be made in civil courts, which discourages litigants. In such a situation, they file a criminal case in the hope of getting quick relief and put pressure on the opposing party so that the dispute can be resolved quickly.

Difference between civil dispute and criminal dispute:

| Points of Difference | Civil Dispute | Criminal Dispute |
|------------------------------------|---|---|
| Nature of the dispute | <ul style="list-style-type: none">● Disputes usually involve private parties or organizations seeking to resolve disagreements over legal rights or obligations.● For example, contract disputes, personal injury claims, family law matters (divorce, child custody) and property disputes. | <ul style="list-style-type: none">● These include violations of laws that are considered crimes against the state or society. Crimes are prosecuted by government authorities and aim to punish the offender for his wrongdoing.● For example, theft, assault, murder and drug offences. |
| commencement of proceedings | <ul style="list-style-type: none">● Usually initiated by private individuals or entities (plaintiffs) who file a suit against another party (defendant) seeking damages, injunctions, or other remedies. | <ul style="list-style-type: none">● Initiated by the government, represented by a prosecutor, who files charges against a person or entity accused of committing a crime. |
| burden of proof | <ul style="list-style-type: none">● The burden is usually on the plaintiff, who must establish his or her case by a preponderance of the evidence. | <ul style="list-style-type: none">● This burden is on the prosecution and it must be proved beyond reasonable doubt. |

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| | <ul style="list-style-type: none"> ● This means that they must show that it is more likely than not that the defendant is liable. | <ul style="list-style-type: none"> ● This is a more demanding standard designed to protect the rights of the accused. |
| Purpose of the proceedings | <ul style="list-style-type: none"> ● To provide remedies to the injured party or parties. ● Remedies may include monetary compensation (damages), specific performance, or injunction. | <ul style="list-style-type: none"> ● To punish the criminals for violating the laws and to deter others from committing similar crimes. ● Rehabilitation and security of society are also important goals. |



Chief Justice of India

(Head of the Supreme Court)



Justice Sanjiv Khanna 51st Chief Justice of India

Qualification



A citizen of India

He should have been:

A judge of a High Court (or high courts in succession) for five years or

An advocate of a High Court (or High Courts in succession) for ten years or

A distinguished jurist in the opinion of the President

The Constitution has **not prescribed a minimum age** for appointment as a judge of the SC

SC judges **retire on attaining the age of 65**



Appointment

CJI is **appointed by the President under Article 124 (2) of the Constitution**

As per the protocol, the senior-most judge of the SC is designated as the CJI.

The recommendation of the senior-most judge of the SC is officially communicated by the incumbent CJI to the Ministry of Law and Justice, which, then, relays the communication to the Prime Minister

The Prime Minister advises the President on the recommendation and the President subsequently makes the appointment

Role



Swearing in of the President and Governors.

"Master of the Roster", CJI has the power to constitute benches to hear cases in the SC. CJI decides which judge will hear which case and when

CJI (**along with collegium of four senior most judges of SC**) is consulted by the President for the appointment of judges in the SC and the HC

CJI appoints **ad-hoc SC judges** under Article 127 of the Constitution

With the approval of the President, the CJI can **change the seat of the SC** from Delhi to any other place

CJI can **appoint an arbitrator to resolve a financial dispute** between the Centre and the states



Removal

By **an order of the President**

Only after an address by Parliament has been presented to President

Supported by a **special majority of each House of Parliament** (i.e. by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting)

Grounds of Removal - Proved misbehaviour or Incapacity (Article 124(4))

The SC, in 2019, ruled that the office of CJI comes under the purview of the RTI Act, 2005



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