



CRIMINALISATION OF POLITICS - GS II MAINS

Q. Criminalisation of politics has been rising in the backdrop of growing democratic voices in India. Discuss (10 marks, 150 words)

News: *Accused in criminal cases won more seats in 17th Lok Sabha, amicus curiae report says in SC*

What's in the news?

- An amicus curiae report in the Supreme Court said candidates with criminal cases won more seats in the 17th Lok Sabha than those who led lawful lives.

Key takeaways:

- The report, which has come even as polling in the General Elections for the 18th Lok Sabha has moved to the second phase, highlighted the dire need for the electorate to know who they are voting to power.
- It said the right to information of voters was part of their fundamental right to free speech and expression.

Criminalisation of Politics:

- The criminalization of politics refers to the phenomenon where individuals with criminal backgrounds, including those charged or convicted of criminal offenses, actively participate in politics.
- Several politicians with criminal records have managed to secure positions in legislative bodies, ranging from local municipalities to the national Parliament.
- This trend cuts across party lines and affects politicians from various political parties.

Factors Leading to Criminalisation of Politics:

1. Muscle Power:

- For winnability, Political parties can even hire or nominate criminals as candidates because of their influence.
- Many politicians chose muscle power to gain a vote bank in the country.

2. Money Power:

- Political parties and candidates use the money generated by criminal activities to influence voters, secure their support, and win elections.
- There also exists a quid pro quo between politicians and criminals to exchange favours or benefits.

3. Loopholes in the Functioning of the Election Machinery:

- The voters are not usually aware of the history of the candidate, qualifications, and cases pending against him.



4. Ineffective Judicial System and Delayed Justice:

- Thousands and thousands of cases are pending in District Courts, High Courts, and Supreme Court against these criminals cum politicians.

5. Lack of Enforcement:

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

6. Vested interests:

- Publishing the criminal history of candidates fielded by political parties may be ineffective, as a major chunk of voters tend to vote through a narrow prism of community interests like caste or religion.

7. Politico-criminal Nexus:

- This nexus between politicians and criminals, such as organized crime syndicates, drug cartels, etc, helps to advance their own interests or to gain power and influence.

8. Lack of Intra-party Democracy:

- Political parties in India largely lack intra-party democracy and the decisions on candidature are largely taken by the elite leadership of the party.
- Thus, politicians with criminal records often escape the scrutiny by local workers and organisation of the party.

Legal Provisions:

- Indian Constitution does not specify what disqualifies a person from contesting elections for the Parliament, Legislative assembly, or any other legislature.
- In the present scenario, under the Representation of Peoples (RP) Act 1951, lawmakers cannot contest elections only after their conviction in a criminal case.
- 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 Representation of Peoples Act, 1951 i.e., disqualification on conviction for certain offenses, 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 Election Commission of India, under the Representation of the People Act 1951, can remove or reduce the period of a person's disqualification.

Impacts of Criminalisation of Politics:

1. Impediment to Development:

- Criminalization of politics can act as an impediment to development, as politicians with criminal backgrounds may prioritize their own interests over the welfare of the people.



2. Weakening of Democratic Institutions:

- The presence of criminals in politics can also weaken democratic institutions, as they may try to manipulate the system to their advantage.

3. Impact on the Principle of Free and Fair Election:

- Criminalization of Politics goes against the principles of a free and fair election by limiting the options for voters to choose a deserving candidate.

4. Impairing Good Governance:

- The issue of criminal elements becoming elected officials undermines the democratic process and hampers the delivery of good governance.

5. 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.

6. 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.

7. Erodes Public Trust:

- Criminalization of politics erodes the public confidence in elected politicians who indulge in criminal activities.

8. Cultivates Culture of Impunity:

- Criminalisation of politics can foster a culture of impunity where individuals believe they can commit crimes without facing consequences, which can lead to increased crime rates and a general lack of respect for the law.

9. Encourages Corruption:

- Politicians with criminal backgrounds are more likely to engage in corrupt practices, such as bribery, fraud, and embezzlement, further undermining the legitimacy of the government and public faith in it.

10. Taints International Reputation:

- The criminalisation of politics can damage India's reputation on the international stage, making it more difficult to engage in beneficial relationships with other countries and international organizations.

Measures Taken by the Supreme Court:

1. Association for Democratic Reforms vs. Union of India (2002):



- Supreme Court issued an order directing every candidate seeking election to the Parliament or a State Legislature to declare the criminal antecedents, assets, etc.

2. Immediate Disqualification of Convicted MPs and MLAs:

- The Supreme Court, in Lily Thomas case(2013), held that charge-sheeted Members of Parliament and MLAs, on conviction for offenses, will be immediately disqualified from holding membership of the House without being given three months' time for appeal, as was the case before.

3. Fast Track Trial:

- The Supreme Court in March 2014 accepted the recommendations of the Law Commission and passed an order directing that trials against sitting MPs and MLAs must be concluded within a year of charges being framed.

4. Public Interest Foundation v. Union of India (2019):

- In this case, the Supreme Court of India ordered political parties to publish the criminal records of their candidates on their websites, social media handles, and newspapers.

Measures Taken by the Election Commission of India:

1. Booth Capturing:

- In 1989, a provision was made for the adjournment of polls or countermanding elections in case of booth capturing. Booth capturing includes seizure and taking possession of polling stations, threatening and preventing any elector from going to polling stations.

2. Prohibition of Arms:

- Entering into the neighbourhood of a polling station with any kind of arms is considered a cognizable offense.

3. Curbing Muscle Power:

- The ECI has achieved considerable success in containing the role of muscle power through measures such as the effective implementation of the model code of conduct.

4. Model Code of Conduct (MCC):

- The Model Code of Conduct is implemented by the Election Commission, from time to time, by using its constitutional powers under Article 324.

5. Affidavits:

- Mandatory declaration of assets and existing criminal charges in affidavits to the ECI prior to elections has brought in some transparency.

Measures Needs to be Taken:

1. Legal Reforms:



- The laws concerning the disqualification of candidates with criminal backgrounds need to be strengthened.
- For instance, 2nd ARC recommended amending section 8 of RPA to disqualify all persons facing charges related to grave and heinous offences and corruption, where charges have been framed six months before the election.

2. Time-bound Justice Delivery System:

- Fast tracking trials and expediting the judicial process through a time-bound justice delivery system will weed out the corrupt as well as criminal elements in the political system.

3. Pressure on Political Parties:

- Pressure must be exerted on political parties to make them accountable for their choices.
- Political parties must realise that they must follow the rule of law and that they are not above the law.

4. Strict Enforcement of Directives:

- The ECI needs to strictly enforce the directives of the Supreme Court.
- Parties that do not comply with these directives should face penalties, including fines, as suggested by the ADR. In extreme cases, non-compliant parties could be deregistered.

5. Internal Democracy in Political Parties:

- Encouraging internal democracy within political parties can also help.
- When party members have a say in candidate selection, they are more likely to choose individuals of integrity.

6. Implementing Recommendations of Various Committees:

- The recommendations of several committees, such as the Vohra Committee (1993) and Goswami Committee and law commission report (170 and 244), which have focused on tackling the criminalisation of politics, need to be fully implemented.

7. Use of Technology:

- Technology can be harnessed to ensure speedy trials and provide easy access to information about candidates.
- For instance, online platforms could be used to maintain a publicly accessible database of the criminal records of all political candidates.

8. Strict Legal Provisions like Lifetime Ban:

- The election commission endorsed the call for a lifetime ban in the apex court. It had argued that such a move would “champion the cause of decriminalization of politics”.