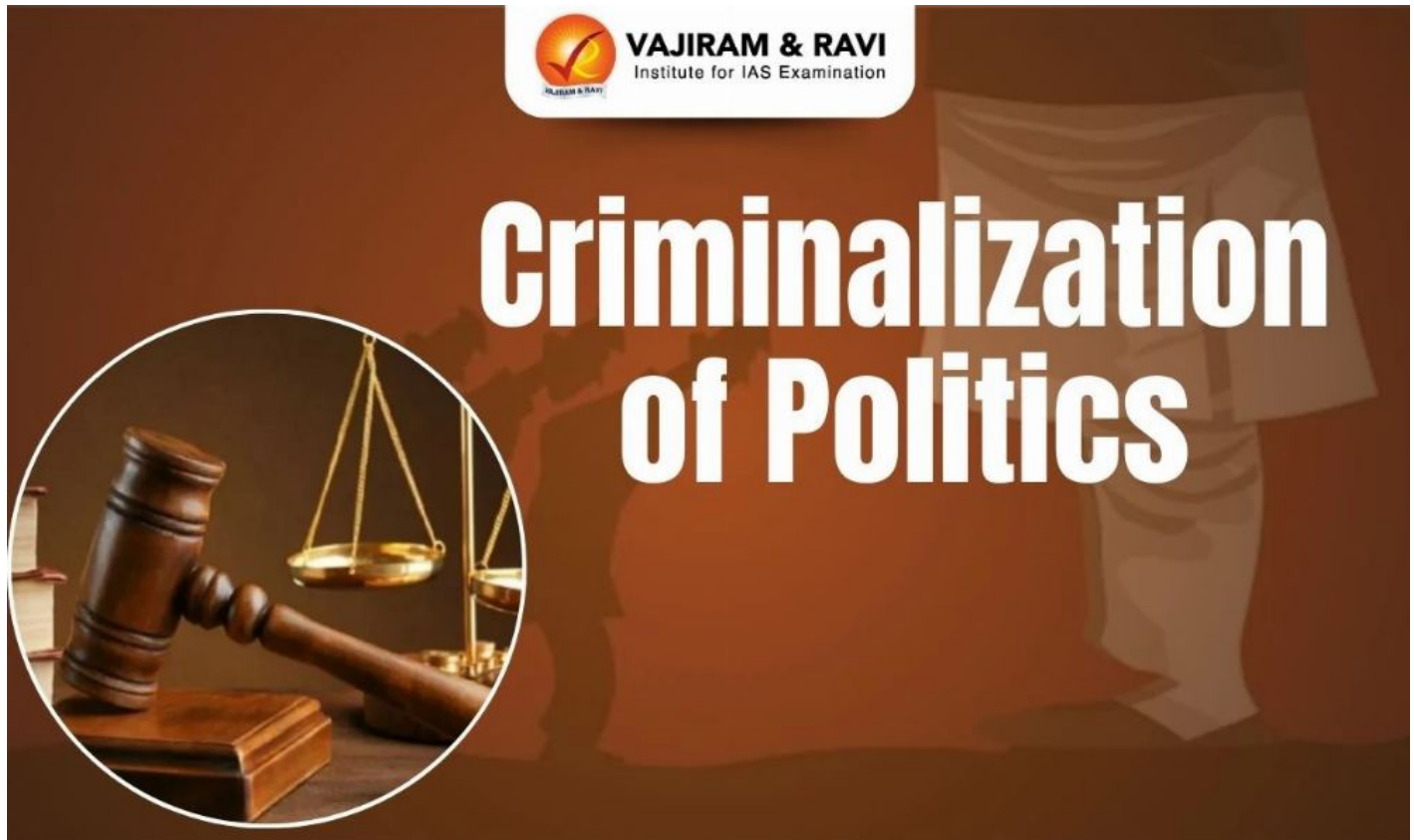


Criminalization of Politics in India, Reasons, Impact, Key Laws

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What is 'Criminalization of Politics' and its status in India?

In India, the Criminalization of politics has become a growing concern, with a significant number of elected officials facing criminal charges. This has led to public distrust in the political system and the perception that politicians use their power to evade the law.

The criminalization of politics refers to the involvement of individuals with a criminal record in the political arena. This can involve criminals running for and be elected to positions in Parliament and State Legislatures. It often occurs due to the close relationship between politicians and criminal elements.

Association of Democratic Reforms(ADR) report reveals that in the 2014 General Elections for the 16th Lok Sabha, 186 (34%) out of the 541 winners had criminal cases filed against them. This is a jump from the numbers for the 2009 elections, when, out of the 521 winners, 158 (30%) had declared criminal cases.

What are the reasons for the criminalization of politics in India?

There are several factors contributing to the criminalization of the political landscape in India:

- **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.
- **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.
- **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.
- **Ineffective judicial system & delayed justice:** The thousands and thousands of cases are pending in District Courts, High Courts, and Supreme Court against these criminals cum politicians.
- **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 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.
- **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.

What are the legal and constitutional tools to deal with the criminalization of politics in India?

- **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 act, 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.

What are the outcomes of criminalization of the Indian political landscape?

The criminalization of politics can have negative effects on democracy and the rule of law. It creates an environment where politicians and political parties engage in corrupt practices and undermines the trust of citizens in the political system.

- **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.
- **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.
- **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.
- **Impairing Good Governance:** The issue of criminal elements becoming elected officials undermines the democratic process and hampers the delivery of good governance.
- **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.
- **Erodes Public Trust:** Criminalization of politics erodes the public confidence in elected politicians who indulge in criminal activities.

What are the various measures taken to deal with the issue of criminalization of politics in India?

Supreme Court

- **Association for Democratic Reforms v. 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.
- **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.
- **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.
- **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.

Election Commission of India

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

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

What are the ways to decriminalize Indian politics?

- **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”.
- **Proactive Judiciary:** Given the reluctance by the political parties to curb the criminalization of politics and its growing detrimental effects on Indian democracy, Indian courts must now seriously consider banning people accused of serious criminal charges from contesting elections.
- **Active Citizenry:** Voters should also be aware of the potential to misuse funds, gifts, and other incentives during elections.
- **State Funding of Elections:** Various committees, such as Dinesh Goswami(1990) and Inderjeet Committee(1988), on the electoral reforms, have recommended state funding of elections which will curb the 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 and ensure its independence.

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