

Special Courts For Trying Politicians - II

Click [here](#) for Part I

\n\n

What is the need?

\n\n

\n

- Criminalisation of politics is an issue that worries the country's administration for long.

\n

- Apart from the political parties, it is also a concern for independent institutions such as the Supreme Court and the Election Commission.

\n

- The political class manages to escape the serious criminal cases because of a delayed and repeatedly postponed trial.

\n

- Resultantly, many influential politicians facing criminal proceedings continue to engage in contesting elections or holding public office.

\n

- Certainly, the criminal tendencies of these politicians get carried on to bureaucracy and the police and more importantly into law making.

\n

- It consequently affects every aspect of public governance from tenders and contracts, safety of buildings and roads to postings and transfers, education and healthcare.

\n

\n\n

What are the challenges and possible solutions?

\n\n

\n

- **Shortage of judges** - Bringing in place a number of special courts would create the demand for judges.

\n

- Shortage of judges can be overcome by reappointment of retired High Court Judges as ad hoc judges, as provided under Article 224A.

\n

- **Prosecutors** - Appointing prosecutors who are not attached to any political party is another challenge in the working of the special courts.
\n
- A directorate of prosecution headed by a retired senior judge could be created.
\n
- This directorate can choose prosecutors who in turn could be inspected by the Chief Justice of the High Court.
\n
- **Delay** - Another threat is that the main trial could be obstructed by interim orders.
\n
- Political leaders finding legal counsel and filing multifarious interim applications could delay the process, defeating the whole purpose.
\n
- This could be addressed and avoided if there is a provision in place for the Chief Justices to supervise and monitor the trial process.
\n
- **Equality** - There is an argument that creating special courts would breach the law of equality.
\n
- This is not wholly justifiable because, Art 14 permits classification based on criteria and nexus.
\n
- Clearly, MPs and MLAs form a distinct class and their early trial is a democratic must.
\n
- They thus deserve to be given priority treatment similar to their special privileges in many other instances and aspects.
\n
- **Besides** all these, the concern with ensuring availability of funds, especially from the States has to be addressed by a central scheme.
\n

\n\n

\n\n

Source: The Hindu

\n



SHANKAR
IAS PARLIAMENT
Information is Empowering