Q1

Discuss the 'corrupt practices' for the purpose of the Representation of the People Act, 1951. Analyze whether the increase in the assets of the legislators and/or their associates, disproportionate to their known sources of income, would constitute 'undue influence' and consequently a corrupt practice.

UPSC Civil Services Mains 2025 · GS II · 10 marks · Representation of the People Act

Salient features of the Representation of People's Act.

Core demand of the question

- State what the Representation of the People Act, 1951 treats as corrupt practices
- Explain undue influence as a distinct head
- Test whether a jump in a legislator's (or associate's) assets, beyond known income, is by itself undue influence
- Place the issue against bribery, the Prevention of Corruption Act, and disclosure law

Revision summary

- **Section 123 RPA lists corrupt practices for election petitions:** bribery, undue influence, communal appeal, false statements, booth capturing and related heads.

Undue influence is interference with the free exercise of an electoral right, not every unfair gain.

ADR and PUCL made asset affidavits part of an informed vote; false disclosure can be litigated.

A legislator's unexplained wealth is primarily a Prevention of Corruption Act and ethics issue.

It is not, by itself, undue influence under the 1951 Act unless tied to bribery or intimidation of electors.

Introduction

The Representation of the People Act, 1951, does not police every moral failure of a politician. It polices the **poll**. Section 123 lists corrupt practices that can unseat a returned candidate. A swollen bank balance is a serious public fact. Whether it is a corrupt practice depends on whether it vitiated the **free exercise of the electoral right**, not on outrage alone.

Body

Corrupt practices under the 1951 Act

Section 123 names, among others, **bribery**, **undue influence**, **appeals to religion, race, caste, community or language** (read with later amendments and **Abhiram Singh v. C.D. Commachen**), **publication of false statements**, **hiring of vehicles**, **booth capturing**, and the use of official machinery in specified ways. Section 123(1) bribery is a gift or promise to an elector or to a candidate to induce a vote, withdrawal or candidature. The Supreme Court in **S. Subramaniam Balaji v. Tamil Nadu** treated many **manifesto freebies** as policy, not as Section 123 bribery, while later benches have kept the unease alive. **Lily Thomas** and Section 8 deal with conviction and disqualification, which is a different track from a corrupt-practice petition under Sections 100 and 123.

- **Election petitions are strict:** pleadings, particulars, and proof. A newspaper story about wealth is not enough.

Undue influence

Section 123(2) is **direct or indirect interference** with the free exercise of an electoral right, including threats of injury and the use of spiritual or temporal authority to overawe. **Ram Dial**, **Shiv Kirpal Singh**, and later **Krishnamoorthy v. Sivakumar** show that the vice is **constraint on the voter or candidate**, not every unfair advantage. **Manoj Narula v. Union of India** spoke of constitutional morality in appointments, not of assets as undue influence.

Disproportionate assets

A rise in assets of a legislator or of a spouse, firm or "associate", unexplained by known sources of income, is classically a **Prevention of Corruption Act** question (and, for sitting members, a matter for investigation, the ethics committee, and voters at the next poll). **Association for Democratic Reforms** and the **PUCL** line of cases made **affidavit disclosure** of assets a condition of a free and informed vote. False disclosure can amount to a corrupt practice as a **false statement** or can found other proceedings. The jump in wealth, standing alone, is **not** undue influence. It does not, without more, interfere with anyone's electoral right.

It can become a 1951 Act case if the wealth is the **means of bribery** (cash for votes, paid crowds) or if office is used to **intimidate**. Those are separate heads and need facts. Treating every enrichment as undue influence would collapse the PCA, benami law and the RPA into one elastic phrase, which the statute does not do.

The practical constitutional response is **honest affidavits**, a working **Lokpal / state vigilance** process, inner-party tickets that are not sold, and the Court's asset-disclosure jurisprudence - not a new fiction that money in the house is, by itself, a poll offence.

Flow diagram

> RPA 1951 s.123 -> Bribery
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> RPA 1951 s.123 -> Undue influence
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> RPA 1951 s.123 -> False statement / other heads
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> Asset jump -> PCA and affidavits
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> Asset jump -> only if vote bought or overawed RPA 1951 s.123

Conclusion

Corrupt practices are the Section 123 list aimed at the poll. Undue influence is interference with a free electoral right. Disproportionate assets are a corruption-and-disclosure problem. They become an RPA problem only when they are used to buy or overawe a vote.

Facts & figures

Section 123(2) Representation of the People Act (RPA)

Defines undue influence as interference with the free exercise of an electoral right, including threats and the use of authority to overawe.

ADR / PUCL disclosure

Supreme Court required candidates to disclose assets, education and criminal cases so that electors can make an informed choice.

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Treated many election-manifesto freebies as policy promises rather than Section 123 bribery, a line still under strain in later debate.