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**MAD- 2020**  
**Day - 14**  
**POLITY**

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**Question:**

What is the Office of Profit in Indian political system and its requirement?

**Answer:**

MPs and MLAs work as members of the legislature and hold the government accountable. There are certain basic disqualifications laid down in Article 102 of the Constitution, and for an MLA in Article 191 which include holding an office of profit under government of India or state government.

The word 'office' has not been defined in the Constitution or the Representation of the People Act of 1951. An office of profit has been interpreted to be a position that brings to the office-holder some financial gain, or advantage, or benefit. The amount of such profit is immaterial.

In 1964, the Supreme Court ruled that the test for determining whether a person holds an office of profit is the test of appointment. Several factors are considered in this determination including factors such as:

- i. whether the government is the appointing authority,
- ii. whether the government has the power to terminate the appointment,
- iii. whether the government determines the remuneration,
- iv. what is the source of remuneration, and
- v. The power that comes with the position.

However, there have been many controversies with regard to which positions constitute an office of profit, most recently with regard to disqualification of 20 Aam Aadmi Party members of the Delhi Legislative Assembly for holding the post of parliamentary secretaries, considered an "office of profit". The central government has been planning an amendment to define the term 'office of profit' as any office under the control of the Union Government or state government whether or not their salaries are paid to them through public revenue. However, any such legislative action is yet to take place.

The essence of disqualification under the office of profit law is if legislators hold an 'office of profit' under the government, they might be susceptible to government influence, and may not discharge their constitutional mandate fairly.

The intent is that there should be no conflict between the duties and interests of an elected member. Hence, the office of profit law simply seeks to enforce a basic feature of the Constitution the principle of separation of power between the legislature and the executive.

Office of profit is seen as a violation of democratic trust reposed by the people in the legislators. There is a need for clarification and proper definition of the term so that it isn't used as a political tool for upsetting governments as well as ensuring that legislators perform duties expected of them as representatives of citizens.