
POLITICS ISN'T A DIRTY GAME BUT POLLUTED BY DISHONEST PLAYERS

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Evolution modified primitive life into complex homo sapiens. Time and circumstances reworked and refined the physical and mental abilities of homo sapiens. Consequently, an anthropocentric era began, where man overpowers nature. This granted him the ability to settle and cultivate. The glorified human settlement known as civilizations, are the forerunners of cities.

As a matter of fact, this settlement created conflicts, as the needs are many, but resources are few. Hence there started the conceptualisation of laws and governance. During the course of time, the mode of governance saw changes. Supposedly, one of the most popular modes of governance is democracy. It isn't just popular, it is populist too.

The democratic system of governance that started in India from 1947 onwards saw many facelifts. There were challenging and disappointing times. But the failures were later seen as a learning curve. Consequently, they were rectified to prevent the repetition of such calamitous situations of the past. In spite of that, some diseases that carve democracy are still left untreated, and the deadliest is corruption. The same wretch which destroyed the greatest of empires and civilisation, even the great Roman empire.

There's no time like the present, hence it is intelligible to treat it at the earliest. Also it is highly contagious, rich or poor, employed or unemployed, it lures the men into its clutches easily. Then spreads like wildfire, and all the honor and idols of democracy will be burnt to ashes. Democracy will lead to plutocracy and oligarchy. Finally, when the people lose the coherence with the system, they become reckless mobs. That will be the death knell on the rule of law, resulting in anarchy.

So, it is obvious that corruption corrodes the system. And long before we, the people realize it, irreparable damage would occur. The history of the world teaches the same thing. Consequently, various statutes and authorities were created to curb the menace of corruption.

The strive for a corruption-free system is the inevitable pillar to good governance. To sum up, democracy is created to ensure inclusive development, which can be achieved only through good governance. Righteous parliamentarians and legislators are unavoidable in the pursuit of good governance.

Our democracy is an indirect democracy. We do not have the provision to recall our elected representative. Hence, it is of utmost importance that there exist safeguards to monitor them. Unfortunately, the laws to restrict the participation or continuation of tainted politicians are feeble. For instance, an MP or MLA who has been convicted for criminal cases exceeding for more than 2 years shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release. Well, everything looks good, but the devil is in the details. The same individual can contest after 6 years since his release.

Is it beyond doubt that the convict who has tasted corruption or indulged in criminal activities has been completely reformed by his sentence and consequently, he will not repeat the crime after 6 years? Can we even think of the fact that the same convict who has been punished for rape or murder too can contest for election. Also, the State government is empowered to release a prisoner after serving 14 years of actual imprisonment and there is no bar that such individuals could never contest for elections nor hold any government post.

It is to be kindly noted that, there is no intention or desire that the convicts should be treated ill mannered even after the end of their sentence. In fact, they too have the right to a dignified life. But, the only contention is, other people too have the right to a dignified life. The contesting of election by such convicts will sow the seeds of reasonable apprehension in the mind of the other citizens. Furthermore, allowing such individuals in any post that comes under the government too is a threat to their dignified life. If political parties are so adamant to ensure the service of such individuals, they can try within the party post and not in a post where the remuneration is paid by the taxes contributed by the citizens. Hence it is very much evident, no such convicts who have been convicted for criminal acts must be given any post under government. Consequently, no question arises if they can contest elections.

Once they are an MP or MLA, they introduce new laws, vote for laws, oppose laws, vote against laws. Thus, when the convicts come as legislators, the same people who broke the law make the law. The success of the same law is when people abide by it, and not when people are punished for violation of the law. Isn't it ironic that the people are told to follow the law which is made by legislators who broke the law?

State of West Bengal & Ors. Vs. Nazrul Islam (2011), the Supreme Court held, when criminal cases are pending against a person, he cannot be considered suitable for appointment in government service, unless he is acquitted of all the charges. Quashing the appointment of constable SK Nazrul Islam, the apex court said, "Surely, the authorities entrusted with the responsibility of appointing constables were under duty to verify the antecedents of a candidate to find out whether he is suitable for the post of constable. And so long as the candidate has not been acquitted in the criminal case of the charges, he cannot possibly be held to be suitable for appointment to the post of constable". Going by the same rationale, why isn't there no bar for candidates contesting elections?

Now consider a hypothetical situation where the candidate is accused of house trespass, where the maximum punishment that can be awarded is one year. Still he is not eligible for government jobs. But the same person, even if he is charged with any heinous crime and awarded with life imprisonment, can contest for election after 6 years since his release.

The people who are employed under the state, especially the politicians, needed to be a role model for the people to abide by the laws and rules. If not, at least they should not be a role model to abhor the law. The accused who have been convicted under Prevention of Corruption Act and Prevention of Terrorism Act too can contest for election. Even if they fail to win the election, the incumbent government can appoint him to various positions it wishes.

There was wide alarm cry on the release of Bilkis Bano gang rape case convicts. If a state government can do such activity, whether they have the legal or moral authority is another topic of discussion, it is quite evident that the existing government can appoint them to various posts under government authority too. And the greatest irony is, they are paid for their service from the taxpayers money. Unfortunately, the tax paid by the victim and their near and dear too contribute to the tax corpus.

A Constitution Bench decision in the Public Interest Foundation v Union Of India (2018) case read, "though criminalisation of politics is a bitter manifest truth, which is a termite to the citadel of democracy, be that as it may, the court cannot make the law". Thus it is rather disappointing that the court has relinquished the responsibility in awarding lifelong ban on criminal convicts in contesting elections on the mere claim that the court cannot make the law. If so, how did the court pass the judgment in Lily Thomas vs Union Of India & Ors (2013) case, which ordered that all the elected or non-elected MPs and MLAs would be disqualified with the immediate effect if they were convicted in a criminal case by a trial court by

challenging Section 8(4) of the Representation of the People Act, which protects the convicted politicians against any sort of disqualification from contesting the elections, on the ground of pending appeals against their conviction in the appellate courts.

Like the court has repeatedly reiterated, it is better, the parliament make amendments to the Prevention of Corruption Act and Representation of People Act, to debar the convicts for life long from contesting for election and preventing them from holding any post under the government. If the parliament is still abstaining from such an amendment, the Judiciary must act at the earliest and need not refrain because necessity knows no law.

On numerous occasions, judicial activism has come to the rescue of the constitution against legislative overreach. Similarly, the Supreme Court has been interfering in policy inactions too, then what stops it now from acting in the matter of urgent public importance is disappointing. If the court decides to walk away, a vicious cycle will be formed of dishonest police, deceptive bureaucrats and wicked legislators. Year after year, the cycle will become stronger and bigger. It will finally engulf the entire constitution and no doubt the judiciary too will be ruined. Any passivity will deepen the criminalisation of politics. Hence, it is better to act now or never. An ounce of prevention is worth a pound of cure.