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## **CRIMINALIZATION OF POLITICS IN INDIA CRITICAL ANALYSIS OF THE ELECTION COMMISSION OF INDIA**

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### **ABSTRACT**

Over the years, the criminalization of politics in India has accelerated at an alarming rate, endangering the survival of Indian democracy. This research paper provides information about this subject. It begins by outlining what political criminalization is and how it endangers democracy. The issue's current state, its underlying causes, and their numerous effects on the economy, society, politics, and other areas are then examined in detail. Because the problem is so serious, the Supreme Court has also issued a number of historic rulings to deal with it. Although the judiciary must take stronger action, fighting against this criminalization of politics and defending the nation's democracy is not just the judiciary's responsibility, it also falls on the government and the country's citizens.

**Keywords:** - Criminalization of Politics, Democracy, Criminals, Judiciary, Crime, India and Citizens.

## **1.1 Introduction**

In a democracy, each citizen chooses their own representative, who is subsequently in charge of governing the country. India is a democracy. It is essential that persons who enter politics have a solid reputation and moral beliefs for this reason. Currently, the criminalization of politics is a dreadful reality and a concern for Indian democracy. It is more dangerous than terrorism. Our forebears struggled for our independence seventy years ago, and during that effort, they had a dream, but we now witness that dream being shattered. This criminality of political parties is caused by the connections between criminals and politicians, which has resulted in the corruption of our leaders and heroes. Democratic ideals in public life have been steadily eroding as a result of the criminalization of politics. The nexus becomes particularly dangerous as the political element combines with the criminal components, endangering the nation's growth and progress. Criminalizing political activity is a worrying development for the smooth operation of Indian democracy. Due to its active involvement in politics, the influence of the criminal element in politics is expanding.

## **1.2 What is Criminalization of Politics?**

The term Criminalization of Politics refers to the involvement of criminals in politics, including the ability of such criminals to run for office and be elected to the State and Federal legislatures. It occurs mostly as a result of the connections between politicians and criminals. It is a form of criminalization when someone is permitted to run for office while having a criminal charge against them. Criminalization of politics refers to the election of politicians who have been charged with crimes like rape, murder, extortion, etc.

For example, a bureaucrat wants to go in higher post or any promotion, but this is not his due he uses politics or political power to succeed. And he will succeed. But this will not stop there. The person who helped him to go for higher post, then that political member uses that person for his own advantage. And they will help each other. This is the policy give and take and this can be happened behind the curtains. There are numerous different ways that politics is being criminalized, but the most concerning one is the large number of elected officials who are currently facing criminal accusations. Voter intimidation, booth capture, the rise of unqualified candidates, falsified electoral registers, and other anomalies at the polls are all examples of the criminalization of politics. The criminalization of politics in India involves

vote-bank politics, state funding, corruption, lax legislation, a lack of ethics and morals, and flaws in the way the election commission operates.

In India, there are no such laws or legislation which would prohibit an individual having criminal cases against him from contesting elections, hence those people who are facing trials even for heinous crimes are free to contest in the elections. As the Indian Judiciary is overburdened and takes a long time for resolving cases, political parties feel encourage to willingly field any number of candidates despite having criminal records if the chances of winning remains bright.

There are two ways to think about the criminalization of politics. In a strict sense, it refers to criminals' direct access to and interference in state legislatures and the Indian Parliament. On a larger scale, it refers to criminals meddling in politics, either directly or indirectly, by funding candidates, capturing voting booths, providing anti-social labour, providing muscle power services, and contract killing rival candidates, in addition to campaigning or canvassing for candidates running for office. Since the previous two decades, there has been a significant development in the competitive use of antisocial forces for raising party funds, controlling elections, planning various gatherings and conferences, and hiring lower-level employees from among anti-social components. The primary cause is that political parties hire criminals to help them win elections. Criminals used to support politicians from the outside, but today they have entered the electoral process and are now ministers and members of the houses. As a result, "Tainted ministers" is a new phenomenon in Indian politics.

### **Present Scenario and Statistics**

India might smugly assert that it is the largest democracy in the world, but it cannot make the claim that it is the most renowned democracy of flawless representation. The number of candidates with criminal cases has steadily and unabatedly increased over the years in elections for state assembly and for parliament.

Recently, the Association for Democratic Reforms (ADR) has revealed that the number of candidates with criminal cases has increased in all major political parties in Karnataka ahead of the 2023 Assembly Elections.<sup>1</sup>

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<sup>1</sup> Association for Democratic Reforms

According to data from the ADR, since 2004, there have been more candidates elected to the Indian Parliament who had criminal accusations against them. In 2004, 24% of lawmakers had active criminal cases; by 2019, that number had increased to 43%. According to a petition submitted in February 2023, since 2009, there has been a 44% increase in the number of MPs having declared criminal cases. In the 2019 Lok Sabha elections 159 MPs have significant criminal cases against them in the 2019 Lok Sabha elections, including rape, murder, attempted murder, kidnapping, and crimes against women.<sup>2</sup>

### **1.3 Causes of Criminalization of Politics**

There can be different factors may have contributed to the Criminalization of Politics in India. In India, criminals and politicians frequently have connections to one another. This connection may be the result of the criminals' clout in these communities and their sway over the populace, which can be a political politician's dream when they campaign to win elections and the criminals receive protection from the law and support from the government to carry out their illicit activities. This connection may serve as a ticket for criminals to run for office.

The Criminalization of Politics was made possible by this unfavourable and dangerous interaction between the government and political figures. Religion and caste are equally to blame for the criminalization of politics. There are certain guidelines and procedures for promotions in bureaucracy. However, both caste and religion obstruct this process. Less qualified civil officials often receive promotions in various states. In all, the quota system is to blame for this. Additionally, it has been observed that a minister who belongs to a specific caste or religion favours those who belong to those castes or religions. It can be found in several Indian states.

The Criminalization of Politics may also be a result of the public's lack of understanding regarding how to choose their representatives and their qualifications, which frequently leads to the election of criminals as MLAs and MPs. In India, a country where there are people of many different cultures, languages, and religions, the use of caste and religion is highly widespread. Religion and caste-related issues also contribute to this. In many Indian states, it is common for ministers of one caste or religion to show favouritism for his or her own group's followers. This Criminalization is also a result of the quota system. The Criminalization of

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<sup>2</sup> Ibid.

Politics is another result of the party-based form of administration. The party leaders make promises to the electorate on the eve of the general election. The funds provided by the government for the general welfare and to meet people's needs and wants are used by political parties for their own purposes, and this contributes to the criminalization of politics. However, once a political party is in power, they will do nothing for the supporters who help the party win.

#### 1.4 Reasons for the Criminalization of Politics

Politics in India has been criminalized for a number of reasons. These explanations shed light on the rationale for India's criminalization of politics. Basically, these reasons must be recognized to analyse the rise of political criminalization. The following are reasons for making politics illegal: -

1. **Vote Bank:** - One of the most compelling arguments for the criminalization of politics is the Vote Bank. To win elections, every politician requires a strong base of supporters. Therefore, the politicians may get in touch with someone with a criminal record or someone with greater influence. Political parties spend a lot of money on obtaining votes and other unethical activities. Political crime is a result of the connections between politicians and these criminals.
2. **Corruption:** - Corruption is the second most significant factor contributing to the growing criminalization of politics. The political leader does not fairly use his influence to win elections. In India, corruption has become an issue in every area and a barrier to the nation's development.<sup>3</sup> Unfortunately, political leaders themselves are implicated in corruption cases, despite the fact that the governance and political sectors bear a significant portion of the blame for the nation's progress.
3. **Lack of Governance:** - The lack of effective governance in the nation is the next factor contributing to the criminalization of politics, which is on the rise. On the one hand, India uses a lot of procedures to let the bureaucracy intrude into people's everyday lives, while on the other, it seems that there is not enough employees to carry out its most important duties.

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<sup>3</sup> Criminalization of Politics in India

4. **Muscle Power:** - The most important factor is Muscle Power in the Criminalization of Politics, because politicians always need a certain amount of force to have an impact on the public. These physical assets support the politicians in all of their field tasks, including rallies, vote-banking, public gatherings, etc. Due in large part to their capacity to finance their own elections and contribute significant money to their respective parties, candidates with questionable pasts appear to perform well despite their reputations.

### 1.5 Effect of Criminalization of Politics

In the Indian system, the criminalization of politics has a number of effects. The country's development is the main impact of the criminalization of politics. The main outcomes of the criminalization of politics are listed below: -

1. **Against the Principle of Free and Fair Elections:** - It is apparent that the competing parties would employ force and money to broaden their support base if politics were made illegal. Politicians frequently bribe residents of deprived areas and slums with cash and alcoholic beverages. This helps the politicians to win a sizable number of votes. Because people from the slums lack the literacy needed to distinguish between the right and incorrect political party, they tend to vote for those who offer them bribes.<sup>4</sup>
2. **Affecting Good Governance:** - It would undoubtedly have an impact on the phenomena of good governance if the party in power had representatives who were chosen by buying votes and via other illegitimate methods. The term "good governance" describes the standard by which public organizations manage and perform their business. However, it would virtually be impossible if lawbreakers were given the authority to uphold the law. The government would be less effective in meeting the expectations of the populace.
3. **Affecting the Integrity of Public Servants:** - The work of public employees is likewise impacted by the criminalization of politics. Black money tends to circulate more during election seasons, which encourages corruption in society and interferes with public workers' ability to do their jobs.
4. **Causes Social Disharmony:** - It has an effect on social harmony by introducing a culture of violence, creating a poor example for young people to follow, and eroding public

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<sup>4</sup> Lex Life, "Criminalization of Politics"

confidence in democracy as a form of government.

### **1.6 Impact of Criminalization of Politics**

Such political criminalization has a detrimental effect on the nation's economy, society, politics, and criminal justice system, among other things. The effects of the criminalization of politics are as follows: -

1. **Economic Impact:** - The economic foundation of our nation has been severely impacted by the criminalization of politics. Black money's influx into the economy is the biggest benefit of the criminalization of politics. In election campaigns, mafias, wealthy individuals, and corporate typhoons frequently support political parties. To help the candidates win the elections, these people invest a significant sum of money in their campaigns. As soon as they triumph and take the reins, the mafias employ them to increase their profits through unethical and illegal means. The only option left for the politicians is to comply with their demands. The market is flooded with black money as a result of all these despicable acts, which sacrifices the nation's economic health for ulterior political goals.
2. **Social Impact:** - The term social impact refers to how an activity affects the welfare of people and families as well as the social fabric of a community or society. Politics being criminalized has only detrimental effects on society. The political parties prioritize voter bases over the social development of the nation, which has numerous detrimental effects like the expansion of the mafia, the creation of new states, the demands for reservation made by various groups within society, the escalation of muscle and financial power, the impediment to social development, etc.
3. **Political Impact:** - The criminalization of politics has a negative impact on the political climate of the nation because it undermines strong leadership, strengthens the connection between criminals and politicians, develops multiple criteria for political parties, and encourages opportunistic politics and voter bribery in exchange for money and gifts. Criminalization of politics has negative effects on the judiciary, police, investigating agencies, Parliament, bureaucracy, and even the operations of the media in addition to its negative effects on the economy, society, and politics.

### **1.7 Legislative Aspect of Disqualification of Criminal Candidates**

The **Constitution of India, 1950** is ambiguous regarding what prevents a person from running

in elections for the Parliament, Legislative Assembly, or any other legislative in this regard.

The requirements for disqualifying a person from contesting in an election for legislature are mentioned in the **Representation of Peoples Act of 1951**.

**Section 8** of the act provides for disqualification on conviction for certain offences, 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.<sup>5</sup>

However, the legislation does not prohibit anyone who are facing criminal charges from running for election; hence, a candidate's eligibility for election depends on whether or not they are found guilty in those charges.

### **1.8 Judicial Aspect regarding Criminalization of Politics**

#### ➤ **Association for Democratic Reforms v. Union of India (2002)<sup>6</sup>**

In this Supreme Court held that, every candidate contesting election has to declare his criminal and financial records along with educational qualifications.

#### ➤ **Ramesh Dalal v. Union of India (2005)**

In 2005, the Supreme Court held that a sitting MP or MLA will be disqualified from contesting the election if convicted and sentenced for imprisonment for two years or more by a court of law.

#### ➤ **People's Union for Civil Liberties v. Union of India- NOTA Case<sup>7</sup>**

The Supreme Court ruled that voters should have the option of “**None of the above (NOTA)**” on the Electronic Voting Machines (EVMs) to ensure the option for those who don't find any candidate suitable.

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<sup>5</sup> Section 8 of The Representation of People Act, 1951.

<sup>6</sup> 2002 (3) SCR 294.

<sup>7</sup> WRIT PETITION (CIVIL) NO. 161 OF 2004.

➤ **Lily Thomas v. Union of India (2013)<sup>8</sup>**

This case was held in 2013 and the Supreme Court held that any member of parliament or state legislative assemblies who is convicted of a crime and sentenced to imprisonment for two years or more would be disqualified from holding office. This case is the developed aspect of the Ramesh Dalal case in 2005.

➤ **Manoj Narula v. Union of India (2014)**

In 2014, the Delhi High Court held that person charged with a criminal offense cannot be disqualified from contesting elections merely because they have been charged with a criminal offense. However, the court also ruled that political parties must not choose the candidates who have a criminal background.

➤ **Public Interest Foundation v. Union of India (2019)<sup>9</sup>**

This case was held in 2019 by Supreme Court, and the court ordered that political parties to publish the criminal record of their candidates on their web sites, social media handles and local newspapers. Further the court also directed the Election Commission of India to create a framework to ensure that the information on candidate's criminal records was disseminated effectively.

## **1.9 Recommendations and Initiatives to curb Criminalization of Politics**

### **Recommendations:-**

1. **Legal Reforms:** Strengthen and expedite the legal process for cases against politicians. Fast-track cases involving elected representatives to ensure swift and fair justice. The Representation of People Act, 1951 should be amended to prohibit anyone who is currently facing serious criminal charges from running for office. Politicians with criminal histories should have their cases handled by fast-track courts. Fast-track courts are required because politicians have the power to regularly delay the legal process and rule for decades before any charges are brought. Politicians with prior convictions who are swiftly tried could not be permitted to run in elections.

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<sup>8</sup> AIR 2000 SC 1650.

<sup>9</sup> Writ Petition (Civil) no. 536 of 2011

2. **Transparency and Accountability:** Implement strict transparency measures in political funding and campaign expenditures. This can help reduce the influence of money power in politics. Greater transparency in campaign financing should be implemented in order to discourage political parties from selecting candidates with criminal records.
3. **Awareness and Education:** Promote civic education and awareness among the public, encouraging them to make informed choices when voting. Awareness should be created about **NOTA (None of the above)** and such other options to prevent the criminals from winning elections.
4. **Internal Party Reforms:** Political parties must take responsibility for candidate selection and refuse tickets to individuals with criminal backgrounds. The strongest political commitment from all political parties to the project is the prerequisite for preventing the criminalization of politics. The first thing the political parties need to do is cease hiring people who have active criminal cases against them. The most important thing is to make an open-minded effort and a full commitment to executing a free and fair election. Only this can change the emphasis from choosing someone based on his or her ability to win to choosing someone with personality.
5. **Electoral Reforms:** Consider changes to the electoral system, such as introducing a "none of the above" (NOTA) option and encouraging coalition politics to reduce the chances of candidates with criminal backgrounds winning. To combat black money and prevent the criminalization of politics, committees on electoral reform have promoted strengthening the Election Commission and paying elections with public funds.
6. **Civil Society Involvement:** Encourage civil society organizations, media, and citizens to actively engage in holding politicians accountable for their actions

#### **Initiatives:-**

1. The **Vohra Committee** on Criminalization of Politics was established in 1983 with the goal of determining the extent of the political-criminal connection and making recommendations for how to effectively address it.<sup>10</sup>

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<sup>10</sup> Vohra Committee Report

2. The **Law Commission's 244th report**, which was submitted in 2014, addressed the need to stop the trend of corrupt legislators who are endangering democracy and secularism. Further the Law Commission advised that those against whom accusations had been filed at least a year prior to the day on which nominations for crimes carrying sentences of five years or more were to be scrutinized be disqualified.
3. An initiative to establish 12 special courts for a year was launched by the Union government in 2017 to expedite the hearing of criminal cases involving MPs and MLAs.
4. The supreme court has given numerous directives, including one requesting that the Centre form a monitoring committee to look into the factors contributing to the delay in these cases' investigations.

### **1.10 Conclusion**

In conclusion, addressing the criminalization of politics in India is crucial for safeguarding the integrity of the country's democratic institutions and promoting good governance. It requires concerted efforts from all stakeholders, including the government, political parties, civil society, and the public to ensure that criminals do not continue to wield power in the political arena. Any government that targets and is successful in eradicating this grave terrorism of the criminalization of politics from the Indian democracy would be bestowing the greatest gift. At the same time, our court system must take a position and combat this before it destroys the nation's democracy. The judicial system cannot wait any longer for a reluctant Parliament to enact robust legislation to achieve decriminalization of politics; otherwise, this terrible act of political terrorism will seriously jeopardize the foundation of our Constitution.

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