

A Study on Evolution and Causes of Criminalization of Politics in India: An Analysis

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Abstract

"Democracy is often described as being of the people and for the people. In this sense, people occupy the central position of democracy. However, even after 75 years of freedom, the life of the average person has deteriorated. Democracy includes the rule of law, adherence to the principles of the constitution and standards of morality and legal decency. But in the years since independence, social, political and economic upheavals have become linked to crime like an umbilical cord connects a mother and child. Politics used to have morals, but that doesn't apply anymore. Politicians are embroiled in controversies in every Indian state. Over the years they have developed a relationship with criminals and these criminal forces have taken control of democracy. No party is immune to the influence of criminals and leaders benefit from a favorable system. Unfortunately, legislative issues in the most popular government on the planet are now tied to gun culture. These people are elected to parliament and councils of state and are in charge of overseeing and running the nation despite such records and illicit interests. Criminalization of government affairs has become a painful reality for India's vote-based government. This is far worse than criminal intimidation. Our ancestors who fought for our chance and their fight after fight 75 years ago had a fantasy, but now we are witnessing the destruction of the illusion. The article attempts to analyse evolution and causes of criminalization and how criminalization started in India, how it affected democracy in India. The document also highlights the steps taken for electoral reform and how to implement them".

Introduction


All those who exercised power over others must be spiritual, not just religious in the ordinary sense of the word, by manifesting a more or less divine interior, by which they would use that power for the good of men, to serve men. Whatever the development of a nation, it could not be great if character was not developed. We must become big people in a big nation and not remain small people in a big nation.

Criminalization of politics has been a major issue in Indian politics. As crime became highly visible on the political agenda and with it new problems in politics, the development of an unholy nexus between criminals and politicians was called the criminalization of politics. It was therefore essential to know the meaning of crime and politics.

Criminalization of politics has emerged as a permanent phenomenon in Indian politics. This needs to be discussed because it goes against the basic foundations of democracy. The rule that should have followed the law became the rule of money and power. The adoption of these features by both political parties and the general population is even more surprising because it implies that people have the power to act contrary to democratic principles. Democracy thus turned into a paradox of democracy.

This results in the rejection of all the democratic guarantees outlined in our Constitution, meaning that the legislative, executive and judicial branches of government weaken and become more corrupt.¹ "When Bad Action Pays: Money and Muscle in Indian Legislative Affairs" by Milan Vaishnavexplains , how goons and mafias have been part of government interests ever since the inception of India's vote-based system. The number of political parties in the country has grown significantly. Political standards have not improved because of the rise of political parties; instead, it is a sign that standards have fallen to a pitifully low level and that the spirit of nationalism is waning. This can be inferred from the appalling living conditions of the population. Life was worse for the majority under colonial rule.

The most significant cause of the criminalization of politics is the profane relationship between bureaucracy and politicians. This unwanted and destructive nexus between bureaucracy and political managers has increased the extent of criminalization of politics. Both religion and caste are responsible for the criminalization of politics. There are also specific approaches and regulations for promotion in the bureaucracy. However, both religion and caste interfere with this process, and in many Indian states less competent people get a chance to serve as civil servants and in politics.

¹Neha Sharma (2015) "Criminalization of Politics : A Threat to Democracy" Vol. 3 Issue 2,3 LMQOL 86, 86-87
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The attempt to criminalize politics in the country involves the direct infiltration of political parties, legislatures, including parliament, by criminals through elections and the use of criminal methods and tactics to influence political processes and procedures. Politicians in today's society often use their financial or physical power to buy votes. Making politics illegal is a very problematic development for Indian democracy. Political crime is becoming more widespread. Of course, this is harmful to democracy. Politics has become a crime for several reasons. The caste system, the notion of religious supremacy and the lack of democratic accountability can do little. Citizens in a country that practices true democracy are free to express their opinions, criticize and disagree. Tolerance should be the cornerstone of democracy. Democracy should not suppress people's personal opinions and beliefs; instead, it should allow them to thrive and provide them with a forum to discuss issues with democratic governance. However, when a nation's political system is populated by political figures that care little for their country, their growth and prosperity become their top priority. Becoming a world power and gaining respect on the international stage are mutually exclusive. It may not provide its inhabitants with the country they wish to live in. The criminalization of politics is a problem that originates in the political system and attempts to cripple all democratic institutions in this nation. The criminalization of politics has permeated the system so thoroughly that people no longer believe in concepts and values such as the rule of law, political accountability, free and fair elections, democracy and freedom of speech and expression.

Meaning of Criminalization of Politics

The criminalization of politics is not the product of a single cause. Yet it is the result of many factors and has an impact beyond the political climate and stability of a nation. Still, it affects the overall growth of the country. Today, the study benefits the social, legal and political structure of India. Under this political model, people with criminal records enter politics, win elections, and join the legislature. This primarily works in two ways: first, politicians support criminals because they need their power, resources and influence; second, criminals are guaranteed protection from politicians.² Election rigging, incitement to violence, proxy voting, booth hijacking, financial support of politicians by criminals, intimidation of candidates, and murder of party workers all involve criminals. They also provide cash and resources to politicians who associate with them. When politicians are elected, they use public resources to protect criminals. Under the covert support of politicians, criminals are also expanding their spectrum of operations. In this way, the criminalization of politics proceeds. When self-interested individuals use political authority for dishonest and financial gain or for other advantages, such as obtaining a specific position in the administration or promotion to a higher level of administration, which is usually not possible, it is

²M.P. Jain, Indian Constitutional Law

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therefore generally referred to as the criminalization of politics, when political authority has been or is being used by some individuals to gain unjustified advantages and when this is widespread in politics. Political influence can be used to gain an unfair advantage or to obtain anything illegal or improper. Here the word "crime" has a specific political meaning. Crime refers to conduct that is a serious crime against a person or the state and is sanctioned by law. Therefore, using political influence to gain something is illegal and punishable. For example, a government official wishes to be promoted to a higher post, even though it is not his right. A person uses political influence to carry out his purpose. But that is not where the problem ends. The individual who assisted in acquiring the impropriety will again use that person to further their indiscretion. This is a give and take policy and takes place behind closed doors.³

Political influence is the best tool to achieve social and economic change in any nation. But in a corrupt system, politics is the easiest means to achieve financial goals. The two main factors that support the criminalization of politics are money and power. These two powers are manifested during the electoral process. There are two moral and legal dilemmas associated with financial power. The ethical problem is that office-seekers try to influence the vote through money and power. Voting should be based on merit and not dependent on material possessions. A candidate does not comply with a set limit set by the Election Commission, which is the legal side of exceeding the spending cap. It is also a candidate that they spent extravagantly using "black money", cash obtained illegally. "Muscle power" is the second aspect of the criminalization of politics. Since the 1970s, public employment of musclemen has been used to win votes and influence voter attitudes and behavior. This has been portrayed in Indian popular culture with a strong sense of realism. Movies like 'RakhtaCharitra' and 'Gangs of Wasseypur' have shown how electoral victory is achieved through power and money. Instead of giving candidates only physical strength, these musclemen began to enter the political sphere in the 1990s. This change in the trajectory of Indian politics further tainted the political landscape. A well-known political commentator and academic named Rajni Kothari has succinctly described Indian politics as a nexus between Neta-Dada-Babu-Lala (Politician-Muscle-Bureaucrat-Entrepreneur). This unwelcome and dangerous interaction between the bureaucracy and political leaders opened the door to the criminalization of politics. Religion and caste are equally responsible for making politics illegal.

In the bureaucracy, there are specific steps and regulations for promotion. However, both caste and religion hinder this process. Less qualified civil servants often get promoted. Overall, the quota system is to blame. It has also been observed that a minister of a particular caste or religion will


³Gulshandeep and DrSandeepKaur (2020), "Criminalization of Politics in India: Evolution and Causes" Vol. 7 Issues 10, JETIR 2060-2061

give preference to those belonging to such castes or religions. It can be found in several Indian states. The criminalization of politics is another result of the party form of government. Party leaders make promises to voters on the eve of the general election. However, once a political party comes to power, it does not take any action on behalf of its supporters. To meet their needs and wants, the government provides funds for public welfare. However, the political party still uses for its goals the resources or finances that flow from the criminalization of politics. This shows that candidates prone to infractions have a higher chance of winning than candidates with obvious qualifications. Why do Indians elect corrupt politicians for this? Voters are speculated to continue to support criminals. Indian voters support criminals because of the divine rewards they will receive and because politicians will have enormous freedom to pass laws that give gifts to their constituents. The worst aspect of money in politics is that after a candidate is selected, their top priority is to recover the money used in the race. Here began the political impasse in the history of India.⁴

Causes of Criminalisation of Politics

The criminalization of politics is caused by several factors. Many enter politics for the lure of power. People have access to the machinery of government by holding the political reins. They often use it to push their agenda, enrich themselves and sharpen their blades. Legislators and political leaders are political masters and have great power to influence policy. Many of the schemes we saw involved many politicians. This proves the nexus between bureaucrats and politicians. The engaged bureaucracy has evolved into "mean bureaucrats" who follow the orders of their political masters. Since politicians will have a huge scope to pass laws that give gifts to their constituents, Indian voters favor criminals because of the intangible benefits they get. The worst aspect of the power of money in politics is that after a candidate is selected, his primary goal is to recover the money spent on the electoral process. Thus begins the vicious spiral that has engulfed Indian politics. Political parties and individual candidates have to spend significant amounts of money during the election process to pay criminals, commonly referred to as goondas, to illegally buy the votes of mortals. Political crime flourished in the constituency due to political association with them. To win elections, political parties and independent candidates spend exorbitant amounts on these criminals, generally referred to as goondas, for vote-buying and other illegal purposes. Most voters in this country are those who are not sure why they should vote. So most votes can be influenced and bought. It is easier for the bad to understand their support than for the good. Every party, without exception, nominates candidates with a criminal record in the elections. Although some of us complain about party decisions, these people usually win elections into office.

⁴S. Y. Qureshi "Criminalization of Politics must be curbed" The Indian Express, August 14, 2021

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By reacting this way, we fail to understand that the best power a democracy can give its citizens is the ability to remove incompetent leaders from office. Independence was achieved in two stages. Institutional corruption was the first stage and institutionalization of corruption was the second. When we look at the corruption scenario today, we see that it has progressed to this point because repeated institutional corruption eventually resulted in the institutionalization of corruption. Failure to fight corruption led to disrespect for the law. Corruption thrives when the law is disregarded and political activity is illegal.⁵

Elections to State Legislatures and Parliament are expensive and it is a widely accepted indisputable fact that massive election expenditure is the main driver of corruption in India. Bidder should invest tens of thousands of rupees to win. Regardless of whether he wins, his actual salaries while serving as an MP or MLA could be better than his campaign expenses. Today's politicians are successful because of the muscle provided by criminals. In most cases, the people who make up the voting population are too reluctant to demand measures to reduce crime. The idea that if we fail to instill faith within the Community then we can instill fear or the threat of wanting to insist on ability within the electoral style is one that many politicians have adopted to reach the country's voter bank. Weaknesses in Operation Electoral Commissions are another factor contributing to the proliferation of criminals in the nation's political system. The Election Commission is responsible for taking necessary measures to break the link between politicians and criminals. When submitting nomination papers, the Election Commission requires candidates to fill out documents that require them to provide information about their assets, pending lawsuits, judgments and other matters. Although the Commission made a great decision to inform voters about a candidate's criminal record, it was not well done. These disclosures inform voters of a candidate's background and credentials, allowing them to vote for a criminal regardless of these facts. Since there has long been a disconnect between the functioning of the Election Commission and the electorate, the average person needs to know more about the regulations that the agency has created. For the survival of our democratic establishment, it is essential to close this gap and also to expel undesirable forces from politics. And for this purpose, the literacy rate of the country can be increased. Voters must exercise their power to vote responsibly and in the best interest of the country. In addition, the Commission may withdraw recognition only from parties; he cannot opt them out, which prevents the electoral commission from performing its work.⁶

Minimal legal measures have been taken to stop this huge menace. After committees are formed and hundreds of crores of rupees are spent. Why would a thief even open an investigation against him? In the case of legislators, the situation is comparable. Why would they ever pass a strict law

⁵Ibid

⁶Neha Sharma Supra Note 2

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targeting them for persecution? Another strategy is to pass legislation but not implement it. Nevertheless, the Supreme Court was a pioneer in this case and issued several bold decisions. Second, the adoption of revolutionary laws, such as the right to information, supported by a large majority of the population, has proven to be a powerful weapon in the hands of the common citizen against democratic goons.⁷

Effects of Criminalisation of Politics

Although the consequences of criminalizing politics are serious and far-reaching, it is neither wise nor feasible to summarize it in simple or practical terms. A more comprehensive definition of the term is often developed only after the bewildering array of political and socio-economic changes in India over the past 40 years have been assessed.

It becomes equally essential to focus on the causes and trends set in motion by people or organizations that have damaged the environment and unleashed criminalization in alarming proportions. The problem is not limited to criminals taking over and controlling the political scene. Although the consequences of criminalizing politics are serious and far-reaching, it is neither wise nor practical to summarize the problem in simple or practical terms. A more comprehensive definition of the term is often developed only after the bewildering array of political and socio-economic changes in India over the past 40 years have been assessed. Focusing on the dynamics and trends initiated by people or organizations that have poisoned the environment and unleashed alarming levels of criminalization becomes equally essential. The problem is not limited to criminals taking over and controlling the political scene.

It is also necessary to note the circumstances, procedures and trends that caused and allowed the method of criminalization to develop into an effective weapon in the struggle for dominance. It is a well-known fact that the criminalization of politics undermines the legitimacy of the communal ethos, dreams and aspirations of citizens and may even reduce the effectiveness of the rule of law. There is no doubt that Indian democracy is an outcome of the rule of law and seeks to create an egalitarian social structure. It is a form of political philosophy and constitutional thought. The problem is not limited to criminals taking over and controlling the political scene. It is also necessary to note the circumstances, procedures and trends that caused and allowed the method of criminalization to develop into an effective weapon in the struggle for dominance. It is a well-known fact that the criminalization of politics undermines the legitimacy of the communal ethos and the dreams and aspirations of citizens and may even reduce the effectiveness of the rule of law. There is no doubt that Indian democracy is an outcome of the rule of law and seeks to create an egalitarian social structure. It is a form of political philosophy and constitutional thought. Elections

⁷Ibid

in India are often fought with the help of money power obtained from dubious sources and occasionally with tainted money to maintain their influence in the upcoming elections. The state police and law enforcement apparatus, political parties and voters are equally responsible for this. Currently, only those who have been found guilty of at least two counts are barred from running for office. This opens up the market for accused criminals, many of whom are repeat offenders or have criminal histories. Why a person should be found guilty on two counts and barred from standing for election baffles me. Definitions are where the main problem is. Thus, one is not a criminal unless found guilty—more so than merely drawing up an indictment and having to disqualify someone from running for office. Consequently, the law must be amended.⁸

The main effect is that criminals are elected to office as legislators. As a result, Parliament is less effective in passing legislation needed for the efficient running of the nation. Parliament and the Council of Ministers are losing their position as leaders of the nation. A “culture of deferral” and political favoritism work together to delay the prosecution of elected officials—often ineffective and biased by special interests and public prosecutions. The procedure is set up so that charges against an elected official are resolved favorably.¹⁶ Speedy trials against elected officials are hampered by political favoritism and a “culture of postponement”. Prosecutors often lack efficiency and are self-interested. The system is set up to resolve the case of an accused elected official favorably. Moreover, it undermines the integrity of public life by increasing the flow of unreported or “black” money before, during and after elections. State institutions such as the bureaucracy, the executive, the legislature and the judiciary are weakened by the increasing level of corruption in public life. It further promotes a culture of violence and creates a negative precedent for children to follow.⁹ Moreover, it causes an increase in the flow of unaccounted or illegal funds before and after elections, which weakens the integrity of public affairs. State institutions, including the bureaucracy, the executive, the legislature and the judiciary, are weakened by the growing level of corruption in public life. Moreover, it inculcates a culture of violence in the community and sets a bad example for the next generation. The Supreme Court decided in the case of Ramesh Dalal Vs. Union of India¹⁰ that a Member of Parliament (MP) or a Member of a State Legislature (MLA) shall also be disqualified from contesting elections if found guilty and sentenced to a term of imprisonment not less than 2 years by a court. This decision followed protests by various groups.


Conclusion

The criminalization of politics and corruption impacts the foundation of democracy. Candidates with criminal records running for office should receive extensive attention, as should the political

⁸Dr RameshwariBagra Supra Note 10

⁹Khan Chaudhary (202) “Decriminalization of Politics in India” Vol. 3 Issues 6, IJLMH 750-751

¹⁰1988SCR (2) 1011

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parties that support them. The publishing needs to be where voters can quickly obtain it; it should be on something other than the party's official website because only some voters will look at each candidate's profile, and others may need access to or awareness of this electronic medium. To stop the criminalization of politics, this is crucial. Likewise, if people participate more broadly in managing state projects, abuse of state power and criminalization of governmental issues can be reduced and eliminated. Rules and principles should be clear, and forces should not be brought together. The agents must exhibit the traits of a social worker, including inactivity. Because of a justifiable worry for the nation, they should consider and advocate for government aid for everyone. Presenting the electoral reforms and how they might aid the crucial situation of Indian politics.

The rising percentage of members of parliament who have a criminal background in 24%-2004, 30%-2009,34%-2014 and 43% in 2019. Around 50% of MPs in the new Lok Sabha have criminal records. The increasing number of members with criminal records in parliament endangers the survival of any true democracy.

In contrast, answers for decreasing criminalization in politics have been thoroughly covered in the subsequent section. To solve the problem, it is necessary to elect changes such as a sufficient number of accounts and more pronounced financial straightforwardness by the Electoral Up-and-Comers, which have been partially implemented (yet are still rife with escape clauses), a decrease of Poll Booth Manipulation, and so forth.