



## CRIMINALISATION OF POLITICS- A THREAT TO DEMOCRACY\*

### Introduction

Criminalization of politics has become an enduring phenomenon in Indian politics. It is crucial to discuss this because it is against the very spirit of democracy. A rule that was meant to be governed by law has rather ended up being a rule of money and muscle power. What is even more shocking is the acceptability of these elements both by the political entities and the masses, which means that it is people's mandate acting against the values of democratic system. We can thus say that democracy has become the contradiction of democracy. This leads to the negation of all the democratic safeguards provided by our constitution; that is, the three organs which were supposed to keep a vigilant check on each other - legislature, executive and judiciary- are being weakened and its roots are corrupting.

The count of political parties has been on enormous increase in the country. This rise in the number of political parties is not on the account of improvement in the standards of politics; rather it is an indication of the falling standards to abysmal levels and weakening of the spirit of nationalism. It can be derived from the pathetic living conditions of the people. The lives of the masses were worse under the colonial rule but even after the independence, the benefits of being a free and democratic nation have not reached to all the citizens residing in the country. There is still a stratum of people who dominate the policy-making either as a part of the government or by funding the government, which helps them to get their work done through the decision-makers. The political domain now pulls in criminals and rowdies with testified record of hooliganism, who aim for riches and dominating the functionaries and law-abiding residents. Thus, the politics in the nation has become a business yielding huge profits; rather than being a field of dedication and commitment towards ameliorating the welfare of the concerned subjects.

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\* Ms. Neha Sharma, III Year, B.A. LL.B. (Hons.), Rajiv Gandhi National University of Law, Punjab.

## Statistical Analysis

The recent trends show that there has been a surge in the proportion of criminal MLAs and MPs in the country. In the Lok Sabha of 2004, the number of winning candidates who faced with criminal charges was 24 percent which further rose to 30 percent in 2009 and furthermore to 34 percent in 2014.<sup>1</sup> As many as 186 (34 percent) winners out of 541 analysed had declared criminal cases against themselves<sup>2</sup>. Moreover, the majority-winning party, BJP, is leading the chart with as many as 98 winning candidates (35 per cent) out of total 282, are facing criminal charges.<sup>3</sup> And the irony is that the chances of winning of a candidate with criminal cases in the 16<sup>th</sup> Lok Sabha elections were 13 per cent while for a candidate with a clean record it was merely 5 per cent.<sup>4</sup> The situation is at its worse in Uttar Pradesh where almost 47 percent of the total MLAs in the Legislative Assembly of 2012, have declared criminal cases against them.<sup>5</sup> In 2007 assembly elections for the whole of Uttar Pradesh, out of 403 MLAs considered, 140 (35%) MLAs had declared criminal cases against themselves.<sup>6</sup> The statistics provided are indicative of the rising trend of criminalisation of politics in UP. However, the political parties alone are not to be blamed for giving the ticket to such a candidate but also the voters, who do not utilize their franchise in a proper and effective manner.

<sup>1</sup> Sanchit Singh, Criminalisation of Politics in India: A Project Study, <http://www.scribd.com/doc/20133814/Criminalization-of-Politics-in-India-A-project-study>

<sup>2</sup> Elections 2014: 34% of newly-elected MPs have criminal cases against them, First Post, May 18, 2014, <http://www.firstpost.com/politics/elections-2014-34-of-newly-elected-mps-have-criminal-cases-against-them-1531233.html>

<sup>3</sup> Every third MP in 16th Lok Sabha has criminal charges: ADR, Association for Democratic Reforms, <http://adrindia.org/media/adr-in-news/every-third-mp-16th-lok-sabha-has-criminal-charges-adr>

<sup>4</sup> Kamayani, India's election isn't as historic as people think #mustread, Kractivism, <http://www.kractivist.org/tag/elections/page/2/>

<sup>5</sup> One-third of presidential electoral college tainted, Ibnlive, Jul 12, 2012, <http://ibnlive.in.com/news/onethird-of-presidential-electoral-college-tainted/270864-37-64.html>

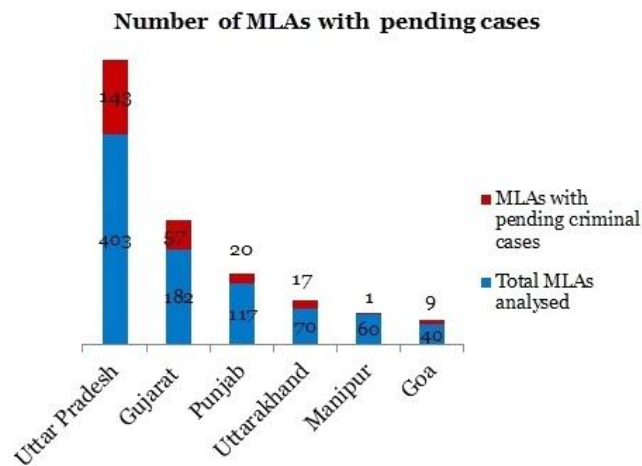
<sup>6</sup> Naresh Kumar Sharma, 189 MLAs in Uttar Pradesh assembly have pending criminal cases, Association for Democratic Reforms, <http://adrindia.org/media/adr-in-news/189-mlas-uttar-pradesh-assembly-have-pending-criminal-cases>

<b>NEW CM'S ROGUE TEAM</b>	
 <p><b>RAJA BHAIYYA</b> He has been booked for hair-raising murders and smuggling</p>	<p><b>DURGA PRASAD YADAV</b> He allegedly killed four persons in an Azamgarh hospital and faces over 14 serious criminal cases</p>
<p><b>ARVIND SINGH GOP</b> He is believed to have committed half-a-dozen crimes and is close to the drug mafia</p>	 <p>◀ <b>SHIVPAL SINGH YADAV</b> <b>MAHBOOB ALI OM PRAKASH SINGH</b> All three have 12 cases, including loot, attempt to murder and dacoity, against them</p>
<p><b>RAJA RAM PANDEY</b> The don-turned-politician faces over a dozen criminal cases</p> 	<p><b>BHAGWAT SARAN GANGWAR</b> He was caught with deadly weapons a few years ago</p>
<p><b>MANOJ KUMAR PARAS</b> He faces rape charges besides over half-a-dozen criminal cases</p>	<p><b>RIYAZ AHMED</b> <b>ARIDAMAN SINGH</b> Both face criminal cases</p> 

Above is a picture from one of the leading newspapers<sup>7</sup> of the country about the recent UP assembly elections of 2012. The Samajwadi Party reclaimed the state with an astounding majority. The young face of the progeny of the Yadavs of UP, Akhilesh Yadav proved to be the triumph card for SP. However question remained, was it the inaugural of a new era of politics in UP? The answer seemed a clear “No” because the only change was of faces, the intent and character remained the same. Mayawati’s rowdies were replaced by Akhilesh’s goons. Thus the responsibility of promised prosperity of UP was delegated to the esteemed cabinet of Akhilesh Yadav which has one third of ministers with serious criminal charges on them. The three years of Yadav Raj has absolutely been a manifestation of its rulers. Daily crimes, riots, atrocities against women etc. are routine activities in UP and the rate is not only persisting but flourishing under the aegis of infamous ministers and other MLAs. The bar diagram below shows the lead of UP in the number of MLAs with criminal charges in comparison with other states.

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<sup>7</sup> Piyush Shrivastava, The goons are back in Akhilesh's pack: Eleven ministers with criminal records find a spot in UP cabinet, Daily Mail, March 16, 2012, <http://www.dailymail.co.uk/indiahome/indianews/article-2115534/Goons-Akhilesh-pack-Eleven-ministers-criminal-records-spot-UP-cabinet-despite-Yadavs-claim-law-order-priority.html>



Source: Association for Democratic Reforms

Thus after having a fair idea of the status quo of the political scenario in India, specifically Uttar Pradesh, we now come to the reasons for the miserable state of affairs.

## Reasons

Below we will try to get into the reasons as to why the criminalization of politics has become a persisting trend in a country which claims to be democratic in every legalized document. A lot of this can be attributed to the prevalent social structure in India and lack of an alternative people's regime. India attained independence on papers but the masses still suffered from colonial hangover. Thus the Britishers were replaced by local masters and roadies. And this led to a new kind of politics in India, degenerated and pervert, but characteristic to the land.

## Emergence of vote bank politics

One of the major reasons of why the political parties bring in such candidates on the election field lies in the services that these rowdies offer to them. The ambit of the services provided by such people is vast and includes the help rendered by them in carrying on unlawful activities during strikes, bandhs, rallies, etc. And when such criminals attain the designation of political leaders, they attempt to accomplish their targets and ambitions on the stake of rules and regulations that should govern them but unfortunately it doesn't. The political parties spend galactically to buy votes and conduct other illegal activities through these crooks or the so called goondas. The majority of Indians are ignorant of politics that goes on in the nation and thus remain unaware of whom they should to vote. Therefore most of the franchise holders of the country are purchasable which further lays an easier path for the political parties to acquire their support.

## Corruption

The political parties claim to be different and better than the other existing parties but a common characteristic that runs almost through all the parties, is the criminal background of the candidate backed by them. But the fact that these candidates not only contest elections but also win and reach to the political office is evident of the failure of democracy as the greatest power a citizen has been armed with is to show the exit way to the incompetent contestants and such authority has not been exercised in a responsible manner by the people.

Corruption is a two-tier process, first, the institutions get corrupt and then the corruption is institutionalized. Thus, corruption and institutions become complementary to each other making the whole superstructure of institutions hollow. The corruption in the governance of our country has now been institutionalized as can be easily observed through the various scams that are running across the country. The incapacity to cope with corruption has called forth the contempt of the law. The combination of contempt of the law and criminalization of politics leads to the flourishing of corruption. In the Corruption Perception Index 1998, India has been ranked 66 out of 85, by the German non-government organization Transparency International established in Berlin, which further implies that India is more corrupt nation than 65 countries<sup>8</sup>.

### **Loopholes in the functioning of Election Commission**

Another reason for the nurturing of felons in the political system of the country is the loopholes in the working of the Election Commission. It is the function of the Election Commission to take required steps to bust the link between the politicians and criminals. The Election Commission has prescribed forms for the contestants of elections to disclose their property details, cases pending in courts, convictions, and so on while filing their nomination papers. This is a positive step taken by the Commission to make the voters known about the criminal history of the candidate but it has not been effectively applied. These disclosures only inform people about the candidate's background and qualifications, but do not forbid them from casting their franchise, irrespective, in favour of a criminal.

There has been a gap between the working of Election Commission and the electorates from many years and thus the common man barely comes to know about the rules drawn by the commission. It is essential to bridge this gulf not only to outcast the undesirable elements from politics but also for the endurance of our democratic polity. And this can be achieved by an increase in literacy rate in the country. The voters, while exercising their voting rights, have to make wise choice in the interest of the national. Also, the Commission has the authority only to

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<sup>8</sup> Kschitkara, [Electoral Reform-Toward Decriminalization](http://www.scribd.com/doc/245455570/Electoral-Reform-Toward-Decriminalization#scribd)  
<http://www.scribd.com/doc/245455570/Electoral-Reform-Toward-Decriminalization#scribd>



de-recognise but not de-register a party, which further interrupts in the functioning of the Election Commission.

### **Denial of Justice And Rule of Law**

Criminalization has become a fact of Indian politics today. The political parties, electors and the whole machinery of law and order of the country are equally responsible for bringing in such a situation. There is very little belief in the country regarding the efficacy of the democratic procedure to actually deliver good governance, which extends to swallowing in of the fact of criminalization of politics. The laws made against convicted criminals who contest elections are weak and toothless in nature which further leads to the encouragement of such practices. "If fundamental rights can be taken away from those who have been charged but not proven guilty, why cannot the same apply to politicians?" This allows the charge sheeted criminals, who are many a times habitual offenders, to contest elections and also attain the political office.

### **Legal Threads**

The legal efforts towards curbing this huge menace have been minimal. Committees after committees are set up, hundreds of crores are spent but ultimately nothing comes out of it. Why will a thief ever set an investigation against him? The situation is similar in the case of the legislators, why will they ever make a stringent law that would lead to their own persecution? Also another tactic is to pass a law and not enforce it. However Supreme Court has been a forerunner in this case and has given some courageous judgments. Secondly the passing of some revolutionary legislations like Right to Information backed by a strong public opinion has proved to be a tool in the hands of common man against the democratic goons. Let us have a look at some of these instruments.

### **Vohra Committee**

The blasts in Bombay on 13<sup>th</sup> March 1993 shook the whole country. It was alleged to have involved the collaboration of a disseminate network of criminal gangs, policemen and custom officials along with their political supporters. A commission, N.N. Vohra Committee, was instituted to inquire into the so-called nexus.

The report submitted by the commission found such deep involvement of politicians with criminals in India that it was debarred from being published. The report observed "the various crime syndicate/mafia organisations have developed significant muscle and money power and established linkage with governmental functionaries, political leaders and other to be able to

operate with impunity<sup>9</sup>". The committee also highlighted the use of black money in the elections, which is the root cause of the criminalization of politics in India. The Committee cited other agencies to say that the Mafia network is "virtually running a parallel government, pushing the State apparatus into irrelevance<sup>10</sup>." The report also says "in certain States like Bihar, Haryana and Uttar Pradesh, these gangs enjoy the patronage of local politicians cutting across party lines and the protection of the functionaries. Some political leaders become the leaders of these gangs/armed senas and over the years get themselves elected to local bodies, State assemblies and national parliament<sup>11</sup>."

The Vohra Committee had submitted its report around 20 years ago to curtail the increasing criminalization of politics but as it always happens in this country, no further measures were taken up on this report. This was referred by the Lok Sabha Speaker and President of India in the petition submitted by them on 16<sup>th</sup> May that, "The subject of criminalisation of politics is one that concerns the entire nation closely. It is deeply disturbing that on the one hand, our polity is tolerant of 'fake encounters' (summary executions) of alleged criminals and terrorists, while our highest representative body – Indian Parliament – harbours people caught red-handed in acts of human trafficking, and convicted on charges of abduction and suspected murder."

### **Supreme Court Judgments**

The judgment<sup>12</sup> of Supreme Court delivered on 2<sup>nd</sup> May 2002 made it compulsory for the candidates to disclose their criminal records, if any, along with their financial and educational history. The Election Commission had suggested some amendments in the statutory rules and in the format of nomination forms, to give effect to the Supreme Court judgment. The judgment of the Apex Court is a milestone in the field of electoral reforms and to ensure a check on the corrupt activities among public officials. It is an irony that the legislature and executive who are responsible to make and implement laws and policies for the nation are themselves the law-breakers.

The role of judiciary in dealing with the current situation is a huge and an important one. The other two wings of the government, legislature and executive, have been complaining about the intervention of Supreme Court on their orbit, but it is essential for the Apex Court to take such harsh measures in order to get rid of such unwanted situation.

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<sup>9</sup> An Eye Opening Account of Crime-Politics Nexus, Vohra Committee Report, <http://milapchoraria.tripod.com/rajyasabha/id13.html>

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Union of India v. Association for Democratic Reforms & Anr.*, (2002) 5 SCC 294.

## Right To Information Act And Criminalization Of Politics

The Supreme Court has held that the right to information- the right to know antecedents, including the criminal history, or property of candidates - is a fundamental right provided by Article 19(1) (a) of the Constitution of India and that the information is primal for the sustenance of democracy. In the judgment<sup>13</sup> of 2<sup>nd</sup> May 2002, the Apex Court directed the Election Commission to collect information from each candidate contesting elections on affidavit as a requisite of the nomination papers on: Whether the candidate has been convicted / acquitted / discharged of any criminal offence in the past, if any; whether the candidate was accused in any pending case of any offence punishable with imprisonment for two years or more, and in which charge was framed or cognisance taken by the court of law. If so, requires the details thereof; the assets (immovable, movable, bank balance, etc.) of a candidate and of his/her spouse and that of the dependents; liabilities, if any, particularly of any overdue of any public financial institution or Government dues and educational qualifications of the candidate.

The Right to Information Act 2005 is a historical Act that empowers people and holds Government officers liable for punishment if they fail to reply to the queries of people within stipulated time duration.

### Conclusion

To envisage a democratic political system without political parties is unfathomable. Despite this, there is no mention of the term 'political party' in the Constitution. It is just in the Tenth Schedule of the Constitution that the term finds the expression. However, this was included after 38 years of Independence of the country. And even till now, there is no provision with respect to the kind of political party which is to be permitted to function or about the nature and basis of selection of candidates of political party.

The infamous definition of democracy given by former U.S. President, Abraham Lincoln, says, "Democracy is a government of the people, by the people and for the people". It provides for an ambiance in which the rights of not only the majority of the citizens but also that of minority are preserved. In a democracy, the people are sovereign and hence are the ultimate source of authority. But the criminalization of politics has led to the dominance of money and muscle power which has posed a threat to the very foundation of democratic arrangement in the nation. The concept of "Rule of Law" has been declared by the Supreme Court to be the basic structure of our constitution<sup>14</sup> which implies that for the country to run according to the constitutional provisions it becomes imperative to observe rule of law but in practice, the hooligans (in the pseudo name of

<sup>13</sup> *Ibid.*

<sup>14</sup> *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.



politician) ultimately forms the government and thus the whole idea of rule of law becomes shattered. When these criminals become MPs or MLAs, they ensure that only those laws and policies are made that serve their interest and are not in contradiction to it. For instance, The Whistle Blowers' Protection Act, 2011. The President of the country gave assent to the concerned Act in 2014 but still the act has not come into operation as the required rules for an Act to become functional have not been framed. This particular case is just an example to explain how the law-makers are befooling the citizens, there are many more illustrations reflecting the same.

Especially in states like Uttar Pradesh, the situation is critical. Women safety is at its lowest ebb, thanks to the sexist leaders. Crimes are not only committed under the sponsorship of ministers, they are propagated and promoted by the state machinery. The young leadership which was labelled promising rather seems disillusioned. It is, therefore, impossible to eradicate this problem till people get awakened to truth and honesty.

Thus it could be concluded that the criminalization of politics pose a threat to the very democratic foundation of our country. And the disappointing reality is that no political party is taking measures towards the reduction or elimination of criminal members in their parties as they eventually prove to be beneficial for them. But for the democratic principles to sustain and prove beneficial for the masses there is a pressing necessity for de-criminalisation of politics in the country.



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