

***“Criminalization of politics is the greatest sin committed against the faith of
Democracy and Republic”***

Introduction

In a Nation, known for the imperialistic history of subjective and oppressive governance of Monarchy, Utopianism, Invasion and Colonization. The epitome ideology of DEMOCRACY paved the path for Hope on People’s rule and voice of justice. The concept of “choosing one’s own ruler “emphasized the generic norms and values of Justice, Fraternity and Equality. The politicians who contest in Elections as potential candidates is seen as Representative of people’s voice and interests. These candidates are deemed to be the ideal and essential lawmakers who work towards the prosperity of the nation and welfare of its citizens. But imagine a scenario where these ideal law makers are the ironic law breakers. That’s the typical situation of criminalization of politics. The term refers to candidates with criminal backgrounds and cases pending against them take part in elections and potentially get elected as people’s representatives.

It leads to a sarcastic situation where the rule of law is to be implemented by lawless legislators and politics becoming a home ground prison where the prisoners make the rules for the jailers. This essay seeks to bring out the true colors and repercussions of the contemporary situation of the Indian Democracy indulging in criminalization of the same. It objects to put forward potential reforms to curb out the present criminalization of politics by elucidating the loopholes and inconsistencies of the existing legislations and judicial pronouncements.

The Menace Within: Unveiling the Criminalization of Politics in Indian Democracy

Study of 4,092 MLAs from a total of 28 states and 3 Union Territories by ADR (Association for Democratic Reforms) in 2025 reveals a phenomenal and alarming rise of criminalization in Indian Democracy. The report elucidates that out of the study, 45 % (1,861) of the Elected MLA’s have declared criminal cases pending against them. Among the report, pressingly crucial is that 29% (1205 MLAs) are charged with serious criminal proceedings related to murder, rape, kidnap, financial misappropriation, drug trafficking, etc. The situation is more perilous in states like Andhra Pradesh where the total percentage rockets up to 79 %, followed by States like Telangana and Kerala with 69% each.¹ The study underscores the exigence and gravity of the issue. This

¹ Association for Democratic Reforms, *Analysis of Sitting MLAs from 28 State Assemblies and 3 Union Territories of India* (2025).

dilemma raises serious questions, both ethical and legal relating to lack of democratic accountability, fallacy, public outrage, impunity etc.

Rule 4A of the Conduct of Election Rules, 1961 mandates the filing of an affidavit sworn by the candidate². In the landmark judgement by the Honorable Supreme court of *Union of India v. Association for Democratic Reforms (2002)*³, it was held that candidates are obliged to disclose their respective past and pending criminal charges to the public and the Election commission was directed to secure the respective affidavits from the candidates involving the disclosure of the same. The information to be disclosed includes all the convicted/pending and acquitted of all the criminal charges. The judgement also held that right to know about the candidate's background comes within the purview of Article 19(1) a. This aspect was substantiated in the case *PUCL v. Union of India (2003)*⁴, in which section 33B of Representation of People Act, 1951 was held unconstitutional as it provided on the non-mandate disclosure of the candidate's criminal antecedents.

Adding to this, section 8 (3) of Representation of People Act, 1951 provides for the disqualification of an elected candidate upon conviction for an offense that is punishable by imprisonment for two or more years.⁵ In *Lilly Thomas v. Union of India (2013)*⁶, it was held that disqualification under section 8(3) of the act takes place immediately upon conviction. Now comes the primary question, though in a surface level there are certain effective measures backed up by the legislature and judiciary to prevent criminalization of politics, why did the percentage of elected representatives with criminal backgrounds catastrophically increased over the years?

The critical bottleneck lies with the loopholes and inconsistencies of the present legislation and functioning of the assigned government bodies. While the candidates are stipulated to disclose their criminal antecedents, the issue lies with the publication of the same. The question arises why the disclosure of such information doesn't forbid the public from casting their vote in favor of a candidate with serious criminal charges. Over the years, there has been a discernible gap between the functioning of the Election Commission and a common man getting to know about the

² Conduct of Election Rules, Rule 4A, Gazette of India, Extraordinary, Part II, Sec. 3(ii) of 1961 (India).

³ *Union of India v. Association for Democratic Reforms.*, (2002) 5 SCC 294.

⁴ *PUCL v. Union of India.*, (2003), 4 SCC 399.

⁵ Representation of the People Act, § 8(3), No. 43 of 1951 (India).

⁶ *Lilly Thomas v. Union of India.*, (2013) 7 SCC 653.

publications and regulations drawn out by the commission. It becomes crucial to bridge this gap to curb the raising criminalization in politics.⁷

The prevailing challenge is the well-known hurdle faced by the Indian Judiciary of case backlogs and delayed delivery of justice. Considering this, the law appraising the disqualification of a criminal from a legislative post only upon conviction is a severe deficient furthering the issue. 244th report by the Law Commission observed that the contemporary provision emphasizing disqualification upon conviction had proven to be suboptimal in mitigating the criminalization of democracy.⁸

Based on this premise, disqualification of the candidate upon identification of pending serious criminal charges could robustly counter the issue. If not that, special courts and speeder trials can be set up for proceedings of criminal charges against contesting candidates to ensure robust adjudications to prevent criminalization and sanction the purity of politics. Another prominent issue relating to filing of false or undisclosed affidavits without legitimate disclosure of pending criminal charges and background should be met with enhanced minimum imprisonment of two years or preferably disqualification from contesting in elections both in present and future.

Standards and protocols set by the judiciary should be strictly followed and supervised such as in *Public Interest Foundation v. Union of India (2018)*⁹ in which the honorable supreme court ordered the political parties to publish the criminal antecedents of the respective candidates in their social media accounts, newspapers and websites and *Manoj Narula v. Union of India (2014)*¹⁰, which endorsed political parties to refrain from choosing candidates with serious criminal antecedents.

Conclusion - The Future Forward

In conclusion, virtue and integrity of elections lay the foundation for the enrichment of democracy. Maintaining the probity of politics is crucial for the proper governance and socio-economic progress of the nation as well as its citizens. In account of the alarming situation, Stringent and disciplined actions combined with the existing legal framework and precedents is vital to curb the

⁷ Neha Sharma, *Criminalization of Politics- A Threat to Democracy*, 3 *Law Mantra Journal*, 5-6.

⁸ Law Commission of India, *Report No. 244, Electoral Disqualifications* (2014).

⁹ *Public Interest Foundation v. Union of India*, AIR 2018 SC 4550.

¹⁰ *Manoj Narula v. Union of India.*, (2014) 9 SCC 1.

escalating criminalization of democracy. Diligent and more common-man accessible awareness and initiatives are to be taken by the Election Commission to bridge the gulf between the public and its functions. Considering the heavy backlogs of cases in India, special courts are to be set up to ensure speedier trials and non-compliance with the provided standards should be met with prescriptive and firm punishments.

But apart from this, People are the pen-ultimate rulers in a democracy, they cannot let their law which governs and regulates them to be created by lawbreakers. Adequate awareness of the candidate's background is vital before polling the vote. Citizens are the key to cut-down the existing trend in criminalization of politics, legitimate and meaningful choosing of candidates can uplift the whole epitome of Democracy and socio-economic development.

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