# An Insight Into Criminalisation Of Politics In India

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**ABSTRACT**

*"It is a fact in present politics that the bigger a 'Goonda' is, the greater is considered to be his usefulness and value during the course of elections"*

At present we very often come across the reality of criminalization of politics. The meaning of the term is not new to educated people and newspaper readers. For academic purposes a definition is to be given here. When politics or political power is used by self interest, seeking persons for pecuniary gains or various other advantages such as to get special position in administration or to rise to the higher stage of administration which is normally not feasible.

According to Association for Democratic Reforms (ADR), 162 of 543 MPs elected in the 2009 elections had criminal charges against them. This means that 30% of our MPs had cases pending against them in courts of law. In March 2014, the Supreme Court passed a landmark judgement asking for speedy trials of charge sheeted politicians in government. Although the Constitution had provisions for disqualification of convicted politicians, cases would lie pending for long years with politicians still in power. This protected especially those charged with serious crimes such as murder and rape. Here is a timeline of how the judgment came about

A preliminary analysis of the candidate data compiled by the Association for Democratic Reforms (ADR) for the Lok Sabha and Assembly elections gives an idea of the degree to which criminalisation has seeped into Indian politics. This article examines the self-sworn affidavits submitted to the Election Commission of India by over 10,700 candidates who contested the Lok Sabha 2004 and 2009 elections and also takes a preliminary look at the number of criminal candidates that are contesting for the current Lok Sabha election. The analysis done by ADR from these affidavits has been further used and analysed to understand the patterns of criminalisation in our political system. With the 16th Lok Sabha election in progress, it becomes pertinent to reflect on these figures and their implications for the democratic processes in the country.

From ADR's compilation of data on 5,380 candidates contested the Lok Sabha election 2014, 17 per cent have declared criminal charges in the affidavits submitted to the Election Commission; 10 per cent have declared serious criminal charges such as murder and rape charges. Aam Aadmi Party (AAP) candidate S.P. Udayakumar, Kanyakumari constituency, Tamil Nadu, faces the highest number of criminal cases – 382 including 19 charges related to Attempt to Murder (IPC section 307) and 16 charges related to sedition (IPC section 124A). He is closely followed by M. Pushparayan, also an AAP candidate, Thoothukudi constituency, Tamil Nadu, with 380 criminal

cases.

Criminalisation of politics means to use politics or political power for nefarious gains. To gain something not legal or normal has been called crime. Here the word crime is used in politics in special sense. For example an officer in administration wants to be promoted to higher post. But this is not his due. He uses politics or political power to achieve this. The person succeeds. But the matter does not stop here. The person who helped to get undue privilege will again use this person tor the achievement of his purposes which are, in normal course, not due. This is the policy of give-and-take and this happens behind the curtain.

In the present Politics Criminals enter in to it to become politicians and then patronize other criminals. The dire consequence of this unholy alliance between criminals and politicians is that at every level from bottom, Panch at panchayat level to chief minister or ministers at State and Central level, criminals are being elected and appointed to the positions of power.

**The reasons of the criminalization of the politics**

1. The criminals enter into the politics to gain influence and ensure that cases against they are dropped or not proceeded with. They are able to make it big in the political arena because of their financial clout. Political parties tap criminals for funds and in return provide them with political patronage and protection.
2. The components of criminalisation of politics are Muscle Powers, gangsters and Money Power. The Elections of every level whether Parliament, State Legislature, Municipal or Panchayti Raj are very expensive and it is widely accepted fact that huge election expenditure is the root cause of criminalisation of politics.
3. In every election all parties without exception put up candidates with a criminal background. Even though some of us whine about the decision taken by the parties, the general trend is that these candidates are elected to office. By acting in such a manner we fail to realize that the greatest power that democracy arms the people is to vote incompetent people out of power.

   Independence has taken place through a two-stage process. The first stage was the corrupting of the institutions and the second stage was the institutionalization of corruption. As we look at the corruption scene today, we find that we have reached this stage because the corrupting of the institutions in turn has finally led to the institutionalization of corruption. The failure to deal with corruption has bred contempt for the law. When there is contempt for the law and this is combined with the criminalization of politics, corruption flourishes. India is ranked 66 out of 85 in the Corruption Perception Index 1998 by the German non-government organization Transparency International based in Berlin. This means that 65 countries were perceived to be less corrupt than India and 19 were perceived to be more corrupt.
4. Criminalization is a fact of Indian electoral politics today. The voters, political parties and the law and order machinery of the state are all equally responsible for this. There is very

little faith in India in the efficacy of the democratic process in actually delivering good governance. This extends to accepting criminalization of politics as a fact of life. Toothless laws against convicted criminals standing for elections further encourage this process. Under current law, only people who have been convicted at least on two counts be debarred from becoming candidates. This leaves the field open for charge sheeted criminals, many of whom are habitual offenders or history-sheeters. It is mystifying indeed why a person should be convicted on two counts to be disqualified from fighting elections. The real problem lies in the definitions. Thus, unless a person has been convicted, he is not a criminal. Mere charge-sheets and pending cases do not suffice as bars to being nominated to fight an election. So the law has to be changed accordingly.

**Various Provisions under Indian Law**

Criminalization in Indian politics is closely related to the legislators, though other subsidiary causes are there. Therefore some provisions have been enshrined in the constitution to prevent legislators having criminal background from taking entry into the legislatures. Both in Article 102(1)(e) and 191(1)(e) it is mentioned that "if he is so disqualified by or under any law made by parliament. Chapter IX A of IPC deals with offences relating to elections. It comprises of nine sections. It defines and provides punishment for offences, such as bribery, undue influence and personation at elections etc. Sec. 171 G provides the punishment of fine for false statement in connection with elections and for illegal payment in connection with an election. Sec 171 H provides the punishment of fine upto Rs. 500. According to Sec 171 E, if there is failure to keep election accounts, the offender shall be punished with fine not exceeding Rs. 500. Thus, in India Penal Code, provisions have been made to check election evils but nominal punishments have been provided and interest is not taken in prosecution of election offenders. On the other hand, these provisions have failed to check criminalization of politics because of a faulty provision i.e. ss.8 (4) of the People"s Representation Act, 1951.

The People's Representation Act, 1951 has prescribed many important steps to check criminalization in Indian politics. Sub-section (3) of Section 8 of this Act provides that a person convicted of an offence, mentioned in sub section (1)(2) of the same Act, 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. However, sub-section (4) of section 8 provides that "Notwithstanding anything in Sec.8, sub-section (*1*), sub-section (*2*) or sub-section (*3*) a disqualification under either subsection shall not, in the case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court". Thus, this sub- section provided the corrupt and tainted politician ample scope to continue in active politics both inside and outside of the legislatures. This revamped a pernicious effect on political sphere and increased criminalization in politics.

**Judicial Approach to Check Criminalization In Indian Politics**

Before raising question about the validity of sub-section 4 of section 8 of Representation People's Act 1951 the judiciary has been continuously striving to prevent criminality and unethical activities practiced by legislators interpreting various laws of the country mentioned in sub-section 1 and 2 of Representation People's Act 1951.But, the situation had become worse. On 28th August 1997, the Election Commissioner G.V.G. Krishnamurti startled the nation by revealing an abnormal statistics, showing politicization of criminals. Thus lok sabha passed a resolution of 31st August 1997 saying inter alia that, "more especially, all political parties shall undertake all such steps as will attain the objective of ridding of our polity of criminalization or its influence". But it remained a pious resolution. On May 2, 2002, the Supreme Court gave a historic ruling following public interest litigation by an NGO. In the light of ruling of the Supreme Court, the Election Commission issued directive requiring the candidates seeking elections, to file affidavit indicating their criminal records, educational qualifications and assets and liabilities. This was implemented during the Lok Sabha election held in April - May 2004, but oddly enough, it has not been possible to prevent persons with criminal records from entering Lok Sabha *(Minch, 2013)*.

After many efforts, the boldness of judiciary on punishing corrupt politicians and bureaucrats in the hawala racket is perceived to be ushering a new and healthy bloom in Indian democracy. Justice Kuldip Singh"s judgment was significance in which the former petroleum minister, Capt. Satish Sharma was prosecuted against allotting petrol pumps and gas agencies to his near and dears under the discretionary quota.

In the mean time judiciary has been facing much trouble so far the provisions of R P Act 1951 to keep clean the legislatures. In Sarat Chandra V Khagendra Nath13, the appellant's nomination paper for election to the Assam Legislative Assembly was rejected by the Returning Officer on the ground of disqualification under S. 7(b) of the Representation of the People Act, 195, in that he had been convicted and sentenced to three years' rigorous imprisonment under s. 4(b) of the Explosive Substances Act (VI of 1908) and five years had not expired after his release. The appellant had applied to the Election Commission for removing the said disqualification but it had refused to do so. The appellant's sentence was, however, remitted by the Government of Assam under s 401 of the Code of Criminal Procedure and the period for which he was actually in jail was less than two years. The Election Tribunal held that the nomination paper had been improperly rejected and set aside the election but the High Court taking a contrary view, dismissed the election petition. Held, that the High Court was right in holding that the appellant was disqualified under S. 7(b) of the Representation of the People Act and that his nomination paper had been rightly rejected. That section speaks of a conviction and sentence by a Court and an order of remission of the sentence under S. 401 of the Code of Criminal Procedure, unlike the grant of a free pardon, cannot wipe out either the conviction or the sentence. Such order is an executive order that merely affects the execution of the sentence and does not stand on the same footing as an order of Court, either in appeal or in revision, reducing the sentence passed by the Trial Court.

For actual disqualification, what is necessary is the actual sentence by the court. It is not within the power of the appellate court to suspend the sentence; it can only suspend the execution of the sentence pending the appeal. The suspension of the execution of the sentence (imprisonment of not less than two year) does not remove the disqualification, when a lower court convicts an accused and sentences decided in B.R. Kapur vs. State of Tamil Nadu 14. Brief facts of this case were that election to the legislative assembly in the state of Tamil Nadu was held in 2001. AIDMK secured a landslide majority and consequently choose their leader J.Jayalalitha as the Chief Ministerial candidate. She however, had been denied permission to contest the elections. The election commission rejected her nomination papers on account of her disqualification under the provisions of Representation of People"s Act, 1951. Her convictions were under appeal and the high Court, on an application, suspended the sentence of imprisonment, ordering her bail. Being, elected as the leader of majority party in the assembly now Governor appointed her as the Chief Minister. The Supreme Court set aside the decision of High Court and held that „a person who is convicted for a criminal offence and is sentenced to imprisonment for a period of not less than 2 years cannot be appointed as the Chief Minister of a state under Article 164(1) read with (4) and cannot continue to function as such. Hence the appointment of Jayalalitha as the Chief Minister of Tamil Nadu was not legal and valid and that she cannot continue to function as the same". In Raj Deb V Gangadhar Mohapatra15, a candidate professed that he was Chalant Vishnu and representative of Lord Jagannath himself and if any one who did not vote for him would be sinner against the Lord and the Hindu religion. It was held that this kind of propaganda would amount to an offence under S. 171 F (punishment for s.171c) read with S 171C (undue influence at an election).

However, there has been controversy with regard to the beginning of disqualification on the ground of conviction. A person convicted for an offence is disqualified for being a candidate in an election. S. 8 of the R.P. Act sets different standards for different offences. According to S. 8(3) a person convicted of any offence and sentenced to imprisonment for not less than two years (other than the offences referred to in S. 8(1) and (2)) 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.

The court also considered the question of the effect of acquittal by the appellate court on disqualification. It may be recalled that the Supreme Court in Vidyacharan Shukla V Purushottam Lal 16 had taken a strange view. V.C. Shukla was convicted and sentenced to imprisonment exceeding two years by the Sessions Court on the date of filing nomination but the returning officer unlawfully accepted his nomination paper. He also won the election although conviction and sentence both were effective. The defeated candidate filed an election petition and by the time when it came before the High Court, the M P High Court allowed the criminal appeal of Shukla setting aside the conviction and sentence. While deciding the election petition in favour of the returned candidate, the court referred to Mannilal V Parmailal (The Court also overruled Mannilal V Parmai Lal17 and held that the acquittal had the effect of retrospectively wiping out the disqualification as completely and effectively as if it had never existed. However,

Vidyacharan Shukla which had the effect of validating the unlawful action of the returning officer and encouraging criminalization of politics was overruled by Prabhakaran. The Supreme Court observed:

Whether a candidate is qualified or not qualified or disqualified for being chosen to fill the seat has to be determined by reference to the date for the scrutiny of nomination. The returning officer cannot postpone his decision nor make it conditional upon what may happen subsequent to that date. It is submitted that the view taken in the instant case is correct and would be helpful in checking the criminalization of politics.

In K. Prabhakaran V P. Jayarajah18, the Court considered a different issue based on purposive interpretation of Sec 8(3) of R.P. Act 1951. It considered the question whether for attracting disqualification under S. 8(3) the sentence of imprisonment for not less than two years must be in respect of a single offence or the aggregate period of two years of imprisonment for different offences. The respondent was found guilty of offences and sentenced to undergo imprisonment. For any offence, he was not awarded imprisonment for a period exceeding two years but the sentences were directed to run consecutively and in this way the total period of imprisonment came to two years and five months. On appeal, the session court directed the execution of the sentence of imprisonment to be suspended and the respondent be released on bail during the hearing of the bail. During this period, he filed his nomination paper for contesting election from a legislative assembly seat. During the scrutiny, the appellant objected on the ground that the respondent was convicted and sentenced to imprisonment for a period exceeding two years. The objection was overruled and nomination was accepted by returning officer on the ground that although respondent was convicted of many offences but he was not sentenced to for any offence for a period not less than two years (i.e. for every case he has been sentenced below two years). The High Court also took the similar view but the Supreme Court by majority took the different view. Chief justice R.C.Lohati speaking for the majority held that the use of the adjective "any" with "offence" did not mean that the sentence of imprisonment for not less than two years must be in respect of a single offence. The court emphasized that the purpose of enacting S. 8(3) was to prevent criminalization of politics. By adopting purposive interpretation of S. 8(3), the Court ruled that its applicability would be decided on the basis of the total term of imprisonment for which the person has been sentenced.

Sec. 8(4) of the RP Act accords benefit to a sitting Member of Parliament or legislative assembly if convicted for criminal offence. According to it, in respect of such member, no disqualification shall take effect until three months have elapsed from the date of conviction or if within that period appeal or application for revision is brought in respect of conviction or sentence until that appeal or application is disposed of by the court. The controversial issue is whether the benefit of this provision continues even after the dissolution of the house. There have been instances where the members taking advantage of this provision contested the subsequent election in spite of the faction by the court during the tenure of the house. The Supreme Court considered this unethical aspect also in Prabhakaran case. The court considered the structural position of S.

8(4) and justifications for its retention. It held that "Subsection 4 would cease to apply no sooner the house is dissolved or the person has ceased to be a member of that house.". Thus, it is another effort of the Court to strictly check the criminalization of politics in which showing the irritation of court towards the tainted politician chief Justice R.C. Lohati on behalf the court speaking for the majority observed, those who break the law should not make the law. Generally speaking the purpose sought to be achieved by enacting disqualification on conviction for certain offences is to prevent persons with criminal background from entering into politics and the house a powerful wing of governance. Persons with criminal background do pollute the process of election as they do not have many a holds barred and have no reservation from indulging into criminality to win success at an election.

**Lily Thomas and Lok Prahari vs. Union of India,2013.20**

However, two public interest Litigations were filed by Lily Thomas and an NGO Lok Prahari in 2005 questioning the validity of section 8(4) of Representation of People"s Act, since it provides special safeguard to the sitting MPs and MLAs who have been convicted of an offence and whether section 8(4) of the Representation of People"s Act is Ultra Vires to the constitution.

The Hon"ble Court after going through the arguments put forward by both the parties held that once a sitting member becomes disqualified by or under any law made by parliament under article 102(1)(e) and 191(1)(e) of the constitution, his seat will become vacant immediately by virtue of article 101(3)(a) and 190(3)(a) of the constitution. It further held that the parliament cannot make a provision as in section 8(4) of the Act to defer the date of disqualification on which the disqualification of a sitting member will have effect.

Further, the court relied on the constitutional Bench"s decision in Election Commission of India Vs. Saka Venkata Rao 21, wherein it was held that there has to be same set of disqualification for

election as well as for continuing as member. Thus, parliament does not have power to make different laws for a person to be disqualified for being chosen as a member and for a person to be disqualified to continue as member as it made by creating section 8(4) of the Act.

For aforesaid two reasons the Hon"ble Supreme Court held that parliament has exceeded its power conferred by the constitution enacting sub- section 4 of section 8 of the Act and accordingly it is ultra vires the constitution.

However, the Hon"ble court further held that this judgment of the court will be prospective in nature. Sitting members who have already been convicted under section 8(1),(2)and (3) of the Act and have filed appeals or revisions in higher courts before the pronouncement of this judgment, would not come under the purview of this declaration since it will be against the principles of natural justice.

**Analysis of The Judgment**

There is no doubt that such verdict will help in reducing the scourge of criminalization of politics but it also leaves open a number of loopholes for dubious politicians .Given the present state of

judicial system, conviction by a trial court is often set aside by a higher court on appeal If a member is disqualified in some case and gets an acquittal later by a higher court, there will be no scope for redressal. Hence, it can lead to filing of fraudulent cases particularly when election would be round the corner.

This judgment will impact law makers who are facing charges but have not been convicted .And going by the conviction rate of Indian courts , they have little to worry about in the near future. Immediate disqualification of convicted elected representatives may lead to politically susceptible government. Not long ago, a government lost power at the Centre by just one vote.

However, the real significance of this ruling would be that it will act as a deterrent for political parties which have been giving tickets to tainted candidates. This verdict would also bring in equality between an ordinary individual and elected member who so far enjoyed an additional layer of protection from disqualification under section 8(4) of the Act. Under these circumstances in the current state, this landmark ruling is like a judicial revolution rather than being mere tokenism.

Again, recently on 10th March 2014 Supreme Court provided another remarkable decision on a PIL filed by „Public Interest Foundation" directing the subordinate courts to dispose of the cases U/s 8(1)(2)(3) within one year from the date of charge sheet filed by the investigating agency. If any case requires more than this period, subordinate court must bring the matter before concerned High Court. And if it feels the cause is reasonable, it may give a suitable time limit to declare the judgment of the case. Hence, it is realized that judiciary is trying its best to check the criminalization in Indian politics.

**Measures to control the criminalization in Politics**

The Election Commission must take adequate measures to break the nexus between the criminals and the politicians. The forms prescribed by the Election Commission for candidates disclosing their convictions, cases pending in courts and so on in their nomination papers is a step in the right direction if it applied properly. Too much should not be expected, however, from these disclosures. They would only inform people of the candidate's history and qualifications, but not prohibit them from casting their votes, regardless, in favour of a criminal. For the past several general elections there has existed a gulf between the Election Commission and the voter. Common people hardly come to know the rules made by the commission. Bridging this gap is essential not only for rooting out undesirable elements from politics but also for the survival of our democratic polity. This is an incremental process, the rate of success of which is directly proportional to the increase in literacy rate in India. The electorate have made certain wrong choices in the past, but in the future national interest should guide them in making intelligent choices.

The role of Supreme Court also becomes very important here. The Apex Court as custodian of constitution should take all necessary steps to strengthen democracy in the country. The legislature and executive have been complaining about the Supreme Court's intervention on

their domain, but it becomes imperative in such kind of unwanted situation. The Supreme Court of India upheld a PIL which made it mandatory for everyone seeking public office to disclose their criminal, financial and educational history. It was a way to ensure that the voters knew the important details about their "honourable" leaders, and steamed them were indeed.

Section 8 of the Representation of the People Act, 1951, states that politicians and electoral candidates convicted for a crime shall be disqualified from the date of conviction till six years after their release. However, subsection 4 of Section 8 says that if the convicted person is already an MP or MLA, he or she will not be disqualified until three months from the date of conviction. Therefore, if an appeal is filed within these three months, the hearing could be delayed for years. The politician would thus be in power till the court disposes off the case.

In 2005, lawyer Lily Thomas and former IAS officer S. N. Shukla filed a public interest litigation asking the court to set aside Section 8 (4) of the Representation of the People Act because it allowed sitting MPs and MLAs to continue to be elected representatives even when convicted in a court of law. The petition appealed that this special protection was unconstitutional and hence should be struck down. This means that any convicted MP or MLA would be immediately disqualified and the seat made vacant.

The Supreme Court ordered that upon conviction, charge sheeted MPs and MLAs would be disqualified with immediate effect from holding membership of the House without being given three months to appeal. However, the Court exempted those who had already filed appeals in various High Courts or the Supreme Court. With the striking down of Section 8 (4), Rajya Sabha member Rasheed Masood and Lok Sabha member Lalu Prasad Yadav were disqualified from their seats after their conviction by a trial court.

The Central Government tried to nullify this Supreme Court judgement by passing a bill to amend the relevant sections of the Representation of the People Act, 1951. Since the monsoon session of Parliament ended without the bill being taken up, the Cabinet approved an ordinance to implement the same. The ordinance was subsequently withdrawn by the government after criticism from within the ruling party itself.

In a response to a public interest litigation filed by Public Interest Foundation, the Supreme Court asked the Law Commission of India to submit a report on the framing of false charges and submission of false affidavits. The Law Commission recommended the disqualification of politicians from contesting elections charged with an offence punishable by imprisonment of five years or more. It also said that for cases against sitting MPs and MLAs, trials must be expedited through day-to-day hearings and completed within one year.

The Supreme Court partially accepted the recommendations of the Law Commission and passed an order directing that trials against sitting MPs and MLAs must be concluded within a year of charges being framed and that they should be conducted on a day-to-day basis. The Court also said that if a lower court is unable to complete the trial within a year, it will have to submit an explanation in writing and seek an extension from the Chief Justice of the concerned High Court.

The 2014 Supreme Court order offers a ray of hope because if politicians with criminal records are elected in the forthcoming general elections, they could be disqualified as early as May 2015 if convicted.

The Right to Information Act 2005 is a historical Act that makes Government officials liable for punishment if they fail to respond to people within a stipulated timeframe. Many public servants are leading luxurious lifestyles, beyond the legal sources of their income. Many public servants are filing false affidavits about their annual income, wealth details to Election Commission of India / Vigilance Commission / other authorities, as the case may be. These authorities are not properly verifying these affidavits. Many scams, scandals are coming to light day in & day out, politicians are accusing each other of involvement in scams. Whereas, the said authorities are keeping mum, as if those affidavits filed by tainted public servants are true. The tainted public servants are not even providing full, right information to public as per RTI Act, lest the truth come out.

In this context The Supreme Court held that the right to information and the right to know antecedents, including the criminal past, or assets of candidates is a fundamental right under Article 19(1) (a) of the Constitution and that the information is fundamental for survival of democracy.

## Conclusion

There is clearly no love lost between the Supreme Court and politicians. In today"s time where scams like 2G Spectrum scam, coal Scam, commonwealth Game scam and the railway scam have hurt the current government immensely. It is the same scenario with opposition parties, which in their ruling state are culprits of the same kind of scandals and corruption. The very essence of democracy that politicians of yesteryears, like Gandhi, Nehru and Patel stood for to serve the country"s people and provide them clean, healthy and corrupt free governance has long been relegated to the trashcan. There are two kinds of corruption; one when people don"t observe the laws and the other when they are corrupt by the law. People"s expectation of the legislators has changed. They prefer a power broker to an honest politician. Leaders do not come out of blue. In fact, it is said that people get the government they deserve. Thus by 2012 India has ranked 94th out of 176 countries in Transparency Internationals Corruption Perceptions Index. Thus people are at both ends like constructing as well as destroying the nation. If they prefer power broker they will simply axe their own legs. A small number of good people may have a little chance to save this country from devastation. When democracy becomes corrupt the best gravitates to the bottom, the worst floats to the top and the vile is replaced by viler. Time is running out and unless something is done to stem the rot, the entire system will collapse. So people"s participation to prevent tainted and corrupt politician out of political system is also highly essential. So the people should wake up at once and force the political parties to mend their ways. In this regard the judiciary has been a platform of confidence for people. The judiciary has to be more watchful by taking some more steps for present days to decriminalize the system.

In a democratic country, all the powers lie in the hands of the voters that is the general public. An

awakening among the general mass can only show the right place to such criminal politicians.

It is not appropriate to blame the politicians alone. It is the public that is responsible to a great extent in making the politicians corrupt, criminals, unethical and goons. If the people use their right to vote in favour of a gentleman and honest leaders, and devote sometime to make him winner, an example can be set and corrupt and goons would have to think twice to fight election but it is not the case. The situation is entirely different. Whosoever can spend more money in an election, whosoever can use more muscle power in an election, has more chances of victory.

In such a situation, why a politician would not like to earn more to remain in power or to win next election. The tolerance limit of Indian public is indeed very high.

The reality is this that still we could not be able to design a mechanism in a real sense to stop the criminals from entering in politics and from escaping the Conviction. The vibrant examples are Tamilnadu Chief Minister Jayalita who recently got bail from the charges of corruption by the Apex Court, A. Raja and Kanimojhi have already been granted bail in 2G Scam too. But a ray of hope has seem by the conviction of mohammed shahbuddin in 2004 Siwan Double Murder case. We hope still many more criminal will be strictly prosecuted and successfully convicted in near future.

It is not to conclude that all the politicians are criminal, corrupt and unethical. The hope lies with only such honest, dedicated and devoted politicians who have sacrificed a lot for the welfare of this nation. It is high time that we enforce a code of conduct to the stem the rot and this exercise must begin right now. A transparency in the working is very urgently needed. Responsible opposition and the media can play very important roles in exposing the unethical and immoral corrupt politicians. The people are also becoming aware that unless they use their right to vote in favour of a better leader, the future of the nation is in dark, and they themselves have to suffer because of their own wrong judgments. Let us hope the people of the country will use their vote in the coming elections in favour of dedicated, sincere and honest leaders for the good of themselves and for the welfare of this great nation.

In this context some suggestions may be given as follows:

(a) The Section 8(4) of Representation of People"s Act 1951 defies the ideas of equality enshrined in article 14 of the constitution. While the Representation of People"s Act, 1951 debars candidates convicted of serious offences from contesting elections for six years after their release from prison, Section 8(4) of the same Act makes an exception for sitting legislators. This grants an unfair advantage by allowing convicted legislators to contest elections, while at the same time , denying the rights to those who are convicted but do not hold office. Thus, in keeping with the spirit of equality in the Indian constitution, and to check the perverse trend of increasing criminalization of politics, this section must be repealed.

(b) There should be appointment of Public Prosecutors, Additional Public Prosecutors, Assistant Public Prosecutors and other legal luminaries for court matters through fair and open competition having no political colour. Their work efficiency should be assessed yearly and if

requires, their job may be revised on the basis of this yearly assessment. They shall not be engaged in any paid employment during the term of the office. So, their efficiency and integrity may be increased.

(c) Expeditious trial through special courts with fast track mode to dispose these cases within 90 days may be established .For this; the rule of adjournment must be strictly followed. The high court or the Supreme Court should have power to transfer cases from one fast track court to another. Special provision may be made to protect the witnesses of these cases. Again, the investigating agencies should be activated and sensitized to speedily comply with the courts" requirements.

(d) There should be workshop, training, and sensitization programme for judges, advocates and other clerical staffs to enhance the efficiency of the court work. Especially, the advocates are to be sensitized not to be soft towards hardcore, tainted, corrupt politician cum criminal during the trial. These evil elements don"t have accountability towards the society. Even, it is seen that criminal clients have attempted to kill the members of their engaged advocates and looted their houses on being unsuccessful in their cases.The enormous problem of the nexus between criminals and politicians cannot be ignored any longer. The submission of affidavit may have some deterrent effect, but seems as it will also result is a futile exercise as in India; votes are being cast on the basis of caste, creed and region. The poor illiterate people of this country still vote to their caste man or to the man of fellow religion ship, or to the fellow who belongs to the region. Moral values and ethics have long been vanished from the political arena of our country, but we cannot have such an indifferent attitude. We shall have to find a solution to eradicate the menace for which we are ourselves also responsible to a great extent.

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