



**Vidhyayana - ISSN 2454-8596**

An International Multidisciplinary Peer-Reviewed E-Journal

[www.vidhyayanaejournal.org](http://www.vidhyayanaejournal.org)

Indexed in: ROAD & Google Scholar

---

## **CRIMINALIZATION OF POLITICS**

**Dr. Dhara R. Thakar**

L.L.M., Ph.D.



The criminalization of politics means the participation of criminals in politics. Means that persons with criminal background contest in the election and get selected as a member of parliament or state legislature. It is said that the politics had reached a stage where the lawmakers became the lawbreakers. In a democratic country like India, the increasing nexus between criminals and politics threatens the survival of true democracy. It is now becoming a trend, people with criminal backgrounds have more influence in politics than people without criminal backgrounds.

The increasing number of members with criminal records in parliament threatens the survival of any true democracy. Legal aspects/Constitutional provisions on disqualification of criminal candidates: The law commission in its 179th report recommended an amendment to the Representation of people act 1951. It suggested the people with criminal backgrounds should be disqualified for five years or until acquittal. It also recommended that the person who wants to contest the election must furnish details regarding any pending case, with the copy of the FIR/complaint, and also furnish details of all assets. But no action was taken on the recommendation by the government due to a lack of consensus amongst the political parties.

In a decision of the Supreme court in the Association of democratic reforms, the representation of people Acts 1951 was amended by inserting section 33-A which requires a candidate to furnish information on whether he is accused of any offence with imprisonment of two years or any pending cases in which charges have been framed and whether he has been convicted for one year or more.

The representation of people Act (RP Act) 1951 mentions the criteria to disqualify a person to contest the election:

Section 8 of the Act says that a person punished with a jail term of more than two years cannot contest election for six years after the jail term has ended.

The law does not bar any person who has criminal cases pending against him. Therefore, the disqualification of candidates with criminal backgrounds depends on their conviction.

What are the Legal Aspects of Disqualification of Criminal Candidates?



- In this regard, Indian Constitution does not specify as to what disqualifies a person from contesting elections for the Parliament, Legislative assembly or any other legislature.
- The **Representation of Peoples Act 1951** mentions the criteria for disqualifying a person for contesting an election of the legislature.
  - **Section 8** of the act, i.e. **disqualification on conviction for certain offences**, according to which an individual punished with a jail term of more than two years cannot stand in an election for six years after the jail term has ended.
  - The law does not bar individuals who have criminal cases pending against them from contesting elections therefore the disqualification of candidates with criminal cases depends on their conviction in these cases.

What are the Reasons for Criminalization of Politics?

- **Lack of Enforcement:** Several laws and court judgments have not helped much, due to the lack of enforcement of laws and judgments.
- **Vested Interests:** Publishing of the entire criminal history of candidates fielded by political parties may not be very effective, as a major chunk of voters tend to vote through a narrow prism of community interests like caste or religion.
- **Use of Muscle and Money Power:** Candidates with serious records seem to do well despite their public image, largely due to their ability to finance their own elections and bring substantive resources to their respective parties.
- The most important cause of criminalization of politics is the unholy nexus between the politicians and bureaucracy. This undersirable and dangerous relationship between ureaucracy and political leaders opened the doors of criminalization of politics.

What are the Effects of Criminalization of Politics?

- **Against the Principle of Free and Fair Election:** It limits the choice of voters to elect a suitable candidate.



# Vidhyayana - ISSN 2454-8596

An International Multidisciplinary Peer-Reviewed E-Journal

[www.vidhyayanaejournal.org](http://www.vidhyayanaejournal.org)

Indexed in: ROAD & Google Scholar

---

- It is against the ethos of free and fair election which is the bedrock of a democracy.
- **Affecting Good Governance:** The major problem is that the law-breakers become law-makers, this affects the efficacy of the democratic process in delivering good governance.
- These unhealthy tendencies in the democratic system reflect a poor image of the nature of India's state institutions and the quality of its elected representatives.
- **Affecting Integrity of Public Servants:** It also leads to increased circulation of black money during and after elections, which in turn increases corruption in society and affects the working of public servants.
- **Causes Social Disharmony:** It introduces a culture of violence in society and sets a bad precedent for the youth to follow and reduces people's faith in democracy as a system of governance.

## Way Forward

- **State Funding of Elections:** Various committees (Dinesh Goswami, Inderjeet Committee) on the electoral reforms have recommended **state funding of elections** which will curb use of black money to a large extent and thereby will have a significant impact on limiting criminalization of politics.
- **Strengthening Election Commission:** Regulating the affairs of a political party is essential for a cleaner electoral process. Therefore, it is imperative to strengthen the **Election Commission of India**.
- **Vigilant Voters:** Voters also need to be vigilant about misuse of money, gifts and other inducements during elections.
- **Proactive Role of Judiciary:** Given the reluctance by the political parties to curb criminalisation of politics and its growing detrimental effects on Indian democracy, Indian courts must now seriously consider banning people accused with serious criminal charges from contesting elections.



## What are the concerns with the judgement?

- The SC has passed the burden to the ECI, although the ECI has been asking for the apex court's aid for the past two decades.
- Parliament is required to make a law on the matter as per Article 101 (1) of the constitution, however, Parliament regardless of who is in power has always been reluctant to legislate on the issue.
- The bench pronounced that it is not in a position to enable disqualification of candidates who face criminal charges thus withdrawing from its responsibility to solve the issue.
- Voters do not generally read the websites of political parties.
- The recommendation regarding the publicity campaigns about the criminal background of candidates by political parties sounds unreasonable.
- The definition of heinous crimes may change as per times and societal conditions.

## What more could be done?

- A law to prohibit candidates who are charged with heinous crimes will need a broad consensus across the party lines.
- More fast-track courts to try the cases dealing with serious charges against the candidates.
- State funding of elections:
  - To reduce money power,
  - To create a level playing field,
  - To enable public-spirited people to contest elections thereby ensuring equality of opportunities,
  - To break the political-corporate nexus thereby ending rent-seeking and crony capitalism.



# Vidhyayana - ISSN 2454-8596

An International Multidisciplinary Peer-Reviewed E-Journal

[www.vidhyayanaejournal.org](http://www.vidhyayanaejournal.org)

Indexed in: ROAD & Google Scholar

---

- To change the election's focus towards people's problems rather than on raising funds through illegitimate means, i.e., focus on development politics.
- Stricter implementation of anti-corruption laws.
- Transparency and audit mechanisms.
- Representation of Peoples Act (RPA) needs to be amended and there should be stricter actions against serious offenders.
- Election Commission should be given more power to deal with corruption cases.
- Inner party democracy needs to be improved.

## Way ahead

Supreme Court has done its part in decriminalizing Indian politics. But SC or Election Commission cannot decriminalize politics single-handed since they require support from Legislation too. Hence it is in the hands of the Parliament to frame a law that decriminalizes Indian politics effectively.

In the words of Dr. Rajendra Prasad, "A constitution like a machine is a lifeless thing. It acquires life because of the men who control it and operate it". Therefore, good and quality politicians are needed for India to become a vibrant democracy through good governance.