

Judiciary: A Check to Criminalization in Indian Politics

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Abstract: Indians have been blessed with a constitution which is the result of brain storming of the constitutional pundits for more than three years. Crystal demarcation among legislature, executive and judiciary is unique in the constitution. It enshrined a beautiful pattern of republic for people's participation in the governance of the country. To enhance the potentiality of governance political party system has been adopted. But, this party system is seen to paralyze the democratic political system through criminalization by the goons and the outlaws. Criminalization is now emerging as serious challenge in the Indian political system. It is a challenge to the honesty, transparency in political life. People's expectation of their 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. In this peculiar context, judiciary has been taking active role to curb criminalization in politics by preventing legislators with criminal background from assuming public office).

Keywords: criminalization, demarcation, governance, judiciary, participation, republic).

I. INTRODUCTION

India is the largest democracy in the world. Its people are the sovereign with a republican government of its own. It is a welfare state .The constitution also provides certain fundamental rights to its citizen by ensuring equality, liberty, fraternity and justice. To uphold these rights certain safeguard measures have been provided in the constitution. Of these safeguard measures judiciary is the most prominent. So that people have every right to elect a government of its own and in return claim to get good governance.

Political Party system:- To form a good representative form of government people participated in electoral politics. This brought political party into existence. Subsequently, for bettering the representative form of government multiparty system prevailed in India. Political parties are indispensable to any democratic system and play the most crucial role in the electoral process – in setting up candidates and conducting election campaigns. It is fact that, from beginning India adopted multiparty system with an anticipation of transparent, dynamic, progressive and effective political system which is fundamental demand of a democratic state.

From Political Party system to System of Political Criminalization:-

But, man as selfish by nature inclined towards competition to have power. Gradually it led to cut throat competition amongst vested interests in power struggle. This turned existing political system into a hotbed which gave rise to political rivalry. To achieve their goal in this power struggle the politicians indulged in various criminal activities. The criminals help politicians in various ways. As a candidate, they win the seat. The intimidation of voters, proxy voting, booth capturing are the devices which are carried on by them. The use of money or muscle power and the totally unacceptable practices offend the very foundations of our socio-economic order. While highlighting the derailment of democratic polity train, Rao observed that 'hundreds of criminal groups with an average strength of 500 each, some of them on bail, lakhs of licensed and equally daunting unlicensed and indigenous weapons apart from vast quantities of ammunition and bombs constitute an integral part of the election-scenario in states like UP and Bihar in particular and others in general. Killing of party workers and candidates has become common place making it look like our internal threats to democracy are far

more deadly than external' (Rao, 1998)¹. In the past, though criminals usually worked behind the scene but now apart from extending indirect help contest the elections and also become ministers. (Sharma, 1999)². The Supreme Court of India in Sasangouda Vs S.B Amarbhed,³ observed that booth capturing wholly negates the election process and subverts the democratic set up which is the basic feature of our constitution. In our country during the post independent era, elections have eroded democratic polity showing laxity in the matter of vandalizing, rioting, booth capturing, and political killing. Thus our political system has been facing with these serious challenges and threats since 1960s. The country is under the grip of evils like social strife, violence, role of mafia, money and muscle over the election as well whole system. These evils disseminated widespread corruption and criminalization in Indian politics. Criminalization of politics does more than just subvert ethics in governance, it hits at the root of public engagement with the system. Not only is this trend highly demoralizing for the general public, it reduces their trust in the system and forces them into apathy and disillusionment (Panda, 2014).⁴

II. CRIMINALIZATION IN INDIAN POLITICS

Share of Legislators:- As per the statistics collected by Association of Democratic Rights and National Election Watch resourced from records of Election Commission of India, the horrible position of criminals in the present day political system(2009-2014) is depicted below.

- (I) The total numbers of M.P.s and M.L.A.s from different political parties is 4,807, out of which 1,460(30%) and 688(14%) are involved in serious offences. They are believed to be hardened criminals and "history-sheeters" (those whose history of crimes is recorded in police stations for quick reference when any crime takes place) facing charges of murder, rape and armed robbery.
- (II) Out of total 543 M.P.s of Lok Sabha 162(30%) have criminal records and 75 (14%) are involved in serious crime. Out of total 4032 numbers of M.L.A.s in the country 1258(31%) have criminal records since the time of their nomination for election and 15% are involved in serious criminal cases.
- (III) Out of the 58(except affidavit of one has not accessed) candidates for 2014 Rajya Sabha Election in February (for 16 states) whose self-sworn information in their affidavits have been analyzed, 14 candidates (24%) have declared criminal cases against them. Out of the 14 candidates who have declared criminal cases, 2 have declared serious criminal cases. These include charges of murder, kidnapping and crime against women. Shiv Sena candidate, Dhoot Rajkumar Nandlal from Maharashtra had declared charges of murder, kidnapping and crime against woman. (Report of Association of Democratic Rights and National Election Watch)⁵.

Almost all legislators are, however, believed to be engaged in some kind of corruption. In fact, a legislator routinely embarks on his legislative career by signing a false affidavit claiming to have spent much less money on his election than he has actually done.

It is only natural that, they would want to make at least 10 times of money backed during their five years in parliament. This, indeed, is the source of the criminalization of Indian polity" (Shahin Sultan, 2002)⁶. As an honest politician one can no longer think of entering into the election fray. Businessmen and industrial houses, too, would not support an honest person as he (or an occasional she) would be useless for them once in parliament. In fact he may even become an obstruction for them.

Share of Political Parties:

The party wise position with regard to criminals elected in the period 2009-14 is also horrible in Indian politics. Jharkhand Mukti Morcha has 82% criminally alleged political leaders in government which is the highest. Likewise, RJD positioned second with 64%, SP with 48%, congress with 21% and BJP with 11% of criminal legislators. This numbers in the country like India is not a small thing. It is matter of apprehension and panics that, what will happen if these numbers join together for their vested interest. On the other side, rest of the legislators, members and political parties are though with good persons but they always hanker after power at any cost. Even recently, "as many as 21 political parties representing the entire spectrum of Indian politics came together in a rare show of unity to reject unanimously the Election Commission's (EC's) order making it mandatory for candidates seeking election to declare their financial assets, their criminal antecedents and their educational background along with their nomination forms"(Shahin Sultan, 2002)⁷.

For 2014 Rajya Sabha election in February, 3 (21%) out of 14 candidates fielded by INC have declared criminal cases against them while 4 (36%) out of 11 candidates from BJP, 2 (50%) out of 4 candidates from AIADMK and one candidate each from JD(U), CPM, BJD, RPI(A) and Shiv Sena have declared criminal cases in their affidavits. (Report of Association of Democratic Rights and National Election Watch)⁸.

III. NON-ACTION AGAINST RAMPANT POLITICAL CRIMINALIZATION INVITED JUDICIARY INTERVENTION

No one disputes the right of parliament to legislate on issues relating to electoral reform. But the legislation had been pending for at least a decade and no one had bothered. The legislators and political parties have sat on the Dinesh Goswami (1990) report on electoral reforms for many years not only intriguing but suspicious. Former cabinet secretary N N Vohra's (1993) findings on the reprehensible nexus between politicians and criminals have also been gathering dust for roughly the same period. Even the reports of the Law Commission of India (1999) and the Rajya Sabha's ethics committee (1998) have not been implemented. This shows the political parties never intended to restrict the inflow of corrupt and tainted politicians into political system. On the other hand, over the decades, the impression of politician and ministers amassing huge wealth with no punishment led to cynicism, and cynicism has created a strong public opinion in favour of eradication of political corruption and criminalization. These conditions led to judicial intervention.

Judicial Intervention: Some Justifications:

When the executive has lost the will to govern the country as per the spirit of the constitutional law and the legislature was in disarray, it was incumbent on the judiciary to play the role in a positive direction to defend Indian democracy (*Gehlot, 1998*)⁹. Though the parliament is supreme authority to frame laws, but judicial activism came to the fore in this peculiar Indian political context because of the political criminalization, administrative apathy, media inefficiency and public innocence. In India, in most of the cases of so-called activism, judiciary has tried to only uphold the principle and objectives of the constitution which have been stated either explicitly or implicitly. And, it happened when the executive and legislature, for one reason or another, have been unable or unwilling to perform their duties honestly and ethically. What it has done is to amplify the scope of the fundamental rights or to elevate some of the directive principles of the constitution to the level of the fundamental rights. These were what the founding fathers had envisaged and which have become in the contemporary world indisputable rights of the citizen like the right to work, the right to education, right to health and healthcare, and environmental and human rights. In this respect the device of public interest litigation could be described as a major judicial innovation in the Indian judicial system. Public interest litigation has extended the scope of the judiciary to an array of issues which remained hitherto beyond the reach of the citizen.

IV. PROVISIONS IN THE CONSTITUTION, INDIAN PENAL CODE, 1860 AND REPRESENTATION OF PEOPLE'S ACT 1951

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" (*Shukla and Sen, 2004*)¹⁰. 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. 500.¹¹ 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.

V. 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*)¹².

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 Nath*¹³, 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 Mohapatra*¹⁵, 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 Lal*¹⁷ 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. Jayarajah*¹⁸, 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 fact that 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." (Ibid. at 706).¹⁹ 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 Rao²¹, 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.

VI. 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.

VII. CONCLUDING SUGGESTIONS

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 (Tripathy, 2000)²². 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 (ibid.)²³. 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 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 debar 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.

(e) The provisions in the Representation of People's Act 1951 regarding control of unruly political parties are very weak. It is very difficult to de-register the unruly political parties. There are no stringent laws to punish the political parties and their members in furtherance of cleansing the political system. That's why, it is essential to legislate new laws with that effect. If requires, judiciary can do that by its rulings. Again, judiciary must be empowered to have major role at the time of registration of political parties.

(f) However, implementation of the existing legal provisions and decisions with regard to electoral reforms should be strictly followed. There is need for legislation to regulate party funds, distribution and expenditure during non- election and election times. Maintenance, audit and publication of regular accounts by the political parties should be available for open inspection.

The systemic flaws that pervade our judicial system have come into sharp focus in recent times. India is infamous for its snail-paced judiciary and the gargantuan pendency of cases in the subordinate and high courts. As of 31 December 2011, a massive 3 crore cases were pending across the judicial system; 10% of these for a decade. At the level of the subordinate judiciary, criminal cases constitute 71% of the total cases pending before the courts (Panda, 2014)²⁴. This shocking figure displays the apathy of the state towards the protection of its citizens. The ultimate aim of criminal law is the protection of personal liberty against invasion by others. What good is the State that fails to offer such protection?

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