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CITIZENS FIRST: DEPOLITICIZATION OF DEVELOPMENT & POLITICAL ACCOUNTABILITY – DECRIMINALIZATION OF INDIAN POLITICS

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SYNOPSIS

The paper analyses the concerns increase of criminalization in Indian politics and its significant effects on democracy of our nation, public confidence/welfare, and institutional integrity. It begins by emphasizing the increasing count of Members of Parliament (MPs) facing severe criminal allegations and examine how the electoral and legal frameworks could not stop such persons from entering the legislature. It investigates the legal loophole, especially in the Representation of the People Act, 1951, that permit candidates and politicians to run for elections even with serious charges and legal cases awaiting resolution.

Historical origins connect this issue to the post-Emergency period, during which electoral dynamics transformed from ideology to identity and power. It explores how unsuccessful governance, economic inequalities, and citizens relying on local strongmen allowed this political culture to endure. Additionally, the essay elaborates the outcomes—legislative inefficiency, abuse of public office, corruption, undue influence voter, and the systematic putting aside the honest candidates and underrepresented communities.

A part should be put in consideration and focuses on analysing how media contributes to this relationship by hiding criminal background and showing a polished political representation. The dominance of major media channels by politicians themselves presents a significant problem to transparency and educated voting. The essay ends by stating that without immediate and courageous reforms—legal, electoral, and societal—the democratic potential of India will remain jeopardized by a political elite insulated by power and safeguarded by systemic shortcomings

INTRODUCTION

The criminalization of India politics has become a deeply entrenched phenomenon, posing a serious danger to the democratic nature of our nation. The Indian Constitution envisions a representative democracy where government is rooted with public accountability, integrity, and the rule of law. However, this vision stands increasingly compromised by the growing participant of criminal allegations in electoral politics. According to data submitted by the Election Commission of India to the Supreme Court, over 43% of Members of Parliament (MPs) elected in the 17th Lok Sabha in 2019 had declared criminal cases in their self-sworn affidavit, with nearly 29% facing charges of grave crime, including murder, rape, attempted murder, and crimes against women.¹ The rapid increasing entry of such individuals into legislation institutions calls into question the sanctity and legitimacy of democratic representation in the country, our nation India.

Criminalization in politics is not merely about the isolated cases of lawbreaking by politician and political parties – it signifies a system failure of electoral system and its mechanisms, party structure, and institutional enforcement. When Lawmakers become lawbreakers, the very importance of the legal and governance system stand at risk. This nexus between crime and politics undermines not only the authority of the nation but also the faith of citizens in the institutions meant to server them. The consequences are manifold: policy priorities are distorted in favor of personal or partisan interests, corruption flourishes unchecked, and administrative machinery becomes an instrument of selective justice or patronage. Furthermore, constituencies represented by such people often witness a degradation in government standards and rule of law harming the citizen.

While defenders of the current system often invoke the legal principle of *presumption of innocence until prove guilty*, it is imperative to distinguish between criminal jurisprudence and democratic ethics.² The right to contest election in a statutory right – not a fundamental one – and it can be reasonably restricted in the public interest. Legislators, by virtue of their office, are expected to uphold the highest standards of integrity, and the present of serious criminal charges, even at the stand of framing, should be a disqualifying factor – especially when judicial processes are notoriously slow, politicians are allowed to contest multiple elections while their trials remain pending for years.

¹ *Election Commission of India v. Union of India*, Writ Petition (Civil) No. 536 of 2011, Supreme Court of India (2018).

² Law Commission of India, **Report No. 244**, *Electoral Disqualifications* (Feb. 2014), at 7–8.

India's higher judicial power has repeatedly attempted to address this crisis. In *Lily Thomas v. Union of India*, the Apex Court put down Section 8(4) of the Representation of the People Act, 1951, thereby ensuring that convicted representatives in parliament were immediately disqualified and could not continue in office during the pendency of appeals.³ Similarly, in *Public Interest Foundation v. Union of India*, the Court mandated political parties to disclose the criminal antecedents of their candidates and publish justifications for their selection.⁴ The judgement marked significant steps toward greater transparency and accountability. Still, in the absence of robust statutory backing and enforcement mechanisms, these ways have had limited deterrent effects. The Representation of the People Act still allows individuals facing serious criminal charges to contest elections until they are convicted – a process that can be put to wait indefinitely.⁵

This essay makes the case that decriminalizing Indian politics is a constitutional requirement rather than just a desirable reform. It looks at the sociopolitical elements that support the criminalization trend, the historical foundations and structural causes of it, the function of political parties and electoral incentives, and the shortcomings of the existing legal systems. In addition to offering a comprehensive set of changes meant to guarantee that public office continues to be a platform for public service—not a haven for the lawless—it also examines the wider effects on governance, democratic legitimacy, and public confidence.

LEGAL LOOPHOLES IN POLITICAL CRIMINALIZATION

The issue of criminalization in Indian politics is not just growing day by day – it is spreading like disease. A deeper look at current electoral data from the 2024 Lok Sabha election reveals that 46% of the 543 elected MPs declared criminal cases in their affidavits, with nearly 31% involved in serious cases – ranging from sexual assault and kidnapping to incitement of communal violence and even homicide.⁶ What could be more disturbing? This trend has not only persisted over successive elections

³ *Lily Thomas v. Union of India*, (2013) 7 S.C.C. 653 (India).

⁴ *Public Interest Foundation v. Union of India*, (2019) 3 S.C.C. 224 (India).

⁵ Representation of the People Act, No. 43 of 1951, § 8, INDIA CODE (1951).

⁶ “46 per cent of newly elected MPs face criminal cases,” *Economic Times* (PTI), June 6, 2024, <https://economictimes.indiatimes.com/news/elections/lok-sabha/india/46-per-cent-of-newly-elected-mps-face-criminal-cases-adr/articleshow/110762712.cms>.

but has deepened and getting integrated to our legal and legislative systems. This is a persistent problem. It is becoming the part of the elections and electoral playbook.

And the problem doesn't stop at contesting elections – some of these candidates go on to hold cabinet portfolios and draft the very laws they are accused of violating. This dynamic increases an essential question: how can those meant to uphold the Constitution be indulged in activities that threaten its core value?

Making this crisis is the Representation of the People Act, 1951, Particularly Section 8(4), which was disqualified candidates only after conviction, and not upon framing of charges.⁷ As a result, candidates with multiple serious cases against them continue to contest elections, often with impunity, citing that their trials are “politically motivated”. Given how long cases take to conclude – sometimes over year and decade – this provision has effectively become a loophole for politicians. The law turns a blind eye while public office is used as legal shield. Although the judiciary has intervened through landmark decisions like *Lily Thomas v. Union of India* and *Public Foundation v. Union of India*, the impact has been partial.⁸⁹ In *Lily Thomas*, the Apex Court struck down the provision that allowed convicted MPs and MLAs to continue in office during the pendency of their appeals, reinforcing immediate removal upon the conviction. In *Public Foundation*, the court focused the need for transparency by directing political parties to disclose candidates' criminal history and explain the reason such candidates were selected over those with clean records. However, compliance has remained cosmetic. Most politicians and political parties bury disclosures in obscure corners of their websites or rush to fulfill the requirement through last-minute newspaper ads. The letter of the law may be followed, but the spirit is routinely violated.

Furthermore, the Election Commission of India, despite being a national and constitutional body, lacks enforcement power to disqualify candidates upon charges being framed. It can only supervise elections and issue advisories – its hands are tied when it comes to decontaminate the political space. Political parties, meanwhile, continue to field tainted candidates without consequence. They give importance

⁷ Representation of the People Act, No. 43 of 1951, § 8, INDIA CODE (1951).

⁸ *Lily Thomas v. Union of India*, (2013) 7 S.C.C. 653 (India).

⁹ *Public Interest Foundation v. Union of India*, (2019) 3 S.C.C. 224 (India).

to win the election over integrity, arguing that until conviction, everyone must be treated as innocent. This jurisdiction, while legally valid, is ethically hollow in the realm of public office.

It's no longer good to simply acknowledge this pattern. It demands disruption. Without structural and statutory reform – along with public pressure for cleaner candidates – India's democracy risks becoming a paradox: a system that legally permits its own degradation. Association for Democratic Reforms (ADR), which has been important in tracking such data, often releases reports before elections; however, currently, many of the detailed constituency-wise and party-wise reports regarding the criminal cases remain unavailable to the public – raising concerns about transparency and accessibility.

HISTORICAL BACKGROUND & ROOT CAUSES

The criminalization of Indian politics is not a sudden disfunction but an integrated and deeply rooted systemic phenomenon that began to take shape in the post-emergency duration of the 1980s. As electoral politics became more competitive and fragmented, candidates increasingly relied on muscle power to seek vote banks, particularly in regions where state capacity was weak or selectively enforced. This shift coincided with the decline of Congress dominance and the rise of caste and community-based parties, which ushered in an era of *realpolitik*, where winning election often took precedence over clean records.

One of the advance acknowledgments of this trend came in the landmark judgement of *Dinesh Trivedi v. Union of India*, where the Supreme Court remarked on the growing influence of criminal parts in politics, observing that “*the people at large have a right to be informed about the antecedents of their candidates.*” The Court's caution was not just rhetorical; it was seen at the ground-level shift where parties, especially in states like Bihar, Uttar Pradesh, and Maharashtra, fielded candidates with strongman images to gain a competitive advantage.

This circumstance was further enabled by political weaknesses in Indian legal and electoral mechanisms. The late trials and cases – often stretching for years and decades – meant that a mere charge sheet rarely disrupted a political career. Convictions and Verdicts against politicians were rare, and even when they occurred, disqualification from office only followed final conviction, not the making of charges. Consequently, many politicians continued to hold power while under serious investigation.

However, the underlying reasons go beyond legal lapses. Many criminal politicians and political parties have social legitimacy because of the complicated interaction between voters and politicians, especially in places where the state is not well-represented. Politicians with criminal background are frequently seen as parallel justice and welfare providers, stepping in for a malfunctioning governmental system, rather than just seen as lawbreakers. Despite its questionable morality, this "Robin Hood" image appeals to underrepresented voters who value efficacy and accessibility over legality.

CONSEQUENCE OF CRIMINALIZATION

The effect of criminalization in politics goes beyond optics – it corrodes the foundational pillars of government and democracy and its legitimacy. When a person with serious criminal history assumes public office, the law itself becomes negotiable, and governance starts reflecting private interests more than public welfare.

The obvious deterioration in the calibre of law is among the most serious effects. It is statistically less likely that elected officials with active criminal cases will make a significant contribution to legislative committees or parliamentary discussions. Not because they don't have the opportunity, but rather because their interest in legislative affairs is transactional rather than transformative, they rarely participate in bills, policy reviews, or constitutional amendments. Instead of working to improve governance or change policies, these people frequently view political position as a way to increase their power, avoid prosecution, or take control of local administrative institutions. This results in ill-conceived, hurriedly passed legislation that lacks substance or vision, impacting everything from social justice campaigns to economic changes.

In addition, governance suffers from direct interference. Once in power, such politicians often use their position to shield themselves from legal issues. Administrative transfer, police posting tender allotments, and even criminal investigations are tampered with to serve political or personal agendas. The bureaucracy, ideally impartial and law-bound, is frequently turned into a tool of political patronage. In such positions, public welfare and its goes take a backseat, and state resources are diverted not based on need or efficiency, but loyalty and electoral calculations.

Corruption, naturally, becomes institutionalized. Politicians facing criminal charges usually rely on massive economic benefactor to sustain legal battles and maintain local dominance. These funds are frequently raised through blackmail, land grabs, illicit contracts or the manipulations of welfare schemes. Once in office, their access to public funds grows exponentially. The result is a vicious cycle of quid pro quo politics: businesses, contractors, and even criminal syndicates provides financial support in exchange for favourable policies or unverified illegal activities. Such backroom arrangements go unrecorded and unseen in official files but dictate the real system of governance.

Another profoundly troubling outcome is voter disenchantment. When elections repeatedly present candidates with questionable histories, and when political parties do not provide transparent options, voters start to accept criminal behaviour as inherent to politics. A feeling of powerlessness takes the place of agency, leading individuals to vote not for principles, but for whoever can achieve results—or, even more troubling, for those who can shield them from the system designed to ensure equal protection for all. This change is not merely psychological but also existential for democracy. It transforms elections from a decision on governance ideologies to a consideration of power, intimidation, and individual advantage.

Moreover, the criminal-political nexus deters clean candidates from entering public life. Many young professionals, activists and public-spirited citizens feel alienated from a system that appears setup in favour of money and muscle. These actions dampen the exercise of rights: when criminals become legislators and institutions turn a blind eye toward public welfare, the very idea of democratic contest shrinks. Alternatively of inspiring civic participation, the system repels it, making democracy a form without spirit.

Women, minorities, and marginalized groups suffer the most from these collapses. The rule of law turns selective, access to justice becomes unfair, and the commitment to equality before the law feels like a distant dream. Even programs intended to support the most vulnerable or weak frequently serve as instruments of vote-bank politics or are withheld from individuals who oppose local power dynamics.

Disregarding these consequences means accepting a warped version of democracy in which legality, morality, and accountability become optional. The collective impact is not merely ineffective governance—it is the gradual undermining of the Republic's fundamental commitment: justice, freedom, equality, and unity.

ROLE OF MEDIA, CIVIL SOCIETY & VOTERS

POLITICIANS AND THE MEDIA: CRAFTING CLEAN IMAGES AND CONCEALING THE TRUTH

In Indian electoral politics, the interplay between politicians and the media is not incidental – it is strategic. Politicians often exert influence over key news outlets to project clean image and limit coverage of their legal trails and offences. These program and news channels handle as tailored mouthpieces, using curated narratives to deflect scrutiny and maintain public image.

POLITICALLY-LINKED MEDIA OWNERSHIP

Many media outlets in India are owned or controlled by sitting politicians or connected to political parties:

- Zee Media Corporation is part of Essel group led by Subhash Chandra, a former BJP Rajya Sabha member. Zee News is often viewed as supporter towards BJP narratives.¹⁰
- Asianet News Network (including Suvarna News and Malayalam News) is owned by Jupiter Capital, led by BJP Rajya Sabha MP Rajeev Chandrashekar.¹¹
- Sakshi TV, Launched by Y.S Jagan Mohan Reddy, currently Chief Minister of Andhra Pradesh, is widely recognized as a to spread propaganda for his YSR Congress Party.¹²
- Regional examples abound: Odisha TV is linked to BJP vice-president Baijayant Jay Panda; News Live in Assam is run by Riniki Bhuyan Sarma, wife of Chief Minister Himanta Biswa Sarma.¹³

These political-media linkages blur the line between news reporting and political influence, creating environments where candidates' backgrounds – even those involving criminal charges – are glossed over or reframed.

¹⁰ *Media Ownership Monitor, India, Zee Media / Subhash Chandra in BJP upper house* (MoM-RSF) (detailing political affiliation of Zee Media).

¹¹ *Media Ownership Monitor, India, Asianet News / Rajeev Chandrashekar* (MoM-RSF).

¹² *Sakshi (Media Group)*, owned by Jagan Mohan Reddy and party affiliates (widely identified as propaganda outlet).

¹³ *Media Ownership Monitor, India, Baijayant Panda, Riniki Bhuyan Sarma & political media linkages* (MoM-RSF).

NARRATIVE CALIBRATION: FROM “STRONGMAN” TO “VICTIM”

News Channels have politics ties which often create narratives around not-so-clean image politicians that highlight socialist acts, display local connect, and encourage a perception of victimhood in cases of legal trial. Critics argue that such outlets repeatedly couch charged individual as grassroots reformers fighting judicial vendettas and state-level witch-hunts.

In practice:

- Editors or anchors affiliated with these channels downplay serious allegations and instead foreground “development stories” or acts of charity.
- Prime-time shows and feature segments deliberately sideline coverage of court cases or investigations, minimizing public awareness.

REVENUE AND REGULATORY LEVERS

Political owners use government ad revenues, regulatory influence, or bureaucratic clout to reward compliant outlets and punish critical ones, Reports suggest that channels critical of ruling parties face regulatory scrutiny – ranging from income tax probes to defamation suits – discouraging independent journalism.¹⁴

As one independent journalist noted: “for most of these anchors, aligning with power is a calculated career move.”¹⁵

IMPLICATIONS FOR POLITICAL ACCOUNTABILITY

The mutualism between media organizations and politicians hampers attempts to reveal criminal histories. When channels advocate specific narratives, the strength of voter awareness weakens. Even disclosures from civil society—like ADR’s candidate reports—find it difficult to break into public awareness without media enhancement. An independent press, free from political ties, is vital to challenge this narrative dominance.

¹⁴ Al Jazeera Media Institute, *Corporate Dominance and the Erosion of Editorial Independence in Indian Media* (on regulatory threats and corporate control).

¹⁵ Washington Post, *How misinformation overtook Indian newsrooms...* (describing opportunism and alignment with power).

CONCLUSION

Decriminalization of Indian politics isn't just an ideal, it's a constitutional command and a democratic duty. When lawmakers and lawbreakers become one and the same, we can't expect true rule of law, fair governance, or public trust. Waiting around for legal system to act or hoping political parties will suddenly develop a conscience won't cut it. What's needed is a complete reset with clear legal reforms to stop political individual with serious charges from contesting, strong political will to deny tickets to those with shady pasts, and a much more empowered Election Commission.

But that's not all. A sharp, active civil society and a media that isn't a puppet of political power are just as important. The media must step up as a watchdog again, and citizens have to start demanding accountability before elections, not just during them, but at every moment to create pressure. Every vote cast for a candidate with a criminal background is a silent compromise with the very idea of democracy.

Right now, India is at a turning point. If democracy is to mean more than just voting for every five years, we need to clean it from the inside. We have a choice to make—between integrity and influence, fairness and favouritism, consequences and impunity.