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The Erosion of Democracy: A Socio-Legal Analysis of the Evolution and Drivers of Criminalization in Indian Politics

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ABSTRACT

There was no universally accepted definition as meaning of crime changed from culture to culture. To the administrator of justice and to lawyer, a crime was an illegal act whereas some social scientists tend to equate the term crime with all behavior that was injurious to society. Others viewed crime as those acts that deviated greatly from the accepted norms of the society. Religious people regarded crime as belonging to the same genre as sin. While persons whose personal codes emphasized truth as the ultimate value equated falsehood with crime. The most prevalent tendency was to apply the term crime to acts that deviated from rules of behavior valued highly by the regiment of the society.

Key Words: Crime, Politics, Criminalization, Election

INTRODUCTION: THE CONCEPT OF THE 'POLITICAL-CRIMINAL' NEXUS

All those who exercised power over others must be spiritual, not just religious in the ordinary sense of the term, by manifesting, more or less the divine within, by which they would use that power, for the good of the people, to serve the people. Whatever be the development of a nation, it could not be great if character did not develop. We must become a great people in a great nation and not remain small people in a great nation.

Swami Ranganathananda of the Ramakrishna Mission, Hyderabad. Despite the best intentions of the drafters of the Constitution and the Members of Parliament at the onset of the Indian Republic, the fear of a nexus between crime and politics was widely expressed from the first general election itself in 1952. In fact, as far back as in 1922, Mr. C. Rajagopalachari had anticipated the present state of affairs twenty five years before Independence, when he wrote in his prison diary: “Elections and their corruption, injustice and tyranny of wealth, and inefficiency of administration, would make a hell of life as soon as freedom was given to us...”

Criminalization of politics was a major issue of concern in the Indian politics. When crime became highly visible on the political agenda and with it new problems emerged in politics, development of unholy nexus between criminals and politicians was called criminalization of politics. It was, therefore, essential to know the meaning of crime and politics.

MEANING OF CRIME

It was very difficult to define crime and it was thorny intellectual issue. The word crime was derived from the Latin word '*crimen*' which meant fault or offence. There was no society that was not confronted with the problem of crime. The definition of crime was different from one field to another. There was no universally accepted definition as meaning of crime changed from culture to culture. To the administrator of justice and to lawyer, a crime was an illegal act whereas some social scientists tend to equate

the term crime with all behavior that was injurious to society. Others viewed crime as those acts that deviated greatly from the accepted norms of the society. Religious people regarded crime as belonging to the same genre as sin. While persons whose personal codes emphasized truth as the ultimate value equated falsehood with crime. The most prevalent tendency was to apply the term crime to acts that deviated from rules of behavior valued highly by the regiment of the society.

According to Encyclopaedia of Crime and Justice, “crime was a set of circumstances for which the law permitted imposition of a criminal penalty.” Thus crime was not a natural phenomenon but a legal one; whatever the law makers defined as crime was crime. Crime was not intrinsic; that was, one could not identify characteristics other than law maker’s fiat from which it was possible to distinguish criminal from non-criminal circumstances.

Halsbury holds crime as, "An unlawful act or default, which was an offence against the public, and which rendered the perpetrator of the act or default liable to legal punishment."

Sir William Blackstone defined crime as “an act committed or omitted in violation of public law forbidding or commanding it,”

Sergeant Stephen said, “a crime was violation of a right, considered in reference to the evil tendency of such violation as regards the community at large.”

According to Encyclopaedia Britannica, “the intentional commission of an act usually deemed socially harmful or dangerous and specifically defined, prohibited and punishable under the criminal law.”

Westermarck opined that customs and laws were based on moral ideas, and that crimes were such modes of behavior as were regarded by society as crimes.

In this connection, it was not easy to define a criminal. Under Indian jurisprudence, a person was presumed to be innocent, unless convicted by a court of law. On the other hand, Mr. Fali S. Nariman, India’s reputed Constitutional expert, suggested that those people should be called criminals who were charged with offences that

entail a punishment of more than two years. But a common man perceived otherwise. In his eyes, even a person who had been charged with an offence and it under trial was also a criminal. He looked down upon a mafia don, history-sheeter or a notorious bad character, involved in various nefarious activities, as a criminal. He could not digest the fact that a person charged with heinous crimes, sought to represent him in Parliament or State Legislature or in any other elective office, merely because the trial was taking its own course and time, before formally convicting him.

It could be concluded from the above cited definitions that crime was a serious offence against the law, morality, man's social duty towards society that caused harm or injury to an individual or society and was punishable by canons of law. Different acts of omission, so punishable under the law of the land, were known as crimes.

MEANING OF POLITICS

The word „politics“ was derived from Greek word *polis* meaning literally „city-state“. Politics was an inevitable feature of human conditions. For Aristotle, politics was „master science“ through which human beings attempted to improve their lives and create the good. But today its scope had widened and now it is more concerned with power.

According to International Encyclopaedia of the Social Sciences, “politics consisted of the process by which goods, services and privileges were allotted by government or the rules were established for their allocation by other social institutions.”

To J. Ronald Pennock and David G. Smith, “politics referred to all that had to do with the forces, institutions, and organizational forms in any society that were recognized as having the most inclusive and final authority existing in that society for the establishment and maintenance of order, the effectuation of other conjoint purpose of its members, and the reconciliation of their difference.”

According to H. Lasswell, “the study of politics was the study of influence and the influential. The influential were those who got the most of what there was to get. Those who got the most were elite; the rest were masses.

NOTION OF CRIMINALIZATION OF POLITICS

Generally speaking, criminalization of politics might be termed as a systematic act of subversion of the usual course of politics by illegal means intended to attain private gain or end. It gave rise to a situation where there were a great deal of erosion of values, organized violations of norms, rules and principles, dearth of security of life, liberty and property, lack of transparency and accountability, dominance of muscle power and black money, plunder of resources, rampant corruption, denial of justice and rule of law, and unconventional forces to establish substantial control over the political process.

Criminalization of politics could be visualized into two different senses. In narrow sense, it referred either to the direct entry and interference of criminals into the political parties, state legislatures and parliament of the country or politicians adopting criminal means to achieve their own political goal. In wider sense, it referred to interference of criminals into politics either directly or indirectly like financing any candidate, providing anti-social manpower, booth capturing, contract killing of rival candidates, providing muscle power services, as well as campaigning for any candidate contesting elections. It might be mentioned here that the criminals applied their power disobeying social customs, social barrier, state law and prohibition and through the unlimited use of the muscle power during election period, they compelled the countrymen to behave against their own intention in such a way were quite common in Indian experience today, especially in rural India. So, in the present India the politics meant a picture of the unlimited and reckless use of the muscle power.

The politicians of our country indulged in the corrupted functions of the criminals but they remained aloof completely from the criminal activities. The politicians used the corrupted persons for fulfilling their own political objective. The political leaders, most

of the time, were too much practiced to create the fight against their political opponent with the help of their private armies and they also habituated to threat and terrorise the common people. Therefore, now politics, crime and violence were a tie. They were only concerned with power and never felt the responsibility. Their sense of value had certainly deteriorated to the lowest ebb.

Criminals entered politics to enjoy the privileges of political leaders in the legislatures and then patronized other criminals. This had created a negative impact on the Indian political system. If this trend continued, then there was a possibility that in India, instead of government of people, by the people and for the people might become government of criminals and for the criminals. It was need of the hour to break the nexus between criminals and politicians.

HISTORICAL EVOLUTION: FROM INDEPENDENCE TO THE CURRENT AGE

Mahatma Gandhi, who fought against the imperial power peacefully, was also concerned with the purification of political life and therefore, suggested inclusion of morality into politics. Ancient Indian society was praised rather glorified by him as “where kings and swords were inferior to the swords of ethics.” M. N. Roy and Jaya Prakash Narayan even opposed the system of party politics because in elections, political parties adopted corrupt practices. So, they suggested party-less democracy in India.

In August 1947, when the Congress Ministers of West Bengal came to meet Mahatma Gandhi, father of the nation, the latter advised the former: From today you have to wear the crown of thorns strive ceaselessly. Cultivate truth and non-violence; be humble; be forbearing.

The British no doubt put you on your mettle. Now, on your own you would be tested through and through. Beware of power; power corrupts; do not let yourselves be entrapped by its pomp.

But politicians did not pay heed to his advice and teachings on the need to maintain

highest probity in public life and pursue politics of morality. This advice was forgotten by the successive leaders of free India. As a consequence, criminals entered into the arena of politics. Criminalization of politics was eating the vitals of political life and system which had posed a serious threat to democratic system of the country.

Criminalization of politics in India was a post-independence development. During the freedom movement, there was no nexus between the politicians and the criminals. The Congress under the leadership of Mahatma Gandhi had adopted the policy of adhering to truth and non-violence, abjure violence at any cost. Therefore, there was hardly any scope for criminals to get involved in political programs of the Congress. Not only this, even the left and revolutionary parties never thought of taking any assistance from anti-social elements although their program included violent methods. Thus, criminals had absolutely no role to play in Indian politics.

In the post-independence period, the attitude radically changed, when the Congress assumed power and gradually winning elections became be-all and end-all for the Congress. The process of criminalization of politics started in West Bengal. The first indication of link between the Congress and anti-social elements came into open when in the 1957 elections; the then Chief Minister of West Bengal availed the service of a don in central Calcutta area in his bid to win election. Large scale involvement of anti-social elements with the Congress took place during Indo-China war. The Communists were all branded as agents of China, their party offices were ransacked and most of them were subjected to physical assault. The involvement of the criminal elements with the Congress started steadily with the passage of time and by the beginning of the decades of seventies, the criminal element almost became the driving force.

Till 1960s the criminal was only contended by playing second fiddle to the politicians to enable them win election and in turn, to get protection for him. By 1970s, political parties took help of criminals for contesting elections. On 12-13 August 1971, the infamous Baranagore- Conssipore carnage was perpetrated in which more than 150 youth were slaughtered by Congress goons in connivance with the State administration. Therefore, this election of West Bengal Assembly in 1972

was completely rigged and the dominance of the criminals in the affairs of the Congress was complete.

A stage had now reached in the political life of India when there was hardly any reservation in rewarding persons with a criminal record with high positions, and the thin line dividing many politicians from the criminals had disappeared.

It is normally alleged that Mrs. Indira Gandhi spearheaded this moral decay in politics. Loyalty to personality became more important than loyalty to principles. Those who proved their loyalty were rewarded with plum political posts even if they were hijackers, heroine peddlers or hard core criminals.

In December 1978, two impetuous young men were arrested for hijacking an Indian Airline plane on its flight from Lucknow to Delhi.

They had done so as a protest against Indira's harassment by the Janata Government. When Indira Gandhi returned to power, criminal proceedings against the hijackers were withdrawn, and one of the culprits was later elected to the U.P. vidhan Sabha for his „loyalty“.

INSTITUTIONAL AND STRUCTURAL CAUSES

New trends came to Indian politics, that politicians were hiring gangsters to kill their rivals, attacked polling booths and loot polling boxes during election. They were fighting elections, providing finance to politicians and political parties, becoming MPs, MLAs and Ministers.

In the course of time, with the blessings of politicians, criminal gangs led by mafia leaders such as Hajji Mastan, Karim Lala, Dawood Ibrahim, Yusuf Patel, Varadarajin Mudaliar, Alamzeb, Babu Resham, Arun Gauhi, Shabir Ibrahim to name a few, came into prominence. They resorted to looting of matka and liquor dens and resorted to stabbings and killing in the streets. The control of the streets had passed on from the police to the gangsters of the under-world and they ruled the streets with impunity. Powerful gangs could enlist the support from the

politicians and the police by paying protection money.

In Andhra Pradesh, the link between Home Minister, K. Prabhakar Reddy (Congress) and gangster Kotha Das reportedly led to a conflict between the Home Minister and the Hyderabad City Police Commissioner, P. V. Pavithram. Kotha Das's gang was arrested by the police on 30 April, 1981 and immediately after the arrest of the gang, the Police Commissioner was asked to proceed on leave. In the statement duly signed by him and counter-signed by five police officers Kotha Das said, "my gang politically supported Prabhakar Reddy, the then Home Minister, irrespective of his political affiliation."

These criminal gangs had organized themselves for extortion, contract killings and functionaries were paid in commensurate with the kind of their work. In a state like Bihar instead of the word gang the word Sena or private army was used. These gangs took advantage of scarcity of resources and no-choice situation that the politicians found themselves in.

Gangsters had also promoted the illegal gun culture. Hundreds of clandestine factories were operating in different parts of the country, mostly financed by politicians. In Bihar, political power flowed from the barrel of gun.

During the last two decades there had been a sharp increase in the use of firearms and explosives by the criminals in the elections. Due to close rapport between gangsters and politicians, it was easy for the criminals to acquire fire-arms, both licensed and unlicensed.

When power became the only goal of political activity, norms, values and ideals became secondary in the way of its acquisition. In the 1989 Lok Sabha elections, Rajiv Gandhi was contesting from Amethi against Rajmohan Gandhi of the Janata Dal. To ensure Rajiv's success his minions turned it into the most violent poll fought by a Prime Minister. The police openly helped the roughnecks to capture booths, stuff boxes with stamped ballots, and thrashed the supporters of the other candidates.

The case of Om Prakash Chautala also could be cited here. In 1990, when Devi Lal was the Deputy Prime Minister in V. P. Singh's government, his son Om Prakash Chautala, became the Chief Minister of Haryana. As he was not an MLA, he contested a by-election from Meham.

This was perhaps the bloodiest election in the history of India. On 27-28 February, his sons and followers let loose a reign of terror in the constituency with the connivance of the police. The people were so furious that they surrounded the booth where Chautala's son Abhay Singh was busy stamping ballot papers and cried for his blood. Abhay Singh quickly exchanged his clothes with a constable and slipped out. In view of widespread rigging and violence the poll in Meham was countermanded.

Thus it was evident that violence in election had become a part of Indian electoral process. A Prime Minister in office retained his seat in the Parliament by extensive use of firearms and gross malpractices whereas the son of a Deputy Prime Minister and himself a Chief Minister in office subjected his constituency to a blood bath to hold on to power.

The Tenth General Elections of 1991 also suffered from the malpractices by the anti-social element. Out of 510 Lok Sabha constituencies, 417 were declared sensitive. These elections were held in May 1991, accounted for 198 deaths.

In the 1996 elections, 1500 out of 13,950 candidates had criminal cases against them. In 1996, the Election Commission had found that more than 70 MPs had criminal background. In the elections to the thirteenth Lok Sabha, 40 MPs with criminal background managed to win.

Prime Minister, P. V. Narsimha Rao faced a number of criminal cases such as the JMM bribery case, the Lakhubhai Pathak cheating case, the Urea Scam case, the St. Kitts case. Around this time, in October 1996, a leading newspaper carried a headline that read Rao might be the first ex-Prime Minister to be held in criminal cases.

During the 1998 Lok Sabha elections, a panel comprising Justice Kuldeep Singh, Madhav Godbole, C. Subramaniam and Swami Agnivesh was constituted. The panel, after a careful scrutiny identified as many as 72 Lok Sabha candidates facing serious criminal cases.

CONCLUSION

The provided analysis paints a grim picture of the Indian democratic fabric, illustrating a systemic transition from the "Politics of Ideology" to the "Politics of Pragmatism and Power." While the founding fathers and early visionaries like C. Rajagopalachari feared the corrupting influence of wealth and inefficiency, the reality has surpassed those anxieties, evolving into a structural Political-Criminal Nexus.

The core of this erosion lies in the Institutional and Structural failures of the state. The "winability" factor has compelled political parties to prioritize candidates with criminal records who can self-finance elections and command local "Sena" or private armies. This has been exacerbated by a slow judicial process, where the "presumption of innocence" acts as a legal shield, allowing individuals charged with heinous crimes to hold high constitutional offices.

Ultimately, the article concludes that when the "swords of ethics" are replaced by the "barrels of guns," the democratic mandate is subverted. If the current trajectory—where loyalty to personality outweighs loyalty to principles—continues, the Indian Republic faces the existential risk of transforming from a Government of the People into a Government of and for Criminals. Breaking this unholy nexus is no longer a choice but a "need of the hour" to preserve the sanctity of the rule of law.

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