

PRIVILEGED CLASS DEVIANCE AND ITS IMPACT ON THE ELECTORAL PROCESS

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ABSTRACT

Elections are one the most important and crucial activities which the government of India and other countries practice. If there are no elections then there will be no one to represent our nation in any global gatherings. It is universally known that where any good things happen the bad things directly follow it. Deviance is one of those bad things which are practiced by the Legislators. Deviance is one of the subjects which deals with the unacceptable behaviour of the individuals who have knowledge, integrity and ability to do a certain thing, in short, they are the experts. When a person with respectable personality and who has a high profile then that is called as Privileged Class Deviance. This Doctrinal Paper shares the information and also answers the questions like what is Privileged Class Deviance, types, theories and forms of Privileged Class Deviance, the Election Commission of India, electoral process explained with important and landmark judgements, deviance in Elections and lastly the Electoral Laws and acts dealing with it.

Keywords: Deviance, Deviant behaviour, Rigging, Booth capturing, Professional Deviance, Official Deviance, Police Deviance, Representation of Peoples Act, Transparency, Coalition Government and Criminalization of Politics.

INTRODUCTION

India is a democratic country, the national leaders and those leaders who represent people are elected by the citizens of India depending on the geographical region as well whichever field they belong to. The reason for which India is called as a DEMOCRATIC nation is because the leaders are elected and chosen by the citizens of India. The Leaders are elected by the citizens by casting their vote, this manifests the will and the freedom of the citizens. Election Commission plays a vital role by conducting elections for those who take a stand for a group of people without discriminating against every human in that group. The leaders or the candidates take pledge for the betterment of the people for whom s/he represents. If there are no elections then the Doctrine of Basic Structure of the Constitution will be violated and the traditional custom of voting will not be in picture, lastly the nation will be under the rule of President (Presidential form of Government). There are different types of voting systems and it depends on the kind of election whether it is a general election or any other. Generally, elections are conducted for every 5 years in India and the same policy is also followed in few other nations. As India adopted a parliamentary form of Government the government who is ruling today might not have a chance to win again (in the next elections), this makes the government to work more efficiently and is one of the unique characteristic features of Elections.

WHAT IS PRIVILEGED CLASS DEVIANCE?

The word deviance means any improper act which is not enforceable in the eyes of law, the actions, behaviour and conduct which violates the formal or in-formal views or rights of any norms is called deviance. In simple terms deviating from the norms of the society by the people who have or are given privileges to look after the betterment of the society. When a special right, advantage or immunity or power is granted to a person with a right to say or write anything without risk of getting punished or being defamed by law in a way that such person may easily manipulate things and may go against the norms of the society which cannot be found easily then it is a privileged class deviance. At times when this deviant kind of behaviour is committed by a high-profile individual it is called as Privileged Class Deviance. The word

Privileged Class Deviance is used because the said person belongs to a class where he is respected. Privileged Class Deviance is not a new subject and has been there since ages. It is a crime committed by the privileged class of the society or community who are powerful in terms of money and are very influential in almost every area wherever they can reach and are under them. In simple terms Privileged Class Deviance is the relationship between the Power, Privilege and Deviant behaviour. The above definition is the most accepted one across the globe.

TYPES, THEORIES, AND FORMS OF PRIVILEGED CLASS DEVIANCE?

There are generally two types of deviance which are:

1. Formal Deviance
2. Informal Deviance

Formal deviance can be described as an offence which violates the laws in the society. Deviance in sociological context which violates sociological norms and is signified as a crime is formal deviance. Informal deviance can be described as an offence which are very minute in nature or minor mistakes dealt within the society.ⁱ

According to Howard Becker there are 4 types of deviant behaviour which are:

- a. False accusing means a wrongful or false accusation of one's action to another.
- b. Pure deviance means deviance committed by the said person himself.
- c. Secret deviance means deviance done in secrecy.
- d. Conforming.ⁱⁱ

There are 4 main theories which are based on deviance:

1. Durkheim's Normative theory of Suicide
2. Merton's Strain theory

3. Labelling theory
4. Differential Association theory
5. Conflict theory

Durkheim's normative theory of suicide: Emile Durkheim was a French Jurist or philosopher and was born on 15th April ,1858. He considered Auguste Comte as his teacher and followed his methods of approach towards the subject of sociology.

Comte was considered as the father of sociology along with Herbert Spencer, while Durkheim was considered as the Grandfather of systematic approach for the study of society. Durkheim theory of suicide is very much related to his study of society, according to him there is no such society where there is no suicide at all. According to Durkheim, deviance or crime is an inevitable and normal aspect of social life. It is an integral part of all societies.

According to Durkheim the main reason for suicide is not an individual act nor a particular or personal action, the main reason for suicide is the power which is above and superior to the individual or super individual. Durkheim's theory of suicide is based on social aspect rather than the psychological. What forces a person to take such a step is not his psychological aspect but social and at last he says that it is the social disorganization or social changes which motivates the people to commit suicide.

Durkheim propounded 4 types of suicide and differentiated them with that of a character in a society and his society. These 4 types are:

1. *Egoistic suicide:* The man becomes isolated and feels like there is no one and no place for him to stay in the society and becomes self-centred and commits suicide.
2. *Altruistic suicide:* The word Altruistic means unselfish. This type of suicide occurs when the person and other individuals are too close and have intimate relationship which can be physical or emotional.
3. *Anomic suicide:* This is a different kind of suicide and the reason for it may be because of any loss to his/her pecuniary or monetary basis. This a spontaneous act which results in committing suicide.

4. *Fatalistic suicide*: This type of suicide is due the feelings of one person which are controlled by norms, values and ethics which makes the person go into despair and develops an emotion to escape these external forces.

Anomic and Egoistic suicide are considered as weak social bonds and Altruistic and Fatalistic suicide are considered as strong social bonds. This was explained by Durkheim himself.ⁱⁱⁱ

Merton's Strain theory: The social strain theory was developed by and framed by American sociologist Robert K Merton. Merton was born on 4th July 1910 and expired in the year 2003. He was a professor in Columbia university. He was the 1st sociologist who got a national medal of science for his excellent works in the field of sociology. The Strain theory mostly talks about the social structure of the society and what makes the people to commit crime is the same social structure of the society. According to Merton it is the society which puts pressure on the individuals to commit the crime, so as to achieve the common or socially accepted goals of the society (American dream), it only concentrates on the goals and not by the means or modes of achieving it. The general meaning of strain is that a force to make an unusually great effort, to put this in society's point of view it means that the force which the society puts on an individual which latter affects them and due to this force or pressure which is not visible harms the individual and they commit crimes and they (individuals) are later called as criminals. According to Merton's theory of strain there are 5 types of Deviance which are:

1. *Conformity*: This involves accepting the cultural goals and has a good means of attaining the goals. And it's the most common response.
2. *Innovation*: In this type the goals are accepted but the modes or means of achieving those goals are not legitimate.
3. *Ritualism*: In this type the goals are not accepted but the mechanism of reaching those goals are accepted.
4. *Retreatism*: This involves rejection of both cultured goals and as well as the ways of reaching them.
5. *Rebellion*: This is a special type of deviance and is same as Retreatism but with one difference which is that the individual tries to replace the cultural goals and traditional mode of achieving them with the different elements of the society.^{iv}

Both Durkheim and Merton's theories are based on society and are commonly called Structural-functionalism.

Labelling theory: Frank Tannenbaum and Howard S Becker created and developed this theory. Frank was an Austrian-American sociologist and was born on 4th March, 1893 in Austria and Becker was an American sociologist who was born in the month April, 1928 in America the core of this theory is the symbolic interactionism and was created by Frank. Becker developed this theory by believing that the social groups create deviance by making the rules and regulations and anyone who infringes them are criminals and they constitute the deviance. Labelling is a process of social reaction by the people living in a society, wherein people judge others and try to label them and draw conclusions that the behaviour of the said labelled person is deviant. The process of labelling works on a stigma that a specific group of people who are educated and cultured label a person as criminal because of his behaviour, actions, and their mental condition. According to this theory, individuals who are labelled as criminals by society, may not be born criminals just because the label given to them by society makes them do crimes. Not every individual who is labelled is a criminal and not every criminal is labelled. Just because of the stigma or a name tag given to them as a criminal makes them do more crimes.^v

Differential Association theory: Edwin H. Sutherland was an American Sociologist who was born in the month of August 1883. He is best known not only for this theory but also, for his works on White Collar Crimes, he was the one who coined this term. Sutherland outlined this theory in his famous book *Principle of Criminology* which was published in 1939 but was later developed by him in 1949. According to him criminals learn from other criminal and deviant behaviours. Doing a crime is not their individual part but it's because of the criminal people around them which motivates them to do the crimes again and again. As criminals do criminal activities the exposure of the crimes also increases. He also says that there is no big difference between the normal behaviour and that of Criminal or deviant behaviour, the learning style and the concept of learning is the same but the only difference is the association of the behaviour (the good and the bad). Sutherland gave 9 propositions of Differential Association theory which are:

1. All deviant behaviour is learned by someone and then to another.
2. Criminal behaviour is learned through interactions (communication)
3. Most criminal behaviour is learnt from the intimate and close relationships.
4. The techniques to carry out the behaviour as well as motives are taught during the process of learning.
5. The motivation and desire which drives towards criminal behaviour is learned through the interpretation of legal codes in one's geographical area as favourable and unfavourable.
6. When an individual has to choose between anyone i.e. favourable and unfavourable, he chooses the one which has the most votes and which violates the legal code and lastly becomes a criminal when the favourable outweighs the unfavourable.
7. All differential associations are different; they differ in terms of intensity, duration and priority.
8. The process of learning criminal behaviour is the same as that of other normal behaviour.
9. Criminal behaviour could be an expression of generalized needs and values, but they don't explain the difference between the non-deviant behaviour (normal) and express the same needs and requirements.^{vi}

If the criminal wants to commit a deviant behaviour (crime) only the intention and motive are not enough, he should also possess the qualities and should have been properly educated with skills and techniques so as to do that criminal act.

Conflict theory: Social Conflict theory is based on the inequalities and is based on the view that the root cause of crime are the social and economic forces operating within society. The conflict theory states that the behaviour of individuals changes because of the social institutions, political changes and revolutions in the society. The institution's ability to change the norms, values and rules are the reasons for such behaviour (Deviant) like for example when one political party is governing a society they make their own rules and regulation and everyone else are obliged to follow and after few years some other party comes and they

declare their own rules and regulations. Here the point is that the rules and regulations are changing which directly or indirectly creates a conflict in the minds of the people to have a deviant behaviour and commit crime and become criminals. The class structure of the capitalist mode of production is characterized by the conflict between two main classes, this statement was given by Karl Marx in his conflict theory.^{vii}

FORMS OF PRIVILEGED CLASS DEVIANCE

1. *Professional Deviance*
2. *Police Deviance*
3. *Official Deviance*

Professional Deviance: Every profession has few values, norms, ethics, rules and regulations, when these things are neglected and results in violation of the code of conduct, rules, etc., then it is called as professional deviance. In simple terms when an individual infringes the rights and is in a respectable profession and does any illegal act then that amounts to professional deviance. The word Profession has many occupations and includes professions like legal, medical, teaching, education, engineer, etc. The main cause for such deviant behaviour is due to lack of education, knowledge and illiteracy of the poor people as the poor people don't have proper knowledge about the subject, they believe the professionals and are easily cheated by them.

Legal Profession: The deviant behaviour of Advocates and other legal members results in deviance in the legal profession. Legal profession is a well-respected, noble and prideful profession. Lawyer profession was considered as one of the best professions in India, but in recent times the name and fame of this profession has gradually been decreasing. The main reason for this is the deviant behaviour of few advocates which resulted in many disparities.

There are 3 main provisions or acts which deals with legal profession which are:

- i. *The Legal Practitioners Act, 1879.*
- ii. *The Indian Bar Council Act, 1926.*

iii. *The Advocates Act, 1961.*

These are the acts which deal with legal profession and it is the duty and an obligation for all practicing advocates to follow the rules and regulations mentioned under these acts, but to some lawyers it's just a piece of paper or a document and they feel that there is no use of following it, due to this the advocates practice illegal act and perform deviance act.

Examples of deviant behaviour of legal profession are:

- a. *Fabrication of evidence*
- b. *Getting into terms and agreements between the opposition parties*
- c. *Asking all irrelevant and uncomfortable questions to the victims while cross-examination and etc.*

“State of Orissa vs Bharat Chandra Roul on 6 March, 1995 CriLJ 2417 is one of the famous cases on legal profession deviance”

Doctor (medical) Profession: Doctors are considered as life saviours across the globe. They are treated as gods as they give life to many people from death situations. And it is true that many doctors have a deviant behaviour to their profession, the main reason for such deviance by doctors is due to obsession with money or even to destroy someone else's image by acting in their shoes. 2 major provision or acts which deals with medical profession are:

- i) *Indian Medical Degree Act, 1916.*
- ii) *Indian Medical Council Act, 1956.*

Examples of Medical profession deviance are:

- a. *False post-mortem reports*
- b. *Illegal abortion*
- c. *Overdose medicines for normal disease*
- d. *Illicit trafficking of organs*
- e. *Pre-natal and pre-conception of sex of the child (child-determination)*

- f. Avoiding treatment for the patient who met with an accident and waiting for police orders. And etc.*

Case: *Parmananda Katara Vs. Union of India, AIR 1989 SC 2039*

SC held that it is the professional obligation of all doctors to extend medical aid to the victim as to preserve his life, rather than waiting for legal documentation.

Teaching and Education Profession: Educational institutions are temples for knowledge and the priest or head of this temple are the teachers. Teaching profession is considered as the primary and most important profession as they share knowledge and build the student's mindset on how to handle things and how to achieve greatness in life, if suppose the teacher is only being deviant towards his profession just imagine the impact which its creates on the students and to his own respect and reputation it is quite miserable.

- a. Collecting donations from the students who are not qualified for the admission in the college and rejecting the qualified student (just for the sake of money)*
- b. Cutting the salaries of the teachers and taking that money for their own good and stating a reason that it is towards their appointment as a teacher in the institution.*
- c. Corruption and favouritism at the time of exams.*
- d. Exploitation and victimization of students. Especially for internal marks.*
- e. Preparation and prescribing of textbooks of low or below average standards. and etc.*

These above mentioned are few examples of teaching profession and education profession deviance.^{viii}

Police Deviance: Deviance when performed by the police department or by an individual who is police then that amounts to Police Deviance. Police departments hold a strong and play a pivotal role in any given society, they are the ones who protect the laws and they are the ones who take action if anyone violates any laws. The police department has a primary position in terms of safeguarding the people from illegal activities, if they are only violating the rules and regulations then it is by default that the people might also do the same. Indian Police Act, 1861 was enacted to re-organize and to make sure that the police department

works efficiently and without involving into any illegal activities. The police department have many duties such as:

- a. *Maintenance of law and order situation.*
- b. *Patrolling and surveillance*
- c. *Implement Preventing function*
- d. *Investigation of crimes*
- e. *Arrest criminals*
- f. *Interrogation of offenders and suspect*
- g. *Search and Seizure*
- h. *To assist the Prosecutor*
- i. *Perform general welfare function.*

When one of these duties and few others are violated then such deviant behaviour of the police is called as Police Deviance. Police deviance is a wider and much broader term than that of Corruption. Police deviance includes all sorts of activities which are inconsistent with the norms, values, and etc. There are many types of Police deviance such as:

1. *Police brutality*
2. *Third Degree methods – famous case: **Kishore J. Chawla vs Union of India on 11 November, 1999.**^{ix} The police being the protector of law should not fear the minds of the people.*
3. *Encounter killings – case: **Chand Babu vs State of U.P. on 15 April, 2019.**^x*
4. *Fake encounters – case: **Amitbhai Anilchandra Shah vs CBI & ANR on 8 April, 2013.**^{xi}*
5. *Police sex on duty or off duty – case: **Tukaram and ANR. V. State of Maharashtra (1979)** this case is also called as **Mathura Rape Case.**^{xii}*
6. *Intoxication while in duty and etc.*

Official Deviance: The deviance when done by the officials such as Bureaucrats, Judges and Legislators is called as official deviance. These are the ones who take care of the welfare of the society, because of them the society is in a controllable state.

- a. *Bureaucrats* are the officials who take the administrative works of a nation. The main job of this department is collecting the tax and revenue.

The following are the deviance which the Bureaucrats do:

- i) *Red-Tapism*
- ii) *Corruption*
- iii) *Misappropriation of money*

- b. *Judges* are the ones who deliver justice to the victims and punish the wrong-doer, if the judge is only giving a wrong and partial judgement to the parties (victim) then the people living around will lose faith and belief in the justice (judiciary) system.

Examples of deviance done by Judges are:

- i) *Taking bribe and giving a wrong judgement*
- ii) *Taking political influence and joining the wrong ones*
- iii) *Personal contract with the Advocates*
- iv) *Personal interest in giving justice and thus removing the legal spirit of the system.*

- c. *Legislators* are the ones who are elected by the people and there lies a duty or obligation on them that they should serve the people who trusted them and voted in the elections, they should serve the interests of the electorate and not against it.

- i) *Having a close relationship with the criminals*
- ii) *Corruption: A huge amount of sum is collected for the party's benefit but nothing is done in reality*
- iii) *Favouritism is done by them whenever there is tender for petrol pump or diesel pump or any other industry etc.*

The mentioned above are the examples of deviance done by the legislators.

ELECTION COMMISSION OF INDIA

The election commission of India is a constitutional Autonomous body that conducts the election to the offices of the President and Vice President of India, Members of Parliament, State Legislative Assemblies, and legislative council. The Election Commission is the body which is responsible for conducting the elections in India at every level i.e. national, state, and district. As per Article 324, the election commission operates under the authority of the Indian Constitution.

The Election commission was formed on 25 January 1950, which is celebrated every year as National Voters Day. Its Head Quarters is situated in Nirvachan Sadan, Ashoka Road, New Delhi, During the early days until 15 October 1989 there was only one post of the rank Chief Election Commission of India. Later on, From 16 October 1989 two more posts of the rank Election Commissioner were started for a short tenure until 01 January 1990. The Election Commission was made a three-member multiple body in the year 1990 (January) this change was brought under the Election Commissioner Amendment Act, 1989. The present Chief Election Commissioner of the Election Commission is Sunil Arora (23rd). The eligibility for the Chief Election Commissioner as well as for Election Commissioners is any retired IAS Officers who could draw salaries and allowances as par to those of Supreme Court Judges. The three members of ECI are appointed by the President of India and can hold the office for a term of 6 years or until they reach 65 years of age whichever is earlier.^{xiii}

The Election Commission provides services through the website www.nvsp.in which is National Voters Service Portal. This website provides information and services to the Voters Accordingly through Voter Registration Status, Voters Polling Booth, Service Voter, and Overseas Voter, Electors Complaint, and its status and Voters Education. Information about Elections such as General Elections, Future Elections, Assembly Elections, Parliamentary Elections, Bye Elections, Term of Houses, Results, and Statistics, Electoral Roll, Election Law, Election Manifesto, Model Code of Conduct and Judicial Reference. Services to Political Parties and Candidates such as Candidate Nomination, Candidate Affidavit, Links to Candidate Affidavit, Political Parties Registration, and its symbol. Publishing information through Media and publications such as Election Results and Statistics, ECI Publications, Compendium of Instructions, Handbooks, models, Manuals, and Checklist. Information about Electronic

Voting Machine (EVM) and Voter Verified Paper Audit Trail (VVPAT) such as Presentation and Status Paper on EVM and Manual on EVM and VVPAT. The Election Commission has Advisory Quasi Judiciary powers. The Election Commission has advisory jurisdiction in terms of post-election ineligibility of sitting members of parliament and the state legislature. If any individual is found in any malpractice at elections by the Supreme Court or the High Court. It is referred to as the ECI for its opinion for its said persons' disqualification. The judgment passed by the Election Commission of India (ECI) is final and binding on the President or the Governor of that Jurisdiction. The ECI can Disqualify any individual who fails to lodge an account of election expenses by the deadline as per law. The ECI can also reduce or remove the period of disqualification as per Law. The Chief Election Commissioner is removed by the order of the President supported by the Parliament if the reason is proved. Any other Officeholders under Election Commission can be removed by the order of Chief Election Commissioner. The Election Commission has administrative powers of allotting territorial areas for electoral constituencies. Organize elections, Organize and amend electoral rolls and register eligible voters. The Election Commission informs the date and days on which the election should be conducted and they are also responsible to scrutinize the nomination papers. Also, give recognition to political parties and assign election symbols to them. They also ensure free and fair elections as per the norms and the Model Code of Conduct. They regulate parties and register them as per eligibility to contest in Elections. It also takes in charge of monitoring the actions and activities of the Political Parties and candidates. The ECI proposes the limit of campaign expenditure per candidate to all parties and monitors the same. It is mandatory for all the parties and the candidates to submit their annual reports to ECI to be able to claim the tax benefit on the contributions. The ECI makes sure that all the parties regularly submit their audited financial reports.^{xiv}

ELECTORAL PROCESS IN INDIA

India has 5 main characteristics which are mentioned in the Preamble of the Constitution these 5 characteristics are:

1. *Sovereignty*: Which means that there is no authority inside and outside India on which way in which it depends on someone else.

2. *Socialist*: This means that justice is distributed to all corners of the society and to a particular group or group of people.
3. *Secular*: Means that India is neither a religious state nor a non-religious state. India supports and promotes every religion and is mentioned under Articles 25-28 and Articles 29-30.
4. *Democratic*: Is a type of characteristic which means that the leaders are elected by the people and the citizens of India choose their own respective person to rule them i.e. MLAs and MPs are elected by the people.
5. *Republic*: This means that the Head of the State is elected by the people and all public offices are open to all the citizens living in India.

Democracy is “For the People”, “By the People” and “Of the People”, this above definition of Democracy was given by Abraham Lincoln. India has adopted a Parliamentary form of Government which means that the parliament consists of President and two Houses. The first house being Rajya Sabha (upper house) and the second one being Lok Sabha (lower house). India being a Union of States has a state legislature for each state i.e. Legislative Council and Legislative Assembly (Vidhan Parishad and Vidhan Sabha). There are only 7 states and 2 UTs which have state legislature (which consists of Governor and two House) in India which are:

- i. *Andhra Pradesh*
- ii. *Karnataka*
- iii. *Telangana*
- iv. *Bihar*
- v. *Maharashtra*
- vi. *Uttar Pradesh*
- vii. *Jammu & Kashmir (Doubt)*
- viii. *Delhi*
- ix. *Puducherry*

The lower house “Lok Sabha” consists of 545 Seats and the upper house “Rajya Sabha” consists of 250 Seats. In these 545 and 250 seats 2 Anglo-Indians and 12 members are appointed by the President under articles 331 and 81 of the Indian Constitution.^{xv}

In India elections are conducted for every 5 years by the Election Commission of India. This commission selects the dates from this day to that day and conducts the elections. In India the concept of Universal Adulthood Franchise (suffrage) is followed and every citizen who has attained the age of majority i.e. 18years has a right to vote his own choice of leader. There lies a duty on every citizen to vote in the elections due to this it makes India a unique country. India is considered as one of the biggest constitutions around the globe. After attaining the age to vote the candidates are required to fill a form and get the voter Id card, these cards are the evidence for the citizen to vote during the elections. At the time of election all the voters are made to stand in a line and one-by-one are sent to the poll box before sending to poll box a general checking of the contract details are taken and an Indelible Ink is used and rubbed on the pointer finger of the voter and it is a proof that the said person has voted and he/she is not allowed to enter the poll box again. The elections (polling day) starts from 8 AM in the morning till 6 PM in the evening. Generally, the polling takes about one whole week.

In India there are 91 Constituencies which spread across the States and UTs and the most interesting part here is that the Government is not allowed to introduce any new schemes during the elections. As technology is growing the procedure of voting has also been changed in olden days it was based on drop box chit system where the voter has to drop a paper (chit) in the poll box, but now a days electronic system is introduced and all votes are collected digitally, the plus point in this system is that vote of one voter is calculated as one only rather than in the normal one where there is a chance of Rigging. Postal voting is also accepted as few people cannot go to the polling booths. The voters have an option in which they need not vote anyone as they find no proper candidate who can rule them; this option is called NOTA (None of the Above). The votes are calculated as per the decision taken by Election Commission of India. And the results are declared whenever all the state's votes are collected by the commission.

There are 4 types of Elections in India which are:

1. *General (Lok Sabha) Elections:* Conducted for every 5years and the candidates who are elected by the people are called as Member of Parliament (MPs). The house meets to improve any existing laws by amending them and to introduce new bills and etc.

2. *State Assembly (Vidhan Sabha) Elections:* In this the candidates are elected directly through voting from a set of candidates who are qualified. The candidates who win the elections are called as Member of Legislative Assembly (MLAs).
3. *By-elections:* The name itself suggests that these elections are conducted when a sitting MLA is elected as MP or when a sitting MLA or MP dies. In simple terms whenever there is a vacancy in the house By-elections are conducted.
4. *Rajya Sabha (Upper house) Elections:* When the elections are conducted for the Members of the Council then those elections are called as Upper house or Rajya Sabha elections and are conducted as per each state's capacity of population. These candidates are nominative candidates who won in the General elections.^{xvi}

DEVIANCE IN THE ELECTORAL PROCESS IN INDIA

When roots of Deviant behaviour or Deviance done in politics by the politicians or legislators and are visible in all fields during the elections or after the elections or before the elections then that is called as Deviance in the Electoral process, it is also called as Electoral Fraud. In India there has always been the role of 3MPs and 4Cs which are:

1. Muscle Power
2. Money Power
3. Mafia Power
4. Corruption
5. Criminalization
6. Casteism
7. Communalism.^{xvii}

There are different types of deviant behaviour or electoral fraud few of them are:

1. *Election Rigging*
2. *Booth Capturing*

3. *Voter Impersonation*
4. *False registration*
5. *Buying votes and Duplicate voting*

Election Rigging: Election rigging is an act of dishonestly organizing or conducting the election to get a particular result. It is an electoral fraud or electoral crime and an interference with the election process. In India it is called Ballot Rigging. Ballot rigging is increasing the votes in favour of the selected candidates or decreasing the votes of the rival candidates.^{xviii}

Booth Capturing: Booth capturing is a type of electoral fraud in which one political party captures a polling booth and violates the right of the voters by making them to vote for their candidate so that they can win the elections. This is clearly the suppression of votes and unlike rigging this fraud or deviance is commonly practiced in India. This mainly happens in villages. Booth capturing can be understood as a process in which the political parties take control of the booth and use their power to get votes. And interestingly in many areas the voters are threatened or beaten to vote for someone else other than the candidate whom they want to vote. Many political parties have relationships with the local goons and they take their help to win the elections. In 1957 General Elections the first case of booth capturing was recorded. The government after many such cases introduced a new style of voting which is called as Electronic Voting Machine (EVM) in the year 1989.^{xix}

Voter Impersonation: Voting in the name of other legitimate voters and voters who have died or lost their right to vote because they are criminals, but remain registered and the person who votes with help of these voter Id's is called as Voter Impersonation. In simple terms it means that anyone who impersonates himself or portrays himself as some other person and votes during elections is known as Voter Impersonation. This is a common practice across the globe and is very cunningly acted by the wrongdoer. Case law: *R. Natarajan Revision vs The State Chief Election Officer on 15 March, 2011.*^{xx}

False Registration or Voter Id Fraud: Voting under a fraudulent identity that either uses a false name or real name with false address and votes in a particular area in which he/she is not entitled to vote. Example: *2018 Karnataka's case*.^{xxi}

Buying Votes and Duplicate Voting: Paying the voters or giving them alcohol (mostly happens in villages) and asking them to cast their vote to a particular candidate is called Buying votes. Case Law: *Ghasi Ram vs Dal Singh & Others on 7 February, 1968*. Duplicate voting means when one person who has registered in many areas and voting in the same election is called Duplicate voting.^{xxii}

The above mentioned are the types of frauds or deviance done by the political parties during elections. Due to these acts which are done by the legislators it creates a negative impact on the electoral process. These acts done by the legislators directly affects the mindset of the people and the citizens who trust them, due to this the citizens lose their trust on the political parties and lastly no one will come forward to vote in the elections. As legislators are directly involved in this deviant behaviour, this clearly amounts to Official Deviance.

LAWS RELATING TO ELECTORAL PROCESS OR ELECTORAL LAWS

1. Representation of the People Act 1950: It consists of 32 sections and are divided into 5 parts. The main objective of this act is to provide allocation of seats, delimitation of constituencies, preparation of electoral rolls and qualifications of voters, and etc.
2. Representation of the People Act 1951: This act consists of 171 sections and is divided into 11 parts. The main objective of this act is to check, see and provide the conduct of elections in both the houses and also to prevent corruption before, during and after elections.
3. Presidential and Vice-Presidential Elections Act 1952: This act was established to regulate the election process and other matters relating to that of President and Vice-President of India. A total of 32 sections which is divided into 4 parts.

4. The Registration of Electors Rules 1960: This act was established to register the voters who are eligible, to prescribe the language of the Electoral rolls and to issue them a certificate or voter Id card. The act consists of 35 sections and is divided into 6 parts
5. Conduct of Elections Rules 1961: Consists of 90 sections and 8 parts. The purpose of introducing this act is to conduct the election in a true and fair manner (fair and free elections) and also to prevent electoral deviance during elections.

FAMOUS CASES ON ELECTORAL PROCESS

“Pashupati Nath Singh Vs Harihar Prasad Singh”

“Election Commission of India Vs Saka Venkata Roa” and “Om Prakash Srivastava (Babloo Srivastava) Vs Election Commission of India & Others”, and etc. are few cases which are filed by the Election Commission or filed against them. Apart from these cases and there are 2 very important and landmark judgement cases which are:

1. Indira Gandhi Vs Raj Narain, 1975.
2. Jyoti Basu & Others Vs Debi Ghosal & Others, 1982.

Indira Gandhi Vs Raj Narain, 1975: Raj Narain was a political contender against India Gandhi in the 1971 General Election for the seat in Rae Bareilly constitution. Indira Gandhi was declared as the winner of the elections with majority and the Congress Party formed the government at the Centre (Union). However, after the declaring the results and after the formation of the congress government, Raj Narain filed a case in Allahabad high Court stating that Indira Gandhi won the elections in a fraudulent or deviance manner by rigging the votes and performed Election Malpractices. After a long period of discussion and after listening to both parties’ points and facts, the High Court in the year 1975 passed a judgement in favour of Raj Narain and found Indira Gandhi guilty of misusing government machinery under section 123(7) of the Representatives of Peoples Act, 1951. And at last the court declared that Indira

Gandhi should be removed from the PM's post and also passed a judgement that she cannot contest in any elections for 6 years. Aggrieved and disappointed by the decision of Allahabad High Court, Indira Gandhi filed an appeal in the Supreme Court.

Interestingly the Supreme Court of India at that point of time was on vacation and granted a conditional stay on 24th June 1975 and ordered the parties to appear before it on 11th August, 1975. Indira Gandhi cleverly utilised this time and declared an Emergency in India with the help of Fakhrudeen Ali who was the President of India during that time. Here the interesting point is that Fakhrudeen Ali was a former member of the congress party. The reason mentioned for emergency was due to Internal Disturbance but, in reality it was proclaimed to save her PM's post. After proclamation of Emergency India passed its 39th Constitutional Amendment and in that amendment there was one Article (329-A) which barred the jurisdiction of the Supreme Court from entering into any matter of the elections of President, Vice-President, PM and the Speaker of the Lok Sabha and if any case is filed against them then it was declared as unjustifiable. This decision and the validity of the 39th Constitutional Amendment was challenged in *Indira Gandhi vs Raj Narain, 1975*.

The Supreme Court of India in the same year gave its Judgement and followed the decision given by them in the famous case "*Kesavananda Bharati vs State of Kerala*" and declared Article 329-A as unconstitutional. The Court also struck down the 39th Constitutional Amendment as it violated the Basic Structure of the Constitution i.e. the concept of Separation of Powers and Federalism.^{xxiii}

Jyoti Basu & Others Vs Debi Ghosal & Others, 1982: Mohd. Ismail who was the candidate for the Communist Party of India (Marxist) was elected to the House of People (Lok Sabha) in the General Election in the year 1980 from the 19-Barrackpore Constituency in West Bengal. An Election Petition was filed before the Calcutta High Court and it was filed by Debi Ghosal. In that Election Petition, the Election petitioner was joined, apart from the returned candidate, Sh. Jyoti Basu was the CM of West Bengal during that time. The case was filed by Jyoti Basu and 2 others, who were the Ministers of the State out of which one being Mohd. Ismail, as respondents, alleged that they had violated and conspired with the returned candidate to commit

various corrupt practices. Jyoti Basu also submitted to the High Court that he could not be impeded as a respondent to an Election Petition under the provisions of the Representation of Peoples Act, 1951 and also filed an application to strike out their (respondents) names from the array of parties. This objection and application made by Jyoti Basu was overruled by the High Court and also gave a judgement that they were proper parties to the election and their name could not be strikeout from the array of parties.

Aggrieved by the judgement of the High Court for rejecting his application, Jyoti Basu filed an appeal to the Supreme Court of India. The Supreme Court, allowing the appeal and gave the judgement in favour of the appellant held that, No one can be joined as a party to an election petition unless and until it is provided under section 82 and 86(4) of the Representation of People Act, 1951. A right to vote is a fundamental right, it is a common right and also a statutory right and no one has the right to take those rights. Election petitions are neither a common law nor a law of equity, it is a statutory provision and common law and law of equity are just applications to it. These are the laws from which a statutory law is made.

The Supreme Court at last gave its judgement by allowing the appeal and stated that no one can join a party for an election petition unless otherwise provided u/s 82 and 86(4) of the Act which says that a person who is not a candidate is not allowed to be joined as the respondent to the election petition. Election to the house of people and to the legislative assembly of the state should be on the basis of Universal Adulthood Franchise.^{xxiv}

In both the above cases either knowingly or unknowingly the legislators were into a deviant act. In Indira Gandhi's case it was rigging of votes and also misuse of power (PM) and in the second case (Jyoti Basu) it was voter impersonation. Imagine these are only 2 cases out of hundreds which changed the dynamic of the election process and it also forced the government to make changes in the existing acts by amending it. Jyoti Basu's case was also a Parliament Deviance and both these cases mentioned are the examples of Electoral deviance and combinedly are Official Deviance.

NEED FOR REFORM IN THE EXISTING ELECTORAL PROCESS

Before checking and looking into the need in Reforms in the existing Electoral process let us first look at the factors due to which this deviant behaviour by the legislators or Electoral Deviance has become so easy and evident:

1. Multiparty System or Coalition Politics (Government)
2. Lack of Transparency
3. Criminalization of Politics
4. Poverty and etc.

Multiparty System or Coalition Politics (Government): Coalition politics is a form of amalgamation of the political parties. In simple terms it means the joining of one political party (minor) with another political party. This mostly happens when one party who has won the elections but could get the majority to form the government. When this joining of one political party with another and vice-versa happens before election then it is called as “Pre-Poll Alliance” and when it happens after the elections is called as “Post-Poll Alliance”. The first case of coalition government was formed in 1979 between Janata Dal and Bharatiya Jana Sangh and in 1980 the Bharatiya Janata Party was formed. And the most recent case of coalition was Congress and JD who formed the government after the Karnataka elections. The most common problem of this coalition Government is that there will be lots of disagreements between parties and corruption might also increase as parties are together (merged) and no one from the party will try to oppose one and another.^{xxv}

Lack of Transparency: Lack of transparency and accountability of the political leaders is one of the most important reasons for political deviance (official). Transparency in general terms means a clear and open process and Accountability means responsibility. Genuine elections and free and fair elections can be conducted if all the political leaders have to report their annual income and other tax certificates. Through this a fear can be created in the minds of the political leaders and as a fear is already created there will be no chance of cheating or fraud. Who can vote, who voted and who counts them are 3 main important features which the government

should take care of and through this there will be accountability and transparency in elections?^{xxvi}

Criminalization of Politics: Criminalization of Politics means criminals entering into the field of politics and contesting for elections as a candidate and most importantly becoming MLAs and MPs. This generally happens because of the relationship between the politicians and criminals. The relationship between them is like To and FRO for example if any political party wants to win elections then they build a health nexus with the local goons (criminals) and these goons makes sure that everyone from their locality will vote for their party. They do this by threatening or by beating them. Booth capturing is one of the examples of this and in return to those criminals the political parties give tickets to become a minister. This is how the relationship between criminals and politics takes place. It is an open truth that in each party there will be at least one candidate with a criminal background. The act done by these politicians is simply a political deviance.^{xxvii}

REFORMS IN THE EXISTING ELECTORAL PROCESS

1. *Entry and Exists for the voters:* There should be proper entry and exists for the voters, so that they come in line and go line. This happens in urban areas and it is slowly developing in rural areas also.
2. *Issuing valid voter Ids:* All the voter Ids should be changed and new ones shall be issued so that even if there are any changes they can be updated.
3. *Reducing the entry of criminals into politics:* The entry of criminals shall be reduced by applying proper laws and it is being done up to some extent as it is given in the Representation of People Act, 1951 under II and V parts of the act.
4. *Ballot design:* India developed its system of voting for example before it was Chits system after that Electronic Voting Machine and now fingerprints are used.
5. *Safety of the voters:* This is one of the most important reforms which the government should make, the safety of the voters should be

strengthened so that there will be no rigging, impersonation or booth capturing etc.

6. *Security at the polls:* The police force shall be increased before, during, and after the election so that there will be no deviance from the legislators.

Not only these but few other required changes should be made by the government from time to time and so far, our government is doing a great job and it should still continue so that the Electoral Deviance or frauds are reduced.

CONCLUSION

The Government of India from time to time made appropriate changes and brought new acts, amended the existing acts and also removed a few acts which were not required. The policies and the process of election has also been changed and that is only up to some extent, rigging, booth capturing, buying the votes, and are still in the picture in few areas (mostly is rural areas). The statutory body of India shall introduce more acts or at least one act which totally governs the mechanism and the process in which the election should be conducted. The act should create a large impact on the election process not only in urban localities but also in the rural. The police force during the elections should be increased so that there will be no frauds or deviance either from the legislators or the voters. With proper Preventive and protective measures, the electoral deviance can be reduced. The qualifications and dis-qualifications of the candidates shall be improved so that the Criminalization of Politics is reduced and the chain reaction (nexus) between the legislators and criminals is reduced. The legislators should be forced to report their annual income so that there can be transparency and accountability on their part. The vigilance committee or any other committee or commission set up by the Government shall be made strong from internally (strong bye-laws) and externally (increasing their powers for search and investigations). And finally, the system of election i.e. the very notion of process of election should be modified according to the people and also taking the help of the committees or commissions.

ENDNOTES

ⁱ BOUNDLESS SOCIOLOGY LUMEN, <https://courses.lumenlearning.com/boundless-sociology/chapter/deviance/> (last visited May 8, 2020)

ⁱⁱ Labelling Theory and Symbolic Interaction Theory (Criminology Theories) IResearchNet Criminal Justice, <https://criminal-justice.iresearchnet.com/criminology/theories/labeling-theory-and-symbolic-interaction-theory/4/> (last visited May 8, 2020)

ⁱⁱⁱ INTRODUCTION TO SOCIOLOGY WHAT ARE THE TYPES OF SUICIDE GIVEN BY DURKHEIM? INTRODUCTION TO SOCIOLOGY, <https://courses.lumenlearning.com/atd-bmcc-sociology/chapter/what-are-the-types-of-suicide-given-by-durkheim/> (last visited May 8, 2020)

^{iv} 7.4B: STRAIN THEORY- HOW SOCIAL VALUES PRODUCE DEVIANCE SOCIAL SCI LIBRETEXTS, [https://socialsci.libretexts.org/Bookshelves/Sociology/Book:_Sociology_\(Boundless\)/07:_Deviance,_Social_Control,_and_Crime/7.04:_The_Functionalist_Perspective_on_Deviance/7.4B:_Strain_Theory-_How_Social_Values_Produce_Deviance](https://socialsci.libretexts.org/Bookshelves/Sociology/Book:_Sociology_(Boundless)/07:_Deviance,_Social_Control,_and_Crime/7.04:_The_Functionalist_Perspective_on_Deviance/7.4B:_Strain_Theory-_How_Social_Values_Produce_Deviance) (last visited May 8, 2020)

^v Labelling Theory and Symbolic Interaction Theory (Criminology Theories) IResearchNet Criminal Justice, <https://criminal-justice.iresearchnet.com/criminology/theories/labeling-theory-and-symbolic-interaction-theory/4/> (last visited May 8, 2020)

^{vi} SUTHERLAND'S DIFFERENTIAL ASSOCIATION THEORY EXPLAINED THOUGHTCO, <https://www.thoughtco.com/differential-association-theory-4689191> (last visited May 8, 2020)

^{vii} BOUNDLESS SOCIOLOGY LUMEN, <https://courses.lumenlearning.com/boundless-sociology/chapter/the-conflict-perspective-on-deviance/> (last visited May 8, 2020)

^{viii} (PDF) FORMS OF PRIVILEGED CLASS DEVIANCES, https://www.researchgate.net/publication/290740324_Forms_of_Privileged_Class_Deviances (last visited May 8, 2020)

^{ix} KISHORE J. CHAWLA VS UNION OF INDIA (UOI) ON 11 NOVEMBER, 1999, <https://indiankanoon.org/docfragment/494553/?formInput=third+degree> (last visited May 8, 2020)

^x ENCOUNTER KILLINGS, <https://indiankanoon.org/search/?formInput=encounter+killings&pagenum=8> (last visited May 8, 2020)

^{xi} AMITBHAI ANILCHANDRA SHAH VS CBI & ANR ON 8 APRIL, 2013, <https://indiankanoon.org/docfragment/161365352/?formInput=fake+encounter> (last visited May 8, 2020)

^{xii} TUKARAM AND ANOTHER V. STATE OF MAHARASHTRA (MATHURA RAPE CASE) IPLEADERS, <https://blog.ipleaders.in/case-analysis-tukaram-and-another-v-state-of-maharashtra-mathura-rape-case/> (last visited May 8, 2020)

^{xiii} Election Commission of India: Powers, Functions and Responsibilities Civildaily, <https://www.civildaily.com/election-commission-of-india-powers-functions-responsibilities/> (last visited May 8, 2020)

^{xiv} Election Commission of India Drishti IAS, <https://www.drishtiias.com/important-institutions/drishti-specials-important-institutions-national-institutions/election-commission-of-india> (last visited May 8, 2020)

^{xv} THE FUNCTIONS (ELECTORAL SYSTEM OF INDIA) ELECTION COMMISSION OF INDIA, <https://eci.gov.in/about/about-eci/the-functions-electoral-system-of-india-r2/> (last visited May 8, 2020)

^{xvi} ELECTION TYPES IN INDIA - KNOW IN DETAIL ABOUT TYPES OF ELECTIONS! TEXTBOOK BLOG, <HTTPS://TESTBOOK.COM/BLOG/ELECTION-TYPES-IN-INDIA-GK-NOTES-PDF/> (LAST VISITED MAY 8, 2020)

^{xvii} FORMS & EXTENT OF ELECTORAL DEVIANCE IN INDIA LINKEDIN SLIDESHARE, <https://www.slideshare.net/chaitanyalimbachiya/forms-extent-of-electoral-deviance-in-india> (last visited May 8, 2020)

^{xviii} VOTE RIGGING AND FRAUD UNDER ELECTION LAW: PAJHWOK ELECTION SITE VOTE RIGGING AND FRAUD UNDER ELECTION LAW | PAJHWOK ELECTION SITE, <http://www.elections.pajhwok.com/en/content/vote-rigging-and-fraud-under-election-law> (last visited May 8, 2020)

^{xix} Booth Capturing, https://shodhganga.inflibnet.ac.in/bitstream/10603/65476/19/19_chapter_15.pdf (last visited May 8, 2020)

^{xx} R.NATARAJAN REVISION VS THE STATE CHIEF ELECTION OFFICER ON 15 MARCH, 2011, <https://indiankanoon.org/doc/71632/> (last visited May 8, 2020)

^{xxi} KARNATAKA POLLS: BJP SAYS EC ORDER ON R R NAGAR 'CLEAR INDICTMENT' OF CONG BUSINESS STANDARD, https://www.business-standard.com/article/elections/karnataka-assembly-election-2018-voting-tomorrow-top-10-developments-118051100117_1.html (last visited May 8, 2020)

-
- ^{xxii} *VOTER FRAUD THE HERITAGE FOUNDATION*, <https://www.heritage.org/election-integrity/heritage-explains/voter-fraud> (last visited May 8, 2020)
- ^{xxiii} *INDIRA NEHRU GANDHI VS. RAJ NARAIN - CASE SUMMARY LAW TIMES JOURNAL*, <http://lawtimesjournal.in/indira-nehru-gandhi-v-raj-narain/> (last visited May 8, 2020)
- ^{xxiv} *LANDMARK JUDGEMENTS ON ELECTION LAW LANDMARK JUDGEMENTS ON ELECTION LAW VOLUME II*, <http://ceojammukashmir.nic.in/pdf/LandmarkJudgementsVOLII.pdf> (last visited May 8, 2020)
- ^{xxv} *COALITION POLITICS*, [https://shodhganga.inflibnet.ac.in/bitstream/10603/193186/3/chapter no. 01.pdf](https://shodhganga.inflibnet.ac.in/bitstream/10603/193186/3/chapter%20no.%2001.pdf) (last visited May 8, 2020)
- ^{xxvi} *ELECTORAL TRANSPARENCY, PARTICIPATION AND ACCOUNTABILITY ELECTORAL TRANSPARENCY, PARTICIPATION AND ACCOUNTABILITY*, <http://www.transparency-initiative.org/archive/wp-content/uploads/2011/11/Electoral-transparency.pdf> (last visited May 8, 2020)
- ^{xxvii} *CRIMINALIZATION OF POLITICS IN INDIA [MAINS ARTICLE] IASTOPPERS*, <https://www.iastoppers.com/criminalization-of-politics-in-india-mains-article/> (last visited May 8, 2020)

