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Press Release

ADR urges Maharashtra Cabinet to repeal the amendment to the CrPC

Citizens now require sanction from ‘Competent Authority’ before filing an FIR against MLAs and bureaucrats from Maharashtra

The Maharashtra Cabinet recently amended a provision of the Criminal Procedure Code to prevent filing of an FIR against a 'public representative' without the sanction of a Competent Authority i.e. the Speaker of the Assembly in case of MLAs and of the Chief Secretary in case of a bureaucrat. The decision is also applicable to elected representatives of panchayats and municipalities¹.

According to Professor Jagdeep Chhokar, founder member of Association for Democratic Reforms, "This decision of the Maharashtra cabinet goes directly against Article 14 of the Constitution of India which guarantees 'equality before the law or the equal protection of the laws' to "any person within the territory of India.' This decision obviously gives 'greater protection' to MLAs and bureaucrats, and therefore makes them 'more equal' than ordinary citizens."

According to analysis by Association for Democratic Reforms of affidavits submitted by MLAs from Maharashtra at the time of election in 2014, **165 (57%) of the MLAs had declared criminal cases.** Out of these 51 (31%) MLAs had declared cases where charges had been framed. Among all legislative assemblies in India, Maharashtra is second highest after Jharkhand in the proportion of MLAs with criminal cases. 3 MLAs had declared cases related to murder and attempt to murder while 11 MLAs declared cases related to crimes against women, 3 MLAs declared cases related to causing communal disharmony, 14 MLAs with cases of robbery and dacoity and 9 MLAs with cases related to kidnapping.

Even in the recent local body elections in Navi Mumbai in Maharashtra, out of 105 winners analysed, 17 had declared criminal cases out of which 13 had declared serious criminal cases. In the Vasai Virar City Municipal elections, 17 (17%) out of 102 winners declared criminal cases wherein 12 had serious cases. While this amendment to the CrPC is not applicable to Members of Parliament, it is important to note that criminality **even among MPs of Maharashtra is alarmingly high, wherein 31 (65%) out of 48 MPs have criminal cases.**

In view of such grave statistics regarding the composition of the Maharashtra Assembly and Municipalities, further restricting the power of filing an FIR against an elected representative

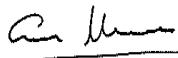
¹Krishna Kumar, ‘Maharashtra amends CrPC provisions; no FIR against MLAs, bureaucrat without approval’, Published in Economic Times, 10th June, 2015 (<http://economictimes.indiatimes.com/news/politics-and-nation/maharashtra-amends-crpc-provisions-no-fir-against-mlas-bureaucrat-without-approval/articleshow/47609898.cms>)

would bode ill not just for legislature but for the very fabric of democracy in the country. This decision limits the accountability of elected representatives and bureaucrats and shields them from the application of law and justice. Elected representatives are repositories of public trust and the sanctity of their position in the legislature can only be upheld through scrutiny and accountability.

Association for Democratic Reforms urges the Maharashtra government to repeal the amendments made in the CrPC as it goes against the basic tenet of the constitution i.e. equality before law and discourages common citizens to raise their voice against legislators and bureaucrats indulging in corrupt or unlawful activities.

For more information on the criminal and financial background of Maharashtra MLAs and winners of the recent local body elections in Navi Mumbai and Vasai Virar City Municipal, Maharashtra, please refer to the following reports;

1. Analysis of Criminal and Financial background details of Newly Elected MLAs in Maharashtra - <http://adrindia.org/research-and-report/election-watch/state-assemblies/maharashtra/2014/winners-report-analysis>
2. Analysis of Criminal and Financial background details of Winners in Navi Mumbai Municipal Election 2015 - <http://adrindia.org/research-and-report/election-watch/local-bodies/maharashtra/2015/analysis-criminal-and-financial-0>
3. Analysis of Criminal, Financial, Education, Gender and Other Background Details of Winners - Vasai Virar City Municipal Corporation Elections 2015 - <http://adrindia.org/research-and-report/election-watch/local-bodies/maharashtra/2015/analysis-criminal-financial-0>



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