

Politics and Criminalization in India: An Analytical Study

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Abstract:

One major obstacle to the operation of India's democratic institutions is the criminalization of politics. It alludes to the growing involvement of people with criminal histories in political parties, elections, and administration. The reasons, effects, and legal actions related to the criminalization of politics in India are all examined analytically in this paper. It looks at things like ineffective law enforcement, the strength of money and force, vote-bank politics, corruption, high election costs, and political parties' focus on a candidate's likelihood of winning. The Representation of the People Act, 1951, court rulings, reports from pertinent institutions, and constitutional provisions are all incorporated into the study's qualitative, doctrinal, and analytical research approach. The Association for Democratic Reforms (ADR) data on criminal cases and elected officials' wealth is also examined in the study. There is discussion of judicial interventions, such as rules for candidate disclosure and measures pertaining to election openness. The analysis emphasizes how criminalization affects public trust, democratic principles, electoral integrity, and policy-making. In order to improve democratic governance in India, the report emphasizes the significance of electoral reforms, increased political accountability, open candidate selection, and efficient legal enforcement.

Keywords: Criminalisation of Politics, Indian Democracy, Electoral Reforms, Political Corruption, Criminal Backgrounds.

Introduction

India is fighting corruption fiercely as a country, but its efforts are not very successful. Politicians have avoided corruption prosecutions despite legislation because of their parliamentary privileges and police support. According to the Constitution, a person must be an Indian citizen and not be disqualified by any act of Parliament in order to be eligible to serve in Parliament. It's funny, though, that politicians with criminal records have been allowed to run for office. In June 2002, the Election Commission issued an order under Article 324, as directed by the Supreme Court, mandating that each candidate submit an affidavit detailing their assets, spouses, dependents, and criminal history.

India's battle against corruption is made more challenging by the connection between politics and crime, which is deeply embedded in the political process. The institutional breakdown in maintaining moral leadership is demonstrated by political parties' reluctance to reject candidates with criminal records. Despite numerous interventions by the Election Commission and the judiciary, political parties continue

to run candidates with criminal records; they usually emphasize "winnability" as a justification rather than honesty. This not only erodes public trust in democratic institutions but also perpetuates the loop in which criminals determine the rules, making real reform challenging to accomplish.[1]

However, political parties cried wolf, alleging that the Supreme Court and the EC had overreached. In 2003, a law was introduced that forbade criminals from holding elected office. Nevertheless, criminals are permitted to roam the corridors of state and federal legislatures, and the concealment of their criminal records exacerbates the irony by turning lawbreakers into legislators.

Indian democracy is being threatened by the criminalization of politics. It alludes to the growing number of people with criminal histories participating in electoral politics. Although this problem is not new, its scope and gravity have increased. The involvement of criminal elements in the political sphere is referred to as the criminalization of politics. It represents the active participation of people with criminal histories in political parties, elections, and governance. These people might be connected to criminal networks, have been found guilty of crimes, or engage in illicit activities. The criminalization of politics encompasses not only their involvement in politics but also the continuation of corruption, influence-peddling, and the degradation of democratic principles.[2]

Causes of Criminalisation of Politics in India

The criminalization of politics in India is caused by a number of factors, including lax enforcement of the law, abuse of funds and physical force, protracted court proceedings, and political parties choosing candidates based more on winnability than honesty.

- Lack of Internal Party Democracy: Candidates with criminal histories may be nominated by political parties with little internal democracy.
- Dynastic Politics: People with criminal backgrounds continue to enter politics because of inherited political positions.
- Vote-Bank Politics: Candidates having criminal affiliations are occasionally fielded by parties in an effort to win over voters in particular areas or populations.
- Weak Law Enforcement: People with criminal backgrounds can enter politics without incurring the proper repercussions due to inadequate law enforcement.
- Economic Factors: People with criminal histories may turn to politics as a substitute source of income due to a lack of economic prospects.
- Corruption: Candidates with criminal records may be accepted in a corrupt culture as long as they provide the party with financial backing.
- Election Expenditure: Parties may endorse candidates with criminal records who are able to finance their own campaigns due to the high expense of elections.
- Lack of Awareness: Due to incomplete or inaccurate information, voters may not be aware of candidates' criminal histories.[3]

Impact of Criminalisation of Politics

- Erosion of Democratic Values

It undermines the principle of free and fair elections and voters are left with restricted choices, weakening the spirit of representative democracy.

- Corruption

The presence of criminal elements escalates electoral malpractices such as voter intimidation, booth capturing, and the use of black money in campaigns.

- Decline of Public Trust

Repeated election of tainted representatives, lead to declining voter turnout and weakening people's faith in democratic institutions.[4]

- Distortion of Policy-Making

Elected representatives use political power to protect personal and criminal networks and divert policy-making away from public interest.

Legal provisions for Disqualification of Criminal Candidates

In this sense, the Indian Constitution is vague about what makes someone ineligible to run for office in the Legislative Assembly, Parliament, or any other body.

The requirements for disqualifying someone from running for a legislative office are mentioned in the Representation of Peoples Act of 1951.

Section 8 of the legislation, which deals with disqualification upon conviction for specific offenses, states that a person who has been sentenced to more than two years in prison is not eligible to run for office for six years following the completion of the sentence.

Candidates with pending criminal cases are not prohibited by law from running for office; consequently, their disqualification is contingent upon their conviction in these cases.[5]

Judicial measures to control criminalization of politics

The Supreme Court ruled in *Union of India (UOI) v. Association for Democratic Reforms and Anr*, 2002, that all candidates running for office in the Parliament, State Legislatures, or Municipal Corporations must disclose their criminal histories, financial records, and educational backgrounds on their nomination paper. In *Ramesh Dalal v. Union of India*, 2005, the Supreme Court ruled that a serving Member of Parliament or MLA would likewise be barred from running for office if he was found guilty and given a minimum sentence of two years in prison. In the 2018 *Public Interest Foundation v. Union of India* decision, the Supreme Court also ordered political parties to post their candidates' ongoing criminal charges online. In this instance, the court deferred to the Parliament to decide whether to disqualify MPs who were facing criminal accusations, stating that the court was unable to create new grounds for disqualification.[6]

Suggestions to control the criminalization of politics

Election Commission Suggestions: In its "Proposed Electoral Reforms" (2016), the Election Commission recommended that individuals accused of cognizable offenses be barred from running for office at the time the charges are brought before the appropriate court, provided that the offense carries a minimum sentence of five years in prison and the case is brought at least six months before the election. **Second ARC Recommendations:** In its fourth report on Ethics in Governance (2008), the Second Administrative Reforms Commission offered the following suggestions:

- Section 8 of RPA needed to be amended to disqualify all persons facing charges related to grave and heinous offences and corruption, where charges have been framed six months before the election.
- It also supported the proposal of including the filing of false affidavits as an electoral offence under Section 31 of Representation of the People Act, 1950.

Research Methodology

In order to conduct an analysis of the criminalization of Indian politics using a legal, political, and sociological perspective, the current study employs a qualitative, doctrinal, and analytical research methodology. The essential legal framework for the research has been identified and analyzed by examining relevant primary legal materials, which include the articles from the constitution dealing with electoral qualifications and disqualifications. Relevant statutory laws including Representation of the People Act, 1951. Authentic reports from the Vohra Committee and Law Commission of India. In order to critically analyze the operation of these laws, the current study follows a dual approach by employing authentic data collected by the Association for Democratic Reforms (ADR) to determine the percentage and nature of criminal background among the legislature members.

Review of Literature

Many academic traditions have contributed to the conceptual understanding of criminalization of politics. W.H. Morris-Jones (1964) and Bipan Chandra (1989) [7] proved that electoral democracy in India was successful despite social variety because electoral institutions fostered popular trust. They underlined that democratic constitutionalism necessitates independent institutions that can withstand political meddling in elections and further contended that democratic credibility and consistent fairness are prerequisites for institutional legitimacy.

Trilochan Sastry and other reform-minded academics concentrated on candidate declarations, campaign spending, and election transparency. The most thorough empirical study was offered by Milan Vaishnav, who showed that despite criminal accusations, criminal politicians are electorally appealing because they have three important resources: money, muscle, and networks. According to Quinney and Chambliss' new political criminology, crime and criminalization are inextricably linked to political and economic power systems. The "tough on crime" political rhetoric may extend criminal legislation into areas of political opposition, according to the penal populism theory proposed by Pratt and others. [8] Fundamental issues regarding whether behavior should be criminalized and what procedural safeguards are required are brought up by the political morality of criminal law.

Result and discussion

The graphic displays data regarding the distribution of wealth and criminal charges among Chief Ministers (CMs). According to the statistics displayed in the first donut chart, "CMs & Criminal Cases," 14 Chief Ministers (45%) have reported criminal charges, whereas 17 Chief Ministers (55%) have a spotless record. The distribution of Chief Ministers according to their stated assets is shown in the second donut chart, "Share of Wealth Among CMs." About 48% of Chief Ministers have assets between ₹1 and ₹10 crores, 32% have assets between ₹11 and ₹49 crores, 13% have assets of at least ₹50 crores, and 7% have assets under ₹1 crore. Overall, the picture gives a summary of Chief Ministers' financial histories and legal declarations by highlighting their reported criminal-case status and wealth profiles.[9]

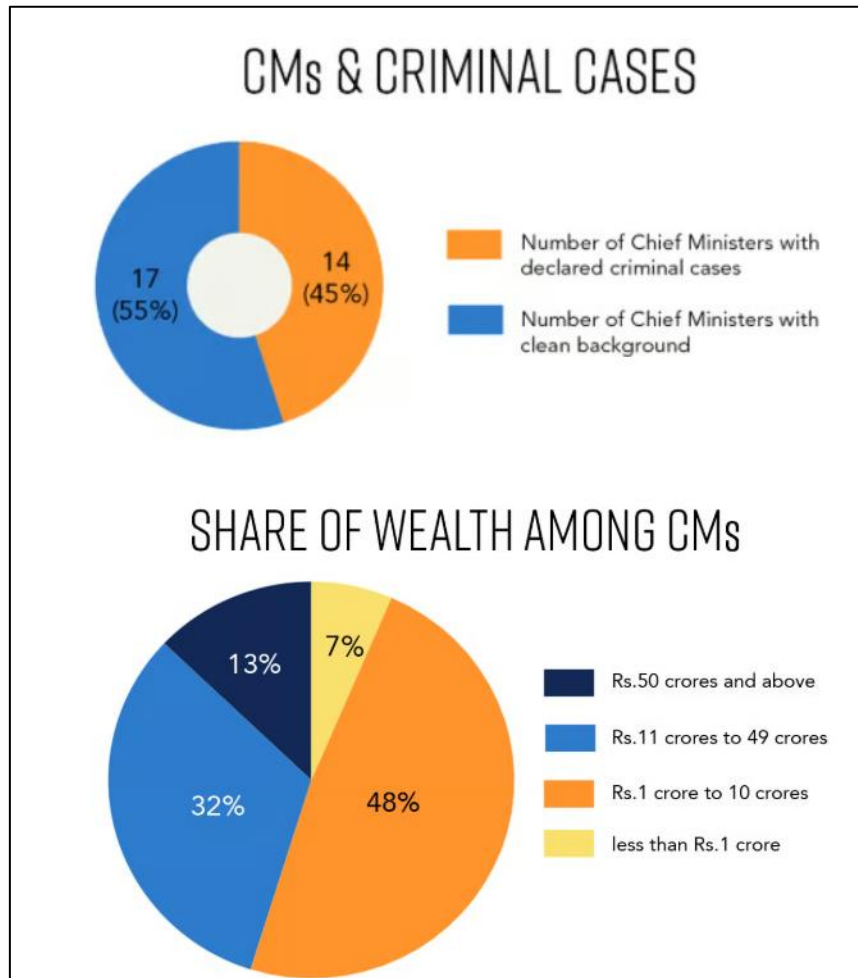


Fig. 1 Criminal cases and wealth among CM
Source: Association for Democratic Reforms (ADR)

The percentage of Members of Parliament (MPs) facing criminal charges and serious criminal charges in 2004 and 2009 is contrasted in the bar diagram labeled "Proportion of MPs Facing Criminal Charges – Lok Sabha 2009." About 24% of MPs were charged with a crime in 2004, and 12% were charged with a serious crime. While the percentage of MPs facing serious criminal charges rose to 14% in 2009, the percentage of MPs facing criminal charges increased to 30%. Between 2004 and 2009, both categories increased, according to the diagram. Overall, the data indicates that the percentage of MPs facing criminal charges was higher in 2009 than in 2004 and underlines the prevalence of announced criminal charges among elected representatives during both Lok Sabha elections.[10–12]

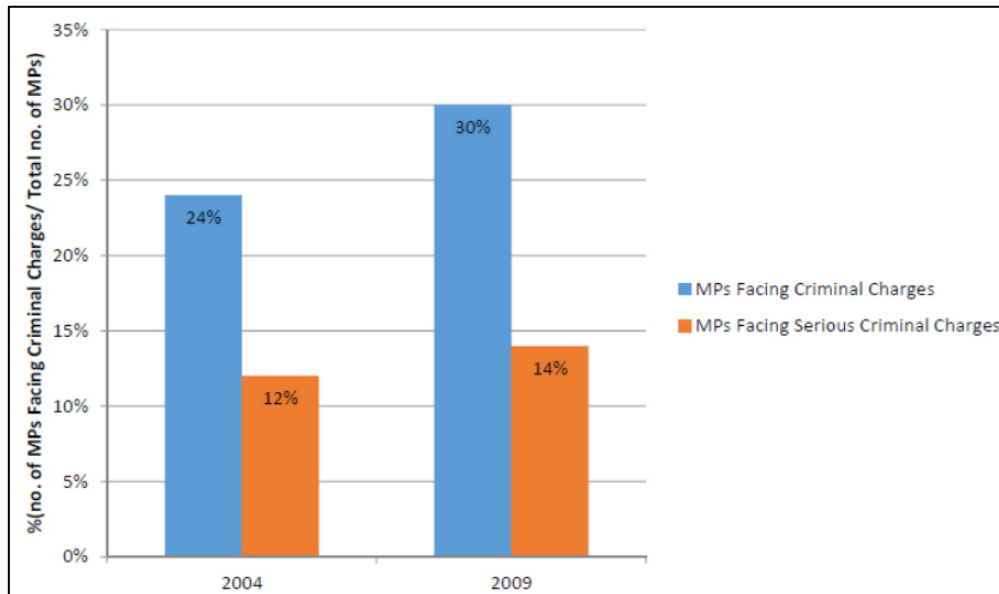


Fig. 2 MPs Facing Criminal Charges – Lok Sabha 2009

Candidates from various political parties are shown in the bar diagram "Party-wise Winning Chances for Candidates, Lok Sabha Election 2009" according to their criminal histories. Candidates from the All India Trinamool Congress (AITC) had the best prospects of winning, according to the data, with 58% of clean candidates, 57% of candidates facing criminal charges, and 80% of candidates facing serious IPC offenses. Of the Indian National Congress (INC) candidates, 26% of those facing serious IPC charges, 39% of those facing criminal charges, and 50% of those who were clean had a possibility of winning.[13] The corresponding percentages for the Bharatiya Janata Party (BJP) were 22%, 37%, and 36%. 10% of clean candidates, 16% of candidates with criminal convictions, and 22% of candidates with significant IPC charges had winning possibilities, according to the Samajwadi Party (SP). 4%, 6%, and 9%, respectively, were achieved by the Bahujan Samaj Party (BSP). The Communist Party of India (Marxist) (CPM) displayed 21% of clean candidates, 15% of candidates with criminal accusations, and 14% of candidates with serious IPC charges.[14] The Communist Party of India (CPI) recorded 8% for clean candidates and 0% for both categories of candidates facing criminal charges, whilst the Nationalist Congress Party (NCP) recorded 10%, 20%, and 33%. Overall, the graphic illustrates how different political parties and criminal history categories affected candidates' chances of winning the 2009 Lok Sabha election.[15]

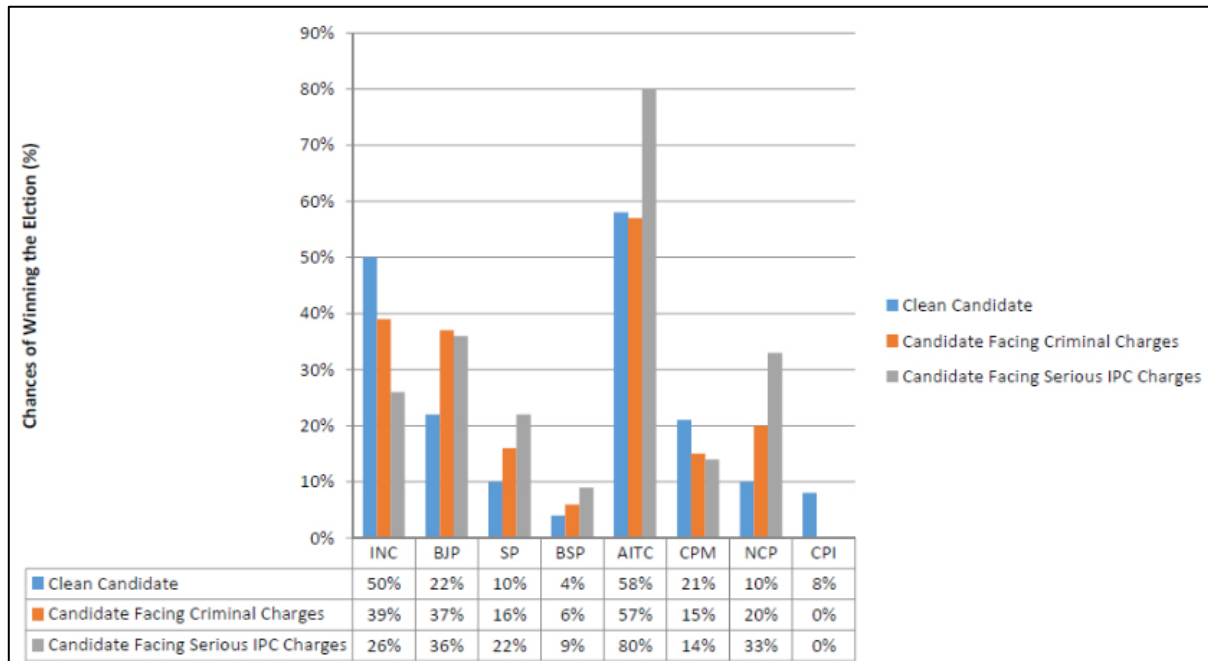


Fig. 3 Party-wise winning chances for candidates for the Lok Sabha election 2009

Source: Association for Democratic Reforms (ADR)

Conclusion

Election integrity, democratic governance, and public trust in political institutions are all seriously threatened by India's criminalization of politics. This study demonstrates how people with criminal histories enter the political system due to a number of factors, including vote-bank politics, corruption, inadequate law enforcement, money and muscle power, and the emphasis on electoral winnability. Election openness has been reinforced by measures including the disqualification of convicted individuals and the mandatory disclosure of criminal records, according to a review of legal rules and court interventions. Nonetheless, the fact that candidates who are accused of crimes are still running shows that more institutional and electoral reforms are required. The study's conclusions, which include information on criminal cases involving chief ministers and members of parliament, highlight the significance of increased responsibility in public life. Addressing this issue requires strengthening internal democracy among political parties, raising voter knowledge, guaranteeing prompt court hearings, and encouraging open candidate selection. Protecting democratic values and guaranteeing that political power is used in the public good can be achieved through sustainable initiatives including the Election Commission, the judiciary, political parties, civil society, and individuals.

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