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Criminalisation of Politics: A Threat to Democratic Values

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“Those who have been law-breakers cannot be expected to become law-makers without imperilling democracy.”¹

- Justice V. R. Krishna Iyer

Political leadership holds a crucial position in directing a country's growth, as ministers govern the country and are responsible for creating and implementing laws. However, the increasing participation of individuals with criminal backgrounds in politics has emerged as a serious concern. This article explores the issue of criminalisation in the political sphere, emphasising the disturbing increase in lawmakers who are under criminal investigation or have been charged with offences. It seeks to examine how this trend negatively affects India's democratic development. Furthermore, it examines why current measures such as Supreme Court directives, Election Commission guidelines, and legislative provisions have failed to effectively prevent individuals with criminal backgrounds from entering the political system. This paper also highlights the pressing need for comprehensive electoral reforms and enhanced institutional accountability to ensure the integrity of democratic governance. It concludes by proposing actionable recommendations to address this pressing issue and promote a cleaner, more transparent political environment.

Keywords: criminalisation, politics, elections, democracy.

¹ Arun Shourie, *Courts and Their Judgments* (Rupa & Co 2001) 941

INTRODUCTION

The constituent assembly adopted the model of Parliamentary Democracy based upon the philosophies of sovereignty, secularism, democracy, and republic. This method was adopted as per the heterogeneous society with different political, social, and economic structures. The politicians were considered as social workers, and representative leaders who would act as catalysts to homogenise society. Politics was viewed in the context of Gandhian concept of political ideology but in today's scenario we can observe the criminalisation of politics i.e. the involvement of individuals with criminal backgrounds in the political process, including contesting elections and securing positions in legislative bodies such as Parliament and state assemblies. C Rajagopalachari, the last governor general of India too anticipated this present state of Criminalisation of politics when he said 'election and their corruption, injustice and tyranny of wealth, and inefficiency of administration, will make a hell of life as soon as freedom is given to us.'² Criminalisation of politics is a problem that has emerged from within the governmental system and is slowly trying to paralyse every democratic institution of this country. The infiltration of criminal elements into politics has become so widespread phenomenon and it has severely undermined the core values of the legal and democratic framework, including the rule of law, electoral integrity, political accountability, and the freedoms of speech and expression. As per reports of Association of democratic reforms (ADR) indicates that 'Nearly 44% of the members of Parliament (MP) and members of legislative assembly (MLA) faces serious criminal charges and in the 2019, Lok Sabha elections, 159 MPs had declared pending serious cases against them including the heinous crimes like murder, attempt to murder, rape, kidnapping etc.'³

UNDERSTANDING CRIMINALISATION OF POLITICS

Criminalisation of politics denotes the growing involvement of individuals with criminal records in political activities and the electoral system. This phenomenon is not merely about isolated cases of wrongdoing; it represents a systemic failure where the boundary between

² Kishor Gandhi, *Felicitation Volume (India's Date with Destiny)* (Allied Publishers 2006) 133

³ Diksha Puri, 'Criminalisation of Politics: A Grave Threat to Democracy' (Association for Democratic Reforms, 29 June 2023) <<https://adrindia.org/content/criminalisation-politics-grave-threat-democracy>> accessed 22 April 2025

crime and governance becomes blurred. Criminalisation manifests in two primary forms. First is the direct involvement of persons accused of serious criminal charges in contesting elections and holding public office. Second is the indirect influence, where political actors rely on individuals with criminal networks for electoral gains, coercion, and financing, thereby institutionalising the role of criminal elements in democratic governance.

According to Jasdeep Kaur, the problem extends beyond individual candidates. It includes the structural and institutional factors that normalise criminal elements in politics, such as campaign financing, political patronage, and caste-based voting behaviour. Over time, political parties have shifted from being victims of muscle power to becoming active participants in their propagation. This is evident in the rise of politicians who were once proxies for local strongmen but now directly assume legislative power.⁴ Additionally, the Vohra Committee Report (1993) highlighted the alarming connection between criminals, politicians, and bureaucrats, warning that this alliance enables the rise of a parallel system of governance that functions beyond the boundaries of the constitution.⁵ The situation is further aggravated by the inadequacies of India's electoral laws and delays in judicial proceedings, which allow under-trial individuals to contest elections without immediate disqualification.

Criminalisation of politics undermines the very foundation of democratic legitimacy, which distorts policy-making process and weakens the confidence of the public in democratic institutions. When individuals with serious criminal charges enter legislative bodies, it compromises the integrity of governance and shifts the focus from public welfare to personal or vested interests. This not only results in flawed or biased policy decisions but also creates a perception among citizens that the rule of law is selectively applied, thereby eroding trust in institutions meant to uphold justice and accountability. Over time, this weakens the social contract between the state and its people, posing a serious threat to democratic values and governance. It converts democracy into an arena of private power and public manipulation, where the rule of law becomes subordinate to political expediency.

⁴ Jasdeep Kaur, 'Criminalisation of Politics and Politicization of Criminals: A Need for Decriminalisation' (2019) 2(1&2) *Maharishi Journal of Law and Society* 123

⁵ Ministry of Home Affairs, *Vohra Committee Report* (1993)

CASE STUDIES AND DATA ANALYSIS

The Integration of criminal elements into the Indian political system is not just a theoretical construct; it is backed by compelling data and real-life instances that reveal how widespread and entrenched the problem has become. In the last twenty years, successive elections have repeatedly brought individuals with grave criminal allegations into legislative positions across both national and state assemblies.

According to the data of Association for Democratic Reforms (ADR), in 2019 Lok Sabha elections, 233 out of 539 winning candidates (43%) had criminal cases against them, with nearly 29% alleged of serious offences including murder, attempt to murder, sexual assault, abduction, and other gender-based crimes.⁶ This marked a sharp increase from 2009 and 2014, where 30% and 34% of elected MPs, respectively, had criminal cases. The data indicates not just persistence but an escalation of the trend.⁷

At the state level, the picture is equally concerning. For instance, in the Bihar Assembly elections of 2020, 68% of elected MLAs had declared criminal cases, with 51% involving serious offences.⁸ States like Uttar Pradesh, Maharashtra, and Jharkhand have also shown similar patterns. The analysis shows that Individuals with a history of criminal charges often have a higher probability of winning elections, partly due to their wealth, notoriety, and ability to mobilise votes through muscle power.

Real-life examples demonstrate how individuals with serious criminal charges can secure public office. Mohammad Shahabuddin, a former RJD MP from Siwan, Bihar, was convicted of multiple charges, including murder and extortion, yet wielded significant political clout until his death. Similarly, Anant Singh, a MLA from Bihar, faced charges under the Arms Act

⁶ 'Lok Sabha Elections 2019: Analysis of Criminal Background, Financial, Education, Gender and other details of Sitting MPs' (Association for Democratic Reforms, 29 March 2024)
<https://adrindia.org/sites/default/files/Lok_Sabha_Elections_2019_Criminal_and_Financial_background_details_of_Sitting_MPs_fianlver_English.pdf> accessed 23 April 2025

⁷ *Ibid*

⁸ 'Bihar Assembly Elections 2020: Analysis of Criminal Background, Financial, Education, Gender and other Details of Candidates' (Association for Democratic Reforms, 2 November 2020)
<https://adrindia.org/sites/default/files/Consolidated_Analysis_report_Phase_1_to_3_of_Criminal_and_Financial_background_details_of_contesting_candidates_in_Bihar_2020_Assembly_election_English.pdf> accessed 23 April 2025

and Unlawful Activities (Prevention) Act, but continued to contest and win elections.⁹ These instances reveal a troubling trend of public acceptance or even support for leaders viewed as ‘strongmen,’ who are favoured for their ability to deliver outcomes, often at the expense of legal norms and ethical standards.

Furthermore, pending cases remain a significant issue. A 2021 ADR report found that over 2,500 sitting MPs and MLAs across India had pending criminal cases, with more than 1,200 involving serious charges. The slow pace of judicial proceedings exacerbates the issue, allowing accused individuals to not only contest elections but also serve full terms without conviction. The outcome is a legislative environment that includes a growing number of individuals who, under the standards of other democratic systems, would likely be deemed ineligible to hold public office. This trend reflects a weakening of ethical and legal benchmarks for political eligibility. It raises serious concerns about the normalisation of criminality in governance and the long-term impact on democratic institutions and public trust.

In sum, the data and case studies reflect a worrying institutional failure and a shift in political culture where criminality is no longer a barrier to electoral success, but in some cases, a badge of efficiency and authority.

CRIMINALISATION OF POLITICS: CAUSES AND CONTRIBUTING FACTORS

Electoral Advantage: Political parties often field candidates with criminal backgrounds because they possess money and muscle power, increasing their chances of winning in high-stakes, competitive elections. These individuals can finance their campaigns and use coercion to influence voters and suppress opposition.¹⁰

Weak Legal Framework: Under the Representation of the People Act 1951, disqualification occurs only upon conviction, not at the stage of charges being framed. Given the slow pace

⁹ ‘Anant Singh, Bihar RJD MLA, convicted in arms Case’ *India Today* (14 June 2022) <<https://timesofindia.indiatimes.com/city/patna/bihar-rjd-mla-anant-singh-convicted-in-arms-seizure-case/articleshow/92205305.cms>> accessed 23 April 2025

¹⁰ BPC Bose and MVS Koteswara Rao, ‘Criminalisation of Politics: Need for Fundamental Reform’ (2005) 66(4) *Indian Journal of Political Science* 733 <<https://www.jstor.org/stable/41856166>> accessed 25 April 2025

of judicial proceedings in India, this allows many accused individuals to contest elections and even complete terms without consequence.¹¹

Lack of Political Will: Repeated recommendations by committees, commissions, and the judiciary have largely been ignored or diluted by successive governments. Political consensus to curb criminal elements remains weak as many parties benefit from the status quo.

Delayed Justice System: The Indian criminal justice system is plagued by delays, and many cases involving politicians drag on for years. This enables accused politicians to remain active in politics without legal resolution.¹²

Voter Behaviour: In some regions, voters prioritise caste, community loyalty, or patronage over criminal records. In low-governance areas, 'strongmen or bahubali' are perceived as efficient problem-solvers, even if they operate outside the law. This trend not only promotes identity-based politics but also normalises criminality when it aligns with vote-gathering potential. Many candidates resort to illicit tactics such as vote buying, voter intimidation, and booth capturing, often facilitated by criminal elements. These practices are strengthened through entrenched political-criminal nexuses within constituencies, allowing candidates to misuse public resources and wield unaccountable power. Such conditions create a fertile ground for corruption, coercion, and systemic decay in democratic institutions.¹³

Inadequate Law Enforcement and Judicial Delays: India's criminal justice framework is frequently criticised for its sluggish pace, procedural inefficiencies, and susceptibility to corruption. These systemic issues hinder the timely prosecution and punishment of elected representatives facing criminal charges. As per a report by the National Crime Records Bureau, only 6% of criminal cases involving Members of Parliament and State Legislators resulted in convictions in 2019.¹⁴

¹¹ Law Commission of India, *Electoral Disqualifications* (Law Com No 244, 2014)

¹² Puri (n 3)

¹³ Milan Vaishnav, *When Crime Pays: Money and Muscle in Indian Politics* (Harper Collins India 2017)

¹⁴ **Ministry of Home Affairs**, *Crime in India 2019* (NCRB 2020)

DEMOCRACY AT RISK: THE CONSEQUENCES OF CRIMINAL ELEMENTS IN POLITICS

Erosion of Rule of Law: When individuals with serious criminal records enter legislatures and occupy positions of power, it undermines the sanctity of the law. It sends a signal that laws are flexible for the powerful and that accountability can be evaded through influence or delay. This entry affects the Rule of Law, which says that there is no one above all, but these anti-social elements try to act beyond their powers, abusing the process of the rule of law.

Loss of Trust and Interest of the Voter: When tainted candidates repeatedly win elections, it discourages civic participation and diminishes voter confidence. Many feel that clean candidates have little chance of success, leading to lower voter turnout and public disengagement from democratic processes.

Compromise in Governance and Policy Making: Legislators with criminal backgrounds often prioritise personal or group interests over national welfare. Their presence in decision-making roles compromises the quality of debates, public policy outcomes, and resource allocation.

Rise of Parallel Power Structures: Criminal politicians often maintain private militias or maintain informal control over police and bureaucratic processes. This results in a dual system of power—one constitutional, the other extra-legal—undermining legitimate governance.

Undermining the Principles of the Constitution: Criminalisation leads to open defiance of constitutional values like secularism, equality, and justice. Leaders who operate outside the moral and legal framework often use their positions to incite divisive politics and lawlessness.

LEGAL AND POLICY FRAMEWORK

The legal and policy framework to tackle the criminalisation of politics in India is rooted in the constitutional provisions, judicial pronouncements, statutory provisions, and institutional mechanisms. However, despite a robust legal structure, its enforcement has

remained inconsistent and ineffective in preventing individuals with grave criminal histories from securing positions in legislative bodies.

The Representation of the People Act 1951 (RPA)¹⁵ serves as the cornerstone legislation in this regard. Section 8 of this Act outlines disqualifications for conviction in various offences, ranging from corruption and terrorism to rape and other heinous crimes. However, disqualification is triggered only upon conviction, not at the stage of framing of charges. This creates a significant loophole: since trials in India often span years or even decades, many candidates contest and win elections while facing serious criminal charges.

The Election Commission of India, under the purview of Article 324 of the Constitution¹⁶, has constitutional authority to supervise and regulate elections in India. The ECI has made several attempts to curb the influence of candidates with criminal records, including directing political parties to publish details of criminal antecedents of their candidates in newspapers and on party websites. However, the Commission lacks punitive powers beyond recommending reforms and issuing guidelines, which often go unheeded.

The Judiciary played a crucial role in addressing this gap. In *Lily Thomas v Union of India*¹⁷, the Supreme Court struck down Section 8(4) of the Representation of the People Act, 1951¹⁸. Earlier, this provision allowed the convicted MPs and MLAs to continue in office if they filed an appeal within three months. The Court ruled this provision unconstitutional, ruling that legislators convicted of a crime punishable by more than 2 years of imprisonment would face immediate disqualification. Filed by Advocate Lily Thomas and an NGO named Lok Prahari, the petition argued that this provision violated Article 14¹⁹ by granting special protection to lawmakers. The judgment was a pivotal step in decriminalising politics, ensuring that public representatives cannot exploit legal loopholes to remain in power after conviction, thereby reinforcing democratic accountability and the rule of law.

¹⁵ Representation of the People Act 1951, s 8

¹⁶ Constitution of India 1950, art 324

¹⁷ *Lily Thomas v Union of India* (2000) CriLJ 2433

¹⁸ Representation of the People Act 1951, s 8(4)

¹⁹ Constitution of India 1950, art 14

In a significant push for transparency in Indian politics, the Supreme Court in *Association for Democratic Reforms v Union of India*²⁰ held that all candidates contesting elections must reveal their criminal record, financial details, and academic qualifications. The Court recognised that informed voting is a fundamental part of the democratic process and that voters have a right to know the background of those seeking public office. Building on this, in *Public Interest Foundation v Union of India*²¹, the Court further directed the political parties to widely publicise the criminal history of their candidates through their official websites, social media platforms, and newspapers. These judgments marked a crucial step toward curbing the criminalisation of politics by promoting accountability and empowering voters with essential information about their representatives.

DIFFERENT COMMITTEE REPORTS

To address the growing nexus between crime and politics, several committees and commissions have examined the issue over the decades. The first notable effort came in 1964 under the tenure of Shri Lal Bahadur Shastri as Union Home Minister, when the Santhanam Committee²² was constituted. Although primarily focused on corruption in public services, it laid the groundwork for later discussions on political accountability. In 1970, a parliamentary committee was established to study electoral reforms. However, its functioning was interrupted when the Lok Sabha was dissolved ahead of schedule.

The Tarkunde Committee in 1974, comprising eminent jurists and activists, addressed electoral malpractices but fell short of delivering enforceable reforms. A more concrete attempt came with the Dinesh Goswami Committee²³ in 1990, which proposed crucial changes in the election process, including curbing the influence of money and criminal elements.

A watershed moment came with the Vohra Committee Report²⁴ (1993), which explicitly warned of the growing nexus between criminals, politicians, and bureaucrats. Despite this early caution, successive governments have failed to take comprehensive legislative action.

²⁰ *Union of India v Association for Democratic Reforms* (2002) 5 SCC 294

²¹ *Public Interest Foundation v Union of India* (2019) 3 SCC 224

²² K. Santhanam, *Report of the Committee on Prevention of Corruption* (1964)

²³ Election Commission of India, *Report of the Committee on Electoral Reforms* (1990)

²⁴ Ministry of Home Affairs, *Vohra Committee Report of the Committee to Study the Problem of Interlinking of Crime and Politics* (1993)

The recommendations to establish fast-track courts for politicians, restrict party nominations to clean candidates, and empower the Election Commission with greater sanctions remain largely unimplemented. It also revealed the deeply entrenched and ‘incredibly intimate’ relationship between organised crime, politicians, and the bureaucrats. It also talked about how criminal networks had established a parallel system of governance, particularly in certain regions.

To counter the growing influence of money power in elections, the Indrajit Gupta Committee²⁵ in 1998 strongly recommended that elections should be financed through government allocations. Though supported by eminent leaders such as Dr. Manmohan Singh, the recommendation remained unimplemented due to practical constraints and a lack of political will.

Law Commission of India, in its 244th report, stressed the need for disqualification to take place once charges are formally framed by the court, in cases involving serious offences punishable with imprisonment of more than 5 years⁶. It argued that the presumption of innocence must be balanced against the integrity of democratic institutions, especially where misuse of political power can influence the outcome of the case. Further, while the legal and institutional mechanisms to prevent criminalisation of politics exist in principle, their lack of enforcement, political resistance, and procedural delays continue to frustrate substantive reform. Bridging this gap requires legislative amendment, judicial accountability, and political will to uphold the constitutional promise of clean governance.

POLICY AND LEGAL RECOMMENDATIONS FOR ADDRESSING THE CRIMINALISATION OF POLITICS

Disqualifying Politicians when Serious Charges are Filed: Amending the Representation of the People Act 1951 to disqualify candidates at the stage when charges are framed by a court in serious criminal cases (offences punishable with 5 years or more), rather than waiting for conviction. This would reduce the misuse of delays in trial processes²⁶.

²⁵ Law Commission of India, *Report of the Committee on State Funding of Elections* (1998)

²⁶ Law Commission of India (n 11)

Establishing Fast Track Courts for Cases Involving Political Candidates: Establish dedicated fast-track courts to hear cases involving elected representatives and candidates within a strict time frame (e.g., one year), ensuring timely judicial outcomes and preventing prolonged misuse of the legal process.²⁷

Barring Political Parties from Nominating Candidates with Serious Criminal Backgrounds: Political parties should be legally barred from giving tickets to individuals facing serious criminal charges. If they do, they must publish reasons and justification for their selection prominently in the media and party platforms.

Strengthening the Authority and Independence of the Election Commission: Strengthen the powers of the ECI under Article 324²⁸ of the Constitution to take binding action against parties violating candidate transparency norms, and allow for more stringent scrutiny during candidate nomination.

Ensuring Transparency and Educating Voters: Mandate compulsory, timely, and detailed disclosure of criminal records by candidates and parties in affidavits, advertisements, and campaign literature. Encourage voter awareness drives to ensure that the electorate is informed and vigilant.²⁹

Strengthening the Moral Code of Conduct: The Model Code of Conduct is the set of guidelines issued by the Election Commission of India to regulate the conduct of political parties during elections. Thus, including explicit provisions penalising the use of criminal elements during elections—both as candidates and in campaign activities—by strengthening the powers of returning officers and poll observers³⁰, such measures will reinforce electoral integrity and democratic values.

Role of Civil Society and Media Participation in promoting political accountability: Empower the civil society organisations, universities, and the media to run awareness

²⁷ *Public Interest Foundation v Union of India* (2019) 3 SCC 224

²⁸ Constitution of India 1950, art 324

²⁹ Puri (n 3)

³⁰ 'Model Code of Conduct Guidelines' (Election Commission of India) <<https://www.eci.gov.in/mcc/>> accessed 25 April 2025

campaigns and report non-compliance by parties and candidates. ADR, Lokniti-CSDS, and other NGOs can play a proactive role in monitoring and educating the public.

Ensuring Accountability and Transparency in Election Funding: Introduce stricter regulations on political funding and campaign expenditures to reduce reliance on black money and criminal sources. Transparent political financing can diminish the incentive to engage with criminal actors.

CONCLUSION

The criminalisation of politics represents one of the most dangerous threats to the foundations of Indian democracy. This paper has shown, through judicial pronouncements, legislative analysis, and data-backed evidence, how individuals with serious criminal backgrounds have infiltrated political institutions and continue to thrive within them. This trend not only undermines the rule of law but also corrodes public trust, weakens the legitimacy of democratic institutions, and dilutes the principles enshrined in the Constitution.

The persistence of this issue is not due to a lack of laws, judicial scrutiny, or public awareness, but rather a failure of political will. Despite repeated warnings by the Supreme Court, Election Commission, and Law Commission, meaningful reform has been delayed or diluted by those who benefit most from the status quo. The increasing acceptance of criminal behaviour in politics reflects a serious ethical decline in leadership, where self-interest frequently overshadows the commitment to public service and responsible governance.

India cannot afford to let its democracy be hijacked by criminal elements. If we continue to allow lawbreakers to become lawmakers, the legitimacy of democratic processes will be permanently compromised. What is needed now is a multi-pronged response: legislative reform that disqualifies tainted candidates early, judicial efficiency in prosecuting political crimes, robust powers for the Election Commission, and an awakened civil society that holds its leaders accountable.

At the heart of this crisis lies a question of morality. True democratic leadership calls for individuals who live by the Constitution both in principle and with personal integrity. The

time has come for India to reclaim the sanctity of its political system and renew its commitment to clean, responsible, and transparent governance. Tackling this menace is essential to preserve the democratic integrity of the nation.