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Criminalization of Politics in India: Causes, Consequences and Legal Reforms

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Abstract

Criminalization of politics in India has emerged as a significant challenge to the functioning of democratic governance, particularly up to till now. It refers to the increasing participation of individuals with criminal backgrounds in electoral processes and legislative institutions. This paper critically examines the structural and institutional factors responsible for this phenomenon, including the rising cost of elections, delays in the judicial system, and the strategic behaviour of political parties prioritizing electoral success over ethical considerations. The role of institutions such as the Election Commission of India and judicial interventions by the Supreme Court of India are analysed to assess their effectiveness in curbing this issue. The study highlights that criminalization is deeply embedded in the political and socio-economic framework, leading to serious consequences such as erosion of the rule of law, governance inefficiencies, corruption, and decline in public trust. Using secondary data sources, including reports and case laws, the paper argues that existing legal provisions are insufficient due to loopholes like conviction-based disqualification. It concludes by suggesting comprehensive legal and institutional reforms, including pre-conviction disqualification for serious offences, fast-track courts, electoral funding transparency, and enhanced accountability of political parties.

Keywords: Criminalization of Politics; Electoral Reforms; Rule of Law; Political Corruption; Judicial Intervention; Electoral Funding; Democratic Governance; Election Commission of India; Supreme Court of India; Representation of the People Act, 1951

1. Introduction

India is widely recognized as the world's largest democracy, grounded in the principles of universal adult franchise, rule of law, and representative governance. However, the increasing participation of candidates with criminal backgrounds in electoral politics has raised serious concerns about the quality and integrity of democratic institutions [1]. Criminalization of politics refers to the phenomenon wherein individuals facing criminal charges contest elections and, in many cases, secure positions of power within legislative bodies [2]. This trend challenges the foundational democratic principle that law-makers should be law-abiding citizens. Over the past few decades, the nexus between crime and politics has become more visible and institutionalized. Empirical evidence indicates a steady rise in the number of elected representatives with declared criminal cases, reflecting systemic weaknesses in both electoral and legal frameworks [3]. The issue is not merely legal but deeply embedded in socio-political realities such as caste dynamics, economic inequalities, and electoral competition. Political parties often prioritize electoral success over ethical considerations, fielding candidates with significant financial resources and local influence, even if they have serious criminal allegations against them [4]. Institutional mechanisms have attempted to address this challenge. The Election Commission of India has introduced mandatory disclosure requirements, compelling candidates to reveal their criminal records, assets, and liabilities to the electorate [5]. Similarly, the Supreme Court of India has played a proactive role through landmark judgments aimed at enhancing transparency and accountability in the electoral process [6]. Despite these efforts, the persistence of criminalization highlights significant gaps in enforcement and legal provisions. One of the key structural factors contributing to this problem is the delay in the judicial process, which allows accused individuals to contest elections for years without conviction [7]. Additionally, the high cost of elections encourages the entry of candidates with access to illicit financial resources, further exacerbating the problem [8]. Voter behavior also plays a crucial role, as social identities and local considerations often outweigh concerns about criminal records [9]. Given these complexities, criminalization of politics emerges as a multidimensional issue requiring a comprehensive analytical approach. This study seeks to examine the causes, extent, and consequences of this phenomenon in India up to 2020, while also evaluating the effectiveness of existing legal and institutional measures. It further aims to propose reforms that can strengthen democratic accountability and restore public confidence in the political system.

2. Conceptual Framework

Criminalization of politics is a complex and multidimensional phenomenon that must be understood within a broader theoretical and institutional framework. It does not merely refer to the presence of individuals with criminal backgrounds in politics; rather, it reflects a deeper and systemic interaction between political authority and illegal activities, often embedded within the structures of electoral competition and governance [10].

Scholars have identified three interconnected dimensions of criminalization [11]:

- **Criminal Entry into Politics:** Individuals with criminal backgrounds enter electoral politics to gain legitimacy, social acceptance, and, importantly, protection from legal prosecution. Holding public office often provides them with influence over law enforcement agencies and judicial processes, thereby reducing the risk of conviction [12].
- **Political Protection of Criminals:** Political actors frequently extend patronage to criminal networks in exchange for financial contributions, muscle power, and electoral support. This mutually beneficial relationship allows politicians to consolidate power while enabling criminal groups to operate with relative impunity [13].
- **Institutional Nexus:** Over time, a symbiotic relationship develops between political leaders, bureaucratic institutions, and criminal organizations. This nexus leads to the weakening of institutional integrity, as governance structures are manipulated to serve private interests rather than public welfare [14].

From a theoretical perspective, this phenomenon can be explained through the concept of **clientelism**, where political leaders maintain support by distributing resources and protection to their followers in exchange for loyalty and votes [15]. The **patron-client model** further illustrates how hierarchical relationships between powerful politicians (patrons) and dependent supporters (clients) facilitate the integration of criminal elements into politics [16]. Additionally, the concept of **state capture** is highly relevant in understanding criminalization. In such situations, powerful individuals or groups, including those with criminal backgrounds, influence policy-making, legislation, and regulatory frameworks to serve their private interests. This results in the distortion of democratic processes and undermines the rule of law [17]. Thus, criminalization of politics must be viewed not as an isolated issue but as a structural and systemic problem rooted in the political economy of governance, requiring comprehensive institutional and legal reforms.

3. Historical Background

In the immediate post-independence period, Indian politics was largely characterized by ideological commitment, mass participation, and a strong emphasis on public service. Political leadership during this phase was dominated by individuals associated with the freedom struggle, who upheld relatively high ethical standards in public life. Consequently, the presence of criminal elements in electoral politics was minimal, and democratic institutions functioned with a greater degree of legitimacy and public trust [18]. However, significant transformations began to emerge from the late 1960s and 1970s. The decline of one-party dominance, particularly of the Congress system, led to increased political competition and fragmentation of the party system. The rise of regional parties and the growing importance of caste and identity-based politics altered the nature of electoral mobilization. These developments weakened centralized political control and created opportunities for local strongmen and influential actors to enter politics [19]. The 1990s marked a decisive turning point in this trajectory. The advent of coalition politics at the national level, coupled with economic liberalization and the expansion of electoral competition, intensified the demand for resources and organizational strength. Political parties increasingly prioritized candidates who could mobilize votes and finance campaigns, often overlooking their criminal backgrounds [20]. As a result, individuals with access to money and muscle power began to play a more prominent role in electoral politics. During this period, the cost of elections increased substantially, further incentivizing the entry of candidates with illicit financial resources. Criminal actors, who possessed both economic capital and coercive capacity, became attractive to political parties seeking electoral success. This led to the gradual institutionalization of criminalization, where the presence of candidates with criminal records became normalized within the political system [21]. Over time, this trend resulted in a steady increase in the number of legislators with criminal backgrounds across both state and national levels. The normalization of such practices reflects deeper structural issues within the political and electoral system, including weak enforcement of laws, socio-economic inequalities, and the strategic behavior of political actors. Thus, the historical evolution of criminalization in Indian politics highlights a shift from value-based politics to power-centric electoral competition [22].

4. Causes of Criminalization of Politics

The criminalization of politics in India is driven by a combination of structural, institutional, and socio-political factors. These causes are interrelated and reinforce one another, creating a system in which individuals with criminal backgrounds are able to enter and sustain themselves in political power [23].

4.1 Money Power and High Cost of Elections

Elections in India have become increasingly expensive, involving significant expenditure on campaigning, media outreach, voter mobilization, and organizational activities. Despite legal limits on campaign spending, actual expenditures often exceed prescribed ceilings, leading candidates to rely on informal and sometimes illegal sources of funding. Individuals with access to substantial financial resources, including illicit wealth, are therefore better positioned to contest and win elections [24]. This growing dependence on money power creates an uneven electoral playing field, where candidates with integrity but limited financial means find it difficult to compete. Consequently, political parties tend to favour wealthy candidates, even if they have questionable backgrounds, thereby facilitating the entry of criminal elements into politics [25].

4.2 Delay in Judicial Process

One of the most significant institutional factors contributing to criminalization is the slow pace of the judicial system. Criminal cases in India often take years, and sometimes decades, to reach final judgment. As a result, individuals with serious criminal charges are able to contest multiple elections without being convicted [26]. The existing legal framework, particularly the Representation of the People Act, 1951, disqualifies candidates only upon conviction, not when charges are framed. This creates a loophole that allows accused individuals to continue participating in politics while their cases remain pending. The delay in justice thus indirectly legitimizes their political participation [27].

4.3 Political Party Complicity

Political parties play a crucial role in the criminalization process. In their pursuit of electoral victory, parties often prioritize “inability” over ethical considerations. Candidates with criminal backgrounds are frequently selected because they possess financial resources, local influence, and the ability to mobilize voters effectively [28]. This strategic behaviour reflects a rational calculation within a competitive electoral environment. Parties justify such decisions by arguing that excluding these candidates would weaken their chances of winning. However, this practice contributes to the normalization of criminalization and undermines the moral foundations of democratic politics [29].

4.4 Voter Behaviour and Social Acceptance

Voter behaviour is another critical factor in understanding criminalization. In many regions, voters prioritize caste identity, religious affiliation, and local interests over the criminal records of candidates. In some cases, candidates with criminal reputations are perceived as strong leaders capable of providing protection, resolving disputes, and delivering resources [30]. This phenomenon is often linked to the failure of state institutions to provide effective governance and security. As a result, voters may support candidates who can offer informal mechanisms of justice and welfare, even if they operate outside the legal framework. Such social acceptance reinforces the presence of criminal actors in politics [31].

4.5 Weak Institutional Mechanisms

Although institutions like the Election Commission of India have introduced reforms such as mandatory disclosure of criminal records and monitoring of election expenditure, their powers remain limited. The Commission lacks the authority to disqualify candidates independently, relying instead on legislative provisions and judicial decisions [32]. Furthermore, enforcement mechanisms are often weak, and coordination between institutions is inadequate. This institutional weakness allows candidates with criminal backgrounds to exploit legal loopholes and continue participating in electoral politics. Strengthening these mechanisms is essential for effectively addressing the problem of criminalization [33].

5. Extent of Criminalization

Empirical evidence clearly indicates a significant and persistent increase in the number of elected representatives with criminal records in India. According to reports published by the Association for Democratic Reforms (ADR), nearly 43% of Members of Parliament elected in the 2019 general elections declared criminal cases against themselves, out of which a substantial proportion were charged with serious offences such as murder, attempt to murder, kidnapping, and crimes against women [34]. A closer examination of the data reveals that this trend has been steadily rising over successive elections. For instance, the proportion of MPs with criminal cases was around 24% in 2004, which increased to 30% in 2009, 34% in 2014, and further to 43% in 2019 [35]. This consistent upward trajectory demonstrates that criminalization is no longer an exceptional phenomenon but has become an embedded feature of India’s electoral politics.

At the state level, the situation is equally concerning. Several state legislative assemblies report even higher percentages of elected representatives with criminal backgrounds. This indicates that the problem is widespread and not confined to national politics alone [36]. The normalization of criminalization is further reinforced by electoral outcomes. Studies have shown that candidates with criminal cases often have higher chances of winning elections compared to those without such records, largely due to their financial strength, local dominance, and ability to mobilize voters [37]. This creates a self-reinforcing cycle where political parties continue to field such candidates, and voters, influenced by socio-economic and identity factors, continue to support them. A comparative analysis of past elections thus reveals a disturbing pattern: criminalization is becoming institutionalized within the political system. This trend reflects not only the failure of legal and regulatory mechanisms but also the growing acceptance of such candidates by political parties and sections of the electorate [38].

6. Consequences / Impact

6.1 Undermining Rule of Law

The presence of lawmakers with criminal backgrounds fundamentally undermines the principle of the rule of law, which is central to democratic governance. When individuals accused of serious crimes occupy legislative positions, it creates a perception that political power can shield individuals from legal accountability. This weakens public confidence in the justice system and promotes a culture of impunity, where laws are applied selectively rather than uniformly [39].

6.2 Governance and Policy Distortion

Criminalization also has serious implications for governance and public policy. Politicians with criminal interests are more likely to misuse public office for personal gain, engage in corrupt practices, and influence policy decisions to protect their economic and political interests. This results in inefficient allocation of public resources, poor service delivery, and compromised development outcomes. In the long run, it distorts policy priorities away from public welfare toward private benefit [40].

6.3 Decline in Public Trust

The increasing presence of criminal elements in politics leads to a decline in public trust in democratic institutions. Citizens may lose faith in the electoral process and governance mechanisms, resulting in lower political participation and civic engagement. This erosion of trust weakens the legitimacy of the democratic system and poses a serious threat to its stability and sustainability [41].

7. Judicial Interventions

The Supreme Court of India has played a proactive and transformative role in addressing the issue of criminalization through a series of landmark judgments. In *Union of India v. Association for Democratic Reforms (2002)*, the Court mandated the disclosure of criminal antecedents, assets, and liabilities of candidates, thereby enhancing transparency in the electoral process [42]. Subsequently, in *Lily Thomas v. Union of India (2013)*, the Court ruled that legislators convicted of certain offences would be immediately disqualified, strengthening accountability mechanisms [43]. More recently, in *Public Interest Foundation v. Union of India (2018)*, the Court directed political parties to publicly disclose the criminal records of their candidates and provide reasons for their selection [44]. While these interventions have significantly improved transparency, they have not fully addressed the structural causes of criminalization. The judiciary has repeatedly emphasized the need for legislative reforms to strengthen the legal framework and close existing loopholes [45].

8. Role of Election Commission

The Election Commission of India has undertaken several measures to curb the criminalization of politics. These include mandatory disclosure of criminal records through affidavits, strict monitoring of election expenditure, and voter awareness campaigns aimed at promoting informed voting [46]. Despite these initiatives, the effectiveness of the Commission is constrained by its limited powers. It does not have the authority to disqualify candidates on the basis of pending criminal cases and must rely on existing legal provisions and judicial directives. This institutional limitation significantly reduces its capacity to address the problem comprehensively [47]. Strengthening the legal authority and operational capacity of the Election Commission is therefore essential for ensuring free and fair elections.

9. Legal Framework and Reforms

The primary legal framework governing electoral disqualification in India is the Representation of the People Act, 1951. While the Act provides for disqualification upon conviction for certain offences, it does not address cases where serious charges have been framed but not yet adjudicated [48]. This conviction-based approach creates a major loophole, as judicial delays allow accused individuals to continue contesting elections for extended periods. Recognizing this issue, the Law Commission of India, in its 244th Report, recommended disqualification of candidates upon framing of charges for serious offences, subject to judicial safeguards [49]. However, these recommendations have not been fully implemented, leaving the legal framework inadequate to effectively address the problem of criminalization.

10. Suggested Reforms

Addressing the criminalization of politics requires a comprehensive set of reforms:

- **Disqualification upon framing of serious charges:** Candidates charged with grave offences should be barred from contesting elections, subject to safeguards against misuse.
- **Establishment of fast-track courts:** Special courts should be set up to ensure speedy trial of cases involving politicians.
- **Regulation of political party candidate selection:** Political parties must be held accountable for fielding candidates with criminal backgrounds.
- **Transparency in electoral funding:** Strengthening financial transparency can reduce the influence of illicit money.
- **Voter awareness and education:** Empowering voters to make informed choices is crucial for long-term reform.

These reforms require strong political will, institutional coordination, and public support to be effective [50].

11. Comparative

In countries such as the United Kingdom and the United States, stricter legal frameworks and efficient judicial systems significantly limit the participation of individuals with criminal backgrounds in politics. For instance, legal provisions in these countries ensure timely disqualification and faster adjudication of criminal cases involving public officials [51].

India can draw important lessons from these systems, particularly in terms of strengthening legal enforcement and institutional accountability. However, reforms must be adapted to India's unique socio-political context, taking into account factors such as diversity, electoral scale, and socio-economic conditions [52].

Conclusion

Criminalization of politics in India has become a serious challenge to democratic governance, affecting the quality, credibility, and accountability of political institutions. The growing presence of individuals with criminal backgrounds in legislative bodies reflects deeper structural issues such as high election costs, delays in the judicial system, political party strategies, and voter behaviour. Despite efforts to improve transparency and accountability, the problem continues due to loopholes in the legal framework and weak enforcement mechanisms. This has led to negative consequences such as weakening of the rule of law, poor governance, corruption, and declining public trust in democracy. To address this issue effectively, comprehensive reforms are necessary, including stricter disqualification norms, faster judicial processes, greater transparency in political funding, and increased accountability of political parties. At the same time, voter awareness and ethical political practices are essential to bring long-term change. In conclusion, reducing criminalization of politics is crucial for strengthening democracy and ensuring that governance remains fair, transparent, and responsive to the needs of the people.

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