



Judicial Activism and Criminalisation of Politics in India- with Special Reference to Karnataka

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Abstract:

Criminalisation of politics has developed as one of the most serious encounters to democratic governance in India, affecting institutional integrity, electoral fairness, and public trust. This phenomenon refers to the growing participation and electoral success of individuals facing criminal charges in legislative bodies. In India, nearly 43% of Members of Parliament elected in the 2019 Lok Sabha elections had undecided criminal cases, according to the Association for Democratic Reforms (ADR), an organization that has played a crucial role in exposing electoral malpractice.

This paper examines criminalisation of politics with a special focus on the state of Karnataka, where electoral data indicates a consistent rise in candidates with pending criminal cases across Assembly elections. It further analyses the ethical and constitutional implications of the phenomenon, the role of judicial activism—particularly by the Supreme Court of India—and the responses of institutions such as the Election Commission of India. The paper argues that while judicial interventions have strengthened transparency and voter awareness, enforcement gaps and political resistance continue to limit reform effectiveness.

A doctrinal and analytical methodology is adopted, supplemented with secondary electoral data and judicial pronouncements. The paper concludes that only a coordinated framework involving judicial activism, legislative reform, and civic engagement can effectively curb criminalisation of politics in India.

Key words: Criminalisation, Judicial Activism, Democracy, Election Commission of India, Electoral Reform.

Introduction:

In a constitutional democracy, governance is expected to be carried out by elected representatives who uphold constitutional morality and the rule of law. In India, however, a growing number of legislators face criminal allegations, raising concerns about democratic legitimacy. According to the **Association for Democratic Reforms**, the proportion of legislators with criminal cases has steadily increased over the past two decades.

This trend is not limited to national politics but is also visible at the state level, particularly in **Karnataka**, where electoral competition has increasingly been influenced by money power, caste dynamics, and candidate “winnability” rather than integrity.

Judicial institutions, especially the **Supreme Court of India**, have played an active role in addressing this issue through judicial activism, expanding voter rights and mandating transparency in elections.

Objectives:

1. To define and conceptualize criminalisation of politics in India
2. To examine its causes and implications
3. To analyze judicial activism in curbing the issue
4. To evaluate Karnataka-specific electoral trends
5. To assess constitutional and legal frameworks
6. To suggest reforms for strengthening democratic governance

Methodology:

This paper adopts a **doctrinal and analytical research methodology**.

- **Doctrinal approach:** Analysis of constitutional provisions, statutory law (Representation of the People Act, 1951), and landmark judgments
- **Empirical support:** Secondary data from ADR reports and electoral statistics
- **Comparative analysis:** Focus on national vs. Karnataka state-level trends
- **Judicial analysis:** Examination of Supreme Court interventions and PIL-based governance reforms

Meaning and Scope of Criminalisation of Politics:

Criminalisation of politics refers to the process by which individuals with criminal backgrounds or pending criminal charges enter electoral politics and attain public office.

Key features include:

- Candidates with pending criminal cases contesting elections
- Use of money and muscle power
- Weak enforcement of disqualification laws
- Normalization of unethical political practices

This phenomenon weakens democratic accountability and erodes public trust in institutions.

Causes of Criminalisation of Politics:

1. Nexus Between Crime and Politics

The nexus between crime and politics refers to the deep and often covert relationship between political actors and criminal networks. This relationship enables candidates with criminal backgrounds to gain electoral advantage through intimidation, coercion, and manipulation of voters. Criminal groups often provide financial resources, logistical support, and muscle power during elections, strengthening the electoral prospects of such

candidates. In return, political actors may offer protection from prosecution or influence over law enforcement agencies. This mutually beneficial arrangement weakens democratic fairness and undermines the rule of law.

2. Institutional Weaknesses

Institutional weaknesses play a significant role in the persistence of criminalisation of politics in India. One of the major issues is the slow pace of judicial proceedings, which results in prolonged trials spanning several years or even decades. Due to low conviction rates, many individuals with serious criminal charges continue to contest elections without legal consequences. Delayed trials further create a situation where accused politicians remain active in public life while their cases are pending. This institutional delay effectively allows the misuse of the legal system, weakening deterrence and enabling repeated participation of accused individuals in electoral politics.

3. Electoral System Challenges

The First-Past-The-Post (FPTP) electoral system in India significantly contributes to the problem of criminalisation of politics. Under this system, a candidate who secures the highest number of votes wins, even without an absolute majority. This structure incentivizes political parties to select “winnable” candidates rather than ethically clean or qualified individuals. As a result, individuals with strong local influence, financial power, or criminal connections are often preferred over honest candidates. This creates an environment where electoral success is prioritized over ethical governance, thereby reinforcing the entry of criminal elements into politics.

4. Voter Behavior

Voter behaviour is an important factor influencing the criminalisation of politics in India. In many cases, electoral decisions are driven by short-term benefits such as cash incentives, goods, or local development promises rather than long-term governance considerations. Caste affiliations, community loyalty, and regional identity also play a significant role in shaping voting patterns. Additionally, patronage politics often encourages voters to support candidates who are perceived as powerful or capable of delivering personal or local advantages, even if they have criminal backgrounds. This pattern of voting behaviour weakens democratic accountability and indirectly supports the continuation of criminal elements in politics.

5. Party-Level Deficiencies

Political parties in India often contribute to the problem of criminalisation due to weak internal ethical screening mechanisms. In many cases, candidate selection is based on “winnability” rather than integrity, background checks, or moral standards. Parties frequently overlook criminal allegations against candidates if they are considered influential or capable of securing votes. There is also a lack of transparent internal democracy within parties, which prevents fair evaluation of candidate eligibility. Furthermore, the absence of strict disciplinary action against tainted members allows criminalisation to persist and become normalized within the political structure.

Karnataka-Specific Context:

In Karnataka, electoral data reveals a growing trend of candidates with criminal backgrounds contesting Assembly elections. Reports by the Association for Democratic Reforms indicate a steady increase in the

number of candidates with pending criminal cases across the 2013, 2018, and 2023 election cycles. Major political parties have continued to nominate individuals facing serious charges, including allegations related to assault, corruption, and public disorder. The pattern is particularly noticeable in urban constituencies, where there is a higher concentration of “high-asset, high-liability” candidates, suggesting a close link between wealth, political influence, and criminal allegations in electoral politics.

Judicial Activism in Karnataka:

The Karnataka High Court has played an active role in strengthening electoral accountability by adjudicating election petitions, addressing public interest litigations related to electoral transparency, and enforcing compliance with candidate affidavit and disclosure norms. Through these interventions, the court has contributed to improving transparency in the electoral process and ensuring greater scrutiny of candidates contesting elections. However, despite judicial oversight, enforcement largely remains dependent on national legal frameworks and provisions under central election laws, as Karnataka does not have state-specific mechanisms for disqualifying candidates with criminal backgrounds.

Ethical Dimensions:

1. Erosion of public trust in governance:

The criminalisation of politics significantly weakens public confidence in democratic institutions and governance. When individuals facing serious criminal charges are elected to public office, citizens may begin to question the integrity, fairness, and credibility of the political system. This distrust often leads to political cynicism, reduced voter participation, and the belief that power and influence matter more than accountability or ethical conduct in public life.

2. Normalisation of corruption:

The repeated election of candidates with criminal records can gradually normalise corruption and unlawful behaviour within politics. When political parties continue to nominate such individuals and voters repeatedly witness allegations of bribery, intimidation, or misuse of authority, unethical practices begin to appear acceptable or unavoidable. Over time, this weakens standards of public morality and reduces the expectation of transparency and honesty from political leaders.

3. Weakening of constitutional morality:

Criminalisation undermines the principle of constitutional morality, which requires public officials to uphold the values of justice, equality, integrity, and rule of law enshrined in the Constitution of India. Leaders accused of criminal misconduct may prioritise personal or political interests over constitutional duties, thereby weakening democratic ethics and institutional accountability. This creates a gap between constitutional ideals and actual political practice.

4. Undermining of merit-based political participation:

The growing influence of money power, muscle power, and criminal networks in elections discourages capable and ethical individuals from entering politics. Honest candidates often face disadvantages in competing against politically influential individuals with vast financial resources or coercive influence. As a result, political

participation becomes less merit-based and more dependent on power structures, reducing the quality of democratic representation.

Overall, the criminalisation of politics creates a serious contradiction in democracy where “lawmakers” themselves may become “lawbreakers.” This weakens democratic legitimacy, damages the rule of law, and reduces citizens’ faith in the fairness and accountability of the political system.

Constitutional and Legal Framework

1. Constitutional Position:

The Constitution of India does not automatically disqualify a person from contesting elections merely because criminal charges have been filed against them. Under the constitutional framework, a candidate is presumed innocent until proven guilty by a court of law. As a result, individuals with pending criminal cases are legally permitted to participate in elections unless they are disqualified under specific statutory provisions. This approach is intended to protect democratic rights and prevent misuse of false or politically motivated cases against candidates. However, critics argue that it also allows individuals with serious criminal allegations to enter legislative bodies, raising concerns about the integrity of democratic governance.

2. Representation of the People Act, 1951:

The Representation of the People Act, 1951 provides the primary legal framework for disqualification of electoral candidates in India. Under Section 8 of the Act, a candidate can be disqualified only after conviction for certain specified offences, particularly those involving corruption, serious crimes, or moral turpitude. Mere registration of a criminal case or the existence of pending charges does not prevent a person from contesting elections. Consequently, many candidates facing ongoing criminal trials continue to participate in elections and even hold public office until a final conviction is secured. This legal position has been widely debated because delays in the judicial process often allow accused individuals to remain active in politics for extended periods.

Judicial Activism and Landmark Judgments

- **ADR v. Union of India:** Made it mandatory for electoral candidates to disclose their criminal records, assets, liabilities, and educational qualifications to ensure greater transparency in elections.
- **PUCL v. Union of India:** Recognised the voter’s “right to know” about the background and details of candidates contesting elections.
- **Lily Thomas v. Union of India:** Established that convicted legislators would face immediate disqualification from holding public office upon conviction.
- **Manoj Narula v. Union of India:** Highlighted the importance of constitutional morality and urged political leaders to avoid appointing individuals with criminal backgrounds to ministerial positions.
- **Public Interest Foundation v. Union of India:** Directed political parties and candidates to publicly disclose criminal antecedents to improve voter awareness and electoral accountability.

These rulings expanded the scope of democratic rights under Article 19(1)(a), strengthening voter empowerment.

Data Analysis (India and Karnataka):

National Trends in Criminalisation of Politics

The criminalisation of politics in India has steadily increased over the past two decades, raising serious concerns about the quality of democratic representation. According to reports published by the Association for Democratic Reforms, the percentage of Members of Parliament with declared criminal cases has shown a continuous upward trend. In the 2004 Lok Sabha elections, nearly 24% of elected MPs had criminal cases pending against them. This number increased to around 30% in 2009, rose further to 34% in 2014, and reached approximately 43% in the 2019 Lok Sabha elections.

This trend indicates that candidates facing criminal allegations are not only contesting elections in larger numbers but are also increasingly successful in winning seats. A significant number of these cases involve serious offences such as murder, attempt to murder, kidnapping, crimes against women, corruption, and hate speech. The growing electoral success of such candidates suggests that factors like political influence, financial strength, caste equations, and local dominance often outweigh concerns about criminal records during elections.

Karnataka Trends

Karnataka reflects the broader national pattern of increasing criminalisation in politics, often with sharper regional variations. Electoral data shows a rising proportion of Members of the Legislative Assembly (MLAs) in Karnataka declaring pending criminal cases across successive election cycles. Reports by the Association for Democratic Reforms reveal that several candidates contesting Karnataka Assembly elections have faced charges related to assault, corruption, unlawful assembly, and public disorder.

The concentration of such candidates is particularly noticeable in highly competitive constituencies where elections are intensely fought and political parties prioritise “winnability” over ethical considerations. Candidates with strong financial resources, local influence, caste support, or the ability to mobilise voters are often preferred by political parties despite pending criminal allegations. In many cases, criminal background becomes associated with political power and the capacity to influence electoral outcomes.

Karnataka also demonstrates how caste-based political alignments and resource-driven electoral competition contribute to this issue. In certain regions, candidates with economic power and strong local networks are viewed as more capable of securing electoral victories, leading parties to overlook concerns regarding criminal records. As a result, the state mirrors national trends while also showing distinct regional dynamics shaped by social divisions, political competition, and the influence of money and muscle power in elections.

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Development of Thought

The evolution of judicial thinking in India demonstrates a clear and progressive transition in the approach of the judiciary towards electoral governance. Initially, the courts adopted a stance of non-intervention in

electoral politics, largely deferring to the domain of the legislature and political processes. Over time, this position evolved towards strengthening voter empowerment and ensuring transparency in the electoral process, particularly through mandatory disclosure norms regarding candidates' criminal, financial, and educational backgrounds. Subsequently, judicial reasoning expanded further to emphasize the institutional accountability of political parties, requiring them to disclose the criminal antecedents of their candidates and reinforcing internal standards of political responsibility. In its most developed phase, judicial interpretation has increasingly relied on the doctrine of constitutional morality as a guiding principle, ensuring that democratic processes align with the fundamental values enshrined in the Constitution. As a result of this gradual evolution, judicial activism has significantly transformed elections in India from a purely political process into a constitutionally regulated democratic function governed by transparency, accountability, and the rule of law.

Challenges in Reform Implementation:

Political resistance to stricter disqualification laws

One of the major obstacles in addressing the criminalisation of politics is the reluctance of political parties to support stricter disqualification laws. Many parties continue to field candidates with criminal backgrounds because such individuals are often considered “electorally strong” due to their financial resources, local influence, and ability to mobilise voters. Since stricter legal provisions could affect influential politicians across party lines, there is limited political consensus for reforms that would bar candidates from contesting elections at the stage of pending criminal charges. As a result, legislative reforms aimed at cleansing politics often face delays or opposition.

Delays in judicial proceedings:

The slow pace of the judicial system significantly contributes to the persistence of criminalisation in politics. Criminal cases against politicians frequently remain pending for many years due to procedural delays, lack of timely investigation, adjournments, and overburdened courts. Because disqualification under the Representation of the People Act, 1951 generally occurs only after conviction, accused politicians are able to contest multiple elections and continue holding public office while their cases remain unresolved. This prolonged legal process weakens accountability and reduces the effectiveness of existing laws.

Weak enforcement by electoral authorities:

Although the Election Commission of India has introduced measures to improve transparency, such as mandatory disclosure of criminal records and publication of candidate affidavits, its enforcement powers remain limited. The Election Commission can direct disclosure and monitor compliance, but it does not possess the authority to disqualify candidates solely on the basis of pending criminal charges unless provided by law. In many cases, incomplete disclosures, misleading affidavits, or inadequate monitoring reduce the practical impact of electoral regulations.

Voter dependence on patronage networks:

In several regions, voters continue to rely on local patronage systems in which politicians provide financial assistance, employment opportunities, community support, or access to government benefits. Candidates with strong influence and resources are often perceived as more capable of delivering immediate local benefits, regardless of their criminal background. Social factors such as caste loyalty, regional identity, and political influence also shape voting behaviour. As a result, voters may prioritise perceived effectiveness or local protection over ethical concerns, enabling candidates with criminal records to maintain electoral support.

Recommendations:

1. Fast-track courts for criminal cases involving politicians
2. Strengthening powers of the **Election Commission of India**
3. Mandatory internal party reforms
4. Electoral disqualification for serious framed charges (with safeguards)
5. RTI coverage for political funding
6. Civic education and voter awareness programs

Conclusion:

Criminalisation of politics poses a structural threat to India's democratic foundation. While judicial activism by the **Supreme Court of India** has significantly improved transparency and voter awareness, enforcement gaps continue to weaken its impact. The situation in **Karnataka** reflects broader national challenges, demonstrating that legal reforms alone are insufficient without political will and civic participation. A coordinated approach involving judiciary, legislature, election authorities, and citizens is essential to restore integrity in Indian politics and strengthen constitutional democracy.

References:

- **Books / Reports:**
 1. Association for Democratic Reforms. Analysis of Criminal Background, Financial and Other Details of MPs. ADR India, various reports (2004–2019), <https://adrindia.org>.
 2. Government of India. Report of the Vohra Committee. Ministry of Home Affairs, 1993.
 3. Law Commission of India. 244th Report: Electoral Disqualifications. Government of India, 2014, <https://lawcommissionofindia.nic.in>.
 4. National Crime Records Bureau. Crime in India Report. Ministry of Home Affairs, Government of India, various years, <https://ncrb.gov.in>.
- **Cases (Supreme Court of India)**
 1. Association for Democratic Reforms v. Union of India. (2002) 5 SCC 294.
 2. People's Union for Civil Liberties v. Union of India. (2004) 2 SCR 428.
 3. Ramesh Dalal v. Union of India. AIR 2005 SC 1441.

4. Lily Thomas v. Union of India. AIR 2013 SC 2662.
5. Manoj Narula v. Union of India. (2014) 9 SCC 1.
6. Public Interest Foundation v. Union of India. AIR 2018 SC 4550.

• **Government / Institutional Sources**

1. Election Commission of India. Electoral Affidavit Guidelines and Disclosure Norms. Government of India, <https://eci.gov.in>.
2. Supreme Court of India. Judgments on Electoral Transparency and Criminalisation of Politics. <https://main.sci.gov.in>.

• **Articles / Research Papers**

1. Suri, K.C. "Criminalisation of Politics in India: Causes and Consequences." Economic and Political Weekly, vol. 39, no. 12, 2004, pp. 1171–1176.
2. Vaishnav, Milan. When Crime Pays: Money and Muscle in Indian Politics. Yale University Press, 2017.

