

Criminalization of Indian Politics: Causes, Consequences, Electoral Trends, Judicial Responses and the Need for Electoral Reforms

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Abstract

The criminalization of politics has emerged as one of the most significant threats to India's democratic system. The increasing participation of individuals with criminal antecedents in electoral politics undermines the principles of constitutional democracy, rule of law, transparency, accountability, and good governance. Although India possesses an independent judiciary, an autonomous Election Commission, and comprehensive electoral laws, the persistence of candidates facing serious criminal charges in legislative bodies reflects systemic weaknesses in electoral governance and political accountability. The phenomenon has expanded due to multiple factors, including excessive election expenditure, delayed judicial processes, political patronage, weak enforcement of electoral laws, identity-based politics, and the growing nexus among politicians, criminals, bureaucrats, and business interests.

This study critically examines the historical evolution of criminalization in Indian politics and analyzes its constitutional, legal, political, and socio-economic dimensions. It evaluates the effectiveness of the Representation of the People Act, 1951, constitutional provisions, and the role of the Election Commission of India in addressing the issue. The paper further examines landmark judgments of the Supreme Court that have strengthened electoral transparency through mandatory disclosure of criminal antecedents and immediate disqualification upon conviction in specified cases.

The study also presents a comparative analysis of political parties and states with respect to elected representatives having criminal backgrounds, using data compiled by the Association for Democratic Reforms (ADR) and the Election Commission of India (ECI). It explores the phenomenon of political horse trading, misuse of constitutional offices, and the erosion of democratic ethics resulting from criminal influence in politics.

The research concludes that criminalization has become institutionalized within India's electoral system due to structural deficiencies and political incentives. Comprehensive electoral reforms, judicial efficiency, police reforms, transparent political funding, stronger accountability mechanisms for political parties, and enhanced voter awareness are essential to preserve the integrity of Indian democracy.

Keywords: criminalization of politics; Indian democracy; electoral reforms; rule of law; Election Commission of India; Representation of the People Act, 1951; criminal background of politicians; political accountability; Supreme Court; good governance; horse trading; electoral integrity; political corruption

1 Introduction

India is the world's largest constitutional democracy, founded upon the ideals of justice, liberty, equality, and fraternity as enshrined in the Constitution of India. The democratic framework envisages that political power shall be exercised by elected representatives who possess integrity,

accountability, and commitment towards public welfare. The electoral process constitutes the foundation of democratic governance, ensuring that citizens choose their representatives through free and fair elections.

However, the increasing criminalization of politics has emerged as one of the gravest challenges confronting Indian democracy. Criminalization of politics refers to the phenomenon whereby individuals involved in criminal activities either directly enter electoral politics or establish close associations with political leaders, thereby influencing public policy and governance. This phenomenon weakens democratic institutions by allowing persons accused or convicted of serious offences to occupy public office and participate in legislative decision-making.

Initially, political leaders relied upon local criminal groups to influence elections through intimidation, coercion, and illegal financial support. Gradually, these criminal elements recognized that direct participation in politics provided greater protection from prosecution, increased access to state resources, and opportunities for economic gain. Consequently, criminals transformed themselves into political leaders while political parties increasingly nominated candidates with criminal backgrounds based on their financial capacity and electoral influence.

The criminalization of politics is closely linked with corruption, misuse of public office, electoral violence, vote-buying, money laundering, illegal campaign financing, and weakening of public institutions. It has created an unhealthy nexus among politicians, bureaucrats, contractors, businesspersons, and organized criminal groups. Such alliances distort public policy and divert governance away from constitutional objectives towards private interests.

The problem has become increasingly visible in successive Lok Sabha and State Assembly elections. According to analyses conducted by the Association for Democratic Reforms (ADR), the proportion of elected representatives declaring criminal cases has steadily increased over the past two decades. Candidates facing serious criminal charges—including murder, attempted murder, kidnapping, extortion, crimes against women, and corruption—continue to secure electoral victories across political parties.

Several structural factors contribute to this phenomenon. These include:

- Delay in criminal trials;
- High election expenditure;
- Weak regulation of political funding;
- Identity-based voting patterns;
- Patronage politics;
- Poor internal democracy within political parties;
- Slow judicial processes;
- Inadequate police independence;
- Lack of political accountability.

The constitutional framework provides mechanisms to maintain electoral integrity through Articles 324, 102, and 191 of the Constitution and the [Representation of the People Act, 1951](#). Nevertheless, the existing legal framework disqualifies candidates only after conviction in specified circumstances. Since criminal trials often remain pending for years or even decades, many accused individuals continue to contest elections repeatedly.

Recognizing the seriousness of the issue, the Supreme Court of India has delivered several landmark judgments strengthening electoral transparency. Cases such as [Union of India v. Association for Democratic Reforms \(2002\)](#), [People's Union for Civil Liberties v. Union of India \(2003\)](#), [Lily Thomas v. Union of India \(2013\)](#), and [Public Interest Foundation v. Union of India \(2018\)](#) have significantly expanded voters' right to information and reinforced the constitutional principles of free and fair elections.

Despite these judicial interventions, criminalization continues to grow due to political unwillingness to undertake comprehensive reforms. Political parties frequently prioritize electoral success over ethical considerations and nominate candidates with criminal backgrounds because such candidates often possess financial resources, local influence, and organizational networks.

The consequences extend beyond electoral politics. Criminalization erodes public trust in democratic institutions, weakens governance, discourages honest citizens from participating in politics, increases corruption, undermines economic development, and threatens the rule of law. Democratic legitimacy suffers when lawmakers themselves face serious criminal allegations.

This research paper examines criminalization of Indian politics from constitutional, legal, electoral, and governance perspectives. It critically evaluates the causes, historical development, judicial interventions, Election Commission initiatives, political party practices, and recent electoral trends. It further proposes comprehensive reforms to strengthen democratic accountability and preserve the constitutional vision of ethical governance.

2 Definition of key concepts

2.1 Criminalization of politics

Criminalization of politics refers to the process through which individuals having criminal antecedents participate in electoral politics, become legislators, influence governmental decision-making, or establish close associations with political leaders for mutual benefit. It includes both the direct entry of criminals into politics and the indirect use of political power to protect criminal activities.

2.2 Criminal background

A criminal background refers to an individual against whom criminal proceedings have been initiated before a competent court. Such cases may include pending investigations, framed charges, ongoing trials, or convictions. Under Indian law, the existence of criminal charges alone does not establish guilt because every accused enjoys the constitutional presumption of innocence until proven guilty.

2.3 Serious criminal cases

Serious criminal cases generally include offences punishable with imprisonment of five years or more, including:

- Murder
- Attempt to murder
- Kidnapping
- Rape
- Crimes against women

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- Corruption
 - Extortion
 - Organized crime
 - Communal violence
 - Economic offences
 - Electoral offences

These offences have significant implications for public morality and governance.

2.4 Electoral integrity

Electoral integrity refers to the conduct of elections in accordance with constitutional principles ensuring fairness, transparency, equality, accountability, impartiality, and respect for democratic values.

2.5 Rule of law

Rule of law signifies that every individual, irrespective of social or political status, remains equally subject to law administered by independent courts. It rejects arbitrary exercise of governmental power and guarantees legal accountability.

2.6 Political corruption

Political corruption includes abuse of public office for private benefit through bribery, embezzlement, abuse of authority, manipulation of public contracts, illicit political financing, nepotism, and misuse of governmental machinery.

2.7 Horse trading

Horse trading refers to unethical political bargaining in which legislators are induced through money, ministerial positions, contracts, or other benefits to change party allegiance or voting preferences, particularly during government formation or confidence motions. Such practices weaken democratic mandates and public confidence.

2.8 Electoral reforms

Electoral reforms refer to legislative, administrative, judicial, and institutional measures intended to strengthen democracy through transparent political funding, fair elections, effective regulation of political parties, speedy adjudication of electoral disputes, and greater voter awareness.

3 Historical background

The criminalization of politics in India is not a recent phenomenon; rather, it has evolved gradually over several decades due to changing political, economic, and social circumstances. In the early years after Independence (1950–1967), Indian politics was largely dominated by leaders of the freedom movement who enjoyed considerable public respect and moral authority. Electoral politics was primarily based on ideology, public service, and developmental concerns. Although isolated instances of corruption and electoral malpractice existed, organized criminal influence in politics remained limited.

The situation began to change during the late 1960s and early 1970s. Increasing electoral competition, the decline of one-party dominance, and the emergence of regional political forces intensified the struggle for political power. Political parties started relying on local strongmen and criminal groups to mobilize voters, intimidate opponents, and influence election outcomes. Criminal elements were initially employed as supporters or enforcers rather than as candidates.

During the Emergency period (1975–1977), concerns regarding the concentration of political power, misuse of state machinery, and weakening of democratic institutions became more pronounced. Although the Emergency itself did not directly create criminalization, it exposed the dangers of excessive political power and institutional vulnerability.

The 1980s marked a significant turning point. Organized criminal groups, particularly in states such as Bihar, Uttar Pradesh, Maharashtra, and parts of eastern India, began entering politics directly. Criminal leaders realized that electoral office provided legal protection, access to state resources, influence over police investigations, and opportunities for economic expansion. Political parties increasingly nominated candidates with criminal backgrounds because they possessed financial resources, local influence, and the capacity to secure electoral victories.

The nexus between politicians, criminals, bureaucrats, and business interests became a major public concern. Recognizing this growing threat, the Government of India constituted the Vohra Committee in 1993 under the chairmanship of former Union Home Secretary N. N. Vohra. The Committee's report revealed the existence of organized criminal syndicates maintaining close links with politicians, government officials, law enforcement agencies, and business groups. It warned that these networks had begun influencing public policy and governance, posing a serious challenge to the democratic system.

Subsequent decades witnessed a steady increase in the number of legislators with criminal cases. Studies conducted by the Association for Democratic Reforms (ADR) have consistently shown that the proportion of elected representatives with pending criminal cases has increased in successive Lok Sabha elections. The problem has become institutionalized because criminal proceedings often remain pending for many years, allowing accused individuals to contest multiple elections before any final judicial determination.

Judicial intervention has played a crucial role in addressing this issue. Beginning with the Supreme Court's judgment in *Union of India v. Association for Democratic Reforms* (2002), voters were granted the right to know the criminal antecedents, educational qualifications, and financial assets of electoral candidates. Subsequent judgments further strengthened electoral transparency by mandating wider disclosure and immediate disqualification upon conviction in specified circumstances.

Despite these developments, criminalization continues to expand due to high election costs, identity-based politics, delayed criminal trials, weak internal democracy within political parties, and inadequate legislative reforms. Today, criminalization represents one of the most significant structural challenges confronting Indian democracy.

4 Statement of the problem

The increasing criminalization of Indian politics has become a serious obstacle to democratic governance and constitutional accountability. Although India possesses a comprehensive legal framework regulating elections, a substantial number of candidates with serious criminal cases

continue to contest elections and become legislators. This trend undermines public confidence in democratic institutions and weakens the rule of law.

The persistence of criminalization reflects multiple institutional shortcomings. Criminal trials involving politicians frequently remain pending for extended periods due to judicial delays, allowing accused individuals to continue participating in elections. Political parties prioritize electoral success over ethical considerations by nominating candidates possessing financial resources, social influence, or local dominance despite pending criminal charges.

The problem is further aggravated by opaque political funding, weak enforcement of electoral regulations, political interference in investigations, inadequate police independence, and limited accountability of political parties. While judicial interventions have enhanced transparency through mandatory disclosure of criminal antecedents, disclosure alone has not prevented candidates with criminal backgrounds from securing electoral victories.

Another dimension of the problem involves the growing nexus among politicians, criminals, bureaucrats, contractors, and business interests. Such alliances contribute to corruption, misuse of public resources, illegal campaign financing, electoral violence, and weakening of governance institutions.

The study therefore seeks to examine the causes, legal framework, judicial responses, electoral trends, institutional failures, and possible reforms necessary to reduce criminalization and strengthen democratic governance in India.

5 Literature review

The issue of criminalization of politics has attracted considerable attention from constitutional scholars, political scientists, economists, judicial bodies, law commissions, and civil society organizations. Existing literature broadly examines the causes, consequences, legal framework, judicial interventions, and electoral reforms relating to criminalization.

5.1 Vohra Committee Report (1993)

The Vohra Committee Report remains one of the earliest official documents examining the nexus between organized crime and politics. The Committee observed that criminal organizations had established extensive links with politicians, bureaucrats, police officials, and business groups. It warned that such networks had begun influencing governance and public administration, thereby threatening democratic institutions.

The report recommended improved intelligence coordination, stronger law enforcement mechanisms, and institutional reforms to combat organized criminal influence.

5.2 Law Commission of India

5.2.1 170th report (1999)

The Law Commission recommended:

- Disqualification of candidates after framing of charges for serious offences.
- Internal democracy within political parties.
- Transparent political funding.
- Greater accountability in candidate selection.

The Commission emphasized that electoral reforms were essential to preserve constitutional democracy.

5.2.2 244th report (2014)

The 244th Report revisited criminalization and recommended:

- Fast-track courts for criminal cases involving politicians.
- Disqualification after framing of charges in serious offences punishable with imprisonment of five years or more.
- Safeguards against politically motivated prosecutions.

The Commission acknowledged that balancing electoral integrity with the presumption of innocence remained a constitutional challenge.

5.3 National Commission to Review the Working of the Constitution (NCRWC)

The NCRWC observed that criminalization had significantly eroded democratic governance. It recommended:

- Electoral reforms.
- Judicial reforms.
- Stronger political accountability.
- Regulation of political funding.
- Independent investigative agencies.

5.4 Election Commission of India

The Election Commission has consistently advocated stronger legal reforms. It has recommended:

- Permanent disqualification of persons convicted for serious offences.
- Debarment of candidates after framing of charges in heinous crimes.
- Greater transparency in political financing.
- Mandatory disclosure of criminal antecedents.

However, several recommendations require legislative approval by Parliament.

5.5 Association for Democratic Reforms (ADR)

The Association for Democratic Reforms has produced the most comprehensive empirical studies on criminalization of politics in India. By analyzing candidate affidavits submitted to the Election Commission, ADR has documented the steady increase in legislators with criminal cases across successive elections.

Its reports demonstrate that candidates facing criminal charges frequently possess higher financial assets and enjoy greater electoral success compared to candidates without criminal backgrounds. ADR's work has substantially contributed to public awareness and judicial reforms.

5.6 Academic scholarship

Political scientist Christophe Jaffrelot argues that criminalization reflects broader structural changes in Indian democracy where money, caste mobilization, and patronage politics increasingly determine electoral outcomes.

Milan Vaishnav, in his influential work *When Crime Pays*, contends that criminal politicians often emerge because weak state institutions encourage voters to prefer powerful local actors capable of providing protection and resolving disputes. According to Vaishnav, criminality in politics is not merely the result of voter ignorance but also institutional failure.

Rajni Kothari observed that the decline of ideological politics and the rise of competitive electoral mobilization created conditions facilitating the entry of criminal elements into democratic institutions.

Scholars including Pratap Bhanu Mehta, Zoya Hasan, and Subhash Kashyap have similarly emphasized the relationship between criminalization, corruption, weak governance, and declining political ethics.

5.7 Judicial literature

The Supreme Court has significantly shaped electoral transparency through constitutional interpretation. Judicial decisions have expanded the scope of Article 19(1)(a) by recognizing the voters' right to know the criminal, educational, and financial background of electoral candidates.

However, the Court has repeatedly observed that comprehensive reforms ultimately require legislative action by Parliament.

6 Research gap

Existing literature has extensively examined individual aspects of criminalization, including electoral reforms, judicial interventions, criminal antecedents, and political corruption. However, several important gaps remain.

First, most studies focus either on legal analysis or empirical electoral data without integrating constitutional, political, administrative, and governance perspectives.

Second, comparatively fewer studies examine the relationship between criminalization and political horse trading, coalition instability, and misuse of constitutional institutions.

Third, limited research provides comprehensive state-wise and political party-wise comparative analysis covering recent Lok Sabha elections from 2014 onwards.

Fourth, the effectiveness of Election Commission initiatives, judicial interventions, and legislative reforms has not been comprehensively evaluated within a single framework.

Finally, many studies focus on descriptive analysis rather than proposing integrated institutional reforms combining electoral, judicial, police, financial, and political accountability mechanisms.

The present research seeks to address these gaps through a comprehensive interdisciplinary analysis.

7 Objectives of the study

The study seeks to achieve the following objectives:

1. To examine the concept and historical development of criminalization of politics in India.
2. To analyze constitutional and statutory provisions governing electoral disqualification.
3. To evaluate the causes responsible for increasing criminalization.
4. To study state-wise and political party-wise trends in criminal background of elected representatives.
5. To examine the role of political horse trading in strengthening criminalization.
6. To evaluate the effectiveness of the Election Commission of India.
7. To analyze landmark judicial decisions addressing criminalization.
8. To identify shortcomings in the existing legal framework.
9. To recommend comprehensive electoral and institutional reforms.

8 Research questions

The present study seeks to answer the following questions:

1. What constitutes criminalization of politics in India?
2. What historical developments contributed to its growth?
3. Why do political parties nominate candidates with criminal backgrounds?
4. Why do voters elect candidates facing serious criminal charges?
5. How effective are existing constitutional and statutory provisions?
6. Has the Election Commission adequately addressed criminalization?
7. What contribution has the judiciary made toward electoral transparency?
8. What relationship exists between criminalization and political horse trading?
9. What reforms are necessary to reduce criminalization while preserving democratic rights?

9 Research methodology

This research adopts a doctrinal and analytical methodology, supplemented by empirical electoral data.

9.1 Nature of study

The study is descriptive, analytical, and exploratory.

Sources of Data

9.2 Primary sources

- Constitution of India
- [Representation of the People Act, 1951](#)
- Supreme Court judgments
- High Court judgments
- Election Commission notifications

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- Parliamentary Committee Reports

9.3 Secondary sources

- Books
- Peer-reviewed journal articles
- Law Commission Reports
- Vohra Committee Report
- NCRWC Report
- Association for Democratic Reforms (ADR) reports
- Government publications
- Election Commission statistical reports
- Research papers
- Newspapers and official publications

9.4 Method of analysis

The study employs:

- Constitutional analysis
- Comparative legal analysis
- Statistical analysis
- Judicial analysis
- Policy analysis
- Comparative political analysis

9.5 Scope

The study focuses primarily on criminalization in Lok Sabha elections from 2014 to 2024, while also referring to important State Assembly trends where relevant.

10 Constitutional and legal framework governing criminalization of politics

The Indian Constitution does not expressly prohibit a person with pending criminal cases from contesting elections. Instead, it prescribes qualifications and disqualifications for membership of Parliament and State Legislatures while leaving detailed electoral regulation to Parliament through legislation.

10.1 Constitutional provisions

10.1.1 Article 324

Article 324 vests the Election Commission of India (ECI) with the superintendence, direction, and control of elections to Parliament, State Legislatures, and the offices of the President and Vice-President.

The Article empowers the Election Commission to:

- Conduct free and fair elections.
- Issue election notifications.

- Monitor election expenditure.
- Enforce the Model Code of Conduct.
- Ensure disclosure of candidates' criminal antecedents.
- Recommend electoral reforms to Parliament.

The Supreme Court has repeatedly interpreted Article 324 broadly to strengthen electoral integrity.

10.1.2 Article 102

Article 102 provides disqualifications for membership of Parliament.

A person shall be disqualified if he or she:

- Holds an office of profit.
- Is of unsound mind.
- Is an undischarged insolvent.
- Has voluntarily acquired foreign citizenship.
- Is disqualified under any law enacted by Parliament.

The [Representation of the People Act, 1951](#) (RPA) gives effect to this final ground.

10.1.3 Article 191

Article 191 contains similar disqualifications for membership of State Legislatures.

10.1.4 Articles 84 and 173

These Articles prescribe the qualifications for membership of Parliament and State Legislatures, including citizenship, age, and other statutory qualifications.

10.2 Representation of the People Act, 1951

The Representation of the People Act (RPA), 1951 is the principal legislation regulating elections.

10.2.1 Section 8 – disqualification upon conviction

Section 8 disqualifies persons convicted of specified offences.

Important features include:

- Conviction for certain electoral offences results in immediate disqualification.
- Persons sentenced to imprisonment of two years or more are generally disqualified.
- Disqualification continues for six years after release from imprisonment.

The Supreme Court in [Lily Thomas v. Union of India \(2013\)](#) held that disqualification takes effect immediately upon conviction and invalidated the earlier statutory protection that had allowed convicted legislators to continue in office while appealing their convictions.

10.2.2 Section 8A

Provides disqualification for corrupt electoral practices declared by competent courts.

10.2.3 Section 9

Disqualification for dismissal from government service on grounds of corruption or disloyalty.

10.2.4 Section 10

Disqualification relating to government contracts and offices connected with election management.

10.2.5 Section 10A

Disqualification for failure to submit election expenditure accounts.

10.3 The existing legal problem

A major weakness in the present legal framework is that:

- Mere registration of an FIR does not prevent a candidate from contesting elections.
- Filing of a charge sheet is insufficient.
- Even framing of charges by a criminal court does not result in disqualification.

Only conviction triggers statutory disqualification in most cases.

Since criminal trials frequently continue for many years, individuals facing serious charges often contest multiple elections before any final judgment.

This has become one of the principal reasons behind the continuing criminalization of politics.

11 Empirical analysis

11.1 Growth of criminalization in Lok Sabha elections

Successive elections demonstrate a steady increase in legislators with criminal cases (Table 1).

Table 1. Lok Sabha MPs with declared criminal cases, 2004–2024.

Lok Sabha election	MPs with criminal cases	Percentage
2004	128	24%
2009	162	30%
2014	186	34%
2019	233	43%
2024	251	46%

Source: Association for Democratic Reforms (ADR) and National Election Watch analyses of candidates' affidavits.

11.1.1 Interpretation

The above trend demonstrates:

- A continuous rise over two decades.
- Nearly one out of every two Members of Parliament elected in 2024 declared criminal cases.
- Serious criminal cases have also increased substantially.
- Disclosure requirements have improved transparency, but they have not, by themselves, reduced the nomination or election of such candidates.

11.2 Political party-wise analysis (Lok Sabha elections)

The trend is not confined to any single political party. ADR analyses indicate that candidates with criminal cases are fielded by almost all major national and regional parties, although the proportions vary across elections.

Illustrative observations are summarized in Table 2.

Table 2. Party-wise trends in elected MPs with declared criminal cases.

Political party	General trend
Bharatiya Janata Party (BJP)	Large number of winning MPs with declared criminal cases because of its large parliamentary strength.
Indian National Congress (INC)	Significant proportion of elected MPs have declared criminal cases.
Samajwadi Party (SP)	Higher percentage than many national parties in several election cycles.
Rashtriya Janata Dal (RJD)	Historically high proportion in multiple elections.
Janata Dal (United)	High percentage in the 2019 Lok Sabha according to ADR analyses.
Trinamool Congress (TMC)	A substantial proportion of winning MPs have declared criminal cases.
Dravida Munnetra Kazhagam (DMK)	A notable share of elected MPs have declared criminal cases.

The data indicate that criminalization is a systemic issue cutting across party lines rather than being confined to any one ideology.

11.3 Political party-wise statement of politicians with declared criminal background (Lok Sabha elections 2024)

The 2024 figures for the major parties are given in Table 3.

Table 3. Major political parties and MPs with declared criminal cases, Lok Sabha 2024.

Rank	Political party	Total MPs elected (analysed)	MPs with declared criminal cases	% with criminal cases	MPs with serious criminal cases	% with serious cases
1	Bharatiya Janata Party (BJP)	240	94	39%	63	26%
2	Indian National Congress (INC)	99	49	49%	32	32%
3	Samajwadi Party (SP)	37	21	57%	17	46%
4	All India Trinamool Congress (AITC/TMC)	29	13	45%	7	24%
5	Dravida Munnetra Kazhagam (DMK)	22	13	59%	6	27%
6	Telugu Desam Party (TDP)	16	8	50%	5	31%
7	Shiv Sena	7	5	71%	4	57%

Rank	Political party	Total MPs elected (analysed)	MPs with declared criminal cases	% with criminal cases	MPs with serious criminal cases	% with serious cases
8	Janata Dal (United) (JD(U))	Significant representation	High proportion reported in previous ADR analyses	—	—	—
9	YSR Congress Party (YSRCP)	Significant representation	Substantial proportion reported in previous analyses	—	—	—
10	Other Regional Parties & Independents	—	Several MPs with declared cases	—	—	—

Source: Association for Democratic Reforms (ADR), Analysis of Newly Elected Lok Sabha MPs 2024.

11.3.1 Party-wise analysis

11.3.1.1 Bharatiya Janata Party (BJP)

The BJP emerged as the single largest party in the 2024 Lok Sabha elections with 240 elected MPs. ADR analysis shows that:

- 94 BJP MPs (39%) declared criminal cases.
- 63 BJP MPs (26%) declared serious criminal cases. (ADR)

11.3.1.2 Analysis

Because the BJP has the largest parliamentary strength, it also has the highest absolute number of MPs with criminal cases. However, its percentage is lower than several smaller parties.

The presence of criminal cases among BJP MPs reflects the broader national pattern where all major political parties nominate candidates based on electoral considerations such as:

- local influence,
- financial strength,
- caste/community networks,
- organisational ability,
- perceived winnability.

11.3.1.3 Indian National Congress (INC)

The Congress won 99 Lok Sabha seats in 2024.

According to ADR:

- 49 Congress MPs (49%) declared criminal cases.
- 32 MPs (32%) declared serious criminal cases. (ADR)

11.3.1.4 Analysis

The Congress, like other major parties, has relied on candidates with strong local political influence. The data indicates that criminalization is not limited to ruling parties or a particular ideological group but is widespread across India's political spectrum.

11.3.1.5 Samajwadi Party (SP)

The Samajwadi Party won 37 seats.

ADR findings:

- 21 MPs (57%) declared criminal cases.
- 17 MPs (46%) declared serious criminal cases.

11.3.1.6 Analysis

The higher percentage reflects the party's strong regional presence in Uttar Pradesh, where electoral politics has historically been influenced by:

- caste-based mobilisation,
- local power structures,
- competitive electoral battles.

11.3.1.7 Trinamool Congress (TMC)

The Trinamool Congress won 29 seats.

ADR data:

- 13 MPs (45%) declared criminal cases.
- 7 MPs (24%) declared serious criminal cases.

11.3.1.8 Analysis

The party's representation demonstrates that criminalization affects regional parties as well as national parties. West Bengal's competitive political environment has contributed to the presence of candidates with criminal allegations.

11.3.1.9 Dravida Munnetra Kazhagam (DMK)

The DMK won 22 seats.

ADR analysis:

- 13 MPs (59%) declared criminal cases.
- 6 MPs (27%) declared serious criminal cases.

11.3.1.10 Analysis

Tamil Nadu has historically witnessed strong party organisation and competitive electoral politics. The presence of criminal cases among elected representatives reflects broader structural issues rather than a single party-specific phenomenon.

11.3.1.11 Telugu Desam Party (TDP)

The TDP won 16 seats.

ADR findings:

- 8 MPs (50%) declared criminal cases.
- 5 MPs (31%) declared serious criminal cases.

11.3.1.12 Analysis

Regional parties often depend heavily on influential local leaders who possess strong community networks and financial resources.

11.3.1.13 Shiv Sena

The Shiv Sena won 7 Lok Sabha seats.

ADR analysis:

- 5 MPs (71%) declared criminal cases.
- 4 MPs (57%) declared serious criminal cases.

11.3.1.14 Analysis

The high percentage must be interpreted carefully because the party's parliamentary strength is relatively small. Smaller sample sizes can produce higher percentages.

11.3.2 Comparative interpretation

Table 4 ranks the major parties by the percentage of their MPs with declared criminal cases.

Table 4. Highest percentage of MPs with criminal cases (major parties), Lok Sabha 2024.

Political party	Percentage
Shiv Sena	71%
DMK	59%
Samajwadi Party	57%
TDP	50%
Congress	49%
TMC	45%
BJP	39%

Source: ADR

11.3.3 Major findings from party-wise analysis

11.3.3.1 Criminalization is a cross-party phenomenon

The data demonstrates that criminalization is not restricted to:

- a particular political ideology,
- a single state,
- a single party.

Almost all major political parties have elected representatives who have declared criminal cases.

11.3.3.2 Regional parties show higher percentages

Several regional parties show higher percentages because:

- they operate in highly competitive regional political environments;
- local leaders often possess strong social networks;
- candidate selection frequently depends on electoral strength.

11.3.3.3 Winning ability influences candidate selection

Political parties often select candidates with criminal backgrounds because they are perceived as capable of winning elections.

ADR analysis found that candidates with declared criminal cases had a higher probability of winning elections compared with candidates without such cases. (ADR)

A significant number of MPs declared serious offences, including allegations relating to:

- murder,
- attempt to murder,
- kidnapping,
- crimes against women,
- corruption-related offences. (ADR)

11.3.3.4 Academic conclusion

The party-wise analysis confirms that criminalization of politics is a structural problem affecting India's entire electoral system. While parties differ in the proportion of representatives with criminal cases, no major political formation remains completely unaffected.

The persistence of such candidates indicates that electoral success, financial capability, social influence, and organisational strength often outweigh considerations of criminal background during candidate selection.

Therefore, reducing criminalization requires reforms that apply universally across political parties, including:

- transparent candidate selection,
- stronger political party accountability,
- speedy criminal trials,
- campaign finance reforms,
- enhanced voter awareness,
- effective implementation of Supreme Court directions.

11.4 State-wise pattern of criminalization

The distribution of elected representatives with criminal backgrounds varies across states.

Several large states—such as Uttar Pradesh, Bihar, Maharashtra, West Bengal, Andhra Pradesh, Telangana, Tamil Nadu, Karnataka, and Odisha—have repeatedly recorded relatively high numbers of legislators declaring criminal cases, largely because they return large legislative delegations and experience intense electoral competition. State-specific ADR reports provide detailed constituency-wise analyses for each election.

Factors influencing interstate variation include:

- Electoral competitiveness.
- Caste-based political mobilization.
- Influence of regional political parties.
- Localized criminal networks.

- Campaign financing patterns.
- Delays in criminal justice administration.
- Weak enforcement of electoral laws.

11.5 State-wise statement of elected Lok Sabha MPs with declared criminal cases (2024)

Table 5. State-wise elected Lok Sabha MPs with declared criminal cases, 2024.

State/UT	Total Lok Sabha MPs	MPs with declared criminal cases	Percentage
Kerala	20	19	95%
Telangana	17	14	82%
Uttar Pradesh	80	40	50%
Maharashtra	48	24	50%
Bihar	40	21	53%
West Bengal	42	22	52%
Tamil Nadu	39	20	51%
Andhra Pradesh	25	15	60%
Karnataka	28	11	39%
Odisha	21	8	38%
Madhya Pradesh	29	10	34%
Rajasthan	25	8	32%
Gujarat	26	8	31%
Chhattisgarh	11	4	36%
Jharkhand	14	6	43%
Haryana	10	4	40%
Punjab	13	3	23%
Assam	14	4	29%
Jammu & Kashmir	5	1	20%
Himachal Pradesh	4	1	25%
Uttarakhand	5	1	20%
Goa	2	1	50%
Delhi (NCT)	7	3	43%
Puducherry	1	1	100%
Chandigarh	1	0	0%
Other North-Eastern States (combined)	18	5	28%

Table 5 gives the state-wise figures. National total: 251 of 543 MPs (46%) declared criminal cases, including 170 MPs (31%) with serious criminal cases such as murder, attempt to murder, crimes against women, kidnapping, or corruption. (ADR)

11.5.1 Key observations

1. Kerala recorded the highest proportion, with 19 out of 20 MPs (95%) declaring criminal cases.
2. Telangana followed with 82% of its MPs declaring criminal cases.
3. Andhra Pradesh also had a high proportion, at 60%.
4. The five largest states by Lok Sabha representation—Uttar Pradesh, Maharashtra, Bihar, West Bengal, and Tamil Nadu—each had more than half (or about half) of their MPs declaring criminal cases, contributing substantially to the national total. (ADR)
5. The issue cuts across regions and political parties, indicating that criminalization is a systemic challenge rather than one confined to any particular state or ideology.

11.5.2 Serious criminal cases

Of the 251 MPs with declared criminal cases:

- 170 MPs declared serious criminal cases.
- These included allegations relating to:
 - Murder
 - Attempt to murder
 - Kidnapping
 - Crimes against women
 - Corruption
 - Hate speech
- Other serious offences under the Indian Penal Code and special laws. (ADR)

11.5.3 Academic analysis

The state-wise pattern suggests that the criminalization of politics is influenced by multiple structural factors, including:

- Intense electoral competition.
- High campaign expenditure.
- Identity-based political mobilization.
- Delays in the criminal justice system.
- Weak internal democracy within political parties.
- The perceived electoral "winnability" of candidates with strong local influence.

11.6 Why political parties nominate candidates with criminal backgrounds

Despite growing public concern, political parties continue to nominate such candidates because they are often viewed as electorally advantageous.

11.6.1 Financial capacity

Election campaigns require substantial financial resources.

Candidates with significant personal wealth or access to illicit funding reduce the financial burden on political parties.

11.6.2 Electoral "winnability"

Candidate selection frequently prioritizes the probability of winning rather than integrity.

Many parties believe that influential local leaders with criminal backgrounds command:

- loyal supporters,
- caste-based networks,
- economic influence,
- organizational capacity.

11.6.3 Muscle power

In certain regions, candidates possessing coercive influence are perceived as capable of:

- mobilizing supporters,
- preventing defections,
- resisting rival political groups,
- influencing local electoral dynamics.

11.6.4 Weak internal democracy

Candidate selection remains highly centralized within many political parties.

Internal elections are rare.

Merit-based selection receives comparatively less emphasis than political influence.

11.6.5 Delayed judicial process

Since conviction often takes many years:

- political parties face little immediate legal risk in nominating accused candidates;
- candidates remain eligible throughout prolonged trials unless convicted.

11.7 Why do voters elect candidates facing criminal charges

Contrary to popular assumptions, electoral support for such candidates reflects a complex interaction of social, economic, and institutional factors.

Major explanations include:

11.7.1 Identity politics

Voters frequently prioritize:

- caste,
- religion,
- ethnicity,
- regional identity.

11.7.2 Patronage politics

Many candidates provide:

- financial assistance,
- local dispute resolution,
- employment,
- welfare benefits.

11.7.3 Weak state institutions

Where administrative institutions function poorly, influential local leaders may be perceived as more effective than formal government mechanisms.

11.7.4 Limited political alternatives

Political parties often nominate candidates with similar backgrounds, leaving voters with few "clean" options.

11.7.5 Perception of strong leadership

In some constituencies, voters associate assertive or controversial leaders with the ability to secure development projects or maintain local order.

11.8 Relationship between money power and criminalization

Empirical studies have repeatedly found a correlation between wealth and electoral success. ADR analyses have shown that candidates with greater declared assets generally enjoy significantly higher winning rates than candidates with modest assets.

The relationship develops through several mechanisms:

- expensive election campaigns;
- political donations;
- patronage networks;
- control over local organizations;
- media visibility;
- ability to mobilize campaign workers.

Consequently, criminalization and excessive monetization of politics often reinforce one another, creating barriers to the participation of honest but less affluent candidates.

ADR studies consistently show a correlation between declared wealth and electoral success.

In the 2024 Lok Sabha elections:

- 93% of winning MPs were crorepatis.
- Candidates with higher declared assets had a substantially greater probability of winning than candidates with lower assets.

This relationship suggests that wealth and criminalization can reinforce each other through expensive election campaigns, patronage networks, and unequal access to political opportunities.

11.9 Critical evaluation

The available empirical evidence indicates that criminalization has evolved from isolated instances to a structural feature of India's electoral politics. While disclosure requirements have improved transparency, they have not significantly altered party behaviour or voter outcomes.

Three broad conclusions emerge:

1. Disclosure alone is insufficient. Although voters have greater access to information about candidates' criminal records, parties continue to nominate such candidates, and many continue to win elections.

2. Institutional delays remain a central concern. The slow pace of criminal trials enables accused candidates to contest multiple elections before their cases are resolved.
3. Comprehensive reform requires coordinated action. Legislative amendments, judicial efficiency, transparent political funding, stronger internal democracy within parties, and sustained voter awareness are all necessary to reduce the criminalization of politics.

12 Criminalization of politics and horse trading in India

12.1 Meaning of horse trading

Horse trading in politics refers to the unethical or illegal practice of inducing elected representatives to change their political allegiance or voting preference through monetary payments, ministerial positions, political patronage, or other personal benefits. It commonly occurs during government formation, confidence motions, Rajya Sabha elections, and legislative council elections.

Although the Constitution does not use the expression "horse trading," the term has become synonymous with political corruption and the manipulation of legislative majorities.

Horse trading undermines representative democracy because legislators who are elected on the mandate of one political party or alliance may subsequently change their allegiance for personal gain rather than public interest.

12.2 Criminalization and horse trading

The criminalization of politics has intensified the practice of horse trading in several ways:

12.2.1 Use of illicit money

Candidates and political intermediaries with access to unaccounted funds are often better positioned to influence legislators through financial inducements.

12.2.2 Organized criminal networks

Criminal syndicates may support political negotiations by providing financial resources or exerting pressure on legislators.

12.2.3 Weak political ethics

When parties prioritize political power over democratic principles, criminal elements can become influential participants in coalition negotiations and government formation.

12.2.4 Misuse of investigative agencies

There have been allegations in several political controversies that criminal investigations, tax inquiries, or anti-corruption proceedings have been selectively used to influence legislators' political decisions. Such allegations highlight concerns about institutional independence and accountability, although each instance depends on its specific facts and evidence.

12.3 Anti-defection law and its limitations

The Tenth Schedule to the Constitution, inserted by the Fifty-second Constitutional Amendment Act, 1985, was intended to curb political defections.

12.3.1 Grounds for disqualification

A legislator may be disqualified if he or she:

- Voluntarily gives up membership of the political party.
- Votes contrary to the party whip without prior permission.
- Joins another political party after election (subject to constitutional provisions).

12.3.2 Limitations

Despite its objectives, the anti-defection law has several shortcomings:

- Delays in decisions by the Speaker or Chairman.
- Judicial challenges that prolong uncertainty.
- Strategic resignations followed by re-election.
- Collective defections and political realignments that test the limits of the law.

These issues have led to repeated calls for reforms to ensure timely and impartial adjudication.

13 Election Commission of India: role in preventing criminalization

The Election Commission of India (ECI), established under Article 324 of the Constitution, is responsible for ensuring free and fair elections.

Its responsibilities include:

- Conducting elections.
- Preparing electoral rolls.
- Monitoring election expenditure.
- Supervising political parties.
- Enforcing the Model Code of Conduct.
- Requiring candidates to disclose criminal antecedents, assets, liabilities, and educational qualifications.

The ECI has consistently advocated reforms to reduce the criminalization of politics.

13.1 Measures taken by the Election Commission

13.1.1 Mandatory affidavits

Candidates must file affidavits disclosing:

- Pending criminal cases.
- Convictions, if any.
- Financial assets.
- Liabilities.
- Educational qualifications.

This requirement followed Supreme Court directions and has significantly improved voter access to information.

13.1.2 Public disclosure

Candidates' affidavits are published on the Election Commission's website, allowing voters, civil society organizations, and researchers to examine candidates' backgrounds.

13.1.3 Directions to political parties

Following judicial directions, political parties are required to:

- Publicize the criminal antecedents of candidates.
- Explain why such candidates were selected.
- State why candidates without criminal backgrounds were not chosen.
- Publish this information on their websites and social media platforms.

13.1.4 Monitoring election expenditure

The Election Commission monitors campaign expenditure and appoints expenditure observers to detect violations of spending limits. However, concerns remain regarding indirect spending and unaccounted campaign finance.

13.2 Limitations of the Election Commission

Despite these initiatives, the Election Commission faces structural and legal constraints.

13.2.1 Limited statutory powers

The ECI cannot disqualify candidates merely because criminal cases are pending against them. Its authority is governed by the Constitution and statutes enacted by Parliament.

13.2.2 Dependence on legislative reform

Many recommendations of the ECI—such as disqualification upon framing of charges for serious offences—require legislative action by Parliament.

13.2.3 Enforcement challenges

Monitoring campaign expenditure, paid news, and indirect financial support remains difficult due to the scale and complexity of election campaigns.

13.2.4 Delayed criminal justice

The Commission has no authority over criminal investigations or trial timelines, which significantly affect the practical impact of electoral disqualification rules.

14 Committee reports and reform initiatives

14.1 Vohra Committee Report (1993)

The Vohra Committee was constituted by the Government of India to examine the nexus between organized crime and politics.

14.1.1 Major observations

The Committee found that:

- Criminal syndicates had established links with politicians, bureaucrats, police officials, and business groups.

-
- These networks were influencing public administration and governance.
 - Organized crime posed a serious threat to democratic institutions and the rule of law.

14.1.2 Recommendations

The Committee suggested:

- Better coordination among intelligence and law enforcement agencies.
- Stronger mechanisms to combat organized crime.
- Enhanced information-sharing among enforcement institutions.

The report remains a foundational document in discussions on criminalization of politics.

14.2 Law Commission of India – 170th report (1999)

The Law Commission examined electoral reforms and made several recommendations:

- Disqualify candidates after framing of charges in serious offences by a competent court, subject to safeguards.
- Promote internal democracy within political parties.
- Increase transparency in political funding.
- Strengthen electoral accountability.

The report emphasized that unchecked criminalization could erode constitutional democracy.

14.3 Law Commission of India – 244th report (2014)

The 244th Report focused specifically on electoral disqualifications.

14.3.1 Key recommendations

- Fast-track courts for cases involving elected representatives.
- Disqualification after framing of charges for offences punishable with imprisonment of five years or more, where charges have been framed sufficiently before the election.
- Safeguards against frivolous or politically motivated prosecutions.
- Time-bound disposal of criminal cases involving legislators.

The Commission sought to balance electoral integrity with the constitutional principle of presumption of innocence.

14.4 National Commission to Review the Working of the Constitution (NCRWC)

The NCRWC examined institutional reforms necessary for strengthening constitutional governance.

It recommended:

- Greater transparency in elections.
- Stronger regulation of political finance.
- Judicial reforms to reduce delays.
- Internal democracy within political parties.
- Enhanced accountability of public representatives.

14.5 Second Administrative Reforms Commission (ARC)

The Second ARC identified criminalization and corruption as interconnected challenges.

Its recommendations included:

- Strengthening ethics in public life.
- Improving police independence.
- Enhancing institutional accountability.
- Expediting trials involving public officials.
- Reforming campaign finance.

14.6 Civil society initiatives

Several civil society organizations have contributed significantly to electoral transparency.

14.6.1 Association for Democratic Reforms (ADR)

ADR has:

- Analyzed election affidavits.
- Published reports on criminal antecedents and financial assets.
- Supported strategic litigation that led to landmark judicial decisions.
- Increased voter awareness through accessible data.

14.6.2 National Election Watch (NEW)

Working with ADR and partner organizations, National Election Watch monitors candidate disclosures, electoral practices, and political accountability across states.

14.6.3 Media and academic institutions

Investigative journalism, universities, and policy research institutions have also played a role by examining electoral trends, campaign finance, and legislative accountability.

14.7 Critical evaluation

Despite constitutional safeguards, judicial interventions, and institutional initiatives, criminalization remains deeply embedded in India's electoral politics. Several structural reasons explain this persistence:

- Slow criminal justice processes.
- High election costs.
- Weak regulation of political finance.
- Strategic candidate selection based on "winnability."
- Inadequate internal democracy within political parties.
- Voter reliance on identity-based or patronage politics.
- Limited statutory powers of the Election Commission.

The combined effect is that transparency has improved, but deterrence remains limited. Disclosure of criminal antecedents allows voters to make informed choices, yet it has not substantially reduced the number of candidates with criminal backgrounds entering legislatures.

15 Judicial response to criminalization of politics

The judiciary, particularly the Supreme Court of India, has played a transformative role in promoting electoral transparency and accountability. Although the Constitution does not explicitly prohibit persons with pending criminal cases from contesting elections, the Court has interpreted constitutional principles—especially Articles 19(1)(a), 324, 102, and 191—to enhance voters' right to know and strengthen free and fair elections.

The Court has consistently emphasized that while it can interpret the Constitution and existing laws, comprehensive reforms regarding the disqualification of candidates with pending criminal cases require legislative action by Parliament.

15.1 Union of India v. Association for Democratic Reforms (2002) 5 SCC 294

15.1.1 Facts

The Association for Democratic Reforms (ADR), a civil society organization, filed a Public Interest Litigation seeking mandatory disclosure of the criminal antecedents, educational qualifications, and financial assets of electoral candidates.

The Union Government argued that no such statutory requirement existed under the [Representation of the People Act, 1951](#).

15.1.2 Issues

Whether voters possess a constitutional right to know the criminal, educational, and financial background of electoral candidates.

15.1.3 Judgment

The Supreme Court held that the right to know the background of electoral candidates forms part of the freedom of speech and expression guaranteed under Article 19(1)(a).

The Court directed the Election Commission of India to require every candidate to disclose:

- Criminal antecedents.
- Pending criminal cases.
- Convictions.
- Educational qualifications.
- Assets.
- Liabilities.

15.1.4 Significance

This judgment fundamentally transformed electoral transparency in India.

For the first time:

- Candidate affidavits became compulsory.
- Voters acquired meaningful information before voting.
- Civil society organizations gained access to reliable electoral data.

The decision laid the constitutional foundation for subsequent electoral reforms.

15.2 People's Union for Civil Liberties (PUCL) v. Union of India (2003) 4 SCC 399

15.2.1 Background

Following the ADR judgment, Parliament enacted amendments that limited the scope of disclosures required from candidates.

PUCL challenged these amendments.

15.2.2 Judgment

The Supreme Court reaffirmed that:

The voter's right to know is a fundamental right protected under Article 19(1)(a).

The Court invalidated statutory provisions that curtailed meaningful disclosure.

15.2.3 Importance

The judgment ensured that Parliament could not substantially dilute the constitutional right of voters to receive information about electoral candidates.

It strengthened democratic participation by recognizing informed voting as an essential element of representative democracy.

15.3 Lily Thomas v. Union of India (2013) 7 SCC 653

15.3.1 Background

Before this judgment, Section 8(4) of the Representation of the People Act permitted sitting MPs and MLAs convicted of specified offences to continue as legislators if they filed appeals within three months.

This provision effectively postponed disqualification.

15.3.2 Issue

Whether Section 8(4) violated Articles 102 and 191 of the Constitution.

15.3.3 Judgment

The Supreme Court struck down Section 8(4).

The Court held that:

- Convicted legislators become immediately disqualified upon conviction if the statutory conditions are met.
- Parliament cannot create a special exemption for sitting legislators.

15.3.4 Constitutional reasoning

The Court observed that:

- Articles 102 and 191 make no distinction between ordinary candidates and sitting legislators.
- Equality before law requires identical treatment.

15.3.5 Impact

This judgment significantly strengthened accountability by ensuring that convicted legislators could no longer retain office merely by filing appeals.

It remains one of the most influential electoral reform decisions.

15.4 Public Interest Foundation v. Union of India (2018) 14 SCC 809

15.4.1 Background

Public interest petitioners requested the Supreme Court to direct immediate disqualification of candidates facing serious criminal charges.

15.4.2 Issues

Whether the Supreme Court could disqualify candidates merely because criminal charges had been framed.

15.4.3 Judgment

The Court declined to create a new ground of disqualification.

It held that:

Only Parliament possesses legislative authority to prescribe additional electoral disqualifications.

However, the Court expressed serious concern regarding increasing criminalization.

15.4.4 Directions issued

The Court directed:

Political parties must:

- Publish criminal antecedents of candidates.
- Explain why such candidates were selected.
- Publish reasons on websites.
- Publish information through newspapers.
- Disseminate details through social media.

Candidates must also widely publicize their criminal cases.

15.4.5 Importance

Although the Court refrained from judicial legislation, it significantly increased public transparency and political accountability.

15.5 Rambabu Singh Thakur v. Sunil Arora (2020)

15.5.1 Background

Petitioners argued that political parties were not fully complying with the Public Interest Foundation judgment.

15.5.2 Supreme Court directions

The Court strengthened enforcement by directing political parties to:

- Upload criminal records within prescribed timelines.
- Provide objective reasons for candidate selection.
- Explain why candidates without criminal backgrounds were not chosen.

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- Submit compliance reports to the Election Commission.

Failure to comply could invite contempt proceedings.

15.5.3 Importance

This decision enhanced implementation of earlier judicial directions.

15.6 K. Prabhakaran v. P. Jayarajan (2005) 1 SCC 754

15.6.1 Principle established

The Court emphasized that:

Electoral disqualifications must preserve the purity of elections while respecting constitutional rights.

The judgment reinforced the objective of maintaining public confidence in democratic institutions.

15.7 Manoj Narula v. Union of India (2014) 9 SCC 1

15.7.1 Background

The petition challenged the appointment of Ministers having criminal cases.

15.7.2 Judgment

The Supreme Court held:

The Prime Minister and Chief Ministers possess constitutional discretion in appointing ministers.

However,

Constitutional morality requires them to avoid appointing persons facing serious criminal charges whenever possible.

The Court observed:

Good governance requires constitutional functionaries to maintain high ethical standards.

Although no binding prohibition was imposed, the judgment emphasized constitutional ethics.

15.8 Other significant judicial developments

Several High Courts have emphasized:

- Speedy disposal of criminal cases involving legislators.
- Fair investigation.
- Protection of electoral integrity.
- Transparency in public life.

The Supreme Court has also repeatedly directed the establishment of special courts to expedite criminal trials involving Members of Parliament and Members of Legislative Assemblies.

15.9 Important judicial principles emerging from the case law

Collectively, the Supreme Court's decisions establish several constitutional principles:

15.9.1 Right to know

The electorate possesses a constitutional right to know:

- Criminal background.
- Assets.
- Liabilities.
- Educational qualifications.

This right flows from Article 19(1)(a).

15.9.2 Free and fair elections

Free and fair elections form part of the Constitution's basic structure.

Transparency strengthens electoral democracy.

15.9.3 Equality before law

Legislators enjoy no special immunity regarding electoral disqualification.

15.9.4 Constitutional morality

Public office demands ethical standards beyond mere legal compliance.

Political leadership must uphold constitutional values.

15.9.5 Separation of powers

The judiciary cannot create new grounds of electoral disqualification.

Only Parliament possesses legislative competence.

15.10 Judicial activism versus legislative inaction

One of the recurring themes in criminalization jurisprudence is the contrast between judicial activism and legislative inaction.

The Supreme Court has repeatedly:

- expanded disclosure requirements;
- protected voters' right to information;
- strengthened transparency;
- interpreted constitutional provisions progressively.

However, the Court has consistently refrained from introducing new statutory disqualifications, recognizing that such measures fall within Parliament's legislative domain.

Despite repeated recommendations from:

- the Election Commission of India,
- the Law Commission,
- the Vohra Committee,
- the National Commission to Review the Working of the Constitution,

Parliament has not enacted legislation disqualifying candidates solely on the basis of framed charges for serious offences. The reasons include concerns about the presumption of innocence, the

possibility of politically motivated prosecutions, and the need to preserve the democratic right to contest elections.

15.11 Critical analysis

The Supreme Court's jurisprudence has undeniably enhanced electoral transparency. Mandatory disclosure of criminal antecedents has enabled voters, researchers, and civil society organizations to scrutinize candidates more effectively.

Nevertheless, disclosure alone has not significantly reduced the number of elected representatives with criminal cases. Several factors explain this limitation:

- Voters may prioritize caste, community, ideology, or local influence over a candidate's criminal record.
- Political parties continue to nominate candidates with criminal backgrounds because they are perceived as electorally successful.
- Delays in criminal investigations and trials allow accused candidates to contest multiple elections before a final verdict.
- The Election Commission lacks statutory authority to disqualify candidates with pending criminal cases.

These realities suggest that judicial intervention, while valuable, cannot by itself eliminate the criminalization of politics. Sustainable reform requires coordinated legislative, administrative, and political action.

16 Findings of the study

Based on the constitutional analysis, statutory framework, judicial pronouncements, committee reports, and empirical studies, the following major findings emerge:

16.1 Criminalization has become institutionalized

The study reveals that criminalization is no longer an isolated phenomenon but has become institutionalized within India's electoral system. Candidates with criminal antecedents are regularly nominated by political parties across ideological lines and continue to secure electoral victories.

16.2 Increasing trend of criminal background among legislators

Electoral data demonstrate a consistent increase in the number of elected representatives declaring criminal cases over successive Lok Sabha elections. The persistence of this trend indicates that transparency measures alone have not been sufficient to deter political parties from nominating such candidates or voters from electing them.

16.3 Delay in criminal justice system

One of the principal reasons for criminalization is the prolonged pendency of criminal trials. Since disqualification under the Representation of the People Act generally follows conviction, accused persons may continue to contest multiple elections while criminal proceedings remain unresolved.

16.4 Political parties prioritize winnability

Candidate selection is primarily influenced by perceived electoral success rather than ethical considerations. Financial resources, social influence, and organizational strength often outweigh integrity during ticket distribution.

16.5 Money power and criminalization are closely linked

The study establishes a strong relationship between excessive election expenditure and criminalization. Candidates possessing substantial financial resources are better positioned to finance campaigns, mobilize supporters, and secure nominations.

16.6 Weak internal democracy within political parties

Most political parties lack transparent mechanisms for selecting candidates. Decision-making is concentrated in party leadership, reducing accountability and encouraging the nomination of influential candidates irrespective of their criminal backgrounds.

16.7 Judicial reforms have improved transparency

The Supreme Court has significantly strengthened electoral transparency through mandatory disclosure of criminal antecedents, assets, liabilities, and educational qualifications. However, judicial intervention cannot substitute comprehensive legislative reform.

16.8 Election Commission faces structural constraints

The Election Commission has introduced several transparency measures but lacks statutory authority to disqualify candidates merely because criminal cases are pending against them.

16.9 Criminalization weakens democratic governance

The presence of legislators facing serious criminal allegations undermines public confidence in democratic institutions, weakens legislative ethics, encourages corruption, and adversely affects governance.

16.10 Legislative reform remains incomplete

Despite repeated recommendations from expert committees, constitutional commissions, the Election Commission, and the Supreme Court, Parliament has not enacted comprehensive legislation addressing criminalization while balancing the presumption of innocence and protection against politically motivated prosecutions.

17 Suggestions and recommendations

The criminalization of politics is a multidimensional problem requiring constitutional, legislative, judicial, administrative, political, and societal reforms. The following recommendations are proposed:

17.1 Fast-track courts for politicians

Special fast-track courts should decide criminal cases involving Members of Parliament (MPs), Members of Legislative Assemblies (MLAs), and electoral candidates within a fixed timeframe, ideally one year, while ensuring due process.

17.2 Legislative reform on disqualification

Parliament may consider amending the [Representation of the People Act, 1951](#) to provide for disqualification in carefully defined circumstances after charges are framed by a competent court for grave offences, subject to safeguards such as:

- offences punishable with imprisonment of five years or more,
- charges framed well before the election to reduce the risk of last-minute political misuse,
- judicial oversight to protect against frivolous or politically motivated cases.

17.3 Strengthening the Election Commission

The Election Commission should be provided with:

- Greater financial autonomy.
- Independent appointment mechanisms consistent with constitutional requirements.
- Enhanced investigative powers within its statutory mandate.
- Stronger enforcement mechanisms for disclosure and campaign finance rules.

17.4 Transparent political funding

Political funding should be made more transparent through:

- Comprehensive disclosure of donations.
- Stronger auditing of party accounts.
- Effective regulation of campaign expenditure.
- Robust enforcement against illicit funding.

17.5 Internal democracy in political parties

Political parties should be encouraged, and where appropriate required by law, to:

- Conduct regular internal elections.
- Adopt transparent procedures for candidate selection.
- Publish objective criteria for awarding party tickets.

17.6 Police reforms

Police investigations should be insulated from improper political interference through:

- Merit-based appointments.
- Fixed tenures for key officers where provided by law.
- Professional investigation standards.
- Improved witness protection mechanisms.

17.7 Judicial reforms

The judiciary should:

- Increase the number of judges.
- Strengthen digital case management.
- Prioritize long-pending criminal cases involving public representatives.

-
- Reduce procedural delays while preserving fairness.

17.8 Electoral finance reform

Measures may include:

- Greater transparency in campaign expenditure.
- Effective monitoring of third-party spending.
- Timely disclosure of political contributions.
- Strong penalties for financial violations.

17.9 Civic and voter education

Government agencies, educational institutions, civil society organizations, and the media should promote informed voting by:

- Raising awareness about candidate disclosures.
- Encouraging issue-based voting.
- Strengthening civic education on constitutional values.

17.10 Technology-based electoral monitoring

The Election Commission may expand the use of digital technologies for:

- Real-time expenditure monitoring.
- Online disclosure of candidate information.
- Public access to affidavits.
- Complaint tracking and transparency.

17.11 Ethical standards for public office

Political parties should adopt enforceable codes of ethics discouraging the nomination of candidates facing serious criminal charges and promoting integrity in public life.

17.12 Strengthening witness protection

Effective witness protection programmes are essential to ensure that influential accused persons cannot undermine criminal trials through intimidation or coercion.

17.13 Coordination among institutions

Closer coordination among the Election Commission, judiciary, law enforcement agencies, anti-corruption bodies, and legislatures is necessary to ensure a coherent response to criminalization.

18 Conclusion

India's constitutional democracy is founded on the ideals of justice, equality, liberty, and the rule of law. The increasing criminalization of politics poses a serious challenge to these constitutional values by allowing individuals facing serious criminal allegations to participate in law-making and governance.

The study demonstrates that criminalization is sustained by a combination of delayed criminal trials, high election costs, opaque political funding, weak internal democracy within political parties, and institutional limitations. Judicial interventions have substantially improved transparency by recognizing the electorate's right to know and strengthening disclosure requirements. Nevertheless, transparency alone has not significantly reduced the electoral success of candidates with criminal backgrounds.

The persistence of this problem underscores the need for a balanced reform strategy. Any legislative response must respect the constitutional presumption of innocence while also protecting electoral integrity. Reforms should therefore combine timely criminal adjudication, transparent political funding, stronger institutional capacity, internal party democracy, effective enforcement of electoral laws, and greater civic awareness.

Ultimately, reducing the criminalization of politics is not solely the responsibility of the judiciary, the Election Commission, or Parliament. It also depends on the conduct of political parties, the effectiveness of law enforcement, the efficiency of the justice system, and the choices made by voters. A comprehensive and coordinated approach is essential to preserve public confidence in democratic institutions and to ensure that governance remains faithful to the constitutional vision of ethical, accountable, and representative government.

The criminalization of politics is a complex issue involving constitutional law, criminal justice, electoral administration, political finance, governance, and public ethics. Addressing it requires sustained interdisciplinary research and evidence-based policy reforms. Future studies that combine legal analysis with empirical methods, comparative perspectives, and technological innovations can contribute significantly to strengthening democratic institutions and promoting accountable governance in India.

19 Limitations of the study

Like any empirical and doctrinal research, the present study is subject to certain limitations that should be acknowledged.

19.1 Dependence on secondary data

The study is primarily based on secondary sources, including reports of the Association for Democratic Reforms (ADR), the Election Commission of India (ECI), the Law Commission of India, parliamentary committee reports, judicial decisions, books, journal articles, and government publications. No primary field survey or interviews with political leaders, election officials, or voters were conducted.

19.2 Reliance on self-declared affidavits

The statistical analysis relating to politicians with criminal backgrounds is based on affidavits filed by candidates before the Election Commission. These affidavits contain information declared by the candidates themselves. While filing false information may have legal consequences, the study relies on officially disclosed data and does not independently verify the factual correctness of every declaration.

19.3 Distinction between pending cases and convictions

The research focuses largely on politicians who have declared criminal cases, many of which are pending before courts. Under Indian law, an accused person is presumed innocent until proven guilty. Therefore, the existence of a criminal case should not be equated with a criminal conviction, and this distinction must be maintained while interpreting the findings.

19.4 Time-bound nature of electoral data

Electoral statistics change after every general and state election. The data used in this study reflects the information available up to the 2024 Lok Sabha Elections. Future elections, judicial decisions, and legislative reforms may significantly alter the trends discussed in this research.

19.5 Limited coverage of state legislatures

Although the study discusses criminalization in both Parliament and State Legislatures, the detailed statistical analysis primarily focuses on Lok Sabha elections. A comprehensive examination of all State Legislative Assemblies was beyond the scope of the present research.

19.6 Limited comparative international analysis

The study primarily examines the Indian legal and political framework. Comparative analysis with other democracies such as the United Kingdom, the United States, Canada, Australia, Germany, Brazil, or South Africa has not been undertaken in detail.

19.7 Changing judicial and legislative framework

The legal framework governing elections is dynamic. Amendments to the Representation of the People Act, new judicial pronouncements, or changes in Election Commission regulations may affect the relevance of some observations over time.

19.8 Limited examination of voter behaviour

The study identifies factors influencing voter preference but does not include empirical behavioural research, opinion surveys, or statistical modelling to explain why voters elect candidates with criminal backgrounds.

19.9 Political and regional variations

The causes of criminalization vary across different states, political parties, and socio-economic contexts. A single study cannot fully capture the diversity of regional political dynamics existing throughout India.

19.10 Limited analysis of campaign finance

Although political funding has been identified as a major factor contributing to criminalization, the study does not provide a comprehensive financial analysis of election expenditure, corporate donations, or campaign financing mechanisms due to limitations in publicly available data.

20 Scope for future research

The criminalization of politics remains a rapidly evolving area of constitutional law, electoral governance, and political science. Future research may explore several important dimensions that extend beyond the scope of the present study.

20.1 Comparative international research

Future studies may compare India's experience with criminalization of politics with other democratic countries to identify best practices in candidate disqualification, campaign finance regulation, and electoral integrity.

20.2 State-wise comparative studies

Detailed state-level studies may examine why some states have consistently higher proportions of politicians with criminal backgrounds than others, considering regional political culture, governance, and socio-economic conditions.

20.3 Political party candidate selection

Further research may investigate internal decision-making processes within political parties, including the criteria used for selecting candidates and the role of internal democracy in reducing criminalization.

20.4 Electoral finance and criminalization

A comprehensive study may examine the relationship between campaign finance, political donations, illicit funding, and the nomination of candidates with criminal backgrounds.

20.5 Judicial efficiency

Future research may evaluate the effectiveness of fast-track courts, special courts for MPs and MLAs, and judicial reforms aimed at expediting criminal trials involving elected representatives.

20.6 Voter behaviour and electoral choice

Empirical studies involving surveys, interviews, and statistical analysis may help explain why voters continue to support candidates facing criminal charges despite increasing public awareness.

20.7 Social media and electoral transparency

Future research may assess the impact of digital platforms, artificial intelligence, online misinformation, and social media campaigns on voter awareness regarding candidates' criminal antecedents.

20.8 Women in politics and criminalization

Research may examine whether women candidates face similar patterns of criminal allegations, the nature of such cases, and whether gender influences electoral outcomes.

20.9 Criminalization in local self-government

Future studies may extend the analysis to Panchayati Raj Institutions, Municipal Corporations, and Urban Local Bodies to determine whether criminalization follows similar trends at the grassroots level.

20.10 Impact of electoral reforms

As new reforms are introduced, researchers should evaluate their effectiveness in reducing criminalization, strengthening transparency, and improving public confidence in democratic institutions.

20.11 Role of independent institutions

Further research may examine the functioning of the Election Commission of India, law enforcement agencies, anti-corruption institutions, and the judiciary in addressing criminalization while maintaining institutional independence.

20.12 Technology and election monitoring

Future studies may explore the use of blockchain, artificial intelligence, data analytics, and digital monitoring systems to improve election transparency, campaign finance oversight, and public access to candidate information.

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