

CRIME AND POLITICS: ON POLITICAL CANDIDATES WITH CRIMINAL RECORDS

Relevant for: Indian Polity | Topic: Elections, Election Commission and the Electoral Reforms in India Incl. Political Parties

The Supreme Court has taken a timely decision by agreeing to hear a [plea from the Election Commission of India](#) (ECI) to direct political parties to not field candidates with criminal antecedents. The immediate provocation is the finding that 46% of Members of Parliament have criminal records. While the number might be inflated as many politicians tend to be charged with relatively minor offences —“unlawful assembly” and “defamation” — the real worry is that the current cohort of Lok Sabha MPs has the highest (29%) proportion of those with serious declared [criminal cases](#) compared to its recent predecessors. Researchers have found that such candidates with serious records seem to do well despite their public image, largely due to their ability to finance their own elections and bring substantive resources to their respective parties. Some voters tend to view such candidates through a narrow prism: of being able to represent their interests by hook or by crook. Others do not seek to punish these candidates in instances where they are in contest with other candidates with similar records. Either way, these unhealthy tendencies in the democratic system reflect a poor image of the nature of India’s state institutions and the quality of its elected representatives.

The Supreme Court has come up with a series of landmark judgments on addressing this issue. It removed the statutory protection of convicted legislators from immediate disqualification in 2013, and in 2014, directed the completion of trials involving elected representatives within a year. In 2017, it asked the Centre to frame a scheme to appoint special courts to exclusively try cases against politicians, and for political parties to publicise pending criminal cases faced by their candidates in 2018. But these have not been a deterrent to legislators with dubious credentials. Perhaps what would do the trick is a rule that disallows candidates against whom charges have been framed in court for serious offences, but this is [something for Parliament to consider](#) as an amendment to the Representation of the People Act, 1951. This denouement, however, is still a pie in the sky given the composition of the Lower House with a number of representatives facing serious cases. Ultimately, this is a consequence of a structural problem in Indian democracy and the nature of the Indian state. While formally, the institutions of the state are present and subject to the electoral will of the people, substantively, they are still relatively weak and lackadaisical in governance and delivery of public goods, which has allowed cynical voters to elect candidates despite their dubious credentials and for their ability to work on a patronage system. While judicial pronouncements on making it difficult for criminal candidates to contest are necessary, only enhanced awareness and increased democratic participation could create the right conditions for the decriminalisation of politics.

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