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[Andrew Sanchez](#)

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Report

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➤ Corruption in India

Andrew Sanchez

The momentum of last year's hunger strike by the anti-corruption campaigner Kisan 'Anna' Hazare currently sees India's parliament wrestling with the formation of a national corruption ombudsman. Hazare's campaign rests upon the proposition that the democratic ideals with which the Indian state was formed in 1947 are all too often subverted by the self-interest of public servants. Hazare's supporters argue that this process has two primary effects. First, corruption allows wealthier citizens to access resources and preferential state treatment to which they are not entitled. Second, corruption constitutes a drain on the coffers of many ordinary Indians, in the form of demands for bribes by state functionaries, without which their services cannot necessarily be procured.

Hazare's formulation is largely correct, and if popular support for his campaign is any indication, he has articulated a political frustration with bribery that is unique in spanning the regional, ethnic and religious divisions of Indian society. However, the discontent which Hazare's movement expresses relates to a corruption that is broader than bribery alone. 'Corruption' in this context encompasses a more pernicious subversion of the Indian state that has seen substantial numbers of often violent career criminals enter parliament since the 1970s, and has consequently weakened popular faith in governmental institutions. The current relationship between politics and criminality is a consequence of a culture of entrepreneurial corruption that adheres to Indian public office. While parliamentary service remains such a lucrative profession, it will continue to attract individuals whose ambitions extend beyond the confines of their position, and whose means of satisfying them include coercion.

The extent to which Hazare will find satisfaction in India's corruption ombudsman depends in the first instance on whether the 'Lokpal' ('protector of the people') bill to which it relates is ever enacted; the bill is currently stalled in the upper house of the Indian parliament and may never be fully realised. However, should the bill be passed, it is unlikely that the scrutiny of an ombudsman alone can provide the framework necessary to combat corruption at the higher reaches of the Indian state. The task requires a substantial overhaul of the wider legislation that currently protects the most powerful public servants who abuse their positions, and a real engagement with the influence of violence and organised crime on national politics.

Anti-corruption watchdog Transparency International currently ranks the national perception of corruption in India to be 87th highest in the world (in an index of 182 positions). While many nations fare better than India in this ranking, many evidently fare much worse, including regional neighbours Pakistan and Bangladesh. However, the real significance of perceptions of corruption does not lie in the extent to which phenomena such as bribery are perceived to be prevalent across society. A more important assessment is of how differing forms of corruption are deemed to be concentrated at different levels of the state, and whether such practices are seen as integral to the consolidation of power. In India, public scandals of the previous twenty years, which link numerous elected politicians and even government ministers to repeated acts of parliamentary corruption, embezzlement, land seizure, blackmail, extortion, kidnap and murder, serve to erode the assumption of legitimate political authority and the efficacy of the ballot box. While bribery in its many forms undoubtedly impedes the proper functioning of institutions, the

preponderance of criminal politicians corrupts the very notion of the accountable and democratic state on which the idea of India rests.

The popular perception of Indian political criminality is well substantiated by the available data. In the current Indian parliament, of the 543 elected representatives of the lower house, 158 (29 percent) are currently charged with a criminal offence. More shockingly still, seventy four (14 percent) are charged with crimes in the most serious category of offence, comprised of murder, rape, extortion, banditry and theft. While it is problematic to draw a simple relationship between criminal charges and actual guilt, it is apparent that politicians fall foul of the law far more frequently than almost any other section of Indian society, posing the pertinent question of why particular types of people are so often attracted to a political career. Alternatively, though less plausibly, one could ask why it is that politicians are so disproportionately targeted for spurious criminal investigations.

The distribution of criminal charges within the Indian parliament is weighted towards MPs representing the smaller parties, whose support bases rely upon the politics of caste and ethno-regionalism. Among the two major parties, the Congress Party, whose ideology is a secular state-socialism, has 5 percent of its 205 MPs currently facing charges, while the Bharatiya Janata Party, representing a broad platform of Hindu nationalism, sees 16 percent of its 116 MPs charged. At the other end of the spectrum, the regional Samajwadi and Bahujan Samaj parties, who predominantly represent the interests of untouchable castes, have 60 percent of their MPs currently charged. Other ethno-regional parties fare similarly poorly. Interrogating this phenomenon better substantiates the contexts in which criminals are likely to enter Indian politics.

Many of the Indian political parties strongly associated with criminality have their support bases in a vast northern swath of the country, running from the state of Haryana in the centre west, across Uttar Pradesh to the eastern states of Bihar and Jharkhand. Obscuring the understanding of political criminality in these states is a popular national perception of this region as a violent, culturally conservative backwater, plagued by poverty and communalism.

That some of the politicians who represent these states should be criminal despots is often said to express the particular troubles and cultural dispositions of the region. In reality, the emergence of political criminality in this part of India relates to the use of political violence by the central government from the 1970s, and the present relationship between provincial criminal politicians and their ostensibly more legitimate counterparts is closer than one would suspect.

In explaining the rise of India's criminal politicians, one might consider the possibility that a new type of charismatic political leader emerged during the 1970s that broke with the 'statesman' model of the Congress Party, and was valued for their willingness to dirty their hands on behalf of their constituents. Certainly, a profound change overtook political leadership during this period, as violence began to be valued more highly by certain sections of the electorate, particularly within ethno-regional movements. However, the widespread incorporation of criminals into Indian politics stems initially from the use of coercion during Indira Gandhi's 'State of Emergency' from June 1975 to March 1977. During this period, the Congress Party embarked upon a dictatorship, ostensibly to secure national unity in the midst of parliamentary turmoil.

The 'emergency' saw many civil liberties suspended and political dissent silenced through widespread arrest and coercion, a significant proportion of which was conducted by criminal enforcers at the behest of the state. The Congress Party's use of violence made criminal enforcers an integral element of political control in many areas of the nation; enforcers who then subsequently used state connections and increased economic power to consolidate their own positions. Dire ethical failings aside, the practical flaw of the Congress' use of violence lay in their failure to anticipate that the criminals which they courted would remain part of the political landscape long after their immediate usefulness had been exhausted. The most successful of these criminals amassed sufficient power and influence to enter parliament themselves, where the status of their office could further their enterprises. The present concentration of India's criminal politicians in quite particular areas of the nation can be explained with reference to the political economies of the regions concerned.

Across Haryana, Bihar and Uttar Pradesh, post-independence rural relations have been characterised by a progressively open state of conflict between lower-caste tenants and their upper-caste landlords. In this climate, the use of politically orchestrated violence is increasingly salient, and charismatic criminal leadership is more likely to flourish. In Bihar, criminal authority was further entrenched by 1975's state-wide alcohol prohibition, which created a lucrative market for bootlegged liquor. Regional criminal organisations prospered in the 1970s by providing coercive political services and fulfilling black market demands for consumer goods. These organisations eventually diversified into labour contracting, haulage, mineral extraction, metal trading and waste disposal as the region's industrial sectors expanded throughout the 1980s. During the 1990s, the power of regional criminal politicians received a further boost from the centre, as a series of weak coalition governments allowed the smaller parties on which they were dependent to wield a disproportionate level of power in parliamentary votes. It is during this period that the Congress Party became embroiled in the 'bribes for votes' scandal, which saw Prime Minister Narashima Rao convicted of corruption, and Sibn Soren, the head of the ethno-regional Jharkhand Mukti Morcha Party, convicted for the directly related murder of an alleged blackmailer.

It is not coincidental that the areas of the nation in which political authority currently enjoys the least confidence (namely Bihar, Jharkhand and Uttar Pradesh) are also those regions which afford political entrepreneurs some of the greatest economic opportunities through land seizures, industrial contracting, racketeering and labour brokerage. The penetration of known criminals into parliament has its clearest origins in the emergency's use of applied violence. One might also conclude that the class and ethnic conflicts of particular regions explains why violence initially became a feature of charismatic leadership in Indian politics. However, it is the capacity of parliament to enable the consolidation of personal power that presently explains the allure of a political career to criminals, as well as the Indian electorate's increasingly strident denunciation of such forms of authority.

The challenge presently facing the Indian state is to restore public confidence in the morality and capacity of the nation's politicians, by ensuring that criminals find it harder to gain entry to a potentially lucrative parliamentary career. Meeting this challenge requires an as yet absent governmental will to reform the legislation that enables those charged with serious offences to stand for office, and to avoid future criminal investigation once elected. The current governmental response to Hazare's campaign seems encouraging, and is at the very least testament to the power of a well-informed citizenry to press its demands upon the state. However, one must doubt the depth and perhaps the sincerity with which the Indian parliament presently searches its collective soul. Neither the issues raised by Hazare or their proposed remedies are new. On the contrary, the corruption and criminalisation of politics has been the subject of numerous governmental commissions since the 1960s, most of which have reached the same conclusions as Hazare, and have vainly made almost identical suggestions for reform to those presently under discussion.

For example, the first Indian Committee on the Prevention of Corruption reported its findings as early as March 1964, having been convened to investigate a perceived rise in ministerial corruption since independence. The committee concluded that India's legislative framework was ill equipped to deal with political corruption, and outlined a procedure whereby complaints against members of parliament could be investigated by an independent committee, prior to police referral. If the 1964 committee's suggestions seem well suited to the current political climate, it is because they were never acted upon and the legislative failings which they identified have remained largely unaddressed for the previous four decades. Likewise, the 'Lokpal' bill, currently so fiercely debated, has a long and faltering ancestry in Indian politics. Between 1969 and 1998, six separate Lokpal bills have been passed in India, only to lapse with the dissolution of parliament.

What the historical farce of the Lokpal bills suggests is that the consistency with which independent enquiries diagnose and prescribe against political corruption in India, is matched only by the uniformity

with which their activities are ignored or obfuscated by the parliament. The fate of proposals directed more specifically at flagrantly criminal acts of political corruption is worse still. Most recently, the 2010 background paper on electoral reforms prepared by the Indian Election Commission has revisited two unheeded recommendations with which to combat the criminalisation of Indian politics, both of which were first proposed in 2004. The Commission advises that prospective candidates for the lower house of the Indian parliament be required to declare all previous convictions, pending criminal cases and assets prior to standing, and suggests that the withholding of such information should be made punishable by a minimum of two years imprisonment. Moreover, the commission recommends disqualification for all candidates against whom charges have been brought at least six months prior to election for the most serious category of offences. While a number of the Committee's wider recommendations (regarding restrictions on the publication of exit poll results and the closer scrutiny of deposit monies) have been enacted, the bulk of suggestions that would curtail the entry of criminals into parliament have yet to find favour.

The will to restrict the entry of criminals into politics has to date not been present in any Indian government, and it is sensible to question the likely effectiveness of a corruption ombudsman whose architects are a parliament composed of such a high number of suspected criminals. Furthermore, the tenacity and success with which the prosecution of political corruption will be able to proceed in the future requires the redress of a number of substantial legislative failings. These include inadequate provisions for commissions of inquiry, courts and investigative bodies such as the Central Bureau of Investigation that are open to nepotistic appointments, and a legislative position of public officials that places them beyond the scope of some forms of legal scrutiny.

Whether the Lokpal bill will be passed, and its associated ombudsman proven effective remains to be seen. The bill's critics argue quite reasonably that the omniscient scrutiny of a central ombudsman potentially trades one form of despotism for another, and it is prudent to ask whether the commission can itself remain immune from corruption, even if the institution were theoretically powerful.

Certainly, many of the proposals in Hazare's original bill have been considerably diluted in the version presented before parliament and the composition of the ombudsman will be a matter of intense scrutiny in coming months. As admirable as Hazare's campaign has been, the wider struggle against state corruption in India is unlikely to be fulfilled by the Lokpal alone.

In addition to the Election Commission's suggestions to broaden the disqualification of criminal electoral candidates, at least three major reforms are necessary to forestall India's further slide into institutional criminality. First, the state needs to address the substantial legislative failings surrounding the pursuit of judicial and political corruption, which presently grant public officials inexplicable immunity from prosecution in a bewildering array of contexts. In short, powerful public officials must be not only liable to public scrutiny, but also subject to the same forms and extent of punishment as the citizenry. Second, the state must endeavour to create a more transparent culture of business, through a rigorous and systematic enquiry into the context and financing of corporate mergers, the sale and development of land, and the securing of contracts for the supply of labour, goods and services. The chief avenues by which corrupt politicians presently find their business profitable must be subject to far greater attention. Third, the effectiveness of violent coercion by political authorities must be curbed by strengthening and rehabilitating India's law enforcement agencies, which presently suffer from their own crisis of public confidence owing to perceptions of corruption and institutional incompetence. If wielded by the state at all, the use of violence must be the preserve of an accountable and publicly trusted judiciary and not of political autocrats.

The lack of faith in state institutions, and the popular suspicion that power is frequently derived from criminality, invites a critical reading of India's rise to superpower status. The global authority which the nation is likely to wield in coming years is only to be lauded if power and prosperity is distributed more evenly within India itself: a challenge which requires a serious engagement with the problems of state corruption. Whilst the task facing the Indian state is indeed substantial, the recent popular outcry shows that the country is rich in the popular will to enact such reforms. ■