Crime and Punishment: Do politicians in power receive special treatment in courts? Evidence from India*

Rubén Poblete-Cazenave†

March, 2021

Abstract

Are elected politicians treated more leniently when facing criminal charges? I present evidence of judicial discretion in the world's largest democracy, India. I analyze whether pending criminal cases of politicians marginally winning the election are more likely to be closed without a conviction compared to cases from politicians marginally losing the election. I find that winning office increases the chances of a favorable outcome only for politicians from the ruling party. Evidence suggests that the misuse of executive powers and witnesses turning hostile are among the main explanations for this result.

Keywords: Political power, judiciary independence, discrimination, corruption, criminal justice.

JEL codes: P16, D72, D73, K14, K42.

*I am thankful for the support and advice provided by Antonio Cabrales and Marcos Vera Hernandez. This article also benefits from comments from Manuel Bagues, Sascha Becker, Javier Brugues, Gordon Dahl, Claudia Martinez V., Carlos Medina, Davide Melcangi, Imran Rasul, Silvia Sarpietro, Ravi Somani, and participants from the Advanced Graduate Workshop 2018 at Bangalore; Sushant Sinha from Indian Kanoon, DAKSH - India, Azim Premji University, Lancaster University, LSE, Royal Economic Society 2019 - Warwick, LACEA-ALCAPONE - Medellin, First Annual Conference on Crime, Risk and Economics - CEAR and UCL. Finally, I would like to thank PI Elliott Ash, PI Sam Asher, PI Daniel L. Chen, PI Paul Novosad, PI Bilal Siddiqi, RA Sandeep Bhupatiraju, RA Utkarsh Saxena and RA Jonathan Tan from Justice for India research team. All errors are my own.

†Postdoctoral researcher, Department of Economics, Erasmus University Rotterdam. *Email:* poblete-cazenave@ese.eur.nl.

1 Introduction

An independent and impartial judiciary is one of the cornerstones of any democracy and crucial for preventing the usurpation and tyranny by those holding power (Locke, 1689; Montesquieu, 1748). However, despite constitutional guarantees, in practice, elected politicians might affect the legal system by exerting undue influence over actors involved in legal proceedings (e.g. judges, prosecutors, police, witnesses). This might be particularly problematic in contexts where over law-and-order officials depend on the government (Transparency International, 2004, 2007).

While this concern is more prevalent in developing countries, media reports of allegations of political bias have contributed to shaping citizens' perception that politicians are above the law (Gloppen, 2013), eroding citizen's trust in legal institutions even in well-established democracies.[1] Are politicians in office treated more leniently? Is this systematic? If so, how do they do it and what can be done to prevent this?

This paper provides the first causal evidence of the impact of winning office on legal outcomes for a large range of criminal cases. I focus on the largest democracy in the world, India, and I provide evidence for ongoing criminal cases of candidates running for the state legislature.

Studying political favoritism in the legal system is challenging for several reasons. First, detailed information on individuals' criminal cases is generally non-accessible and, particularly, we rarely observe many elected politicians being prosecuted in court. Second, in most countries, elected politicians face different legal proceedings than non-elected individuals when prosecuted. This affects the ability to obtain a valid control group for elected individuals. A third challenge is determining whether differences in legal outcomes reflect discrimination towards politicians in power, or whether these are driven by heterogeneity correlated with politicians holding office. For instance, systematic differences exist between politicians in office and every-day citizens, in terms of socio-economic and personal characteristics, and also in the type and severity of the criminal cases against them.[2]

India presents a unique setting to overcome the aforementioned challenges. Due to a change in the law of information in elections, candidates for legislative assemblies are obliged to disclose their pending criminal cases and past convictions before the election. This disclosure provides details on politicians' criminal cases, which are generally non-accessible in most countries (Djankov et al., 2010). A significant share of candidates is facing criminal proceedings. Nearly 18 per cent of them have at least one criminal case

[1] World Economic Forum (2018) report reveals similar people's perception of how independent the judicial system is from influences of the government, individuals, or companies for countries such as Brazil, India, Italy and Spain.

[2] Elected politicians might have access to high-powered attorneys and, therefore, a greater chance of a strong defense. Also, powerful politicians may not be subject to criminal prosecution for minor offenses, whereas everyday citizens would. Moreover, given their public visibility they might be more exposed to fabricated accusations.

pending in court. Moreover, the offenses are diverse, spanning from criminal intimidation, rioting, to kidnapping or murder. In terms of the legal framework, elected politicians can be prosecuted during their period in office and face the same legal proceedings as any ordinary citizen. Finally, to separate the causal impact of winning office on ongoing criminal cases from other confounding factors, I exploit exogenous variation on political power resulting from close electoral races. Hence, candidates barely losing the election are the counterfactual for those barely winning the election (Lee, 2008). Additionally, to reduce the potential presence of criminal cases directly related to being in public office, I focus on candidates not holding office at the moment of the election.

To quantify the impact of political power on legal outcomes, I analyze what occurred to the criminal cases at the end of the legislature. From the defendant's point of view, the best outcome for any criminal case is whenever the case is closed and the defendant is not convicted. Any different outcome is not as favorable. To determine the status of a case at the end of the legislature, I use information disclosed by candidates rerunning in the elections. I construct a unique dataset of 1,349 pending criminal cases for non-incumbent candidates contesting in close races for legislative assemblies. I compare the probability of a pending criminal case being closed without a conviction within the period of the legislature for politicians who barely won the election against those who barely lost it. To complement the analysis, administrative judicial information for 591 criminal cases for politicians in the states of Karnataka and Maharashtra was obtained.

The results show that the impact of winning office on legal outcomes crucially depend on the candidates' political alignment with the state ruling party. Winners from the state ruling party are 29 per cent more likely to get their pending criminal cases closed without a conviction during their period in the legislature compared to runners-up from the same party. In contrast, winners in opposition are 10 per cent less likely to get their pending criminal cases closed without conviction compared to runners-up from the same parties.

The fact that only winners aligned with the state ruling party obtain better legal outcomes shed light on the underlying mechanisms. Particularly, the use of threats and abuse of powers vested on the executive can be used to affect the behavior of actors involved in the criminal justice system (e.g. prosecutors, police, judges, witnesses). This is especially problematic for law-and-order officials directly depending on the current government as their career paths can be affected by appointments, removals or foregone career opportunities. Evidence points in this direction. I find that a significant share of the cases from winners from the ruling party (over 40 per cent) are closed before trial. The withdrawal of the cases by the prosecution as well as the dismissal of the cases from judges are the most common reasons for this. In addition, a pattern arising from the analysis of judgments is that witnesses from the prosecution turned hostile. This has been highlighted by the Indian Supreme Court as one of the biggest threats to secure a conviction against powerful individuals.

To further explore these channels and contextual factors exacerbating judicial discretion, I exploit state and case-level variations. I find evidence suggesting that less serious

cases are more prone to judicial discretion than crimes with serious criminal charges. Also, winners from opposition get worse legal outcomes in states with high political turnover. Finally, institutional quality seems to matter for judicial discretion. There are differential outcomes for criminal cases only in states with low-quality institutions measured by rate of pending cases and judicial vacancy rates.

Understanding whether and how politicians can influence the legal system is relevant, not only because a politicized judicial system violates equality before the law but also because it compromises other aspects of society and the economy. A persuadable judiciary facilitates corruption by allowing politicians to operate under impunity (Rose-Ackerman, 1999).[3] This creates incentives that attract dishonest people and criminals into politics, raising serious concerns over the quality of the political apparatus and its capacity to provide public goods to the population.[4] Additionally, it affects investment and growth (Glaeser et al., 2003; Voigt et al., 2015), erodes citizens' trust on institutions, which weakens state capacity (Acemoglu et al., 2018); and increases social inequalities (Transparency International, 2015).

Despite this, the literature analyzing political influence on the legal system is scarce. Most articles analyze corruption cases and whether individuals linked with a certain political party receive differential treatment in courts. A few articles have found evidence of partisan biases in the prosecution of corruption cases in the United States (Gordon 2009, Alt and Lassen 2012, Nyhan and Rehavi 2017). On the judiciary side, evidence shows that judges ruling in favor of the ruling party have better careers opportunities in Japan (Ramseyer and Rasmusen, 2001) and in India (Aney et al., 2017).

One element not yet studied is whether the legal system is more lenient towards elected politicians. This paper fills this gap by providing causal evidence that the political status of the defendant matters, but also the alignment with the ruling party. I analyze criminal cases already in court several months before the nomination of candidates and for politicians not holding office. This reduces the likelihood that these cases are affected by a position of power, a concern present when studying corruption cases in which the prosecution of those is endogenous.

There are two related contemporaneous papers, Lambais and Sigstad (2019) and Michaelowa et al. (2019), also highlighting the importance of holding office on legal outcomes. The former paper studies civil suits associated with corruption and finds positive returns of winning office for local politicians in Brazil. The second paper studies the accumulation in the number of criminal cases for Indian members of the parliament and finds that incumbents on average accumulate two crimes less than losers, however, they do not distinguish new versus old cases as they measure changes in the total number of cases at

[3]Evidence shows higher corruption when there are more immunity (Fisman and Miguel, 2007; Reddy et al., 2019).

[4]Candidates selection and criminalization of politic is prevalent in India and South Asia (Aidt et al., 2011; Vaishnav, 2017). For economic consequences of electing politicians with pending criminal cases see Chemin (2012), Prakash et al. (2019), Gehring et al. (2019).

the candidate level. My analysis is at the criminal case level, which allows studying the types of criminal cases where judicial discretion is present and allows to further explore the underlying mechanism taking place. In contrast to Lambais and Sigstad (2019), my paper studies criminal cases that are not related to the political spectrum and therefore shows that political power has far-reaching effects in the criminal justice system.

This article also contributes to the vast literature on judicial discrimination (Rehavi and Starr, 2014; Arnold et al., 2018; Abrams et al., 2012; Cohen and Yang, 2018; Alesina and La Ferrara, 2014; Shayo and Zussman, 2011). Most of this literature focuses on a fixed defendant characteristic, such as race, gender, ethnicity or religion on sentencing behavior. In contrast, the characteristic studied in this paper, the political status of the accused, can vary during the legal proceeding. More importantly, accused with political power can *directly influence* court proceedings and final outcomes. This is a stark distinction with the previous literature and implies that the potential mechanisms for judicial discretion are more difficult to pin down as the results do not necessarily reflect judges' biases only, for instance.

Finally, this paper relates to longstanding literature on political accountability, particularly, the recent literature examining the role of the judiciary in improving accountability and reducing corruption (Avis et al., 2018; Zamboni et al., 2018). More broadly, this paper relates to the literature on law enforcement and crime, where the enforcement and administration of justice can be compromised if law-and-order officials are exposed to bribes and external pressures (Becker and Stigler, 1974). In contexts where the executive can affect actors and institutions involved in the legal system, judicial accountability will not be as effective in prosecuting corrupt politicians, especially those linked to the ruling party.

2 Indian context, political power and legal proceedings

There are several reasons why an ongoing case might be impacted if the accused is elected for public office during the legal proceedings. Several countries have specific courts or grant political immunity to those holding office. By focusing on India we avoid these situations in which obvious legal differences exist between elected politicians and every-day citizens. First, I describe the Indian institutional context and then discuss why being elected could affect ongoing criminal cases.

2.1 Indian institutional setting

India is a federation with a parliamentary system composed of 31 legislative assemblies (LA). Members of legislative assemblies (MLA) are democratically elected using a simple plurality (first-past-the-post) rule, and face no term limits.. Most elections occur every five years and are conducted by the Election Commission of India (ECI), a nonpartisan organization with an established reputation.

Since November 2003, the ECI requires all candidates to present an affidavit disclosing

their pending criminal cases and previous convictions. Pending cases filed in court six months before elections have to be disclosed. These cases already passed several investigations by the police and the prosecutor separately, and a judge considered the evidence as sufficient to continue with a judicial process. These criminal charges are perceived as truthful and not politically motivated (Vaishnav, 2017). Candidates are subject to scrutiny by the general public and political adversaries. If the information is not accurate, candidates could face fines, incarceration, and/or disqualification from public office.

The political party obtaining the majority of the seats becomes the ruling party. If no party obtains the majority, then a coalition of parties can form a government. The state government is headed by the Chief Minister, in which the de facto executive power lies.

MLAs' main duties are related to law-making and fiscal responsibility (e.g. ratifying the public expenditure). Despite not being directly concerned with civic issues, MLAs do get involved in issues related to public service provision. MLAs are known to be local power brokers and intermediaries between citizens and the state (Vaishnav, 2017).

In terms of the legal system, Indian judicial institutions are similar to other countries, particularly to those that were under the influence of British colonial rule. India follows a Common Law System, where lower courts must follow the decisions of the higher court. The constitution obliges the state to separate the judiciary from the executive in the public services of the state.

Judicial institutions are the same across states and courts. The main institution at the state level is the High Court, which is mainly an appellate court. Most criminal cases are heard by subordinate local courts below districts session courts. Judges of subordinate courts are appointed by the state governor in consultation with the Chief Justice of the corresponding High Court and they are tenured.

Criminal offenses are considered acts against the state and therefore, public prosecutors represent the interests of the state before the courts. The department of prosecution is under the remit of the state government. Prosecutors are appointed by the state government and are not permanent employees of the state government.

Finally, MLAs face the same legal proceedings as any non-elected individual. They can be prosecuted during their period in office, without asking for the approval of the legislature. Additionally, criminal cases are not prescribed if they are not solved within a given time frame. This is relevant given huge backlog of pending cases in the Indian judicial system, where on average it takes more than four years to complete trials by subordinate courts (National Crime Records Bureau, 2016).

2.2 Why being elected could imply getting different legal outcomes?

Newly elected politicians could actively interfere with legal proceedings through the misuse of attributions vested in their current privileged positions. However, it could be that other factors associated with being in a position of power (which comply with the law and are outside the control of the politician) can affect the legal process.

There are three methods for active interference: bribery, violent threats and political interference. These can be used to manipulate the behavior of law-and-order officials (e.g. judges, prosecutors, court staff or police) or other actors involved in the legal process (e.g. witnesses) to derail court proceedings, misplace evidence, obtain a favorable testimony, or get a more lenient sentence.

Elected politicians could have higher capacity to offer bribes, which can be use to accelerate and affect the legal process. Also, powerful politicians can use fear to manipulate behavior. For instance, to prevent witnesses from providing testimonies by threatening them directly or their family.

Additionally, elected politicians could use their political power to manipulate law-and-order officials. While individual MLAs do not have direct control over law-and-order officials, certain powers vested in the executive can be used by MLAs from the ruling party to influence legal proceedings. For instance, appointments, removals or foregone career opportunities, arrange salaries and conditions of service, among others, can be used against individuals depending on the government (e.g. prosecutors or police), which because of this may be more susceptible to political pressure.

Since prosecutors are appointed by the state government there is a potential lack of autonomy of prosecutors.[5] One important attribution of prosecutors is the capacity to withdraw criminal cases. Evidence supports the fact that prosecutors receive instructions from the government when deciding which cases to withdraw (Lal Sharma, 1997). Furthermore, prosecutors commonly resign or are replaced when the ruling political party change (Batra et al., 2005). Another widely common practice is the use of punitive transfer (Iyer and Mani, 2012; Wade, 1982). The threat of transfer is routinely exercise by politicians which can impact the investigation.[6] Even judges, which are better insulated from political pressures, can be affected by the governing party as they can offer judges governmental jobs once they retired (Aney et al., 2017). Also, there exists evidence of judges receiving bribes from politicians from the ruling party.[7]

Overall it seems that elected politicians from the governing party might be more able to influence legal outcomes compared to other elected politicians. Note however that political influence does not have to be explicit to affect the behavior of actors involved in the criminal justice system. It is enough to believe that there will be consequences for refusing favors to an elected politician. Hence, even without explicit political interference, legal officials might favor elected politicians to get better career opportunities or avoid potential retaliation.

[5] https://thewire.in/politics/states-subverting-rule-law-drop-criminal-cases-politicians [accessed in 25/02/2019].

[6] Former top police officer https://www.reuters.com/article/uk-india-rape-data/despite-changes-after-2012-horror-indias-rape-victims-denied-speedy-justice-idUKKBN1HP2IM [accessed in 25/01/2019].

[7] See https://www.dailymail.co.uk/indiahome/indianews/article-2161708/Suspended-CBI-judge-Rao-arrested-Karnataka-minister-Reddy-bail-scam.html [accessed in 21/02/2019]

Finally, even in the absence of direct interference, other channels within the legal framework can explain why elected politician might get different legal outcomes. This would be the case if winning office increases politicians' resources (Fisman et al., 2014), which in turn allows them to hire better attorneys. Additionally, if elected politicians get more media attention their legal outcomes could be different. However, appointed judges seem not to be responsive to media coverage (Lim et al., 2015) and given that the state government has limited control over media outlets (Besley and Burgess, 2002; Anagol and Fujiwara, 2016), this channel is not a first-order concern.

3 Data, outcome variable and samples

Information on candidates' criminal cases comes from the National Election Watch and the Association for Democratic Reforms (ADR). They process candidates' affidavits and make them available on their website (*http://myneta.info/*). I use web scraping techniques to automatically access and extract large amounts of information contained in the HTML files. I parsed, processed and structured the information contained in the affidavits for 80 assembly elections from 2003 up to 2017.

I obtained details on criminal charges according to the Indian Penal Code (IPC) for each criminal case as well as a description of the case (e.g. case number, court's name, dates). It also states candidates' age, education, financial assets and liabilities, among others. One challenge in processing details about each criminal case is related to how the information is reported. That is,the description given by candidates differs across candidates and elections. Hence, I parse a large amount of unstructured raw text using regular expressions to obtain information such as dates, case number if they are reported. See figures A.1 and A.2 in online appendix for an example of how the information is presented.

I match candidates' affidavits with electoral information from the ECI to determine winners and runners-up, as well as incumbent candidates. I identify candidates across databases and elections using fuzzy string matching and an iterative matching process due to the lack of candidates' identifiers and Indian name spelling.[8] Appendix B provides details on the procedure.

Outcome variable. To study the effect of holding office on ongoing criminal cases, I analyze whether the status of each case at the end of the legislature is favorable for the accused politician or not. For the accused, the best outcome on any criminal litigation is when the case is closed and s/he is not convicted. Therefore, I define a favorable outcome for a politician as whenever the case has been closed and the politician was not convicted. Any outcome different than this is not as favorable for the politician.[9]

[8]For instance, Ateeq Ahmed; Atique Ahmad; Atiq Ahmad; Atique Ahamad, correspond to the same person.

[9]Note that a conviction is not per se worse than a pending criminal. For instance, if the case entails long and expensive trials with a potential harsher punishment.

Samples. Determining the status of a given criminal case is difficult due to the lack of available information and institutional challenges. I use two methods and different datasets to construct the outcome variable. The first method uses information from the affidavits for candidates contesting in consecutive elections. This provides a large number of pending criminal cases for the relevant sample for identifying the causal impact of winning office on pending criminal cases. This provides the main data for the analysis. As explained below, this data is composed of pending criminal cases of winners and runners-up contesting in close elections for 2004 to 2012 and rerun in a following election. The second method uses administrative judicial data for two states in India. This second sample contains criminal cases for candidates regardless of the election result and whether they rerun or not. Although the sample size is small it provides further details to complement the analysis of the main data.

3.1 Consecutive affidavits

For cases that were pending before the legislature, I can determine their status at the end of the legislature by comparing affidavits from consecutive elections. If the case is not in the next election's affidavit, then the case was closed and the candidate was not convicted. Alternatively, if the case appears at the next election's affidavit, then either the case was closed and the candidate was convicted, or the case is still pending.[10]

To determine whether a case was closed without conviction at the end of the legislature I analyze the criminal offenses (i.e. IPCs) and other information such as case number, dates, among others. I examine whether there is any match among any of the criminal cases for the same candidate in the next election's affidavit. If there is no match, then the case was closed without conviction. In contrast, if there is a match, the case has not been closed without a conviction.

I manually checked all potential matches to reduce the measurement error in the outcome variable. I do for the sample most important for identification (see section 4): candidates contesting in close electoral races. Hence, I construct the main outcome variable for candidates contesting in elections where the margin of victory is no more than five percentage points. Appendix B describes the procedure in more detail.

There are 1,349 pending cases associated with these candidates (751 for winners and 598 for runners-up).[11] Panel A in table 1 shows that out of the 1,349 cases pending before the election, 59 per cent were closed without a conviction by the end of the legislature. Most of the cases (767 cases) contain a criminal charge considered to be of high severity.[12]

[10]Since 2014 people are banned from elections if they are convicted for over 2 years imprisonment.

[11]For the period of analysis, there are 1,529 non-incumbent winners and runners-up contesting in consecutive elections. Out of this, 505 candidates contested in elections decided by no more than five per cent difference in vote share (286 winners and 219 runners-up).

[12]I follow the definition of ADR for serious criminal offenses: (i) the maximum punishment is of 5 years or more, (ii) they are non-bailable, (iii) electoral offenses, (iv) offenses related to loss to exchequer, (v) offenses that are assault, murder, kidnap, rape related, (vi) offenses that are mentioned in Representation of the People Act (Section 8), (vii) under Prevention of Corruption Act, and (viii) crimes against women.

Among serious cases, 56 per cent were closed without a conviction. Regarding the cases of a less serious nature, 63 per cent were closed without a conviction.

Table 1: Share of criminal cases closed without conviction

	All		Serious		Less serious	
closed without conviction	Obs.	Mean	Obs.	Mean	Obs.	Mean
A. Candidates Affidavits						
Winners & runners-up (close elections)	1,349	0.59	767	0.56	582	0.63
B. Administrative data - eCourts						
All candidates	591	0.54	269	0.46	322	0.61
Winners & runners-up	207	0.64	81	0.54	126	0.69

This table shows the share of pending cases closed without a conviction by the end of the legislature, for all the sample and by the severity of the criminal case. Panel A includes crimes for non-incumbent winners and runners-up contesting in consecutive elections for legislative assemblies in India (2004-2012) and where the winner won by no more than five percentage points. Panel B includes crimes found for non-incumbent candidates in the eCourt system for Karnataka and Maharashtra.

3.2 Administrative judicial data: eCourts project

To complement the main dataset from candidates' affidavits, administrative judicial data is collected for the states of Karnataka and Maharashtra. The data comes from the eCourts project of the Department of Justice. It provides information for active and complete civil and criminal cases on the type of case, parties involved (petitioner, respondent), court's name, relevant dates (filing, decision), among others.

This data has the advantage that it does not require candidates to rerun. However, obtaining this data and finding politicians' criminal cases is challenging due to institutional and computational limitations. The number of cases that can be identified is limited due to the type of information provided by the politicians in their affidavits and the information available in eCourts system. To find a case in the eCourt system it is required to know specific details about the case, which are rarely provided by the politicians,[13] and it is also necessary to manually enter a *captcha* for getting access.

To maximize the chances of finding politicians' cases, all the cases for every judicial district in Karnataka and Maharashtra were scraped from 1980 up to 2013 and 2014, respectively, and I search for cases for non-incumbent candidates in Karnataka 2008/2013 elections and Maharashtra 2014 election, regardless of the winning margin of the candidate. To get access to the judicial information systematically, machine learning techniques (*optical character recognition*- OCR) were used for captcha solving. The database contains nearly 2.7 million active and completed criminal cases for Karnataka (1980-2013) and 5.9 million from Maharashtra (1980-2014).

[13] It requires either a unique identifier for the case that it is only used in the eCourt system or knowing the exact information about the court, case type, case number and the year of filing.

To identify criminal cases I use the number of the criminal case in the associated court/police station, year of filing, corresponding judicial district and whether the name of the politician is among the accused individuals. For every case, a large set of potential matches are found. I manually checked all the potential matches provided by the procedure to precisely identify the correct match (if any). Appendix B.3 explains in more details the algorithm.

I obtained judicial information for 591 criminal cases for non-incumbent candidates.105 cases are from winners and 486 are from candidates who lost the election (102 cases from runners-up). A limited amount of cases from winners and runners-up are near the threshold (see figure A.3 in the appendix). In this sense, this sample does not provide enough statistical power to precisely estimate the impact of winning office on judicial outcomes. However, this data provides an opportunity to corroborates potential concerns with the previous data and more importantly to complement the analysis by using detailed judicial information to explore details on the reason for the disposal of the cases.

Panel B in table 1 shows that among all the cases found in the administrative data, 54 per cent of them were closed without a conviction during the period of the legislature. This share is 46 and 61 per cent for serious and less serious cases, respectively. When constraining the sample on winners and runners-up these numbers are higher.

4 Empirical strategy

The ideal experiment to estimate the causal impact of winning office on legal outcomes would randomly assign political power across people facing similar criminal cases, and compare legal outcomes among those with political power and those without. To approximate this experiment, I compare the status of the criminal cases by the end of the legislature for candidates who contested in close elections.

Close elections provide exogenous variation in political power implying that candidates barely losing are a good counterfactual for candidates barely winning. This relies on no relevant actor having precise control over the election results (Lee, 2008). Additionally, given that for the main sample the outcome variable is observable only for candidates rerunning, another assumptions is required to obtain a causal estimate of the effect of winning office on legal outcomes. That is, that conditional on the election result, the outcome for candidates rerunning is representative of those not rerunning. Appendix C provides further details on the identification strategy.

I do not find evidence going against the validity of these two assumptions (see analysis in Appendix C). I do not observe evidence of manipulation in close electoral races. Particularly, a McCrary (2008) test rejects the null of discontinuity at the cutoff (win margin equal to zero). Additionally, predetermined characteristics at the moment of the elections across winners and runners-up contesting in close elections are well balanced. Particularly, candidates of the current state ruling party are not more likely to win a close election. Overall, it seems that candidates barely losing are a good comparison group for candidates

barely winning as their baseline characteristics are similarly distributed just above and just below the cut-off. Regarding the second assumption, I use the sample of criminal cases coming from the administrative judicial data to analyze whether legal outcomes for candidates rerunning versus those not rerunning are significantly different. The evidence suggests that this is not the case (I discuss this in table 4). Additionally, the probability of rerunning is not significantly different for candidates with and without criminal accusation, suggesting that the previous election result is more important in the decision of rerunning than having pending legal proceedings. Finally, I do not observe that candidates rerunning and not rerunning have systematically different baseline characteristics (see Appendix C).

4.1 Descriptive statistics at criminal case level

Table 2 provides descriptive statistics at the criminal case level winners and runners-up. Panel A shows information on case's characteristics and the most common types of criminal offenses related to candidates' criminal accusations. There are no systematic differences between the characteristics of the criminal cases for runners-up and winners. Around 60 per cent of the cases for runners-up contain a serious criminal offense, whereas this is 54 per cent for winners. On average, there are almost four criminal offenses (i.e. the number of Indian Penal Codes associated with the criminal offense) per criminal case for both winners and runners-up. In nearly one per cent of the cases charges have been framed against the accused.[14] The most common type of criminal charge is associated with those affecting the human body, such as voluntarily causing hurt or assault. This happens in 59 per cent of runners-up' criminal cases and 55 per cent for winners. The second most common type of criminal offenses is related to crimes against public tranquility which include offenses such as rioting or unlawful assembly. Table A.1 in the appendix shows the ten most common criminal charges.

The rest of the table shows candidates, constituencies and states characteristics and how balanced these are for winners and runners-up. There are no systematic differences for baseline characteristics between winners and runners-up. There are a few exceptions. Winners are slightly more educated than runners-up, and a higher share of winners belong to constituencies with reserved seats (scheduled castes and scheduled tribes), although the share of these candidates is very small (see panel C). Panel D shows state level information related to the judicial system. The conviction rate is the average rate of conviction per year during the period of the legislature. The average rate of convictions for the sample is nearly 34 per cent, which is low compared with other countries.[15] The pendency rate is the number of cases for which trial has not been completed, expressed as a share of

[14] Once a case is filed and the corresponding court takes cognizance of the offense, the inquiries start, the accused are summoned and evidence is reviewed. This stage could last for a long period before the decision of framing charges is taken. Once charges have been frame against the accused the trial starts.

[15] Conviction rates are over 85 per cent for countries such as the United States, United Kingdom, France or Japan.

total cases on trial during a year. The pendency rate is the average pendency rate years between the year of the election and the year of the next elections. As can be seen, a significant amount of cases are rolled over into the next year. The vacancy rates is the number of vacancies in districts and subordinate courts over the total approved strength. Also, a substantial amount of seats in subordinate courts are empty.

Table 2: Summary statistics for winners and runners-up contesting in close elections

	Runners-up		Winners			
Variable	Mean	s.d.	Mean	s.d.	Difference	p-value
A. Case characteristics						
Serious crimes	0.604	(0.490)	0.541	(0.499)	-0.063	(0.185)
Number of charges	3.880	(3.840)	3.640	(2.910)	-0.239	(0.348)
Charges framed	0.017	(0.163)	0.015	(0.150)	-0.002	(0.870)
Against human body	0.592	(0.492)	0.554	(0.497)	-0.038	(0.384)
Public tranquility	0.430	(0.495)	0.447	(0.498)	0.018	(0.672)
Property crimes	0.341	(0.474)	0.324	(0.468)	-0.018	(0.611)
Intimidation	0.294	(0.456)	0.265	(0.442)	-0.029	(0.451)
B. Candidate characteristics						
Number of crimes	8.154	(9.290)	6.087	(6.607)	-2.067	(0.335)
Female	0.015	(0.122)	0.025	(0.157)	0.010	(0.380)
Net asset (in ln)	14.882	(2.071)	15.427	(1.829)	0.545	(0.169)
Age	44.408	(9.587)	43.940	(9.129)	-0.468	(0.731)
Years of education	12.759	(3.210)	13.728	(2.879)	0.969	(0.048)
Voting share	0.335	(0.072)	0.356	(0.088)	0.021	(0.061)
C. Contituency characteristics						
Electorate (in ln)	5.368	(0.363)	5.381	(0.499)	0.013	(0.782)
Turnout	61.653	(13.065)	63.676	(13.805)	2.023	(0.330)
Number of candidates	12.624	(4.723)	13.004	(6.094)	0.380	(0.649)
SC/ST	0.052	(0.222)	0.104	(0.305)	0.052	(0.047)
D. State characteristics						
GDP pc (ln)	10.070	(0.617)	10.266	(0.572)	0.196	(0.041)
Conviction rates	0.336	(0.199)	0.351	(0.209)	0.015	(0.593)
Pendency rates	0.842	(0.075)	0.854	(0.076)	0.011	(0.280)
Vacancy rate	0.192	(0.078)	0.180	(0.075)	-0.012	(0.201)

This table shows balance tests for criminal cases of non-incumbent winners and runners-up. 751 cases for winners and 598 cases for runners-up. The sample contains candidates contesting in elections where the win margin was no more than 5 percentage points and rerun. Number of charges is the number of offenses associated with the Indian Penal Codes. Charges framed is a dummy that is equal to one if charges have been framed against the politician by the corresponding court, otherwise is zero. SC/ST refers when the the seat at the legislature for the corresponding constituency is reserved for scheduled castes (SC) or scheduled tribes (ST). Errors are clustered at the district level.

4.2 Econometric specification

To estimate the effect of political power on judicial outcomes, I compare the status of criminal cases at the end of the legislature for candidates who barely won the previous

elections versus those who barely lost it. Since the sample is composed of candidates contesting in electoral races with a narrow margin of victory, I estimate the following reduced-form model:[16]

$$Y_{cids} = \alpha + \beta \cdot winner_{ids} + X'_{cids}\gamma + \omega_c + e_{cids}, \tag{1}$$

where Y_{cids} is a binary variable equal to one if a criminal case c was pending before election t and was closed without conviction before election $t+1$ for candidate i in constituency d from state s, otherwise it is equal to zero. The variable $winner_{ids}$ is a dummy equal to one if the candidate barely won the election and zero if the candidate barely lost the election. X'_{cids} contains covariates at the case, candidates, constituency and state level as described in table 2. ω_C represents criminal case-category fixed effects, and e_{cis} are the residuals, which are clustered at district level. The parameter of interest β provides an estimate of the (local) average treatment effect of winning an election on the probability that a pending criminal case is closed without a conviction.

Since MLAs from the state ruling party might have more political power than MLAs from other parties, the effects of winning office could differ on the candidate's political alignment. Hence, I estimate the following specification:

$$\begin{aligned} Y_{cids} = \alpha + \beta_1 \cdot winner_{ids} + \beta_2 \cdot ruling\,party_{ids} + \beta_3 \cdot winner_{ids} \cdot ruling\,party_{ids} \\ + X'_{cids}\gamma + W'_s\psi + \omega_c + e_{cids}, \end{aligned} \tag{2}$$

where $ruling\,party_{ids}$ is a dummy variable equal to one if candidate i from constituency d belongs to the new ruling party at state s defined as the party of the new Chief Minister.

There are two parameters of interest β_1 and β_3. The former captures the causal effect of winning office on legal outcomes for politicians not belonging to the new ruling party: $\beta_1 = E[Y_{cis}|winner_{is} = 1, ruling\,party_{is} = 0] - E[Y_{cis}|winner_{is} = 0, ruling\,party_{is} = 0]$ (covariates were suppressed to reduce notation). Therefore, the comparison group for winners not in the ruling party are runners-up not from the ruling party.

In turn, the causal effect of winning office on legal outcomes from the new ruling party is given by: $\beta_1 + \beta_3 = E[Y_{cis}|winner_{is} = 1, ruling\,party_{is} = 1] - E[Y_{cis}|winner_{is} = 0, ruling\,party_{is} = 1]$. Hence, the control group for winners in the ruling party are runners-up from the ruling party. This is relevant since candidates' party affiliation is endogenously chosen before the elections and that the likelihood that a certain party becomes the new ruling party is not random.[17]

A priori the sign of β_1 is not obvious. It would be negative if MLAs not from the ruling party have worse legal outcomes than runners-up not from the ruling party. In contrast,

[16] The inclusion of the running variable (and any functional form of it) as control is crucial when using the whole domain of the running variable. Here the sample contains only observations in a small neighborhood around the cut-off (no more than 5 percentage points). Similar results are found for a bandwidth of 2 percentage points, although the precision of the estimates is reduced.

[17] The exogenous variation I am exploiting for a causal estimate is given by the 'as good as random' allocation of political power at the candidate's level.

if it is positive then MLAs not from the ruling party can influence legal proceedings in their favor. Although, it might be expected that the magnitude would be lower compared to MLAs from the ruling party.

The parameter β_3 estimates the differential causal impact of winning the election for members of the new ruling party with respect to MLAs from other parties. This interaction allows disentangling differences in the political influence on judicial outcomes for winners related to the executive power against those who are not. If MLAs connected to the executive have more influence on legal proceedings this parameter should be positive and significant.

5 Results

The first four columns in table 3 show the OLS estimates of equation 1 to analyze the impact of winning office on pending criminal cases. Each column shows a different specifications depending on the set of controls included. Overall, there is no evidence that winning office impacts the probability of a pending criminal case being closed without conviction during the period of the legislature. The point estimates are small (less that one percentage point in absolute value) and with different signs depending on the specification. Regarding other controls (not shown), a higher number of criminal charges and higher pendency rates in subordinate courts reduce the probability that a case is being closed without conviction. Also, it seems that if the court had framed charges against the politicians, this increases the chances of getting the case closed without conviction. This could be due to the fact that the court made substantial progress before the first election. However, as noted before, the number of cases with charges framed is near one per cent. Finally, candidates' characteristics does not seem to affect the probability that a case is being closed without conviction.

The last four columns of table 3 show the estimates of equation 2, accounting for differential impacts of winning office by political alignment. For candidates from parties not in government, the probability of a pending criminal case being closed without conviction is reduced by 6 percentage points if they win a seat in the legislature. This represents a decrease in 10 per cent of the unconditional probability for candidates from a party different from the ruling party. This is marginally significant depending on the specification.

In turn, the results show significant positive effects for politicians aligned with the state ruling party. Indeed, winning and being connected to the government increases by 17 percentage points (29 per cent) the probability that a pending criminal case is being closed without conviction. There is a significant positive premium for winning office and being politically aligned with the ruling party. These results are similar when analyzing a smaller bandwidth (two percentage points win margin) but the precision of these estimates is lower (see table A.2 in appendix).

Whenever a party fails to obtain the majority of the seats in the legislature, a coalition of parties can be proposed to form the new government. Table A.3 in appendix shows the

results of estimating equation 2 using the two measures of political power accounting for ruling coalitions. The first variable is a dummy equal to one when the candidate belongs to any of the parties forming the coalition in power. The second variable is a continuous measure based on parties' relative contribution to the total seats obtained by the ruling coalition. Hence, this measure is zero for any party not in government. If only one party forms the government, then this variable is equal to one.

The results using the interaction with the ruling coalition are in line with the previous results based on the ruling party. The size of the estimates (in absolute value) when using the ruling coalition instead of the ruling party, are consistent with our main results.

Table 3: Effect of winning office on the likelihood of a pending criminal case being closed without conviction

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Winner	0.011	-0.008	-0.009	0.003	-0.048	-0.072*	-0.071*	-0.060
	(0.040)	(0.042)	(0.041)	(0.042)	(0.042)	(0.043)	(0.042)	(0.044)
Ruling Party	-0.001	-0.021	-0.013	-0.010	-0.143*	-0.173**	-0.160**	-0.159**
	(0.047)	(0.046)	(0.045)	(0.042)	(0.080)	(0.074)	(0.071)	(0.067)
Winner Ruling Party					0.231**	0.245***	0.239***	0.237***
					(0.094)	(0.090)	(0.085)	(0.081)
Observations	1,349	1,349	1,349	1,349	1,349	1,349	1,349	1,349
Dep. Var. Mean	0.592	0.592	0.592	0.592	0.592	0.592	0.592	0.592
Case controls	✓	✓	✓	✓	✓	✓	✓	✓
Candidate controls		✓	✓	✓		✓	✓	✓
Constituency controls			✓	✓			✓	✓
State controls				✓				✓
Adjusted R^2	0.021	0.033	0.044	0.059	0.030	0.043	0.054	0.069
Winner+ Winner × Ruling party					0.182	0.173	0.168	0.177
p-value					0.028	0.032	0.027	0.014

This table estimates the impact of winning office on the likelihood of a pending criminal case being closed without conviction during the period of the legislature. The sample is composed of non-incumbent winners and runners-up contesting in elections decided by no more than 5 percentage points. Winner denotes candidates who won the election. Ruling party denotes candidates belonging to the party of the new chief minister. Winner Ruling Party denotes winners from the new ruling party. All columns control for the duration of the legislature. Robust standard errors clustered at the district level in parentheses *** p<0.01, ** p<0.05, * p<0.1.

5.1 Evidence from administrative judicial data

One concern regarding the previous result is that the outcome variable can be constructed only for candidates rerunning for elections. If legal outcomes for candidates rerunning and not rerunning are different, then the results from the previous sections are biased. Table 4 uses the sample obtained from the administrative data to show that the status of a pending case does not seem to be related to the decision of rerunning. Particularly, the share of cases closed without a conviction is similar across candidates rerunning and not rerunning conditional on the election results. The differences are not significant at

conventional significance levels. This could be due to the small number of criminal cases found for winners and runners-up.

Table 4: Share of cases closed without conviction by rerunning decision and election result

	Rerunning		Not rerunning		
Election result	Obs.	Mean	Obs.	Mean	p-value
Runners-up	34	0.62	68	0.59	0.817
Winners	78	0.68	27	0.67	0.451

Outcome variable is equal to one when the criminal case was closed without conviction at the end of the legislature, otherwise it is equal to zero. Data for non-incumbents winners and runners-up from Karnataka 2008/2013 and Maharashtra 2014 elections found in eCourts. Residuals clustered at candidate level.

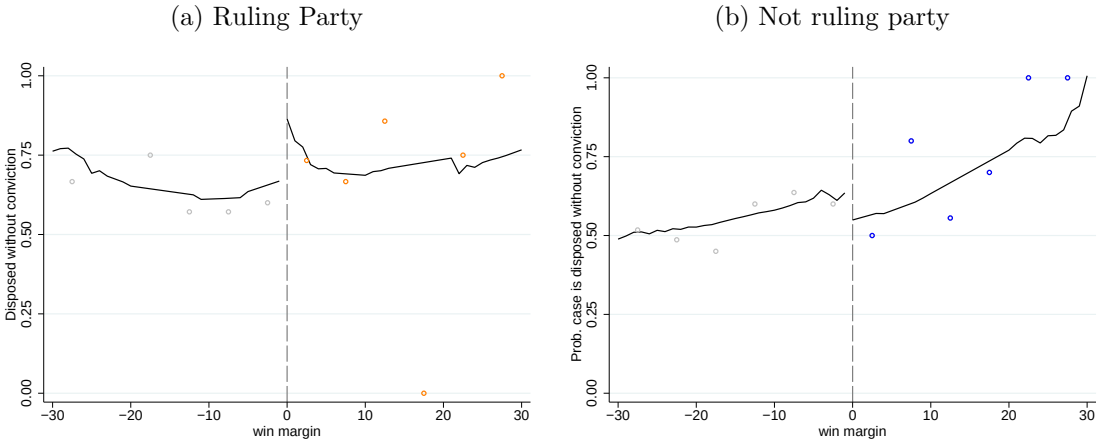
It is interesting to note that the share of cases closed without a conviction is higher for winners than runners-up. On average, winners are eight percentage points more likely to have their cases closed without a conviction during the period of the legislature. However, this number accounts for all winners and runners-up, regardless the margin of victory.

Figure 1 shows graphical evidence for the eCourt sample for the impact of winning office on legal outcomes. The solid lines show the predicted value for each win margin from estimating of the following local linear regression for losers and winners: $closed\,without\,conviction = \alpha + \beta_0 \cdot winner + \beta_1 \cdot win\,margin + \beta_2 \cdot winner \cdot win\,margin$. The panel on the left is for candidates from the new ruling party, while the right panel is for candidates not from the new ruling party. I use a bandwidth of 20 percentage points to estimate the shape of changes in the probability of having a case closed without conviction by the end of the legislature. The scatter points represent the true observed average probability of a case being closed without conviction at different win margins using a 5 percentage points bins window. Even with this bandwidth some scatter points are equal to 1 meaning that all cases in that win margin bin were closed without a conviction. At the margin, there are some differences between winners and losers for candidates from different political parties which are in line with the results of the previous section. However, none of these differences are significant at conventional levels. Also, it seems that winners with high electoral support are more likely to get their cases closed without a conviction during the period in the legislature, regardless of the political party. This is in line with table 4.

6 Mechanisms

Proving discrimination in the judicial system is challenging, but even more is to show how this is done. As discussed previously, several ways to affect legal outcomes might be taking place at the same time. The opposite returns of winning office depending on candidates' alignment with the party in government could shed light on the underlying mechanisms.

Figure 1: Predicted probability of a case being closed without conviction - local linear regressions by win margin



This figure shows in scatter points the observed average share of cases closed without conviction by win margin. The solid lines represent the predicted value of $closed\,no\,conviction = \alpha + \beta_0 \cdot winner + \beta_1 \cdot win\,margin + \beta_2 \cdot winner \cdot win\,margin$. Panel (a) is for candidates from the new ruling party, whereas panel (b) is for candidates not from the new ruling party.

Bribes, threats and/or abuse of powers vested on the executive can explain the results. I use information on the nature of the disposal and qualitative evidence from judgments to further explore which channels might be present.

Table 5 shows the outcomes of the criminal cases found using the administrative data by election result and political alignment with the new ruling party. Cases on trial can end either in acquittal or conviction. As can be seen in the first row, most cases end in acquittals. Only in a small proportion of the cases the accused politician is convicted. Particularly, no winner of the ruling party is convicted, while the highest share is for winners from other parties, although the share is still small. Consistent with the slow legal process in India, a large share of the cases is still pending in the judicial system.

Perhaps the most salient difference across groups is regarding the share of cases ending before trial. This share is particularly large for winners of the ruling party. In terms of the reasons why the cases ended before trial for winners of the ruling party: 40 per cent were withdrawn by the prosecution, 40 per cent were discharged/dismissed by the judge and 20 per cent were compromised between the complainant and accused. This pattern is in line with the anecdotal evidence discussed in section 2.

A particular pattern that emerges from analyzing judgments of closed cases is that many witnesses for the prosecution turned hostile.[18] Even witnesses who were also the complainant changed their testimony and denied the initial charges. Also, police officers who were witnesses for the prosecution turned hostile. It is interesting to note that witnesses turned hostile were found not only in cases for winners from the ruling party but

[18] A hostile witness is a witness who appears unwilling, to tell the truth after being sworn in to give evidence in court.

Table 5: Case resolution by election result and political alignment (in %).

	Ruling Party		Other Party		Total
Resolution	Winner	Loser	Winner	Loser	
Acquitted	39.58	38.64	43.86	32.58	34.69
Convicted	0	2.27	3.51	1.58	1.69
Ongoing	16.67	31.82	22.81	45.25	39.76
Ended Pre-trial	43.75	27.27	29.82	20.59	23.86
	100	100	100	100	100

This table shows the distribution of the case status at the end of the legislature by electoral result and political alignment with the new ruling party (in %). The table contains information for all 591 cases, regardless of the win margin of the candidate.

also for other politicians among the other three groups in table 5.

Witnesses retracting their statements before the court is a common problem in the Indian criminal justice system, this was mentioned by law practitioners and ex-police officers during unstructured interviews I had in India in 2018.[19] This behavior is especially true in high-profile cases as witnesses become hostile due to the threat to life and/or property.[20]

As stressed by the Supreme Court: 'One of the reasons may be that they do not have courage to depose against an accused because of threats to their life, more so when the offenders are habitual criminals or high-ups in the Government or close to powers, which may be political, economic or other powers including muscle power.'[21]

7 Heterogeneity analysis

7.1 Type and severity of the criminal offense

Does the severity of the criminal offenses matter for judicial discretion? From the politicians' point of view, there are several benefits of interfering with legal proceedings. This is particularly true for serious criminal accusations as their consequences are more significant than for less serious criminal charges. However, interfering legal proceedings of serious cases might be more difficult compared to less serious cases.

Table 6 shows the effect of holding office on legal outcomes by the severity of the criminal case. The estimates for less serious criminal cases are in line with the main results. Particularly, less serious cases of winners from the ruling party are 17 percentage

[19] Another reason that was mentioned was that evidence is mishandled or can disappear in cases against prominent individuals.

[20] https://timesofindia.indiatimes.com/city/ahmedabad/prosecute-19-witnesses-for-turning-hostile-says-hc/articleshow/68225834.cms

[21] Krishna Mochi v. State of Bihar, (2002) 6 SCC 81 : 2002 SCC (Cri) 1220.

points more likely to be closed without a conviction during the legislature. This is 55 per cent larger than the corresponding estimate for serious criminal cases (11 percentage points). Although these two estimates are not significantly different from each other, this suggests higher judicial discretion for less serious cases than for more serious crimes. Note that serious cases, in general, take longer to be closed than less serious cases, the share of serious cases closed without conviction between legislatures is still relatively high (56 per cent) compared to less serious cases (63 per cent).

One type of crime that warrants additional attention is those related to political activities, such as unlawful assembly or protest, as these might be more likely to appear for political reasons. To explore whether there is evidence of judicial discretion in these type of crimes, I define *'political crimes'* as those whenever there is a criminal offense (defined by IPCs) that is associated with political activity.[22] Last column in table 6 suggests no evidence of judicial discretion for criminal accusations related to political activities. Note that none of the charges used to define political crimes is of high severity. However, since a criminal case can contain several offenses, 64 per cent of the political criminal cases are serious. Overall the results suggest that political power has far-reaching effects on the criminal justice system by affecting legal proceedings for crimes not related to the political spectrum.

7.2 Changes in the ruling party

In states with high political turnover, MLAs from other parties might be perceived as a threat for the political establishment of the ruling party. This might create higher incentives to affect their ongoing cases. Also, in states with the same ruling party, politicians might have more political power to affect the behavior of individuals involved in the criminal justice system as they might have longer relationship and the expectations is that they will be staying in power. I separate states in which the same party has been ruling for consecutive periods and those states in which a new party comes to power.

Table 7 reports the effects of winning office on legal outcomes depending on whether the party stays in power or not after the elections. For states where the governing party maintains power, there are no statistical differences between winners and runners-up not from the ruling party. The point estimates are nearly zero. On the other hand, winners of the ruling party are 17 percentage points more likely to get their cases closed without a conviction compared to runners-up from the ruling party.

In states with a new ruling party, winning and not belonging to the ruling party has large negative effects on the probability of getting a case closed without a conviction. This estimate is significantly different compared to estimate for states with the same ruling party.

Judicial discretion of criminal cases against MLAs from parties not in government seems to occur only in states where a new party comes to power. This suggests that

[22] Political crimes are defined by the following IPCs: 141, 142, 145, 146, 147, 150, 151, 152.

Table 6: Effect of winning office on the likelihood of a pending criminal case being closed without conviction

	Severity of the crime		Political crime
	(1) Less serious	(2) Serious	(3)
Winner	-0.074	-0.027	-0.043
	(0.064)	(0.055)	(0.064)
Ruling Party	-0.203**	-0.087	-0.035
	(0.096)	(0.074)	(0.089)
Winner Ruling Party	0.251**	0.147	0.169
	(0.115)	(0.092)	(0.118)
Observations	582	767	461
Dep. Var. Mean	0.632	0.562	0.547
All controls	✓	✓	✓
Adjusted R^2	0.120	0.040	0.068
Winner+ Winner × Ruling party	0.178	0.119	0.126
p-value	0.062	0.144	0.196

This table estimates the impact of holding office on the likelihood of a pending criminal case being closed without conviction. Serious crimes are defined by the definition used by the Association of Democratic Reform. These includes crimes where the punishment is 5 years or more, they are non-bailable, crimes against women, among other criteria. These include crimes such as assault, murder, kidnap, rape, for instance. In turn, political crimes are related to unlawful assembly and rioting. The sample is composed of non-incumbent winners and runners-up contesting in elections decided by no more than 5 percentage points. Winner denotes candidates who won the election. Ruling party denotes candidates belonging to the party of the new chief minister. Winner Ruling Party denotes winners from the new ruling party. Robust standard errors clustered at the district level in parentheses *** p<0.01, ** p<0.05, * p<0.1.

MLAs from parties not in government are not seen as a threat to the establishment of the ruling party when the same party has been ruling for consecutive periods. Alternatively, this could reflect that since winners from the opposition are not in government, the second-best strategy is to postpone their cases until they are in power in the next electoral term. However, the precise reasons why this occur is outside the scope of the paper.

7.3 Political alignment with Union ruling party

It is interesting to analyze whether there is judicial discretion for cases against politicians aligned with the ruling party at the Union level. MLAs aligned with the governing party at the federal level (i.e. Prime Minister's party) might have different methods to influence legal outcomes or they might face political persecution from the governing party at the state level.

During most of the period of analysis, the ruling party at the Union level was the Indian National Congress (INC) until May 2014 when the Bharatiya Janata Party (BJP) leaded by Narendra Modi succeeded him.

Table 7: Effect of winning office on the likelihood of a pending criminal case being closed without conviction

	State Ruling Party		Alignment with Union government	
	(1)	(2)	(3)	(4)
	Same party	New party	INC (2004-2014)	INC/BJP (2004-2017)
Winner	-0.021	-0.151*	0.005	-0.001
	(0.053)	(0.076)	(0.053)	(0.047)
Ruling Party	-0.188**	-0.085		
	(0.076)	(0.082)		
Winner Ruling Party	0.196*	0.184*		
	(0.103)	(0.096)		
INC candidate			0.034	
			(0.071)	
Winner × INC candidate			0.067	
			(0.091)	
INC/BJP candidate				-0.015
				(0.067)
Winner × INC/BJP candidate				0.011
				(0.081)
Observations	794	555	931	1,349
Dep. Var. Mean	0.587	0.600	0.614	0.592
All controls	✓	✓	✓	✓
Adjusted R^2	0.064	0.129	0.051	0.058
Winner+ Winner × Ruling party	0.174	0.033	0.072	0.010
p-value	0.057	0.629	0.378	0.893

This table estimates the impact of holding office and belonging to the state ruling party on the likelihood of a pending criminal case is closed without conviction for states where the state ruling party changed or not. Winner is a dummy for winning the previous election. Ruling party is a dummy for candidates belonging to the party of the Chief Minister. INC denotes Indian Congress Party. BJP denotes Bharatiya Janata Party. Robust standard errors clustered at the district level in parentheses *** p<0.01, ** p<0.05, * p<0.1.

The third column of table 7 shows the estimations for the period under the control of the INC from 2004 to 2014. I analyze whether members of the INC receive particular benefits with respect to other politicians due to the influence of the Union government. The last column includes the whole period from 2004 until 2017. Since the outcome variable measures whether a pending criminal case is closed without conviction during a certain time frame - typically five years - then some litigations potentially overlap between the two federal governments. For instance, if a case was pending in 2013 the case was ongoing during the period of the INC but perhaps it was still pending when the BJP rose to power. Therefore for any case disclosed from 2010 onward the dummy variable INC or

BJP member is equal to one for candidates from INC/BJP. Before that year this variable is equal to one for candidates from INC. As seen from the table, cases from winners aligned with the Prime Minister's party are not more or less likely to be closed without conviction. This could suggest that most of the judicial discretion occurs within the state level apparatus.

7.4 Quality of judicial institutions

To explore whether the quality of judicial institutions correlates with judicial discretion I exploit variation at the state-year level on pendency and vacancy rate as well as another common way to define states with weak institutions - the so-called BIMARU states (Fisman et al., 2014, Prakash et al., 2019).[23]

According to table 8, the quality of institutions seems to mediate judicial discretion. Differential effects in legal outcomes are observed only in places with low-institutional quality. Elected politicians of the ruling party are between 18 and 21 percentage points more likely to get their criminal cases closed without conviction, in places with high rate of pendency and high rate of vacancies, respectively. It could be that courts with a high number of pending cases and with lower institutional capacity are more prone to suffer from political pressures or it might be easier for legal officials to favor politicians or 'turn the blind eye' whenever courts are overburdened with cases.

Finally, there is no evidence of systematic judicial discretion in non-BIMARU states. The opposite occurs in BIMARU states. These states are generally more corrupt and with worst quality of institutions.

8 Concluding remarks

This article is the first to analyze whether the enforcement and administration of justice get compromised when individuals accused of criminal offenses obtained political power. I analyze whether pending criminal case of candidates to legislative assemblies in India get a more favorable outcome when they acquire a position of power.

The results show that winning a seat in the state legislature does matter in getting special treatment during the legal process, but its effects within the period of the legislature depend on the political alignment of the candidate with respect to the ruling party. Winning office increases the chances that pending cases are closed without conviction during the legislature only for politicians from the ruling party.

The evidence suggests the presence of several channels by which politicians in power can obtain favorable legal outcomes. Powers vested in the executive (e.g. appointments, promotions, and transfers) might be misused to affect legal proceedings through the manipulation of law-and-order officials' career prospect. This is especially true for those law-and-order officials that depend on the government (e.g. prosecution, police). Anec-

[23] The correlation between pendency and vacancy rate is 0.06.

Table 8: Effect of winning office on the likelihood of a pending criminal case being closed without conviction

	Pendency Rate		Vacancy Rate		BIMARU states	
	(1) Below median	(2) Above median	(3) Below median	(4) Above median	(5) No	(6) Yes
Winner	-0.065	-0.043	-0.047	-0.045	-0.016	-0.083
	(0.085)	(0.050)	(0.059)	(0.063)	(0.056)	(0.063)
Ruling Party	-0.147	-0.193**	-0.101	-0.153*	-0.032	-0.155**
	(0.099)	(0.077)	(0.084)	(0.088)	(0.092)	(0.060)
Winner Ruling Party	0.138	0.259***	0.114	0.225**	0.079	0.235**
	(0.137)	(0.093)	(0.102)	(0.106)	(0.104)	(0.090)
Observations	522	827	737	612	644	705
Dep. Var. Mean	0.686	0.533	0.621	0.557	0.648	0.542
All controls	✓	✓	✓	✓	✓	✓
Adjusted R^2	0.112	0.039	0.115	0.085	0.107	0.061
Winner+ Winner × Ruling party	0.073	0.215	0.067	0.181	0.064	0.151
p-value	0.530	0.014	0.443	0.048	0.481	0.043

This table estimates the impact of winning office and belonging to the ruling party on the likelihood that pending criminal case is closed without conviction, for states with different institutional capacities. BIMARU states: Bihar, Jharkhand, Madhya Pradesh, Rajasthan, Uttar Pradesh, and Uttarakhand. Robust standard errors clustered at the district level in parentheses *** p<0.01, ** p<0.05, * p<0.1.

dotal evidence suggests that this is the case. A large share of cases of winners from the ruling party is closed before the trail by prosecutors withdrawing the cases or by judges dismissing them.

The lack of independence of law-and-order official from the executive powers is not only present in India. In most countries, several institutions involved in the criminal justice system depend directly on the current government. This fact raises concern regarding how insulated the criminal justice system is from political pressures.

However, there is no one-size-fits-all solution. While increasing the independence of law-and-order officials from the government could reduce the scope for political manipulation, the fact that several witnesses from the prosecution turn hostile suggests the need for additional policies. In this line, a common practice to prevent the use of threats against witnesses is to offer witness protection programs. This type of programs should be in place to prevent potential damages to witnesses, especially in high-profile cases. More analysis should be carried in this matter and see how effective these types of programs are.

Additionally, suggestive evidence indicates that judicial discretion only occurs in places with low-quality judicial institutions. Hence, improving judicial quality and capacity could be effective in curtailing political pressures in the judicial system. However, to design effective policies, more detailed data on the different actors and stages of the criminal process would be required to identify the weakest links in the legal chain. This research

paper is a first step towards the design of more effective policy recommendations to insulate the whole legal system from political pressures.

References

Abrams, D. S., Bertrand, M., and Mullainathan, S. (2012). Do judges vary in their treatment of race? *The Journal of Legal Studies*, 41(2):347–383.

Acemoglu, D., Cheema, A., Khwaja, A. I., and Robinson, J. A. (2018). Trust in state and non-state actors: Evidence from dispute resolution in pakistan. Technical report, National Bureau of Economic Research.

Aidt, T. S., Golden, M. A., and Tiwari, D. (2011). Incumbents and criminals in the indian national legislature.

Alesina, A. and La Ferrara, E. (2014). A test of racial bias in capital sentencing. *American Economic Review*, 104(11):3397–3433.

Alt, J. E. and Lassen, D. D. (2012). Enforcement and public corruption: Evidence from the American states. *The Journal of Law, Economics, and Organization*, 30(2):306–338.

Anagol, S. and Fujiwara, T. (2016). The runner-up effect. *Journal of Political Economy*, 124(4):927–991.

Aney, M. S., Dam, S., and Ko, G. (2017). Jobs for justice(s): Corruption in the supreme court of India.

Arnold, D., Dobbie, W., and Yang, C. S. (2018). Racial bias in bail decisions. *The Quarterly Journal of Economics*, 133(4):1885–1932.

Avis, E., Ferraz, C., and Finan, F. (2018). Do government audits reduce corruption? estimating the impacts of exposing corrupt politicians. *Journal of Political Economy*.

Batra, B. J., Grover, V., and Khanna, S. (2005). Public prosecution in india. Technical report, AMAN Trust, New Delhi.

Becker, G. S. and Stigler, G. J. (1974). Law enforcement, malfeasance, and compensation of enforcers. *The Journal of Legal Studies*, 3(1):1–18.

Besley, T. and Burgess, R. (2002). The political economy of government responsiveness: Theory and evidence from india. *The Quarterly Journal of Economics*, 117(4):1415–1451.

Chemin, M. (2012). Welfare effects of criminal politicians: A discontinuity-based approach. *The Journal of Law and Economics*, 55(3):667–690.

Cohen, A. and Yang, C. (2018). Judicial politics and sentencing decisions. Technical report, National Bureau of Economic Research.

Djankov, S., La Porta, R., Lopez-de Silanes, F., and Shleifer, A. (2010). Disclosure by politicians. *American Economic Journal: Applied Economics*, 2(2):179–209.

Fisman, R. and Miguel, E. (2007). Corruption, norms, and legal enforcement: Evidence from diplomatic parking tickets. *Journal of Political economy*, 115(6):1020–1048.

Fisman, R., Schulz, F., and Vig, V. (2014). The private returns to public office. *Journal of Political Economy*, 122(4):806–862.

Gehring, K., Kauffeldt, T., and Vadlamannati, K. C. (2019). Crime, incentives and political effort: A model and empirical application for india. *European Journal of Political Economy*, 59(1):1–20.

Glaeser, E., Scheinkman, J., and Shleifer, A. (2003). The injustice of inequality. *Journal of Monetary Economics*, 50(1):199–222.

Gloppen, S. (2013). Courts, corruption and judicial independence. In *Corruption, grabbing and development*. Edward Elgar Publishing.

Gordon, S. C. (2009). Assessing partisan bias in federal public corruption prosecutions. *American Political Science Review*, 103(4):534–554.

Iyer, L. and Mani, A. (2012). Traveling agents: political change and bureaucratic turnover in India. *Review of Economics and Statistics*, 94(3):723–739.

Lal Sharma, M. (1997). The role and function of prosecution in criminal justice. *UNAFEI, Annual Report for*.

Lambais, G. and Sigstad, H. (2019). Judicial subversion: Evidence from Brazil. Technical report.

Lee, D. S. (2008). Randomized experiments from non-random selection in US House elections. *Journal of Econometrics*, 142(2):675–697.

Lim, C. S., Snyder Jr, J. M., and Strömberg, D. (2015). The judge, the politician, and the press: newspaper coverage and criminal sentencing across electoral systems. *American Economic Journal: Applied Economics*, 7(4):103–35.

Locke, J. (1689). *Two treatises of government student edition*. Cambridge University Press.

McCrary, J. (2008). Manipulation of the running variable in the regression discontinuity design: A density test. *Journal of econometrics*, 142(2):698–714.

Michaelowa, K., Panda, S., and Martin, N. (2019). The teflon effect of political power: when criminal charges do not stick. *CIS Working Paper*, (103).

Montesquieu, Charles de Secondat, b. d. (1748). *The Spirit of Laws*. Cambridge University Press, Cambridge.

National Crime Records Bureau (2016). *Crime in India*. Ministry of Home Affairs.

Nyhan, B. and Rehavi, M. M. (2017). Tipping the scales? testing for political influence on public corruption prosecutions. Technical report.

Prakash, N., Rockmore, M., and Uppal, Y. (2019). Do criminally accused politicians affect economic outcomes? evidence from india. *Journal of Development Economics*, 141:102370.

Ramseyer, J. M. and Rasmusen, E. B. (2001). Why are japanese judges so conservative in politically charged cases? *American Political Science Review*, 95(2):331–344.

Reddy, K., Schularick, M., and Skreta, V. (2019). Immunity. forthcoming.

Rehavi, M. M. and Starr, S. B. (2014). Racial disparity in federal criminal sentences. *Journal of Political Economy*, 122(6):1320–1354.

Rose-Ackerman, S. (1999). *Corruption and government: Causes, consequences and reform*. Cambridge University Press.

Shayo, M. and Zussman, A. (2011). Judicial ingroup bias in the shadow of terrorism. *The Quarterly Journal of Economics*, 126(3):1447–1484.

Transparency International (2004). *Global Corruption Report 2004, Political Corruption*. Pluto Press.

Transparency International (2007). *Global Corruption Report 2007, Corruption in Judicial Systems*. Cambridge University Press.

Transparency International (2015). Enhancing judiciary's ability to curb corruption - a practical guide. Technical report, Transparency International.

Vaishnav, M. (2017). *When crime pays: Money and muscle in Indian Politics*. Yale University Press.

Voigt, S., Gutmann, J., and Feld, L. P. (2015). Economic growth and judicial independence, a dozen years on: Cross-country evidence using an updated set of indicators. *European Journal of Political Economy*, 38:197–211.

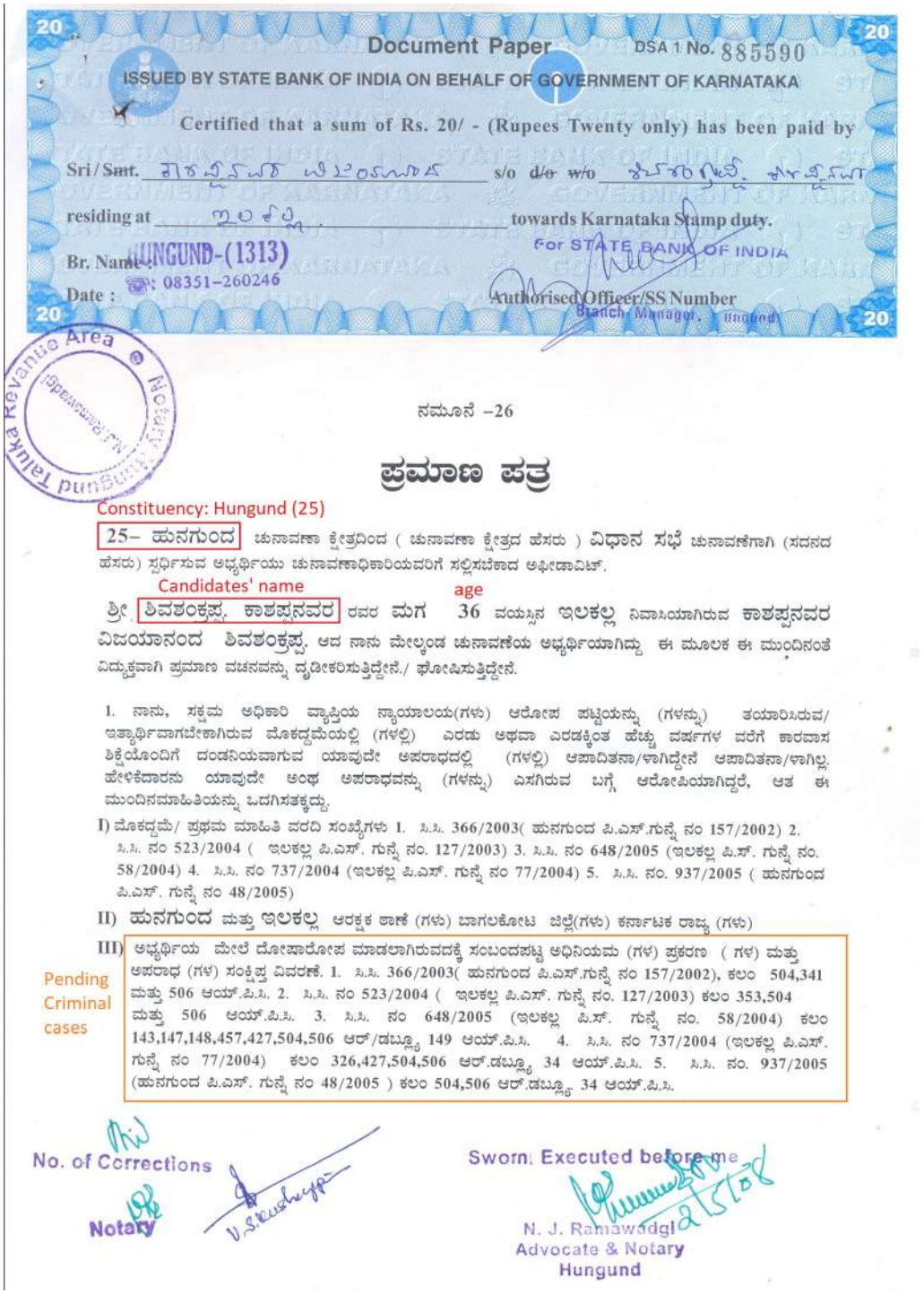
Wade, R. (1982). The system of administrative and political corruption: Canal irrigation in south india. *The Journal of Development Studies*, 18(3):287–328.

World Economic Forum (2018). The global competitiveness report 2017-2018. Technical report, World Economic Forum.

Zamboni, Y., Litschig, S., et al. (2018). Audit risk and rent extraction: Evidence from a randomized evaluation in Brazil. *Journal of Development Economics*.

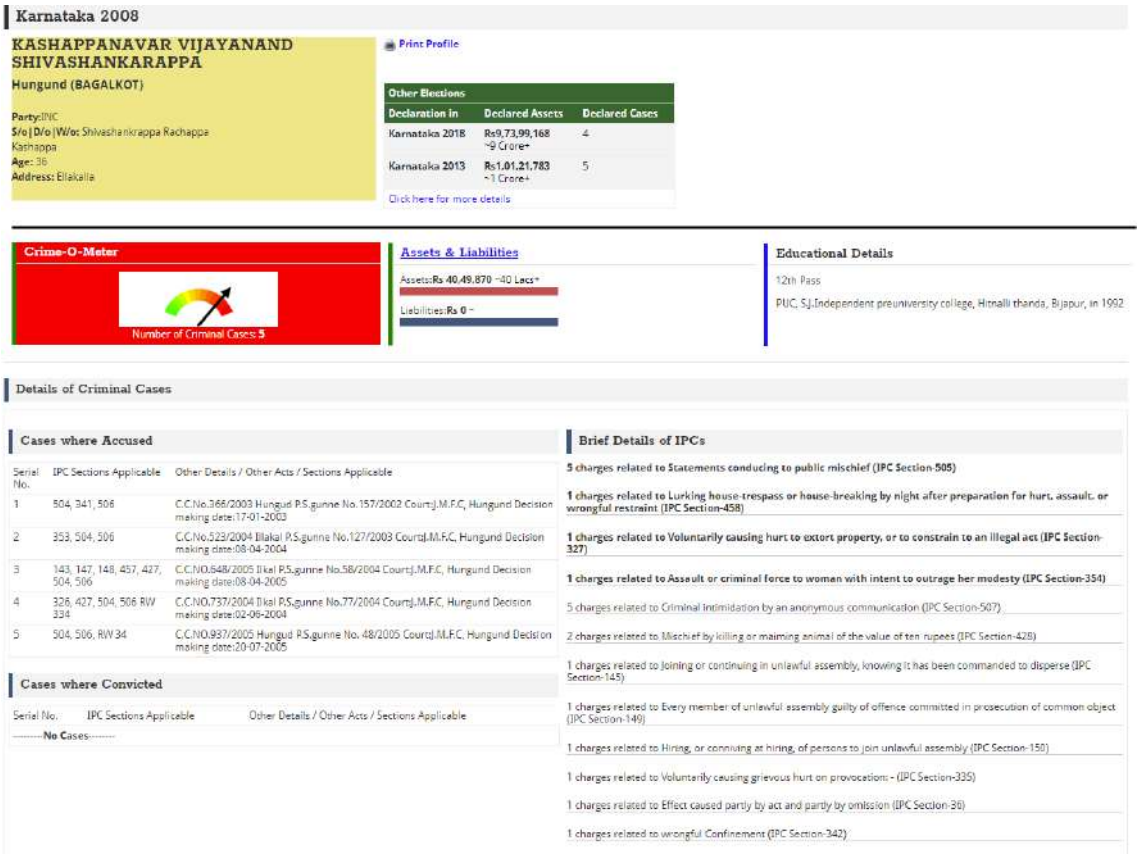
A Online Appendix - Other figures and tables

Figure A.1: Example of Affidavits- Form 26



This figure shows the first page of an original affidavit for Karnataka 2008 assembly election. Form 26 is the document that candidates must provide and which contains the information about pending criminal accusation and past convictions.

Figure A.2: Example of Affidavits in MyNeta.info



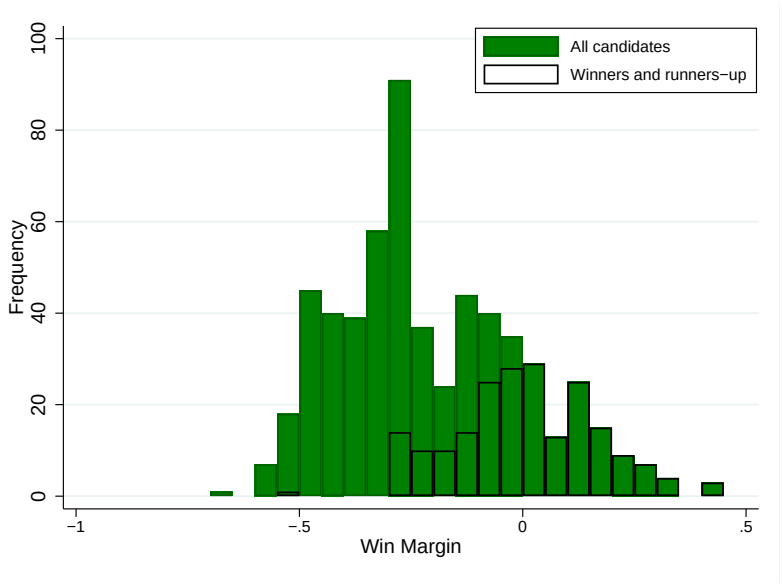
This figure provides a visual representation of a candidate affidavits' directly from *http://myneta.info* website. This website represents the same affidavits shown in figure A.1.

Table A.1: Most common Indian Penal Codes (IPCs) violated

N^o	IPC	Offense	Category	per cent
1	147	Punishment for Rioting.	Public Tranquility	32
2	149	Unlawful assembly.	Public Tranquility	23
3	506	Criminal intimidation.	Intimidation	21
4	323	Voluntarily causing hurt.	Human Body	20
5	148	Rioting armed with deadly weapon.	Public Tranquility	18
6	341	Wrongfully restraining any person.	Human Body	17
7	353	Use of criminal force to deter a public servant from discharge of his duty.	Human Body	16
8	504	Intentional insult with intent to provoke breach of the peace.	Intimidation	15
9	143	Being member of an unlawful assembly.	Public Tranquility	15
10	427	Mischief causing damage to the amount of fifty rupees.	Property	14

This table shows the most common criminal charges associated with candidates' pending criminal accusations. Only criminal offenses under the Indian Penal Code are included. IPC refers to Indian Penal Code.

Figure A.3: Distribution of win margin associated with the cases found in eCourts



This figure shows the frequency of cases by win margin of the candidate for the overall sample of cases found using administrative judicial data (ecourts). It also specifies those who are winners and runners-up.

Table A.2: Effect of winning office on the likelihood of a pending criminal case being closed without conviction (2 percentage point win margin)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Winner	0.014	-0.009	-0.023	-0.017	-0.039	-0.075	-0.081	-0.075
	(0.068)	(0.069)	(0.063)	(0.056)	(0.083)	(0.081)	(0.079)	(0.074)
Ruling Party	0.065	0.057	0.087	0.089	-0.057	-0.089	-0.041	-0.041
	(0.075)	(0.068)	(0.062)	(0.059)	(0.141)	(0.126)	(0.105)	(0.091)
Winner Ruling Party					0.187	0.228	0.199	0.201*
					(0.161)	(0.153)	(0.134)	(0.116)
Observations	476	476	476	476	476	476	476	476
Dep. Var. Mean	0.584	0.584	0.584	0.584	0.584	0.584	0.584	0.584
Case controls	✓	✓	✓	✓	✓	✓	✓	✓
Candidate controls		✓	✓	✓		✓	✓	✓
Constituency controls			✓	✓			✓	✓
State controls				✓				✓
Adjusted R^2	0.011	0.029	0.076	0.108	0.016	0.036	0.081	0.114
Winner+ Winner × Ruling party					0.147	0.153	0.119	0.126
p-value					0.261	0.230	0.254	0.133

This table estimates the impact of winning office on the likelihood of a pending criminal case being closed without conviction during the period of the legislature. The sample is restricted to non-incumbent winners and runners-up contesting in elections where the winner won by no more than 2 percentage points. Winner is a dummy equal to one for candidates who won the election, zero otherwise. Ruling party is equal to one for candidates belonging to the party of the new chief minister, zero otherwise. Robust standard errors clustered at the district level in parentheses *** p<0.01, ** p<0.05, * p<0.1.

Table A.3: Effect of political power on likelihood of a pending criminal case being closed without conviction by different definition of ruling coalition

	Coalition dummy				Coalition seat share			
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Winner	-0.058	-0.078*	-0.077*	-0.066	-0.059	-0.081*	-0.079*	-0.070
	(0.045)	(0.046)	(0.045)	(0.047)	(0.044)	(0.044)	(0.043)	(0.045)
Ruling Coalition	-0.160**	-0.192***	-0.181***	-0.173***	-0.208**	-0.236***	-0.220***	-0.218***
	(0.072)	(0.067)	(0.064)	(0.061)	(0.081)	(0.075)	(0.072)	(0.070)
Winner × Ruling Coalition	0.237***	0.243***	0.236***	0.229***	0.300***	0.312***	0.300***	0.301***
	(0.087)	(0.084)	(0.080)	(0.078)	(0.098)	(0.095)	(0.090)	(0.087)
Observations	1,349	1,349	1,349	1,349	1,349	1,349	1,349	1,349
Dep. Var. Mean	0.592	0.592	0.592	0.592	0.592	0.592	0.592	0.592
Case controls	✓	✓	✓	✓	✓	✓	✓	✓
Candidate controls		✓	✓	✓		✓	✓	✓
Constituency controls			✓	✓			✓	✓
State controls				✓				✓
Adjusted R^2	0.032	0.045	0.055	0.070	0.034	0.047	0.057	0.072
Winner+ Winner × Ruling Coalition	0.179	0.165	0.159	0.164	0.242	0.231	0.221	0.232
p-value	0.015	0.023	0.020	0.013	0.004	0.005	0.004	0.002

This table estimates the impact of holding office and belonging to the ruling coalition/party on the likelihood of a pending criminal case is closed at the end of the legislative period, using two ways to define a ruling coalition. Coalition dummy is equal to one if the candidate is a member of the ruling party or ruling coalition whenever a coalition exists. Coalition seat share is defined as the proportion of seats in the legislature that each party contributes within the ruling coalition. The sample is composed of non-incumbent winners and runners-up contesting in elections decided by no more than 5 percentage points. Winner denotes candidates who won the election. Ruling party denotes candidates belonging to the party of the new chief minister. Winner Ruling Party denotes winners from the new ruling party. All columns control for the duration of the legislature. Robust standard errors clustered at the district level in parentheses *** p<0.01, ** p<0.05, * p<0.1.

B Appendix - data construction

B.1 Identifying candidates across databases and elections

To identify candidates between the electoral data (Election Commission of India) and the affidavits data (Association for Democratic Reform and National Election Watch) I perform the following iterative matching process. The main idea of using an iterative matching process is to use all available information to find a correct match and increase the number of matches when some variables might not precisely coincide across databases. In this sense, the number of the variable used for matching observations vary with each iteration.

To prepare the data for the merging, I create an identifier for each observation in each database. This allows us to keep track of each particular observation to avoid duplication of the information during the matching process.

First, I merged the two databases using candidates' characteristics such as name, age, education, constituency, political party. Then I separate the matched observations from

the unmatched observations from each database. This process creates three data sets. One containing the matched observations, and two other data sets containing the unmatched observations, one for the electoral data, and the other for the criminal data from the affidavits.

Second, using the two unmatched databases from the previous step (unmatched electoral data, and unmatched criminal data), I merge them using less strict criteria. Specifically, I subtract one variable from the merging criteria to perform the matching. Then, I separate the observations into three different databases again. The matched observations and two unmatched observations. I append the matched observations in this second step to those observations that were previously matched in the first step.

Third, with the unmatched observations, I repeat step two using less strict criteria (i.e. taking one variable from the criteria for the merging).

Fourth, I conduct the same procedure using a fuzzy matching algorithm to account for the fact that names can be written differently across elections. The fuzzy match generates a metric of distance or similarity between the two names based on the Levenshtein method. This prevents matching candidates with similar names who are not the same, as well as matching candidates with different name spelling across elections. I manually checked all candidates below a certain threshold to ensure a correct match for my final database.

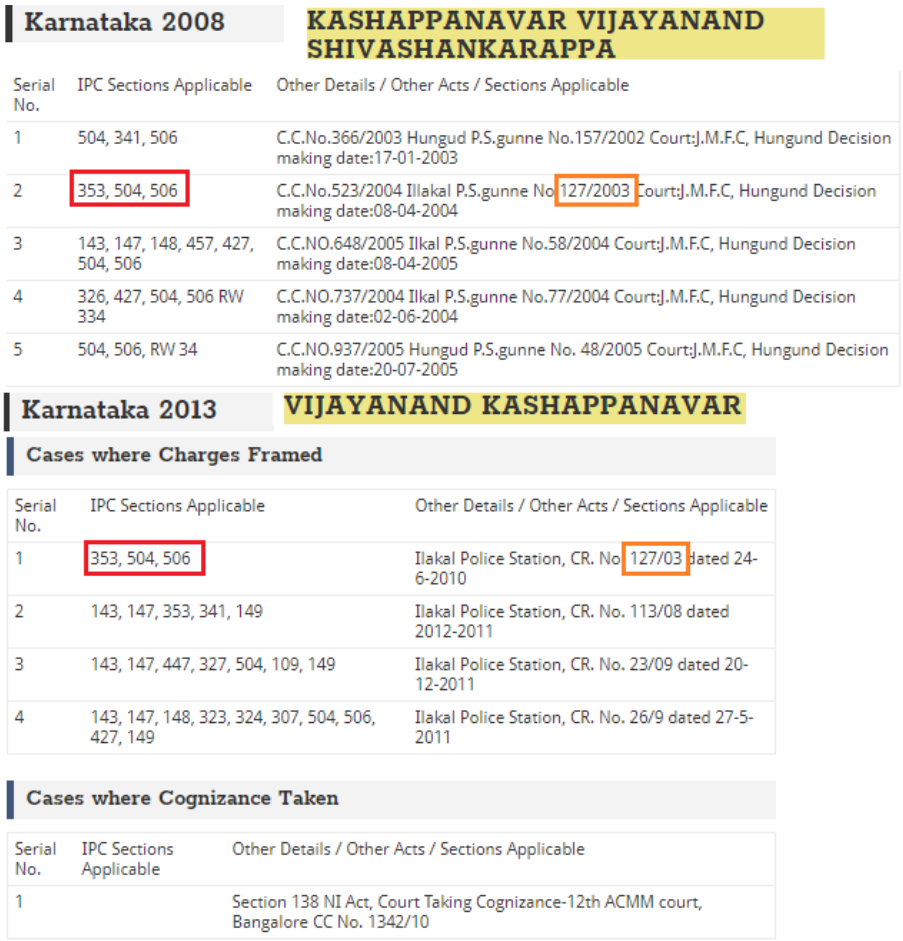
For tracking candidates across elections within the electoral data, I follow a similar procedure to the one just described. The main difference is that I account for variables that might change over time, such as age, education, political party, among others. For instance, for the case of age. If the election is five years ahead, to have a match then the candidate should have more than four years but less than seven. This to account for the different month between the date were elections occur and the months were the candidate was born.

B.2 Matching criminal cases across elections

To determine whether a criminal case c_{ijt} was closed without conviction at $t+1$, I obtain the criminal offenses associated with each case and any other information about the case such as case number, dates among others. Then, I examine whether there is any match between c_{ijt} and all candidate i's pending criminal cases at election $t+1$, c_{igt+1} $\forall g \in G$. On one hand, if there is one criminal case at $t+1$ with the same IPCs as c_{ijt}, then these two cases are the same. On the other hand, if there is no criminal case at $t+1$ matching c_{ijt}'s IPCs, then c_{ijt} was closed without conviction. Finally, I manually checked and corrected all the matches coming from the code to reduce the measurement error in the outcome variable.

Figure B.1 shows an example of the matching procedure employed to define the outcome variable. The first criminal case reported in election 2008 does not match any of the pending criminal cases reported in election 2013 based on the IPC. Therefore the case was closed without conviction. On the other hand, the second criminal case from 2008

Figure B.1: Matching criminal cases



Karnataka 2008 — **KASHAPPANAVAR VIJAYANAND SHIVASHANKARAPPA**

Serial No.	IPC Sections Applicable	Other Details / Other Acts / Sections Applicable
1	504, 341, 506	C.C.No.366/2003 Hungud P.S.gunne No.157/2002 Court:J.M.F.C, Hungund Decision making date:17-01-2003
2	353, 504, 506	C.C.No.523/2004 Illakal P.S.gunne No 127/2003 Court:J.M.F.C, Hungund Decision making date:08-04-2004
3	143, 147, 148, 457, 427, 504, 506	C.C.NO.648/2005 Ilkal P.S.gunne No.58/2004 Court:J.M.F.C, Hungund Decision making date:08-04-2005
4	326, 427, 504, 506 RW 334	C.C.NO.737/2004 Ilkal P.S.gunne No.77/2004 Court:J.M.F.C, Hungund Decision making date:02-06-2004
5	504, 506, RW 34	C.C.NO.937/2005 Hungud P.S.gunne No. 48/2005 Court:J.M.F.C, Hungund Decision making date:20-07-2005

Karnataka 2013 — **VIJAYANAND KASHAPPANAVAR**

Cases where Charges Framed

Serial No.	IPC Sections Applicable	Other Details / Other Acts / Sections Applicable
1	353, 504, 506	Ilakal Police Station, CR. No 127/03 dated 24-6-2010
2	143, 147, 353, 341, 149	Ilakal Police Station, CR. No. 113/08 dated 2012-2011
3	143, 147, 447, 327, 504, 109, 149	Ilakal Police Station, CR. No. 23/09 dated 20-12-2011
4	143, 147, 148, 323, 324, 307, 504, 506, 427, 149	Ilakal Police Station, CR. No. 26/9 dated 27-5-2011

Cases where Cognizance Taken

Serial No.	IPC Sections Applicable	Other Details / Other Acts / Sections Applicable
1		Section 138 NI Act, Court Taking Cognizance-12th ACMM court, Bangalore CC No. 1342/10

This figure shows an example for matching criminal cases across consecutive assembly elections.

does match with the first pending criminal case in 2013 based on the IPC (i.e. 353, 594 and 506). Additionally, candidates report other details related to each pending criminal accusation. Whenever that information exists (such as crime number No 127/03), it is also used to improve the accuracy of the matches. Given that the 'Other details' is raw text, I parse this information to obtain relevant information of the case, such as case number, dates, among others, that can be used to match cases across different elections. I use regular expressions to obtain the numbers associated with this information. Finally, I manually checked all the matches.

B.3 Identifying candidates criminal cases on eCourt

To find politicians' criminal cases on the data obtained from eCourt, I used information reported on candidates affidavits about the case numbers associated either with the court analyzing the case or with the police from which the criminal case was reported. Additionally, any other information such as dates, charges, court's name, among others, is used to identify a correct match.

The methodology comprises two steps: (1) the computational method providing potential matches for each politician's case, and (2) manual search required to identify the correct match among the potential matches found in step (1).

(1) Computational match. The best way to find specific cases on the eCourt data is by searching for the number of the criminal case at the court level, provided that this information is available from the affidavits. This number is related to the registration number in the associated court. All cases on eCourts must have a registration number. This is not the case for another type of information as the First Information Report number, which is related to the case at the police station, the Indian Penal codes (IPCs), all respondents' names, among others. It is important to note that are no significant differences between winners and losers in their chances of reporting this number.

Therefore, the method for searching for matches depends on whether the candidate reported a case number at the court level or not. If this information is available, I looked at the cases on eCourts that matched the case number. This process could result in several matches given that the same case number exists for different courts.Additionally, regardless of whether there is or not a case number, the search was constrained to cases that were filed in years no later than the election.

A measure to compare how similar the politician's name and the accused name was created (based on a variation on the Levenshtein distance). This index is used to determine which cases are more likely to be correctly matched to prioritize them, and also the cases where the names are below a certain threshold are dropped.

Whenever there is no information about the case number at the court level. The following method is used. If the case number at the police station is available then look for any match. Among those matches check how similar the names are. Keep those cases that satisfy a certain threshold for the similarity of the names.

If no case number at the police station is available, I constraint on judicial district and search for accused with similar names. This constraint is useful to avoid too many string comparison, which is time-intensive and avoid too many false positives. Keep those cases that satisfy a certain threshold for the similarity of the names.

(2) Manual search. To determine which case out of all the potential matches is the correct one, I manually checked the name of the respondents and the candidate's name. If a correct match was found, then the search for that case stops and another case is analyzed.

In cases where a correct match is not evident (in the sense that the candidate's name was not among the respondents or is written in a different way that is not easily recognizable or there are several cases where the accused could be the candidate) other information such as the name of the judicial district was used to determine the correct match, or FIR numbers, any date (such as the filing date for instance), name of the court, IPCs or Acts violated, among others (whenever available). If there was no other information to identify a precise match, then there is no match, and continue with the following case.

C Appendix - Identification strategy and internal validity

Let $Y^g_{obs}(T)$ be the potential outcome variable for a candidate's case in group $g \in \{w, ru\}$, where w refers to winners and ru to runners-up, given the treatment status $T = \{0, 1\}$, and whether the outcome is observed or not $obs = \{0, 1\}$. For the main data, the researcher observes $E[Y^w_1(1) - Y^{ru}_1(0)]$, that is, the outcome variable for those candidates rerunning. This can be re-written as follows:

$$E[Y^w_1(1) - Y^{ru}_1(0)] = E[Y^w(1) - Y^w(0)] + E[Y^w(0) - Y^{ru}(0)] \\ - \gamma_1 \cdot E[Y^w_0(1) - Y^w_1(1)] + \gamma_0 \cdot E[Y^{ru}_0(0) - Y^{ru}_1(0)], \tag{3}$$

where $\gamma_T = \Pr(obs = 0|T)$. The first term on the right hand side is the average treatment effect of winning office on legal outcomes, the second is the selection bias given that we are using runners-up as a comparison group for winners, and the last two terms are due to the fact that we are not able to observe the outcome variable for a share of winners and runners-up.

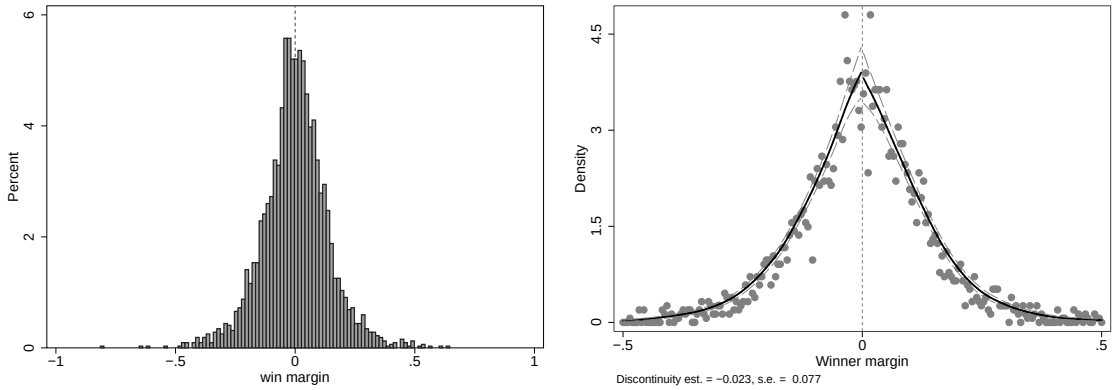
Due to the use of close electoral races the second term is equal to zero. Regarding the last two terms, if the outcome of the criminal cases for those candidates rerunning is representative from those cases for candidates not rerunning (conditional on the election result), then the estimates are unbiased. I what follows I show evidence suggesting that both of these two assumptions should hold. Additionally, regarding the second assumption, in the main text I present evidence from administrative judicial data suggesting that the last two terms should be zero.

C.0.1 Validity of the random electoral outcomes

To check how random these close elections are, I analyze whether there is systematic manipulation around the cutoff. Figure B.2 panel (a) shows the density of the win margin. To the left of the cutoff (i.e. win margin equal to zero) are the runners-up, while those to the right are winners. From simple inspection there are no signs of bunching around the cutoff for the running variable according to panel (a). To formally test whether there is any discontinuity around the cut-off, a McCrary (2008) test is shown in panel (b). The estimated difference in the densities on either side of the cut-off is equal to -0.023. This is statistically insignificant which rejects the null of discontinuity at the cutoff. This suggests that there is no evidence of electoral manipulation for close electoral races.

Additionally, I compare predetermined characteristics at the moment of the elections across winners and runners-up near the cutoff (see figure B.3). Candidates barely losing seem to be a good comparison group for candidates barely winning as both groups have baseline characteristics similarly distributed just above and just below the cut-off. Close races are more likely to occur in constituencies with large electorates and higher number of candidates. More importantly, candidates of the current state ruling party are not more likely to win a close election. Turnout, age and gender are relatively similar throughout the whole domain of the running variable. Over 95 per cent of the candidates are male.

Figure B.2: Testing the discontinuity of margin of victory

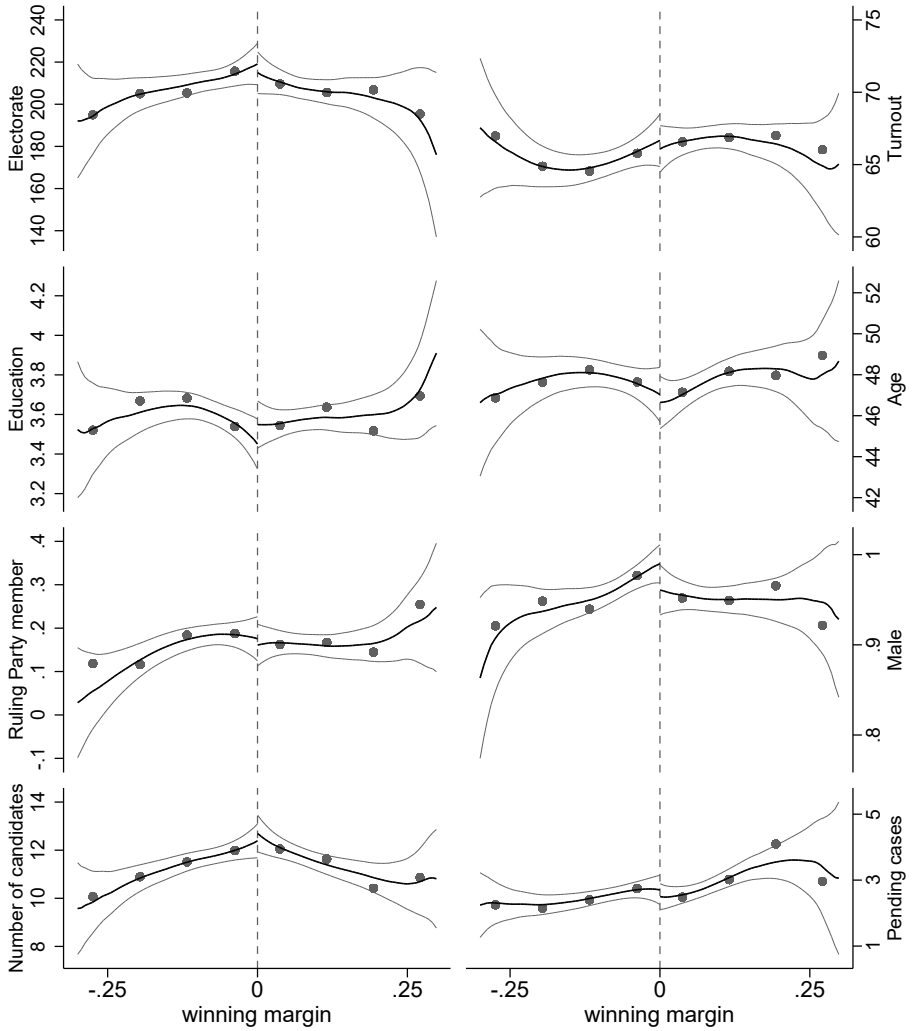


(a) Histogram of the win margin.

(b) McCrary test.

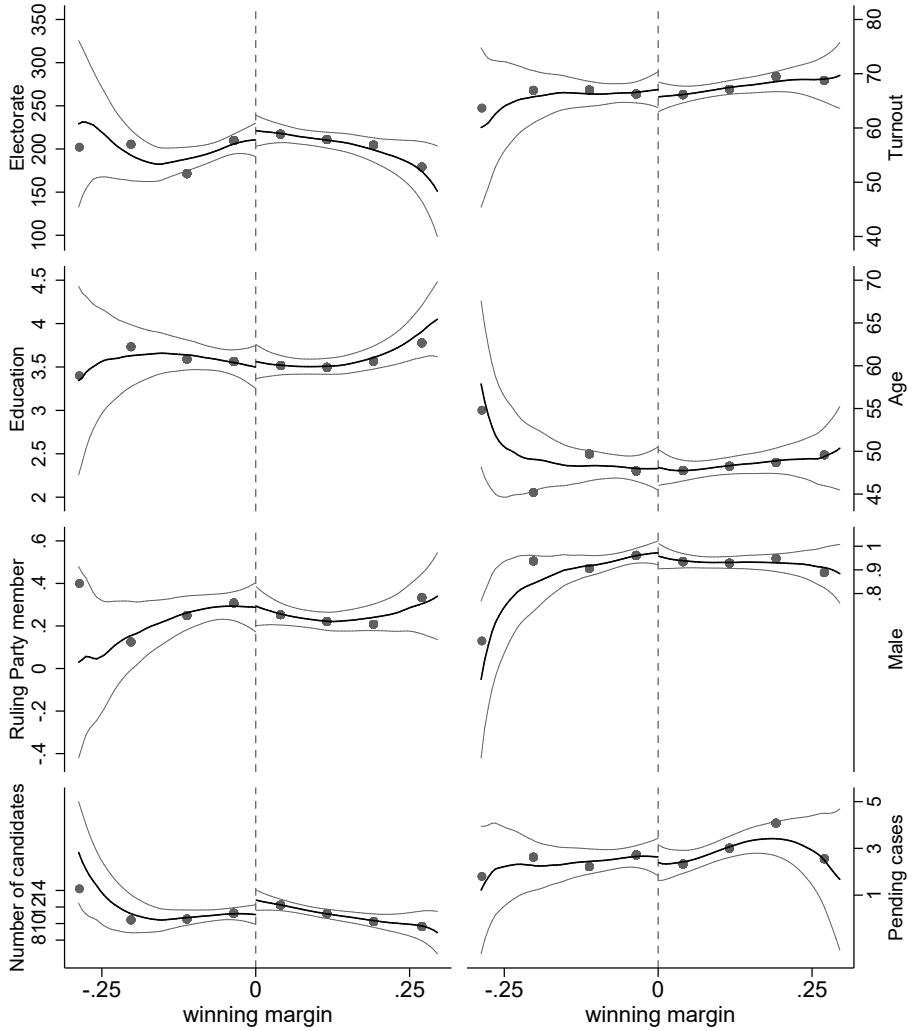
Panel (a) shows the histogram of the winning margin for winners and runners-up with pending criminal cases. Panel (b) shows the McCrary (2008) test for discontinuity in the density at the cutoff. The sample is composed by non-incumbent winners and runners-up with pending criminal cases to all legislative assemblies in India from 2004-2013.

Figure B.3: Balanced covariates at the cutoff for candidates with pending criminal cases



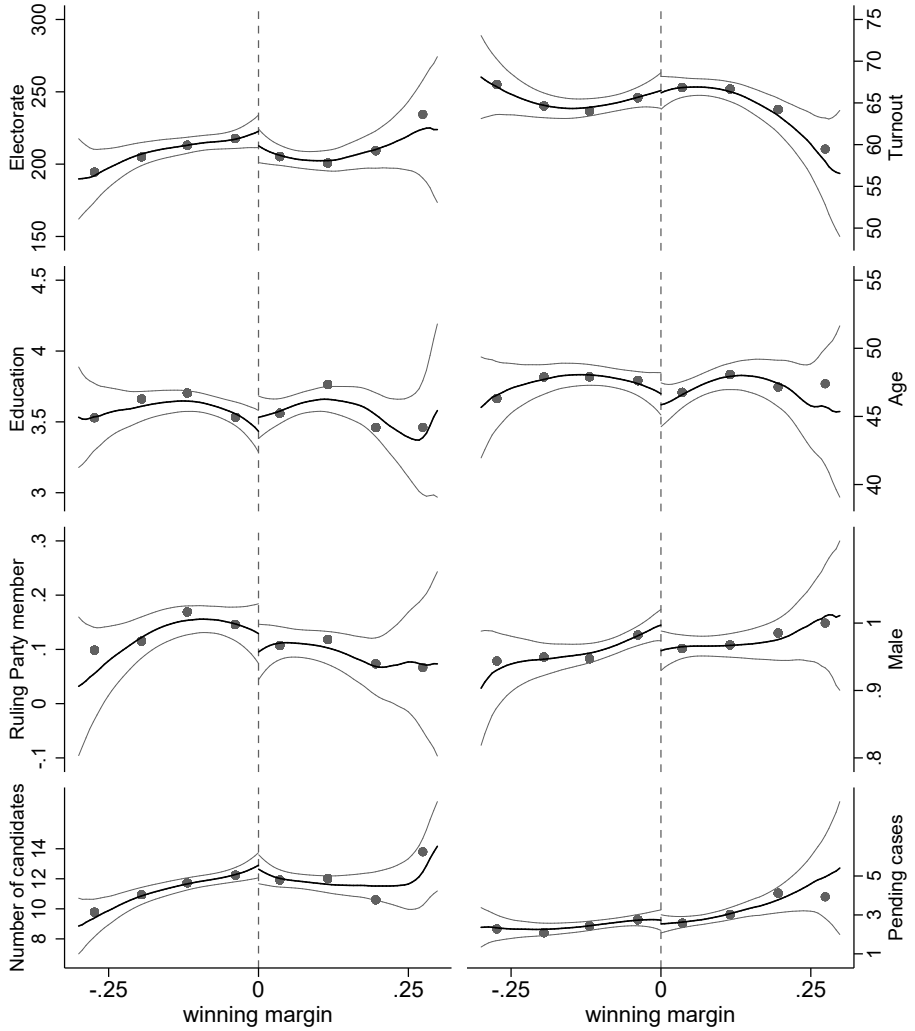
This figure shows whether several covariates are balanced above and below the cutoff. The sample is composed of non-incumbent winners and runners-up with pending criminal cases to all legislative assemblies in India from 2004-2013. Each dot is the unconditional mean in bins of 8 per cent by the winning margin. The solid line is the predicted values of a local linear smoother estimated using raw data on each side of the threshold at zero. Outer gray lines indicate 95 per cent confidence intervals.

Figure B.4: Balanced covariates at the cutoff for candidates with pending criminal cases and from the new ruling party



This figure shows whether several covariates are balanced above and below the cutoff. The sample is composed by non-incumbent winners and runners-up with pending criminal cases to all legislative assemblies in India from 2004-2013 that belong to the new state ruling party. Each dot is the unconditional mean in bins of 8 per cent by the winning margin. The solid line is the predicted values of a local linear smoother estimated using raw data on each side of the threshold at zero. Outer gray lines indicate 95 per cent confidence intervals

Figure B.5: Balanced covariates at the cutoff for candidates with pending criminal cases and not from the new ruling party



This figure shows whether several covariates are balanced above and below the cutoff. The sample is composed by non-incumbent winners and runners-up with pending criminal cases to all legislative assemblies in India from 2004-2013 that do not belong to the new state ruling party. Each dot is the unconditional mean in bins of 8 per cent by the winning margin. The solid line is the predicted values of a local linear smoother estimated using raw data on each side of the threshold at zero. Outer gray lines indicate 95 per cent confidence intervals

C.1 Decision of rerunning and candidates' characteristics

As in most democracies, the final rank obtained by a candidate in the election affects whether she reruns or not (Anagol and Fujiwara, 2016). In particular, winners rerun more often than other candidates. Table C.1 shows the probability of rerunning for candidates contesting close electoral races. The table separates candidates by electoral outcomes and

whether they have pending accusations or not. Winners with pending accusations rerun 71 per cent of the time, while this number is 55 per cent for runners-up with pending accusations. Thus, candidates not treated are more likely to attrit than those treated. However, conditional on the previous electoral outcome, candidates *without any* pending criminal case have similar probabilities of rerunning. Winners rerun 70 per cent of the time, whereas runners-up do it 54 per cent.

This suggests that conditional on the previous electoral outcome, the main factors affecting the decision of rerunning are similar for candidates with and without criminal cases. Thus, whether candidates rerun or not seems to be mostly driven by idiosyncrasies not related to their criminal status. The differential probability of rerunning between winner and runners-up might be a structural feature of any democratic system, even when the margin of victory was no more than 5 percentage points.

Table C.1: Probability of rerunning by electoral outcome and type of candidates

	All sample		With criminal cases		Without criminal cases	
Result	Obs.	Prob (%)	Obs.	Prob (%)	Obs.	Prob (%)
Runners-up	1,236	55	434	55	802	54
Winner	1,211	71	416	71	795	70

This table shows the unconditional probability of rerunning depending on the result of the previous election and whether the candidate had pending criminal cases before election or not. Data is at the candidate level. The sample contains only winners and runners-up who were non-incumbents and contested in close elections (i.e. the winning margin was no more than 5 per cent).

Additionally, tables C.2 and C.3 show whether observable characteristics for candidates rerunning and those not rerunning are balanced for winners and runners-up, respectively. Although there are a few differences, there are no systematic differences between candidates rerunning versus those not rerunning. Given the previous electoral outcomes, candidates not rerunning and those running have a similar number of criminal cases. However, those rerunning have fewer charges per criminal case. This is true for winners and runners-up. Note, however, that sources affecting the decision of rerunning do not bias the estimates as long as these affect winners and losers symmetrically.

Table C.2: Summary statistics for winners, rerunning and not rerunning

	Not rerun		Rerun			
Variable	Mean	s.d.	Mean	s.d.	Difference	p-value
A. Case characteristics						
Serious crimes	0.599	(0.491)	0.546	(0.498)	-0.053	(0.365)
Number of charges	4.423	(2.738)	3.664	(2.904)	-0.758	(0.004)
Charges framed	0.032	(0.195)	0.017	(0.165)	-0.015	(0.352)
Against human body	0.606	(0.490)	0.557	(0.497)	-0.048	(0.279)
Public tranquility	0.521	(0.500)	0.453	(0.498)	-0.068	(0.195)
Property crimes	0.461	(0.499)	0.328	(0.470)	-0.133	(0.002)
Intimidation	0.317	(0.466)	0.266	(0.442)	-0.051	(0.156)
B. Candidate characteristics						
Number of crimes	4.824	(4.609)	6.148	(6.593)	1.324	(0.371)
Female	0.032	(0.175)	0.025	(0.155)	-0.007	(0.695)
Net asset (in ln)	15.440	(1.894)	15.413	(1.829)	-0.027	(0.924)
Age	50.426	(11.711)	44.004	(9.052)	-6.422	(0.007)
Years of education	12.209	(3.286)	13.752	(2.857)	1.543	(0.000)
Voting share	0.350	(0.083)	0.357	(0.088)	0.008	(0.565)
C. Contituency characteristics						
Electorate (in ln)	5.391	(0.293)	5.378	(0.495)	-0.012	(0.803)
Turnout	64.766	(10.778)	63.972	(13.861)	-0.794	(0.685)
Number of candidates	14.359	(7.977)	12.908	(6.148)	-1.452	(0.272)
SC/ST	0.092	(0.289)	0.102	(0.302)	0.010	(0.761)
D. State characteristics						
GDP pc (ln)	10.229	(0.556)	10.265	(0.567)	0.036	(0.687)
Conviction rates	0.371	(0.197)	0.349	(0.209)	-0.022	(0.507)
Pendency rates	0.855	(0.080)	0.855	(0.076)	0.000	(0.999)
Vacancy rate	0.197	(0.081)	0.180	(0.074)	-0.017	(0.090)

This table shows balance tests for winners rerunning and not rerunning. There are 1,085 cases for winners (801 rerunning and 284 not-rerunning). Candidates contesting in elections where the win margin was no more than 5 percentage points and rerun. 'Number of charges' is the number of offenses associated with the Indian Penal Codes. 'Charges framed' is a dummy that is equal to one if charges have been framed against the politician by the corresponding court, otherwise is zero. 'SC/ST' seat of the constituency reserved for scheduled castes (SC) or scheduled tribes (ST). Errors are clustered at the district level.

Table C.3: Summary statistics for runners-up, rerunning and not rerunning

	Not rerun		Rerun			
Variable	Mean	s.d.	Mean	s.d.	Difference	p-value
A. Case characteristics						
Serious crimes	0.607	(0.489)	0.599	(0.490)	-0.008	(0.881)
Number of charges	4.483	(2.533)	3.881	(3.793)	-0.602	(0.021)
Charges framed	0.050	(0.249)	0.029	(0.225)	-0.022	(0.402)
Against human body	0.643	(0.479)	0.588	(0.493)	-0.055	(0.193)
Public tranquility	0.527	(0.500)	0.434	(0.496)	-0.093	(0.033)
Property crimes	0.435	(0.496)	0.341	(0.475)	-0.093	(0.011)
Intimidation	0.294	(0.456)	0.290	(0.454)	-0.004	(0.927)
B. Candidate characteristics						
Number of crimes	6.915	(7.184)	8.067	(9.135)	1.153	(0.610)
Female	0.009	(0.093)	0.014	(0.119)	0.006	(0.515)
Net asset (in ln)	15.504	(1.737)	14.904	(2.072)	-0.599	(0.159)
Age	46.842	(10.039)	44.503	(9.524)	-2.339	(0.127)
Years of education	12.480	(3.604)	12.842	(3.205)	0.362	(0.529)
Voting share	0.340	(0.082)	0.335	(0.073)	-0.006	(0.622)
C. Contituency characteristics						
Electorate (in ln)	5.380	(0.311)	5.365	(0.358)	-0.015	(0.738)
Turnout	64.079	(13.573)	61.911	(12.956)	-2.168	(0.253)
Number of candidates	11.551	(4.722)	12.471	(4.732)	0.920	(0.163)
SC/ST	0.137	(0.345)	0.050	(0.217)	-0.088	(0.037)
D. State characteristics						
GDP pc (ln)	10.331	(0.563)	10.094	(0.627)	-0.237	(0.015)
Conviction rates	0.338	(0.216)	0.329	(0.201)	-0.009	(0.787)
Pendency rates	0.857	(0.084)	0.845	(0.075)	-0.011	(0.302)
Vacancy rate	0.180	(0.082)	0.190	(0.078)	0.010	(0.364)

This table shows balance tests for winners rerunning and not rerunning. There are 1,222 cases for winners (647 rerunning and 575 not-rerunning). Candidates contesting in elections where the win margin was no more than 5 percentage points and rerun. 'Number of charges' is the number of offenses associated with the Indian Penal Codes. 'Charges framed' is a dummy that is equal to one if charges have been framed against the politician by the corresponding court, otherwise is zero. 'SC/ST' seat of the constituency reserved for scheduled castes (SC) or scheduled tribes (ST). Errors are clustered at the district level.