

Electoral Reforms in India: Problems and Prospects

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Introduction

Elections represent a crucial and essential component of democratic politics. The electoral process serves to legitimate authority. Currently, elections are not conducted under optimal circumstances due to the significant financial resources needed and the considerable physical strength often required to secure victory. The initial three general elections (1952-62) in our nation were largely conducted in a free and fair manner. However, a decline in quality started to emerge during the fourth general election (1967). Throughout the years, the electoral system in India has faced significant challenges. The election process in our country is the enunciator of political corruption. The shortcomings in the working of electoral process seen for the first time in the fifth general elections (1971). This trend was continuing with the successive elections especially those held in eighties and thereafter. Some of the candidate and parties try to win elections at all costs. They forgot all moral values and ethics. So an ideal condition is required to make the election process healthy and transparent.

Why Electoral Reforms is essential?

The current election circumstances are not favorable due to the significant financial resources necessary for campaigning and the substantial influence required to secure victories, which worsens the state of the electoral process. Key flaws within India's electoral system include: financial dominance, physical intimidation, the presence of criminals in politics, election-related violence, voter suppression, religious sectarianism, caste-based divisions, lack of serious candidates, and challenges faced by independent contenders, among others. At this moment, Indian politics is encountering various issues that urgently call for reforms in the electoral system.

Money power: In today's world, elections have turned into an expensive undertaking. The influence of wealth is a significant factor in the electoral process. This results in corrupt practices. It also aids in the creation of an underground economy. A hopeful candidate in any district or area must invest vast sums of money to be successful in the elections. Over the last few years, costs associated with elections have soared to unprecedented levels. The financial outlay for elections in 1952 was far less than what it is now. Nowadays, voters are not simply casting their ballots; they are being bought.

Muscle power: Currently, physical strength represents a fundamental aspect of the electoral process. It results in acts of violence, intimidation before elections, victimization, and ballot box tampering among other things. Such activities are prominent in several regions, including Bihar, Western Uttar Pradesh, and Maharashtra. Gradually, this chaotic issue is disseminating rapidly to additional parts of our nation. The involvement of criminals in politics and the criminalization of political practices are essentially two facets of the same issue.

Non-serious candidates in political parties: In recent time the role of non serious candidates are increasing. The number of candidates has increased now due to the participation of independent candidates. They are not serious about elections. They only contest elections light heartedly. They lose their deposits. They are contesting only to split the votes on caste lines.

Criminalisation of politics: Currently, there is a rising trend in the Indian electoral landscape known as the criminalization of politics. The primary cause of this phenomenon is the increasing number of legal cases filed against offenders. In order to escape the consequences of these charges, many individuals find refuge in the realm of politics. Additionally, various political parties are accepting financial contributions from those involved in criminal activities. In return for these funds, politicians offer their backing. Consequently, some commentators have accurately noted that “the contest of votes has transformed into a contest of violence.”

Misuse of Government Machinery: In electoral process misuse of government machineries is common affair. It includes using government vehicles for campaigning, advertisements, disbursements out of the discretionary funds at the disposal of the ministers.

Casteism: Caste has been a significant element in the political landscape of India for ages. Various caste factions align themselves with distinct political parties. This allegiance is not fixed. It evolves periodically. Numerous political parties are established primarily based on caste identity. Through this, political parties create divisions in the electoral process under the guise of caste. Thus, J. P. Narayan accurately remarked, “Caste acts as a political party in India.”

Communalism: Communalism acts as a significant virus within the electoral landscape of India. In order to seize power from the tumultuous waters of politics, politicians utilize the muck of communalism. They engage in all activities, from the distribution of tickets to the assignment of portfolios, under the guise of communalism. The lives and belongings of ordinary people hold no value for these individuals. The most severe manifestation of communalism is communal riots. This presents a grave threat to pluralistic culture, the notion of unity amidst diversity, parliamentary governance, secular principles, and federal structures.

Lack of Moral Values in Politics: Once upon a time politics was treated as a way to serve people. But, now a day it is treated as a profession. Even many thinks it is a way to earn money. People enter the political arena for making money. They try to retained their money and power. There are very few extinct politicians who enter into politics to the people.

Electoral Reforms: An Overview

The Indian parliamentary system serves as an example for numerous developing democracies globally. Ensuring elections are conducted in a free and impartial manner is essential to democracy. Our nation's democratic framework holds regular elections. We possess the most extensive electorate worldwide. To enhance the health of our democracy, several aspects require improvement. The electoral system in India urgently needs reforms.

Electoral reform refers to the implementation of just electoral systems to facilitate equitable elections. The achievement of electoral reforms hinges on the collaboration among the electoral system, political groups, candidates, and voters across various levels. Consequently, the Election Commission of India, multiple governmental committees, and the Supreme Court have periodically initiated several electoral reforms aimed at fortifying our democratic processes.

The legislative approach for electoral reforms is not satisfactory in India. Only, the Parliament has passed the Anti-defection Act in 1985. In the recent time, the constitutional provision of anti-defection law has lost its legitimacy. The purpose of anti-defection law is to deter MLAs and MPs from defecting from their political parties. The anti-defection to address the political parties' loyalties of elected representatives has multiple problems. The topic of electoral reforms has been taken by numerous government committees in the recent past.

- Joint Parliamentary Committee on Amendments to Election Laws (1971-72)
- Tarakunde Committee (1974)

- Dinesh Goswami Committee on Electoral Reforms (1990)
- Vohra Committee Report (1993)
- Gupta Committee on State Funding Elections (1998)
- Law Commission Report on Reform of the Electoral Laws (1999)
- National Commission to Review of the working of the Constitution (2001)
- National Commission to Review the Working of the Constitution or Venkatachaliah Committee
- Election Commission of India- Proposed Electoral Reforms (2004)
- The Second Administrative Reform Commission (2008)
- Tankha Committee or Core Committee (2010)
- J. S. Verma Committee Report on Amendments to Criminal Law (2013)
- Law Commission of India 244th Report on Electoral Disqualifications (2014)
- Law Commission of India 255th Report on Electoral Reforms (2015)

Lowering of Voting Age: The 61st Constitutional Act of 1988 reduced the voting age from 21 years to 18 years for the Lok Sabha as well as assembly elections.

Deputation to Election Commission: Under the Representation of the Peoples (Amendment) Act of 1988, a new section 13CC was added. This section states that personnel involved in the creation, updating, and modification of electoral rolls for elections will be considered to be on temporary assignment by the Election Commission for a designated timeframe.

Increase in Number of proposers: The quantity of voters necessary to endorse as sponsors on nomination documents for elections to the Council of States and the State Legislative Council has been raised. It has been adjusted to either ten percent (10%) of the electorate in the area or a maximum of ten voters, depending on which is lower. This measure aims to impose a restriction to deter candidates who are not genuinely serious.

Electronic Voting Machine: Electronic Voting Machines (EVMs) were first used in November, 1998 in various constituencies in the State elections of Rajasthan, Madhya Pradesh and Delhi. EVMs have been widely used in the Fifteenth Lok Sabha Elections in 2009. Now it is used in national, state and local elections.

Booth Capturing: Section 58A was added to the Representation of the Peoples Act of 1951 through Act 1 of 1989, which allows for the postponement of voting or the cancellation of elections due to incidents of booth capturing. Booth capturing is explained in Section 135 A of the Representation of the Peoples Act, 1951. Upon receiving such a report, the Election Commission has the authority to either nullify the vote at the specific polling place and set a new date for voting or to cancel the election in that electoral area.

Listing of Names of Candidates: To categorize the names of candidates, they will be divided into three groups: (i) candidates belonging to recognized political parties, (ii) candidates from registered but unrecognized political parties, and (iii) other candidates (independents). In the listings of candidates participating in the election and on the ballots, their names will be displayed distinctly in the specified sequence, and within each classification, they will be organized in alphabetical order.

Death of a Candidate: Previously, the election was countermanded on the death of a contesting candidate. Now, according to new provision of electoral law, in the case of the death of the candidate, the party concerned will be given an option to nominate another candidate within seven days of the issue of a notice to that effect to the party concerned by the Election Commission.

Prohibition of Going Armed to or Near a Polling Station: Going armed with any kind of arms as defined in Arms Act 1959 within the neighbourhood of a polling station is now a cognizable offence punishable. According to this act the violation of above rules met with imprisonment up to two years or with fine or with both.

Grant of Paid Holiday to Employees on the Day of Poll: Voting right is a sacred right. All citizens must participate in the holy work. So the governments have been declaring the day of election as holiday, by which, all registered electors employed in any business, trade industrial undertaking or any other establishment shall be entitled to cast their votes.

Ceiling on election expenditure: Currently, there is no cap on the expenditure a political party can incur during an election or concerning a candidate. In 2014, the Central Government elevated the upper limit on election spending for candidates competing for a Lok Sabha seat in larger states from 40 lakhs to 70 lakhs. For other states and union territories, the limit was adjusted to 54 lakhs, increasing from a range of 16 to 40 lakhs. Likewise, for an Assembly seat in major states, the spending ceiling was raised to 28 lakhs, up from the previous figure of 16 lakhs. In smaller states and union territories, the new limit stands at 20 lakhs, an increase from the prior range of 8 to 16 lakhs.

Restriction on exit polls: The EC issued a statement before the 2019 Lok Sabha elections saying that exit poll results could be broadcast only after the final phase of the elections were over. This was done to avoid prospective voters being misguided or prejudiced in any manner.

Voting through postal ballot: In 2013, the Election Commission chose to broaden the scope of voting by postal ballot in the nation. Until that point, only Indian personnel stationed in foreign missions and military members under certain circumstances were permitted to cast votes through postal ballots. At present, there are six groups of voters eligible to utilize the postal ballot: service voters; special voters; spouses of service voters and special voters; voters held under preventive detention; those assigned to election duties, and Notified voters.

Photoes of Candidates on EVMs and Ballot Papers: As per a directive from the Election Commission for elections that take place after May 1, 2015, ballot papers and Electronic Voting Machines (EVMs) must feature the candidate's image along with their name and party insignia. This measure can help prevent misunderstandings among voters in districts where candidates share similar names. Since the 1990s, the Election Commission of India (ECI) has implemented several measures aimed at electoral reforms. The importance of the Election Commission of India in ensuring elections are conducted fairly and freely has grown significantly in reinforcing democracy in India. In the 1990s, T.N. Seshan, who served as the Chief Election Commissioner (CEC), is recognized for various reforms that eliminated corrupt practices and promoted transparency. Overall, the changes introduced by CEC Seshan transformed the landscape of elections in India.

The Election Commission of India has successfully implemented the Model Code of Conduct throughout the electoral processes until 2014. However, the adherence to the Model Code of Conduct during elections has increasingly relied on the discretion of the Chief Election Commissioner. In this context, the Election Commission of India has launched voter registration lists that include photographs to combat fraudulent voting during elections. Additionally, the Commission has suggested connecting Aadhaar numbers with voter identity cards to enhance the accuracy of the electoral rolls. The Election Commission of India has also recommended categorizing paid news and submitting false affidavits as corrupt actions, which would carry a penalty of two years in prison. The Commission has urged the Ministry of Law and Justice to

classify bribery during election times as a cognizable offense. The aim is to include bribery among the grave offenses like murder, dowry-related deaths, and sexual assault. At present, being convicted of an electoral offense result in disqualification from elections. The Election Commission of India has requested the authority to revoke the registration of a political party based on violations of electoral regulations.

The funding of elections has emerged as a significant concern in the electoral system. The expenses related to running for office have exceeded the spending thresholds set by the Election Commission of India. This escalation has led to diminished transparency, extensive corruption, and the prevalence of what is known as 'black money'. In a ruling issued in 2018, the Supreme Court mandated that candidates must now disclose the origins of their income along with revealing their earnings. In this decision, the Supreme Court required candidates, when submitting their nomination forms, to report their assets as well as those of their spouse, children, and other dependents.

The ECI has taken steps to maintain trust of electors on use of EVMs in the elections. In this regard, Voter Verifiable Paper Audit Trail (VVPAT) machines are used during election process to verify that the vote polled by voter goes to the correct candidates. VVPATs are a second line of verification. VVPATs have been used in some elections in a bid to prevent tempering of EVMs. It is essential to improve voter confidence and ensure transparency of voting through VVPATs. During 17th election, the 'C-vigil' app was launched as a step towards greater citizen empowerment. Citizen could geotag pictures and report cases of violation on the portal, with assured action within 100 minutes of reporting.

Supreme Court & Electoral Reforms:

The Supreme Court in the case of Union of India vs. Association for Democratic Reforms 2002 ruled that voters possess the right to be well-informed when making choices in elections. As a result, it instructed the Election Commission of India to require candidates running for office to publicly disclose their financial assets and liabilities, as well as those of their spouses and dependent children, any criminal convictions they have received in a court, any ongoing criminal charges, and their educational qualifications when submitting their nomination documents.

In Ramesh Dalal vs. Union of India 2005, the Supreme Court held that a sitting Member of Parliament (MP) or Member of State Legislature (MLA) shall also be subject to disqualification from contesting elections if he is convicted and sentenced to not less than 2 years of imprisonment by a court of law.

In 1997, the Supreme Court directed the High Courts to not suspend the conviction of a person if he is convicted under The Prevention of Corruption Act 1988.

The Supreme Court has issued specific rulings aimed at purging the political arena of individuals with criminal backgrounds. Provisions 8(1), 8(2), and 8(3) of the Representation of the People Act, 1951 outline reasons for disqualifying any individual who has been found guilty and sentenced to various lengths of imprisonment, for a duration of six years commencing from their release date from jail.

In the case of Lily Thomas vs. Union of India 2013, the Supreme Court deemed Section 8(4) as unconstitutional and invalid. As a result, if a current Member of Parliament or state legislator is convicted and receives a prison sentence of two years or more, they will be instantly disqualified from serving in the legislative body.

In another ruling, the Supreme Court stated that voters have the right to choose the option of negative voting to reject all candidates deemed unfit for election. Voters can select the 'None of the Above' (NOTA) option on the electronic voting machine (EVM). The court mandated the Election Commission to incorporate the NOTA button into the EVM.

Conclusion

It is crucial that democracy serves as the foundation of society. For the people of India, democracy represents a lifestyle. The achievement of democracy's success cannot solely be relied on government institutions. Citizens also share an equal obligation for the effective operation of democracy. Therefore, electoral reforms are essential at this time for achieving a lasting democratic India. The goal of these reforms is to ensure that the General Will is aware and vigilant. Individuals with criminal backgrounds must not be allowed to participate in the important electoral process that seeks to reflect the Popular Will. Electoral system should be worked in such a way by which it can able to attract the best talent in the country. Elections should not be treated as mere rituals but the soul of democracy. For a true decriminalisation of politics, there is a need to abolish the patronage to criminals by politicians and political parties. For this a strong political will is required from the Government side. The highest court in our nation has declared that free and equitable elections constitute an essential element of the Constitution's framework. It is critical to dismantle the unlawful alliance between crime and politics. Taking action will contribute to cleansing our electoral process of criminal elements. If immediate and effective measures are not implemented, the populace may completely lose trust in politics, political leaders, and democracy as a whole. Such a situation could inflict lasting harm to our Republic. In this regard, additional measures are necessary to ensure our democracy remains robust and thriving.

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