
ELECTORAL REFORMS IN INDIA: A LOOK BACK AND A WAY FORWARD

BRIJ MOHAN DUTTA

Asst. Professor, Faculty of Law, Graphic Era Hill University, Dehradun Uttarakhand India 248002

bmdutta@gehu.ac.in

ABSTRACT

In recent decades, the funding of elections has grown to be a significant concern. It is generally accepted that the price of contesting elections has increased well beyond the permitted expenditure thresholds. This has led to a lack of transparency, rampant corruption, and the prevalence of so-called "black money." A variety of concerns related to election administration also require attention. Elections are difficult to hold because of the enormous size of the electorate, but this should not be used as an excuse for problems like booth capturing, voter intimidation, falsified voter registration records, widespread election rigging, other irregularities at the polls, the prevalence of ineffective candidates, and the misuse of religion and caste to influence voters.

This paper provides a list of potential remedies to these issues. The proliferation of insignificant parties, the recognition and de-recognition procedures, the disclosure of political parties' assets and liabilities, and the auditing and publication of those assets and liabilities are all significant issues that are addressed in this paper with regard to the role of political parties in the electoral system. This background paper's goals are to review some of the most important problems with our electoral system and to quickly look at the proposals made in this respect by several previous committees. In order to enhance our electoral system, significant adjustments must be made, and it is intended that this background paper will serve as a springboard for a fresh national conversation on these issues.

Keywords: *Black Money, Electoral Reform, Parliamentary reform, Legislative, Executive and Judiciary*

INTRODUCTION

A lot of newly developing democracies throughout the world look to India as an example. A democracy that operates effectively must have free and fair elections. Despite the fact that we have good reason to be proud of our democracy, there are a few areas that need to be improved if we are to fully realize it's potential. We urgently need to make fundamental reforms to our electoral system, including the way in which candidates are chosen and the way in which campaign money are raised and dispersed. A number of issues of our election system have caused rising concern in India over the years. In response to some of the concerns, the Election Commission has made reforms in a number of areas. Additionally, a number of committees have looked at the main concerns related to our voting system and offered some solutions. But there are still some significant difficulties that would require legislative action in order to make the necessary improvements.

Nearly all recent committees on politics and electoral reform have agreed that our political system has been criminalized. There are various ways that politics are being criminalized, but one of the most concerning is the large number of elected officials who are currently facing criminal accusations.

ISSUES WHICH CONCERN THE ELECTORAL POLITICS

It is seen that, the candidates who are participating for the elections have to spend a lot of money for the purpose of camping, publicity or any other purposes. But in most of the scenarios, it is seen that the participants exceed the limit of the amount. Sometimes, the use of muscle power comes into use. Here muscle power means that the participants commit illegal and wrongful acts

during the time of polling which cause a lot of violence and prevents the peace in the country. Moreover, it is seen that there is a misuse of the government's machinery.

In some cases, the party uses the government's machinery for many purposes which help in the candidate winning the election. In addition, there is a lack of the moral values. In this era, the political corruption has led to the place of business. So, the people enter the political area for the purpose of making money and to increase their power. But there are only a few of the political leaders who are present in this era which helps in the betterment of the people. This will eventually help in the building of the welfare of that nation. The Gandhian values which are given a lot of importance in the current society is missing as the people look onto the business and the maximization of profit.

STAND OF ELECTORAL REFORMS (PRE-2000)

When talking about the pre- electoral reforms, which are before the time of the year 2000, there was a lowering of the age where the people can vote. Before it was 21 years of age and now it is reduced to the age of 18 years. Then, there was an introduction of the electoral voting machine also called as EVM which was introduced in the year 1998. This was done during the state elections of Delhi, Madhya Pradesh and the state of Rajasthan. This option is considered as the most efficient method and is also considered as the better option for the protection of the environment. Moreover, it is said that a participant who is participating in the elections will not be able to contest more than two constituencies. Also, important information is that the sale of liquor is prohibited. Which means that the sale of the liquor will not be entertained?

STAND OF ELECTORAL REFORMS (POST-2000)

When talking about the electoral reforms which is after the year 2000, there was a ceiling in the expenditure. The commission has noticed that the expenditure has being going on a rise and has put a cap for the same. For example, in regards to the Lok Sabha elections, the said amount is 50-70 lakhs. Moreover, the election commission stated that the exit polls should be broadcasted only after the final phase. This helps in avoiding the voters to be misguided. Also, there was an awareness creation where January 25th is marked as the national voter's day.

INDIA'S ELECTORAL SYSTEM

It is to be noted that the elections in India occurred in the year 1952 and the appropriation or the introduction of the Universal Adult Franchise was a point of interest step for a recently autonomous and immature state. The main point was to embrace to encourage the thought of lion's share cooperation coupled with free and reasonable decisions which help in the welfare of the nation. But in later a long time, some issues with respect to constituent prepare have come up at a disturbing drift which in case not changed might imperil our law-based structure Legislative issues in India was once an ethical act, but nowadays it has gotten to be full of embarrassments. There's less enthusiasm, color and some naturalness than some time recently. The misfortune of confidence in legislative issues and depoliticization due to expanding part of back, misuse of voters, exchanging political parties, debasement and other such issues have demerited our equitable structure.

POLITICAL INFLUENCE

When looking at the final two decades, the influence of the offenders within the political area have appeared a colossal increment. Prior to these criminal components utilized to impact the decisions from exterior but presently they have gotten to be a portion of it by challenging the decisions themselves. Once a charged is chosen amid the trial period, it is seen that he employments his profitable position which weakens the case or pressurizes the government to pull back the indictment against that person.

PROBLEMS FACED IN THE ELECTORAL SYSTEM

When talking about the Indian electoral system, it is more of corruption and other problems. Which creates a problem to the level of transparence and the level or corruption in the society? Some of the candidates enter the political system so that they can make enough money and which will help in the self –satisfaction. There is also a misuse of the money, where the people e=tend to spend a lot of money and also leads to sacrificing the Gandhian values in the society which disturbs the welfare of the nations. The next problem is the electoral violence which is happening. Moreover, when talking about the government resources and other machinery, these resources are greatly misused for their benefit.

REFORMS WHICH HELP IN REGULATING THE ELECTORAL REFORMS

There are some reforms which help in the regulation of the electoral system in the country. The participants will be termed as disqualified if they do not abide by the rules and regulations. The participants also have to declare that criminal antecedents three times. There is also a limit to the expenditure of the people which help in regulating the people if the country. This will lead to the welfare of the country. All these will help free and fair elections and people can give their opinions in a free and fair manner. This is one of the key point of democracy which helps in the regulation of the electoral reforms in the country. These will also help in the transparency of the nations and also help in the betterment of the people of the nations.

MEASURES TAKEN BY ELECTION COMMISSION OF INDIA FOR ELECTORAL REFORMS

Political Parties Registration Tracking Management System (PPRTMS)¹ : The key feature of the PPRTMS is that beginning on January 1, 2020, anybody seeking for political party registration will be able to follow the status of their application and get email and SMS notifications as to its development Section 29A of the Representation of the People Act, 1951² regulations govern the registration of political parties.

Systematic Voters' Education and Electoral Participation Programme (SVEEP):

It is the flagship program of the Election Commission of India³ for voter education, spreading voter awareness and promoting voter literacy in India. Since 2009, we have been working towards preparing India's electors and equipping them with basic knowledge related to the electoral process.⁴ The main objective of SVEEP is to promote voting and informed voting among all eligible individuals in order to create a fully participatory democracy in India. The program is built on a variety of broad-based and targeted interventions that are planned in accordance with the socioeconomic, cultural, and demographic characteristics of the state as well

¹ Political Parties Registration Tracking Management System,

² Representation of the People Act, 1951, s 29A

³ Election Commission of India, < <https://eci.gov.in/>>

⁴ Systematic Voters' Education and Electoral Participation Programme, < <https://ecisveep.nic.in/division/about-us/>>

as the history of voting participation in earlier elections and what those voters learned from those experiences.

THE JUDICIARY'S STEPS TOWARD ELECTORAL CHANGE

In the case of *Union of India v. Association of Democratic Reforms*⁵ The challenged amendment does not adequately require election candidates to disclose their assets, liabilities, acquittals, and discharges from proceedings, as well as their educational backgrounds, work experience, and debts to governmental agencies and financial organizations. Petitioners claimed that the amendment did not adequately reflect the court's ruling requiring background checks on all election candidates.

Controversy arose when it was argued that the amendment went against Article 19(1)(a)⁶, violating the voters right to know. The constitutionality of the Amendment and the question of whether or not the right to vote constituted a statutory right were examined by the three-judge Bench. The Court agreed with the Petitioners and invalidated the modification they had challenged.⁷

In the case of *Ramesh Dalal versus Union of India*⁸, the legislator is disqualified from contesting elections if, on the day of filing the nomination papers, he/she stands convicted in a Court of law. In *People's Union of Civil Liberties versus Union of India*⁹: The right to negative voting is a right, which may be extended to citizens irrespective of whether right to vote is considered a fundamental right. This will require either the passing of such a law by Parliament, or a statutory directive by the Election Commission (regulatory electoral body), under the powers conferred upon it.¹⁰ After the trilogy of election cases, the right to vote became a basic right.

NUMEROUS COMMITTEES FOR ELECTORAL REFORM

⁵ 2002 (3) SCR 294

⁶ Constitution of India, 1950, art. 19

⁷ Rajeev Kadambi, 'RIGHT TO VOTE AS A FUNDAMENTAL RIGHT: 'MISTAKING THE WOODS FOR TREES' ' (IndianJ. Const L.)

⁸ 1988 SCR (2)1011

⁹ (2009) 3 S.C.C. 200.

¹⁰ Rajeev, supra note 7, at 181

A Committee on Electoral Reforms has been established by the Ministry of Law and Justice of the Indian government. The Committee's principal goal is to suggest to the government specific improvements that may be made to our voting system. Politicians, government employees, lawyers, NGOs, academics, journalists, and other stakeholders will all be considered by the committee. Many previous committees have observed that the resolution of election petitions and disputes, as well as the decisions on defections, operate in a lengthy and inefficient way. Some of the committee is mentioned below:

1. Dinesh Goswami Committee

In addition to giving the Election Commission the necessary authority to name agencies for investigation and prosecution as well as to establish special courts, the ordering of a re-poll or countermanding should be based not only on the returning officer's report but also on other grounds. The speaker or the chairman of the relevant House should not be the one to decide whether a member should be disqualified. Changes should be made to the voting process, such as switching from the current voting system to one that uses proportional representation of the list (though this issue was to be further discussed among experts).

A new delineation should be done based on the results of the 1981 census, and there should be a clause that rotates the reserved seats for the Scheduled Castes and Scheduled Tribes. There should be a limit of two constituencies for any candidate running in an election. Age restrictions for assembly candidates should be lowered to 21 and for council candidates to 25. A sample code of conduct should be created that addresses difficulties related to using government resources, such as transportation, the media, and funding. The accounting of election expenditures has to be extensively restructured. It is important to guarantee that electoral disputes are resolved quickly with the aid of special judges. The usage of EVM should cease manipulating and tempering.

2. Jeevan Reddy Committee

Adequate representation has been proposed by the Commission. After being elected to the House on the ticket of a certain recognized political party, a lawmaker is expected to stay with that party until the House is dissolved or he resigns or is otherwise no longer a lawmaker. The Commission has called for a complete moratorium on political party splits and mergers during the current Lok

Sabha session. If a court has ordered charges to be drafted in connection with a crime enumerated in the Representation of the People Act, 1951, that individual shall be disqualified from competing in elections for the Lok Sabha or an Assembly.¹¹ This is the recommendation made by the Commission to stop the criminalization of politics.

3. *Tarkunde Committee*

The minimum voting age should be 18, autonomous statutory corporations should have control over TV and radio, and the Election Commission should be a three-member body. In order to facilitate free and fair elections, the committee advised the creation of voter councils in as many seats as feasible.

CONCLUSION

It is a well-known truth that there are certain issues with the country's election system that need to be fixed. However, this should be accomplished gradually and consistently, after much discussion and deliberation. The relevance of the challenges surrounding electoral reforms has been acknowledged by successive administrations at the Center. The Election Commission and several committees have occasionally presented suggestions for election changes, and these suggestions have routinely been taken into consideration and also put into practice. The government acknowledged that electoral reforms are an ongoing process, and it shall be the effort of all stakeholders, including the government, the Election Commission of India, the Law Commission, etc., to implement those suggestions for electoral changes on which consensus occasionally arises

¹¹ Representation of the People Act, 1951