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## Electoral Reform Navigating India's Path to Transparent Democracy

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*Since India's independence in 1947, the country has consistently adhered to democratic ideals, resulting in a strong election system codified in its constitution. Despite the hurdles, visionaries like Dr. B.R. Ambedkar fought for inclusive voting processes, laying the framework for India's international reputation as a model of free and fair elections. However, long-standing concerns such as political criminality, inadequate electoral infrastructure, and voter intimidation demand constant change. This article covers India's election progress, from its historical underpinnings to current issues, with the goal of proposing improvements that improve transparency, equality, and justice. By examining candidate selection processes, campaign financing restrictions, and legal frameworks handling political offenders, the study hypothesizes that smart reforms can enhance India's democratic system. Historical insights, along with present imperatives, give a route for change, aiming to protect India's election integrity from criminalization, infrastructure flaws, and challenges to voter freedom.*

**Keywords:** *electoral reform, electoral violence, democratic values, election infrastructure.*

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### INTRODUCTION

Since India gained its independence in 1947, it has been steadfastly dedicated to democratic principles, and the writers of the Indian Constitution established the groundwork for a robust

electoral process. Leading the way as the 1930s Round Table Conferences addressed self-governance and signalled the start of the democratic process were Dr. B.R. Ambedkar and other visionaries. Important turning points were reached when Dr. Ambedkar supported separate electorates for the untouchables and other minorities, despite conflicts like Gandhi's opposition to communal prizes<sup>1</sup>. Thanks to its dedication to free and fair elections, India's democratic model is now seen as a worldwide role model. To fully realise the nation's democratic potential, however, significant modifications to the voting process are necessary. This is notwithstanding national pride. To establish a more transparent, equal, and just electoral system, fundamental adjustments are required in everything from candidate selection to campaign funding. India's story of electoral reform is a continuous one, entwining the visionary founder's legacy with the demands of modern difficulties as the country sculpts its democratic framework.

#### **LEARNING FROM HISTORY FOR FUTURE ELECTORAL REFORMS IN INDIA**

The ageless wisdom of Niccol Machiavelli is relevant to India's current democratic reform path. India, the world's largest democracy, has seen changes in its election system throughout history and in the present. Political events have always been driven by human passions, which have reflected patterns across time and produced similar results. India's election reforms, which are essential to the democratic process, learn a great deal from history. The significance of the phrase comes from realising that the problems and solutions facing the current voting system are reminiscent of those seen in earlier times. From the 1947 creation of free and fair elections under the aegis of the Election Commission and the Constitution to the current development of legislation like the Representation of the People Act, history offers insightful advice for the future. Motivated by historical analysis as well as contemporary concerns, electoral reform reflects the never-ending cycle of human emotions influencing political results. Echoing the vision of a dynamic democracy for the future, India is trying to steer clear of the past and toward a more stable, open, and participatory election process.

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<sup>1</sup> B N Ghosh, *Gandhian Political Economy: Principles, Practice and Policy* (Ashgate Publishing 2007)

## FREE AND FAIR ELECTIONS IN INDIA

India, often considered the world's best democracy, has painstakingly upheld the custom of free and fair elections since attaining independence in 1947. These elections, which take place on a regular basis, rigorously follow the rules set down in the Constitution and are monitored by the ECI. The EC has the constitutional authority to oversee, direct, and control all aspects of the electoral process<sup>2</sup>, including state and parliamentary elections as well as elections for India's most important offices: the president and vice president. The fundamental aspect of these elections is that they are in compliance with both the laws passed by Parliament and the stipulations of the Constitution. The Representation of the People Act, 1950, is a significant piece of legislation that regulates the creation and updating of electoral rolls, as well as the thorough control of all aspects of election behaviour and the settlement of disputes that arise after the election.

## CRIMINALIZATION IN THE ELECTORAL SYSTEM

Criminalization in politics has continued to cloud the election process and raise questions about the objectivity of representatives and the effects on public policy. It's an ugly fact that a lot of politicians who are charged with crimes frequently use illegal activity to support their political careers, which damages the confidence of the people who elect them. Although the reports from the Law Commission of India offer valuable insights into the histories of politicians and any allegations against them, the efficient utilisation of this material is impeded by the general public's lack of understanding<sup>3</sup>.

The People's Representation Act of 1951's Section 8<sup>4</sup>, which disqualifies candidates upon conviction, is dubious because of its shoddy execution and the impact of money in politics. In 2003, the Election Commission of India required candidates to file affidavits outlining their holdings and liabilities; nevertheless, there have been claims that information disclosed during the disclosure process was devalued. The credibility of elections and representative government

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<sup>2</sup> Constitution of India 1950, art 324

<sup>3</sup> Milan Vaishnav, *When Crime Pays: Money and Muscle in Indian Politics* (Yale University Press, 2017)

<sup>4</sup> Representation of the People Act 1951, s 8

is still being impacted by the criminalization of politics. Nearly 45% of candidates in the most recent Karnataka elections had criminal complaints brought against them, and 30% of them were accused of heinous offences, including rape and murder. According to Professor Sastry, India is the only country that permits people with criminal histories to actively participate in elections, which poses a serious risk to the democratic process. A democracy that accepts people with criminal histories is not a strong and stable one.

### **THE SUPREME COURT ALLOWS VOTERS TO DISQUALIFY CANDIDATES**

The People's Union for Civil Liberties v Union of India case from 2013<sup>5</sup> was a landmark decision in which the Supreme Court of India gave voters the ability to reject any candidate by using the 'None of the Above' (NOTA) option. In a landmark decision, the Supreme Court recognised the importance of the 'right to dissent' as an essential component of the democratic process by holding that voters had the freedom to reject any and all candidates running for office. The court mandated the Election Commission to add a NOTA button on ballot papers and (EVMs) so that voters would have a clear choice to reject all candidates if they believe none of them are suitable.

A petition titled 'Negative Voting' was started by the People's Union for Civil Liberties (PUCL), which also questioned the integrity of the election procedure. The current lawsuit sprang from this petition. The Supreme Court maintained in this ruling voters' right to reject any candidate and express their dissatisfaction, stating that doing so would compel political parties to select candidates with better reputations and track records. This choice marked a significant sea change in Indian democracy as it allowed voters to voice their dissatisfaction with the candidates that were presented and promoted transparency and responsibility in the election process.

### **STATE FUNDING OF ELECTIONS**

Elections are expensive, which makes it difficult for candidates and parties with little resources to take part in the process. This is a major cause for worry. Concerns concerning policy decisions made by elected officials are raised by their reliance on a variety of funding sources, which may benefit those who are financially assisting their campaigns. State sponsorship of elections has

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<sup>5</sup> *People's Union for Civil Liberties & Anr. v Union of India & Anr.* (2004) 1 SCC 301

come up as a suggested remedy to these problems. This strategy includes giving political parties or candidates a variety of financial help from the government, including direct financial assistance, the provision of resources for campaigning, or reimbursement of campaign expenditures. The goal is to create a more equal playing field so that candidates from different socioeconomic backgrounds may engage in the political process more fairly.

In 1998, the Indrajit Gupta Committee recommended two major limits on state funding for elections: first, only national and state parties bearing a symbol could receive funding from the government; and second, recognised political parties and their candidates could only receive temporary state funding in the form of specialised infrastructure<sup>6</sup>.

In order to secure their right to vote, Indian nationals living abroad were granted the opportunity by the Election Commission to register their names in their parliamentary constituency in 2010<sup>7</sup>. Voter selections are verified by the Voter Verifiable Paper Audit Trail (VVPAT), which was established by the Election Commission in 2013<sup>8</sup>. The upper ceiling of expenditure for Lok Sabha elections was increased by the government in 2014 from Rs. 40,00,000 to Rs. 70,00,000. The spending cap for assembly seats in bigger states was raised from Rs. 16,00,000 to Rs. 28,00,000<sup>9</sup>.

In order to avoid voter misunderstandings, the Election Commission mandated in 2015 that candidate photographs, names, and party insignia be shown on electronic voting machines (EVMs). In 2017, alterations were made to the finance bill that was presented in the Lok Sabha regarding donations to political parties. Companies that made contributions to political parties were formerly obligated to reveal the total amount of their contributions. Subsequent to the modification, there was no longer any requirement to provide the political party name. But on February 15, 2024, the Union's 2018 Electoral Bonds (EB) Scheme was unanimously overturned

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<sup>6</sup> Vivake, 'State Funding of Elections' (*PRS India*, 22 December 2010) <<https://prsindia.org/theprsblog/state-funding-of-elections?page=9&per-page=1>> accessed 01 June 2024

<sup>7</sup> *People's Union for Civil Liberties & Anr v Union of India & Anr* (2004) 1 SCC 301

<sup>8</sup> 'Manual on Electronic Voting Machine and VVPAT' (*Election Commission of India*, 30 September 2023) <<https://ceomanipur.nic.in/resources/Manual/Manual%20EVM%20Book.pdf>> accessed 01 June 2024

<sup>9</sup> Law Commission of India, *Report No 255: Electoral Reforms* (2015)

by the Apex Court<sup>10</sup>. The Bench determined that the Scheme infringed upon the voters' constitutionally guaranteed right to information as stated in Article 19(1)(a)<sup>11</sup>.

## **RIGGING THROUGH MUSCLE POWER AND INTIMIDATION**

Election tampering is not the only kind of manipulation in elections. The fairness and integrity of elections are seriously threatened by intimidation and the use of muscle force during the voting process. The use of physical force, coercion, or intimidation by organisations or people to prevent voters from exercising their democratic rights is known as muscle power. Subtle pressure and overt threats are examples of intimidation methods that undermine the idea of free and fair elections and restrict voters' freedom of choice. The Election Commission ought to utilize electronic surveillance equipment to carry out its duties under Section 58A of the Representation of the People Act, 1951<sup>12</sup> and deter the use of force.

## **VICTIMIZATION OF OFFICERS DRAFTED FOR ELECTION DUTIES**

The effective conduct of elections depends on government personnel, hence election-related victimisation of them is a critical issue. Still, after their election-related duties, the government humiliates and punishes many police officers severely. The Election Commission has disclosed cases when employees were the focus of unfair actions or reprisals, such as transfers, reprimands, or disciplinary procedures. To solve this problem, a concerted attempt has to be done to insulate mad officials from any repercussions, including creating specific laws or regulations to safeguard them from wrongful acts.

## **ISSUES AND CHALLENGES BEFORE THE ELECTION COMMISSION**

The election system in India has many shortcomings including the use of illegal techniques, corruption, and unreported money. Corporate backing of political parties often enables unethical practices like voter intimidation and bribery. Politicians have in the past purchased elections, given voters booze, and purchased news coverage. The 'vote for note' scandal

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<sup>10</sup> *State Bank of India v Association for Democratic Reforms and Others* (2024) INSC 195

<sup>11</sup> Constitution of India 1950, art 19(1)(a)

<sup>12</sup> Representation of the People Act 1951, s 58A

highlights the undue power of money in politics. Particularly in smaller towns, violence associated with elections has increased. The ability of political parties to mobilize support from larger groups or castes impacts the selection of its candidates, which feeds the inclination of voters to base decisions on caste and communal allegiances. Stronger restrictions on mysterious monies, demands for campaign finance transparency, and bans on voter manipulation are among the new laws and changes needed to address these issues.

### **SAFEGUARDING THE ELECTION INFRASTRUCTURE OF INDIA**

In order to maintain the credibility of India's election process, the Election Commission (EC) has taken a number of steps to protect the technological infrastructure, including voting software, IT systems, voter databases, and electronic voting machines (EVMs).

**EVM Reliability:** Although EVMs have been effectively implemented, some political circles have unjustifiably expressed scepticism about their legitimacy. The devices, which are made by public sector companies Bharat Electronics Limited and Electronics Corporation of India Limited, are well-known for producing sensitive equipment for the space and defence industries. They are stand-alone devices without any network connectivity, including radar and electronic warfare systems<sup>13</sup>. The software has been validated by a group made up of defence scientists and technological specialists, increasing the EVM's resistance to attack<sup>14</sup>. Although there are theoretically isolated cases of possible manipulation, this assertion is unsupported by any hard data. Doubts regarding tampering are further addressed with the mandated installation of Voter Verifiable audit Audit Trail equipment.

**Specialised Cyber Security Initiatives:** The Election Commission created the post of Chief Information Security Officer in 2017, whose duties include supervising a range of actions, such as conducting frequent cyber security exercises and guaranteeing adherence to cyber security guidelines throughout EC offices. The EC has taught its employees cyber hygiene techniques

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<sup>13</sup> 'About Vigilance' (*Bharat Electronics*) <<https://bel-india.in/about-us/#>> accessed 05 June 2024

<sup>14</sup> 'Manual On Electoral Risk Management 2023' (*Election Commission of India*, 20 September 2018) <<https://shorturl.at/06mA0>> accessed 05 June 2024

through seminars held in six cities<sup>15</sup>, stressing the value of refraining from responding to phishing emails that can jeopardise the EC's computer network<sup>16</sup>.

## CONCLUSION

India's election system has seen constant development and strengthening since its independence, which is a reflection of its dedication to democratic values. The story of electoral reform is intricately linked to both the historical background of India and the current issues facing the country, starting with the visionary leadership of Dr. B.R. Ambedkar and ending with the Supreme Court's momentous rulings. Despite being praised internationally for its dedication to free and fair elections, India's democratic model confronts several obstacles, including political criminalization, difficulties with the electoral infrastructure, and victimisation and intimidation problems. Election reform is still an important goal that must be pursued, informed by historical lessons as well as the demands of justice, accountability, and openness. India is committed to achieving the goal of a vibrant and inclusive democracy, as seen by the current electoral reform story, in which the country is navigating towards a more robust and participatory election system.

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<sup>15</sup> 'Cyber Security Newsletter May, 2018' (*Election Commission of India*, 01 May 2018)

<<https://hindi.eci.gov.in/files/file/8752-cyber-security-newsletter-may-2018/>> accessed 05 June 2024

<sup>16</sup> Chief Information Security Officer, 'ECI Cyber Bulletin' (*Election Commission of India*, 01 October 2019)

<<https://shorturl.at/zO5sP>> accessed 05 June 2024