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## ELECTION COMMISSION AND ITS REFORMS IN INDIA

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### ABSTRACT

India stands as a model for many promising democracies around the world. Free and fair elections are the hallmark of a well functioning democracy. While we are reasonably proud of our democracy, there are a number of areas which need to be strengthened for us to realise the true possible of a well functioning democracy. Our election system, from the selection of candidates, to the manner in which funds are raised and spent in election campaigns, are in dire need of significant changes. There has been a growing concern over the years in India about several aspects of our electoral system. The Election Commission has made changes in several areas to respond to some of the concerns. There have also been a number of committees which have examined the major issues pertaining to our electoral system and made a number of recommendations. But there remain some critical issues that might need legislative action to bring about the required changes. The financing of elections has become a major issue in the past few decades. It is widely believed that the cost of fighting elections has climbed far above the legal spending limits. This has resulted in lack of simplicity, prevalent corruption, and the pervasiveness of so-called 'black money'. This paper summarises proposals made on the following issues: limits on campaign expenses, disclosure and audit of assets and liabilities of candidates and parties, methods of reducing the cost of political campaigns, as well as state funding of elections. The conduct of elections also has a number of issues that need to be addressed. While the massive size of the electorate makes holding elections a daunting task, it should not serve as a justification for the presence of issues such as booth capturing, intimidation of voters, tampered electoral rolls, large-scale rigging of elections and other polling irregularities; the production of non-serious candidates; and the abuse of religion and caste in the mobilization of voters. Potential solutions and reforms in electoral policy to these problems are outlined in this paper.

**KEYWORDS:--Election commission,potential,reforms,problems,Democracy etc.**

### Introduction

Elections lie at the very heart of democracy. It is through elections that people in a democracy participate in public affairs and express their will. It is again through elections that power changes hands in a peaceful and orderly manner in a democracy and the authority of government gets clothed with legitimacy. Elections thus not only sustain democracy but



enliven it as well. Holding of free and fair election is, therefore, a sine qua non of democracy. India is both the largest and one of the most populous democracies in the world. This apart, in comparison to most of the developed democracies of the world, problems of illiteracy, poverty, etc. still continue in India as is the case with most of the developing countries. Its electorate is not only vast but also quite diverse reflecting the plurality of caste, religion, region, language, etc. of its social mosaic. Conducting periodic elections in the country by encouraging large-scale popular participation is a stupendous task. Not only this, Indians have time and again reposed faith in elections as the most potent means of non-violent and peaceful protest against all acts of omissions and commissions of Government.

### **Election Commission of India&Electoral Reforms**

The Constitution entrusts the responsibility to supervise, direct and control the entire procedure and machinery for election and also for some other subsidiary matters, on the Election Commission of India under Article 324. At present, it constitutes the CEC and two Election Commissioners. The Election Commission has the supremacy of superintendence, direction and control of all elections to Parliament and the State Legislature and to the offices of the President and VicePresident. There has been a marked increase in the total number of candidates contesting the elections. While in 1952, 1864 candidates contested for 489 elective seats, in 2019, 8026 candidates were in the fray for 543 seats.

Proposals for reforms Recommendations of Law Commission The Supreme Court of India, in the matter of „Public Interest Foundation & Others V. Union of India & Anr- Writ Petition (Civil) No. 536 of 2011, directed the Law Commission of India to make suggestions on two specific issues, viz.,

- (I) curbing criminalization of politics and needed law reforms; and
- (II) impact and 7 consequences of candidates filing false affidavits and needed law reforms to check such practice. In the light of this judgment, the Commission worked specifically on these two areas and, after series of discussions, followed by a National Consultation held on 1st February 2014, submitted its 244th Report titled Electoral Disqualification on 24th February 2014 to the Government of India. The law Commission of India submitted its Report No. 255 on “Electoral Reforms” to the Union Law and Justice Ministry. Justice Shri A. P. Shah, Chairman of the Law Commission of India presented the 201 page report after due consideration and deliberations with the stakeholders including of registered national and state political parties and extensive and in-depth analysis of various issues by the commission. Following is the summary of the report on various issues discussed in the report:

- (01) Election Finance The Law Commission has proposed wide ranging reforms on the issue of expenses incurred by candidate such as limits; disclosure obligations of individual candidates and political parties; and penalties imposable on political parties; as well as examining the issue of state funding of elections. The electoral bond scheme introduced in 2018 is a method of political funding. It aimed at ensuring enhanced accountability to defeat the growing menace of black money and to promote transparency in funding and donations received by the political parties. Only a political party registered of the Representation of the People Act,



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1951, and which has secured more than one per cent of the votes polled in the last election to the Lok Sabha would be eligible to receive the bonds. The Commission does not consider a system of complete state funding of elections or matching grants to be feasible, given the current conditions of the country.

- (02) Regulation of Political Parties and Inner Party Democracy Democratic theory can be thought of to include accounts of both procedural and substantive democracy. Procedural democracy can be said to refer to the practice of universal adult franchise, periodic elections, secret ballot, while substantive democracy can be said to refer to the internal democratic functioning of the parties, which purportedly represent the people. This section deals with the internal democratic functioning of parties and the question of how parties should function and regulate themselves.
  - (03) Proportional Representation It is clear that both the electoral systems come with their own merits and demerits – proportional representation theoretically being more representative, while the FPTP system being more stable. It is also clear, from the experience of other countries that any changes in India’s electoral system will have to follow a hybrid pattern combining elements of both direct and indirect elections. This, in turn will necessitate an increase in the number of seats in the Lok Sabha, which raises concerns regarding its effective functioning.
  - (04) Anti Defection Law in India The Law Commission recommends a suitable amendment to the Tenth Schedule of the Constitution, which shall have the effect of vesting the power to decide on questions of disqualification on the ground of defection with the President or the Governor, as the case may be, (instead of the Speaker or the Chairman), who shall act on the advice of the ECI. This would help preserve the integrity of the Speakers office. The Supreme Court delivered a verdict recently that could have far-reaching consequences for legislative assemblies. The Court made two important declarations. First, the Speakers of both the State Assemblies and the Parliament have to decide on disqualification petitions for members within three months except for the existence of an extraordinary circumstance. It also held that courts have the powers to intervene if the proceedings are delayed. Second, the court recommended to Parliament that it strongly considers removing the Speakers disqualification powers and forming an independent tribunal to take up these petitions. The rationale for this suggestion is that Speakers invariably come from the ruling parties and act in a partisan manner.
  - (05) Strengthening the office of the Election Commission of India The ECI should be strengthened by first, giving equal constitutional protection to all members of the Commission in matters of removability; second, making the appointment process of the Election Commissioners and the CEC consultative; and third, creating a permanent, independent Secretariat for the ECI.
  - (06) Paid News and Political Advertisements Amendment in the RP Act 1951, to provide therein that publishing and abetting the publishing of „paid news“ for furthering the prospect of election of any candidate or for prejudicially affecting the prospect of election of any candidate be made an electoral offence under chapter-III of part-VII of RP Act, 1951 with punishment of a minimum of two years imprisonment. In order to curb the practice of disguised political advertisement, disclosure provisions should be made mandatory for all forms of media.
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- (07) Opinion Polls Under Section 126 of Representation of the People Act, 1951, which prohibits, apart from holding, convening or attending any public meeting or procession, “display to the public any election matter by means of cinematography, television or other similar apparatus”, during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll. Contravention of the above prohibition is a penal offence punishable with imprisonment upto 2 years or with fine or with both. 8. Compulsory Voting The Law Commission does not recommend the introduction of compulsory voting in India and in fact, believes it to be highly undesirable for a variety of reasons described above such as being undemocratic, illegitimate, expensive, unable to improve quality political participation and awareness, and difficult to implement.
- (08) Election Petitions Wide-ranging reforms have been suggested by the Election Commission to deal with “disputes regarding elections”.
- (09) NOTA and the Right to Reject The Law Commission currently rejects the extension of the NOTA principle to introduce a right to reject the candidate and invalidate the election in cases where a majority of the votes have been polled in favour of the NOTA option.
- (10) The Right to Recall The Law Commission is not in favour of introducing the right to recall in any form because it can lead to an excess of democracy, undermines the independence of the elected candidates, ignores minority interests, increases instability and chaos, increases chances of misuse and abuse, is difficult and expensive to implement in practice, especially given that India follows the first past the post system.
- (11) Totaliser for Counting of Votes The Commission reiterates and endorses the ECI’s suggestion for introducing a totaliser for the counting of votes recorded in electronic voting machines to prevent the harassment of voters in areas where voting trends in each polling station can be determined. Prior to the introduction of EVMs, ballot papers could be mixed under Rule 59A of the Election Rules, although this was not permitted for EVMs. Using a totaliser would increase the secrecy of votes during counting, thus preventing the disclosure of voting patterns and countering fears of intimidation and victimisation.
- (12) Restriction on Government Sponsored Advertisements The Commission recommends regulating and restricting government sponsored advertisements six months prior to the date of expiry of the House/Assembly to maintain the purity of elections; prevent the use of public money for partisan interests of, inter alia, highlighting the government’s achievements; and ensure that the ruling party or candidate does not get an undue advantage over another in the spirit of free and fair elections.
- (13) Restriction on the Number of Seats from which a Candidate May Contest The Law Commission recommends an amendment of section 33(7) of the RPA, which permits a candidate to contest any election (parliamentary, assembly, biennial council, or bye-elections) from up to two constituencies. In view of the 11 expenditure of time and effort; election fatigue; and the harassment caused to the voters, section 33(7) should be amended to permit candidates to stand from only one constituency.
- (14) Independent Candidates The Law Commission recommends that independent candidates be disbarred from contesting elections because the current regime allows a proliferation of independents, who are mostly dummy/non-serious candidates or those who stand (with the same name) only to increase the voters’ confusion. Thus, sections 4 and 5 of the RPA should





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be amended to provide for only political parties registered with the ECI under section 11(4) to contest Lok Sabha or Vidhan Sabha elections.

- (15) Preparation and Use of Common Electoral Rolls The Law Commission endorses the ECI's suggestions regarding the introduction of common electoral rolls for Parliamentary, Assembly and local body elections. Conclusion It is an accepted fact that the electoral process in the country has developed certain shortcomings over the years which need to be corrected. But this should be done through extensive debate and discussion and in a gradual and continuous manner. Successive Governments at the Centre have realized the importance of the issues relating to electoral reforms. Suggestions made either by the Election Commission or by the various committees on electoral reforms from time to time, have been regularly considered and also implemented While considering the proposals and suggestions of reforms of the electoral process, it has also been underlined that consensus of political parties in the country is necessary. Government recognized that electoral reforms is a continuous process and it shall be the endeavour of all the stakeholders including Government, Election Commission of India, Law commission, etc. to implement such proposals on electoral reforms on which consensus emerges, from time to time. Chief Election Commissioner Sushil Chandra has written to Law Minister Ravi Shankar Prasad requesting for expedited action on the electoral reform proposals pending with the government, including the one which seeks an enhanced two-year jail term for those furnishing incorrect information in their poll affidavit.

It is generally accepted that while the first three general elections were held in a free and fair manner, a plummeting of standards started during the fourth general elections in 1967. Many consider the electoral system in the country as the basis of political corruption .

### Issues in Electoral Politics in India

There are multiple issues plaguing the electoral process in India. In every constituency, candidates have to spend crores of rupees for campaigning, publicity, etc. Most candidates far exceed the permissible limit of expenses. In certain parts of the country, there are widespread reports of illegal and untoward incidents during polling such as the use of violence, intimidation, booth capturing, etc. Criminals enter into politics and ensure that money and muscle power wins them elections, so that the cases against them are not proceeded with. Political parties are also happy as long as they have winnable candidates. Political parties field criminals in elections for funds and in return provide them with political patronage and protection. There is a general opinion that the party in power uses government machinery such as using government vehicles for canvassing, advertisements at the cost of the exchequer, disbursements out of the discretionary funds at the disposal of the ministers, and other such means to improve the chances of their candidates winning. Serious candidates float non-serious candidates in elections to cut a good portion of the votes that would otherwise have gone to rival candidates. There are cases of certain caste groups lending strong support to particular political parties. Thus, political parties make offers to win over different caste groups, and caste groups also try to pressurize parties to offer tickets for their members' elections. Voting on caste lines is prevalent in the country and this is a serious blotch on democracy and equality.



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## CONCLUSION

Elections have thus become integral to India's democracy as elsewhere in other successful moderate democracies, the world over. However, certain aberration has come to the fore in the very working of the electoral system over the years. The need to address such disturbing factors has generated a debate on electoral reforms in the country. The Election Commission which is under the Constitution is vested with the actual power of super intendance, direction and control of elections in the country, has, from time to time, come up with concrete proposals/suggestions based on objective difficulties encountered in the conduct of elections. Politicians, through the platform of parties and Parliament including its various committees constituted for the purpose, have given vent to their desire for reform. Governments have also undertaken certain redemptive measures based on the recommendations of various committees. This also creates rifts in the country. Communal polarization poses a serious threat to the Indian political ethos of pluralism, parliamentarianism, secularism and federalism. The political corruption in India has led to politics becoming a business. People enter the political arena for making money and retaining their money and power. There are very few leaders who enter politics to make a difference in the lives of their people. Elections are considered as the depiction of the sovereign will of the people of a country. So, they need to be free from any intrusion from any mal practice. Any election which is manipulated or managed by any external force is nothing more than a fraud to people. During the early years of Independence, the free and fair election used to happen by themselves without any distortion. However, the things become more complex with the passage of time, the role of Election Commission also increased. Although the ECI has been performing its role of activism which was started by T.N. Seshan but after considering the Nath, Mishra and various other pending case have clearly suggest that the ECI needs some reforms related to the engagement of election Commissioners and to enhance its power. This paper is an attempt to analyze the various reforms suggested by different Committee to make the political institution more effective and free from any criminal interference. These reforms are prerequisite over all other reforms. Finally, after analyzing all the proposed reforms by different committee, it can be said that these reforms can only be successful when all the parts of electoral machinery- the political parties, the candidates and the voter adhere to them. The role of independent media also cannot be denied.

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