

ELECTORAL REFORMS IN INDIA: GOOD GOVERNANCE DIPLOMACY IN SMOKE AND MIRRORS

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ABSTRACT

The most important feature of a democratic polity is elections at regular intervals in a free and fair manner so the purpose of this research paper is to analyze and examine the concept and importance of the continuous electoral reforms needed from time to time and how and why even after so much recommendations and proposals from various different authorities these electoral reforms doesn't seem to exist or seen implemented at the ground level and what all other electoral reforms are needed so as to safeguard the electoral process in the world's largest democracy.

KEY WORDS: ELECTIONS, REFORMS, DEMOCRACY, ISSUES, ELECTION COMMISSION

INTRODUCTION

Pluto said "The punishment suffered by the wise who refuse to take part in the government is to suffer under the government of bad men". The governance is perpetual arrangement and election is a cyclical change. India is synonymous with democracy and it has turned out to be a custom in political phraseology to address India as the largest democracy.

Democracy is a vehicle driven by the fuel of equality with equity, fraternity with appreciation of different cultures, liberty with pluralism and unity with diversity and public participation and rule of law. But democracy in India has lost its essentialities due to it being in the hands of people who do not endorse the idea called institutional constitutionalism that in turn ensures good governance. The good governance develops and gestates choices called election that is an inviolable feature of democracy that works as a back bone to sustain diversity, pluralism and multi-culturalism.

Election is not a seasonal ceremony but a sacred and grave process of holding norms of democratic way of life in all geo-political entities including India. Thus, election is not limited to change of one set of political structure with another one but it is a multitude of many dimensions. However, there is a disparaging trend in the most powerful methodology of making choices at the hustings. Though technological changes are being introduced such as the electronic voting machines (EVMs) so as to conduct free and fair elections and to bring in the thought of We, the People of India, at the electoral politics but such scientific advancements still lacks transparency and still require major changes so as for the betterment of the entire electoral process.³

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³ <https://moderndiplomacy.eu> visited on : 16th March 2019

HISTORY OF ELECTORAL REFORMS IN INDIA

The concept of corruption in election process in India did not hit all of a sudden but gradually in a time span of several years. Initially the requirement of wealth was observed for campaigning and since the most of the voters were illiterate so electioneering was required to be on a huge scale. The candidates looked for aid, help and wealth from criminals and muscle men. Vigorous support was required from the bureaucracy for the creation and acquisition of money and this brought in the bureaucracy in the political web. Criminals who were directly involved in different offences also started taking part in the election process and could easily win by way of threat and coercion. When such people aspired to get involved and got involved in our respected legislature the expectation of reforms in the electoral process seemed like a vague idea.

For the reformation of the electoral process in India different commissions who took cognizance to bring in the proposals and ideas for such reformation were formed including Goswami committee on electoral reforms 1990, Vohra committee Report 1993, Indrajit Gupta Committee on state funding of elections 1998, Law commission Report on the electoral laws 1999, National Commission to review the working of constitution 2001, Election commission of India with proposed electoral reforms 2004 and the Second Administrative reforms commission 2008. First these commissions highlighted the alarming deformities and divergence of the electoral process and then recommended the suggestions for its betterment.

The election commission in 1970 took the initiative to reform the electoral process. It just did not suggest reforms but went one step ahead. An all-inclusive proposal and a draft bill was forwarded to the Law Ministry by the election commission to give effect to the recommended reforms. A bill was made by the government in the center to bring changes in the Representation of the People's Acts, 1950 and 1951 on the basis of the proposals on the draft bill. In 1973 the bill was introduced in the Lok Sabha but got lapsed with the dissolution of the Lok Sabha in 1977.

The election commission and the members of the different political backgrounds arrived at a common point on certain specific areas which needed reforms in November, 1983. Some important points on which they agreed to bring on reforms were:

- minimizing the age of candidates who will contest elections
- State funding of elections
- Giving power to the Election Commission to revoke or cancel elections if the report given by the election observer demands such action.
- If the person guilty of corrupt practices is contesting elections then in such case election commission shall be empowered to cancel his/her candidature.
- Rotation of reserved seats

Electoral reforms continued to take place in 1996. Certain important amendments were made in the Representation of People's Act in this year. For example, the sum of security deposit which the candidate has to deposit to contest election was increased. This was done so that the multiplicity of non-serious candidates could be checked and to minimize

frivolous applications for contesting the elections by such non serious candidates. Ban on the sale and distribution of intoxicants such as alcohol on the shops, eateries etc. was imposed during 48 hours after the conclusion of poll within the polling area.

The government was directed to bring about some compulsory changes by the Supreme Court on may 2, 2002 so that the candidates contesting general elections and state assembly elections are obligated to give information about their assets and liabilities, qualifications and past-criminal record if any. It was implemented by the Election Commission implemented on May 14, 2002.

Many other such reformative actions have been recommended by the election commission from time to time so as to make the process of elections as clear and transparent as possible. Most of the times it is the lack of political will which becomes a major problem in implementing such recommended electoral reforms.⁴

SUPREME COURT OF INDIA ON ELECTORAL REFORMS

It was ruled by the Honorable Supreme Court on July, 2013 that the State Legislators and the members of Parliament who have been convicted with a jail term of two or more years will not be allowed to contest elections. Section 8 (4) of the Representation of the People's Act was struck down in which the convicted members of the state legislative assemblies and parliament were permitted to sustain in their elected offices. Meanwhile, they had an escape as Clause 8(4) had provided an advantage to these Members of Parliament and Members of Legislative Assemblies to sustain in their elected offices even after their conviction if they file an appeal in a higher court within 3 month . A petition was filed by a Non -Government Organization (NGO) named 'Common Cause' demanding a separate button on the electronic voting machine providing an option to select 'None Of The Above' (NOTA) which was further approved by the Supreme Court on 27th September, 2013.⁵ The above mentioned NOTA button was first seen in these electronic voting machines during the general elections of 2014. The Supreme Court in the case of People's Union for Civil Liberties vs. Union Of India (2013) 10 SCC 1, held that it is must for a candidate contesting election to disclose his past criminal record otherwise non disclosure of such will fall under "corrupt practice" clause mentioned under Section 123 of the Representation Of People's Act, 1951.⁶ If such concealment of any past criminal record is found and it falls under 'corrupt practices" clause then he will not be allowed to further contest under Section 8A of the same act. But such judicial decisions are not seen being implemented at the ground level because of lack of political backing from political parties because they do not have that zeal to reform the electoral process and to cleanse the political machinery that prevails in the country. The Supreme Court has delivered some significant cases like Disproportionate assets of the elected representatives case [Lok Prahari v. Union Of India], Disqualification of Convicted MPs/MLAs case [Lily Thomas and Lok Prahari NGO case, (2013)].⁷

⁴ <https://www.scribd.com/document/108585229/Electoral-Reforms-in-India> Visited on: 14th March 2019

⁵ People's union for civil liberties vs Union of India & Anr

⁶ Representation of people's Act, 1951

⁷ <https://indiankanoon.org/> Visited on 17th march 2019

MAJOR ELECTORAL ISSUES

Electoral canvas of India is in utter chaos from top to bottom and it appears beyond correction at least at the end of political architects of the country. Our election commission is working hard to regularize and clean the electoral system but We, The People Of India, only look up to the highest judicial establishment of the land, the Supreme Court of India for the redress of our problems. However, Judicial branch of the estate should not be treated as an elixir for all the ills that is weakening the country since its independence in 1947. There is crisis of governance that has raised its head in many forms like increasing lawlessness, unresponsive bureaucracy, ineffective judicial system, criminalization of politics, politicization of criminals, inefficient state apparatus, political instability, money and muscle power in elections, all prevalent corruption, misuse of state machinery, erosion of legitimacy of authority, fiscal power, casteism, communalism, regionalism, religion, nepotism and dynastic politics, compulsory voting, inclusion, exclusion and cessation of candidates (qualification), bringing of funding of political parties under RTI, issue of foreign funding and candidate expenditure limits.

WAY AHEAD

In this outline, there is a need of extensive, united and all encompassing discretionary changes while tending to follow entries alongside all issues that have been distinguished herein above that there must not be a rank based or religion-based delimitation of parliamentary and state legislative bodies electorate, True Representation of political frames of mind must be visited, state subsidizing of decision crusade must be founded on verifying least level of vote share by an ideological group and to adjust the race finish, there ought to be a simple system for casting a ballot, vote tallying, poll plan that must be recognizable by the customary voter. The Constitution of India should suitably be revised to address the regulatory and lawful structure to make the discretionary changes progressively realistic and down to earth, race law must make straightforwardness an essential of a reasonable race and change the manner in which lawmakers intend to win the races under all conditions, the Election Commission of India ought to again be a solitary part body or supremacy to the assessment or choice of the Chief Election Commissioner (CEC) of India be concurred in the current decision body to guarantee decency, straightforwardness and trustworthiness of the framework, the roads must be wheedled to guarantee full turnout of the voters, National Transparency Courts (NTCs) must be set up to address race related offenses and infringement inside a time allotment of one month, race changes must make genuineness good with open office and make a combination of power and obligation inside the range of native focused administration. Constituent changes must regard the general population's power and the instruments of responsibility [Right to Information, Citizen's Charters with punishments for non-execution, Stakeholder strengthening, making wrongdoing and defilement examination offices free and self-ruling. Consequently, the possibility of a fair country is inadequate without occasional races. The mentalities, morals, and estimations of a general public accustomed with majority rules system of assorted variety and multiculturalism are communicated in decisions. Individuals' sway is affirmed in the decisions that agrees authenticity to the administration and its lego-institutional structure for good administration. A free and reasonable race is the foundation of a vote based political set-up and same has been appointed in the schematization of the Constitution of India.⁸

⁸ <https://www.livemint.com/> Visited on: 17th March 2019

CONCLUSION

Reforms in the electoral process has been a constant practice in India since its independence and still various recommendations, suggestions, proposals are given by various commissions, independent bodies and other organizations recognized by the Government which are heard, analyzed and implemented if such proposals actually seem important for the betterment and cleansing of the electoral process and to hold free and fair elections. The Election Commission, the Government and the judiciary analyzes the problems prevailing in the conduction of elections and all those factors which seems to be detrimental as far as healthy democratic elections are concerned and are worked upon in accordance with the need of the hour. The biggest problem that prevails in the true implementation of such reforms suggested is the lack of political backing from the political parties in India as most of the parties have leaders who are corrupt, have criminal antecedents, so such implementation would lead to their exit from their respected political parties which will some way or the other affect the parties vote bank and will directly impact the parties political ambitions , so in fear of not able to achieve their ambitions they tend to ignore such reforms which directly impacts our electoral structure. Reforms in the electoral structure is a continuous process in a democratic setup as changes in the process of conducting elections in accordance with the problems faced is necessary for a healthy and uncompromised selection of our representatives at the center and the state level. According to me the most important aspect where reformation in the electoral process seems necessary is a transition from ‘First Past The Post’ (FPTP) system to the ‘Proportion Representation’ (PR) system where seats shall be allocated to the parties in proportion to the votes received by that party. The First past the post system in my view weakens the democratic setup, the best example of it being the 2014 Lok Sabha elections where the party in power that is the Bhartiya Janta Party got only 31% of votes in favor and 69% of the voters voted against them which clearly shows that basic ingredient of democracy the “Government by the People” has clearly failed because a government denied by 69% of the voters cannot be a government by the people so this transition from the ‘First Past The Post’ system to the ‘Proportion Representation’ system seems crucially important.