



# **“ELECTORAL REFORMS IN INDIA – CONSTITUTIONAL ARTICLES, COMMITTEES AND COMMISSIONS ON ELECTORAL REFORMS”**

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## **ABSTRACT**

Electoral reforms in India are the improvements and legal changes done in the electoral procedures of India for promoting democracy, having trust, faith and confidence of people in democracy, for effective and transparent elections, for selecting the most suitable candidate in election and to have equal representation. There are various constitutional Articles pertaining to electoral reforms in India. Various Committees and Commissions were formed for recommending electoral reforms in India

## **KEY WORDS**

Electoral reforms, India, Constitutional Articles, Committees, Commissions.

## **INTRODUCTION**

India or Bharat is a Union of States. India is the largest democracy in the world. India has the lengthiest written Constitution. The Constitution of India is the principal law of our country India. India is a large and diverse nation with many religions, cultures, and languages, India is the second largest populated country in

the world, after China. There are various Constitutional Articles on electoral reforms in India – Article 324, 325, 326, 327 and 328. Different Committees and Commissions were established or set up for recommending electoral reforms to improve the election system in India.

## OBJECTIVES OF THE STUDY

1. To know the Constitutional Articles on Election Reforms in India.
2. To understand the various committees and commissions on electoral reforms in India.

## RESEARCH METHODOLOGY

The research is descriptive in nature sourced from books, journals and websites.

## CONSTITUTIONAL ARTICLES AND ELECTORAL REFORMS IN INDIA

### Article 324

Under Article 324 of the Constitution of India, the Election Commission of India (ECI) is given the responsibility for supervising, directing and controlling the entire procedure and machinery for election and for some other ancillary matters.

### Article 325

Under Article 325 of the Constitution of India, for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State, there shall be one general electoral roll. No person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds of religion, race, caste, sex or any of them.

### Article 326

Under Article 326 of the Constitution of India, on the basis of adult suffrage, elections are to be held to the House of the People and to the State Legislative Assemblies.

### Article 327

As per article 327 of the Indian Constitution, the Parliament has the authority to make provision with regard to elections to Legislatures, subject to the provisions of this Constitution. The Parliament may from time to time,

by law make provision regarding all matters pertaining to, or in connection with, elections to either House of Parliament or to the House or either House of a State Legislature.

### **Article 328**

As per Article 328, State Legislature has the power to make provision regarding elections to such legislature, subject to the provisions of the Constitution of India.

## **COMMITTEES AND COMMISSIONS ON ELECTORAL REFORMS IN INDIA**

India is a democratic and secular country. In a democracy, voting and elections have a significant role to play. But, in a large and diverse democratic country like India, elections and voting have to face many challenges like money power, muscle power, violence, booth capturing, communalism, religion, criminalization of politics, unethical voting practices etc. Thus, there is an ever increasing need for electoral reforms in India, to make elections in India free, fair, impartial, ethical, transparent, efficient, smooth and effective, without any electoral evils or malpractices.

Various Committees and Commissions have been formed in India for recommending or suggesting electoral reforms in India, which are as follows:

1. Tarkunde Committee in 1974.
2. Jaya Prakash Narayan Committee in 1974.
3. Goswami Committee on Electoral Reforms in 1990.
4. Vohra Committee Report in 1993.
5. Indrajit Gupta Committee on State Funding of Elections in 1998.
6. Law Commission Report on Reform of the Electoral Laws in 1999.
7. National Commission to Review the Working of the Constitution in 2001.
8. Election Commission of India – Proposed Electoral Reforms in 2004.
9. Jeevan Reddy Committee in 2004.
10. The Second Administrative Reforms Commission in 2008.
11. Tankha Committee (Core Committee) Appointed in 2010 to look into the whole gamut of the Election Laws and Electoral Reforms.
12. J.S. Verma Committee Report on Amendments to Criminal Law in 2013.
13. Law Commission of India 244<sup>th</sup> Report on Electoral Disqualifications in 2014.
14. Law Commission of India 255<sup>th</sup> Report on Electoral Reforms in 2015.

Various electoral reforms have been recommended from time to time in order for the citizens of India, to have faith, trust and confidence in Indian democracy and its electoral practices and processes.

### 1. **Tarkunde Committee**

The Tarkunde Committee was chaired by Justice V.M. Tarkunde. It is known as the Citizen's Commission for Elections. Jaya Prakash Narayan appointed a Committee comprising of V.M. Tarkunde, M.R.Masani, A.G.Norani, R.D.Desai, P.G.Mavalankar and E.P.W. Decosta, on behalf of the Citizen's for Democracy, in August 1974. The recommendations made by the committee were, the electoral body should be a three member body, minimum age for voting should be 18 years, introduction of proportional representation, state funding of elections, formation of voter's council in as many constituencies as possible, for free and fair elections, placement of radio and T.V. under the control of an autonomous statutory corporation.

### 2. **Jaya Prakash Narayan Committee in 1974**

In order to make recommendations on electoral process / reforms, Jaya Prakash Narayan headed a committee in 1974 comprising of EPW Decosta, R.D. Desai, M.R.Masani, A.G. Noorani, P.H. Mavalankar and V.M.Tarkunde. The recommendations suggested by the committee on electoral reforms were, to change the procedure of appointment of the Chief Election Commissioner, reduce the voting age from 21 to 18 years and placement of radio and T.V. under an independent corporation.

### 3. **Goswami Committee on Electoral Reforms in 1990**

The Dinesh Goswami Committee was formed in 1990, under the Chairmanship of former Law Minister Dinesh Goswami. The Committee made comprehensive recommendations on electoral reforms, which are as follows:

- Limiting the size of election expenses.
- Introducing Voter IDs.
- More transparent funding of political parties.
- Banning the use of government resources in campaigns.
- Giving the Election Commission the required power to name investigating agencies, prosecuting agencies and create special tribunals / courts.
- The ordering of a re-poll or countermanding should be based on more than just the returning officer's report.
- The anti-defection law has to be changed to restrict disqualification to cases, where an elected member voluntarily gives up his membership of their political parties or when he votes or does not vote, against party whips, directions etc, only in respect of motion of vote of confidence. Decision regarding members disqualification should not be decided by the Speaker or the Chairman of the concerned House.
- Fresh delimitation on the basis of the Census of 1981 and there should be a provision for rotation of reserved seats for S.C's and S.T's elections, from more than two constituencies. The candidates age for assembly seats should be reduced to 21 and 25 for the Council.

- In order to discourage non-serious candidates, there should be an increase in security deposit to Rs.5,000 for Lok Sabha and Rs.2,500 for Assembly. The deposit should be forfeited, if the candidate does not get one fourth of the total votes. The number of proposals to nomination to be increased.
- 6 months time limit for bye-elections.
- Strengthening of the election commission.
- A check on newspaper advertisements.
- A Model Code of Conduct (MCC) should be framed to include issues regarding the use of official machinery, transport, media, funds etc.
- Ban on transfer of officials and staff concerned with elections.
- Periodic revision of election expenses in consultation with the Election Commission, by the Commission and Central Government.
- Extensive restructuring of the accounting of election expenses.
- To stop manipulation and tampering, use Electronic Voting Machines (EVMs).
- Punish plying mechanically-propelled vehicles, carrying lethal weapons and fire arms or distributing liquor on, the day of polling.
- Army and Para-military personnel, diplomats and others placed outside India, proxy voting should be permitted.
- Election Commission should monitor the election expenses.
- A speedy trial of election disputes, with the help of adhoc judges should be there.

#### 4. **Vohra Committee Report in 1933**

The Vohra Committee was directly not connected to electoral reforms. The Vohra Committee Report dealt with the criminalization of politics and its nexus with organized crime, which has an indirect influence on electoral integrity.

#### 5. **Indrajit Gupta Committee Report on State Funding of Elections in 1988**

The Indrajit Gupta Committee was headed by the former Home Minister Indrajit Gupta. It was setup by the all-party conference in May 1998 and submitted its report in January 1999.

The Committee advocated for State funding of elections, to have a level playing field for all candidates and to fight the influence of wealthy donors and black money in politics.

##### **The recommendations are as follows:**

- State funding should be in kind. Financial support should not be given to parties. The State should initially bear, in part of the financial burden of the parties.
- Political parties authorized by the Election Commission shall receive state help in the form of printing supplies and facilities, vehicles and petrol, time on electronic media, etc.
- Political parties have to disclose their annual accounts to the income-tax agency.

- A detailed account of the election expenses should be filed by each political party with the Election Commission.
- At the time of the report, the Committee observed that the economic circumstances of the country, allowed only a partial and not a complete, State funding of elections.

#### 6. **Law Commission Report on Reform of the Electoral Laws in 1999**

Through its 170<sup>th</sup> Report (1999) and 255<sup>th</sup> Report (2015), the Law Commission of India made extensive recommendations on electoral reforms. The reports addressed issues like the electoral finance reforms, regulation of political parties and inner party democracy, appointment of election commissioners, decriminalisation of politics, proportional representation, strengthening the office of the Election Commission of India, paid news and political advertisements, opinion polls, no compulsory voting, NOTA and the right to reject, the right to recall, introducing a totaliser for counting of votes, restriction on government sponsored advertisements, restriction on the number of seats from which a candidate may contest, to one constituency; barring of independent candidates from contesting elections due to dummy or non-serious candidates and preparation and use of common electoral rolls.

The Law Commission which was headed by Justice A.P. Shah in 2015 in its submitted report suggested many electoral reforms to make the electoral process more effective and inclusive in India. The Law Commission Report of 2015 suggested many electoral reforms like introducing internal/inner political parties democracy, no right to recall and no right to reject a winning candidate, debarring independent candidates from contesting elections, no compulsory voting because it would be undemocratic, compulsory disclosure by political parties of all contributions more than Rs.20,000; under reporting of election expenditure, paid news an electoral offence, etc. and the attention was mainly on election finance.

#### 7. **National Commission to Review the Working of the Constitution in 2001**

A Government Resolution was passed on 22<sup>nd</sup> February, 2000 to establish the 'National Commission to Review the Working of the Constitution'. The Chairman of this Commission was Justice M.N. Venkatachaliah. The Commission examined based on the experience of the last 50 years, as to how best the Constitution can respond to the changing needs of efficient, smooth and effective governance system and socio-economic development of modern democratic India, within the framework of Parliamentary democracy. It had also to recommend changes, if any, which are needed in the Constitution provisions, without affecting the basic structure or features, of the Constitution of India. The Report was submitted by the Commission in two volumes on 31<sup>st</sup> March, 2002 to the Government of India. As per the Commission, Article 263 of the Constitution of India had a lot of potential for resolving different problems of more than one State, when a treaty is made by the Union Government on a matter in the State List, which affects deeply the State interest, no prior consultation is done, with



the state and the Inter-state Council forum can be more fruitfully used, for discussing policy matters of more than one state, to come to a quick decision.

#### 8. **Election Commission of India – Proposed Electoral Reforms in 2004**

The Election Commission of India (ECI) has been regularly suggesting reforms in the electoral processes and procedures to remove the lacunae in the law. The electoral reform proposals were divided into two parts – in the first part are urgent proposals for electoral reforms in areas which were untouched by the Commission in the past and in the second party, the Commission has mentioned once again the pending proposals which have remained unresolved.

The Part-I proposals for electoral reforms are affidavits to be filed by candidates on criminal antecedents, assets, etc., need to increase the candidates security deposit, criminalization of politics, exit polls, opinion polls, restriction on the number of seats from which one can contest, negative/neutral voting, prohibition of print media surrogate advertisements, government sponsored advertisements, treating election commission expenses as charged, ban on transfer of election officers during elections, political advertisements on television and cable network, compulsory accounts maintenance by political parties and its audit, appointment of appellate authority in districts against orders of electoral registration officers, composition of election commission and constitutional protection of all members of the commission and independent secretariat for the commission and all officials appointed in relation to conduct of elections to be included in Clause (7) of Section 123.

The Part-II pending proposals are anti-defection law, simplify the procedure for disqualification of a person found guilty of corrupt practice, making of false declaration pertaining to election to be made an offence, rule making power to be in the hands of Election Commission, use of common electoral rolls at elections conducted by the Election Commission and the State Election Commission, same number of proposers for all contesting candidates – Amendment of Section 33 of the Representation of People Act, 1951 and registration and deregistration of political parties – strengthening of existing provisions.

#### 9. **Jeevan Reddy Committee in 2004**

The Justice Jeevan Reddy Committee proposed far reaching electoral reforms such as advocating a complete ban on splits and mergers of political parties during the Lok Sabha or Legislative Assembly term, adequate representation, a person should be disqualified from contesting Lok Sabha elections or Legislative Assembly elections, if a court has ordered framing of charges regarding offences listed in the Representation of the People Act, 1951, in order to curb criminalization of politics, a steep ten-fold hike in the deposits of independent and unrecognized party candidates, in order to discourage persons who are not serious, from contesting elections and once a member has been elected on a ticket of a particular recognized party, then he/she should remain in that party, until the House is dissolved or till his/her membership comes to an end due to his/her resignation or otherwise.

**10. The Second Administrative Reforms Commission in 2008**

The Second Administrative Reforms Commission (ARC) was set up by the Government of India on 31<sup>st</sup> August 2005. The Chairman was Shri M. Veerappa Moily. The mandate was to suggest measures to have a proactive, responsive, accountable, sustainable and efficient administration at all government levels, for the country. Touching upon electoral reforms in its recommendations, it suggested the need for high level transparency in campaign financing and strengthening the Election Commission.

**11. Tankha Committee (Core Committee) 2010 to look into the whole gamut of the Election Laws and Electoral Reforms**

In order to carry out comprehensive electoral reforms, a Core-Committee was constituted on 1<sup>st</sup> October, 2010 under the chairmanship of Shri Vivek K. Tankha, Additional Solicitor General. The talking points of the committee included decriminalization of politics, funding of elections, conduct and better management of elections, regulation of political parties, audit and finances of political parties, and review of anti-defection law.

**12. J.S. Verma Committee Report on Amendments to Criminal Law (2013)**

Justice Verma Committee was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals accused in committing sexual assault against women. The Committee submitted its Report on 23 January, 2013. It made recommendations on laws related to rape, sexual harassment, sexual assault, trafficking, child sexual abuse, acid attack, medical examination of victims; police, electoral and educational reforms; punishment for crimes against women.

**13. Law Commission of India 244<sup>th</sup> Report on Electoral Disqualifications (2014)**

The Law Commission of India Chaired by Justice A.P. Shah submitted its Report on 'Electoral Disqualifications' to the Ministry of Law and Justice, on 24<sup>th</sup> February, 2014. The report examined issues related to disqualification of candidates with criminal background and consequences of filing false affidavits. The key recommendations are the different stages at which disqualification may be triggered, and decided upon the stage of framing of charges, the safeguards at the stage of framing of charges, false affidavits as grounds for disqualification.

**14. Law Commission of India 255<sup>th</sup> Report on Electoral Reforms (2015)**

The Law Commission of India submitted its Report on 12<sup>th</sup> March, 2015, Report No.255 on 'Electoral Reforms' to the Union Law and Justice Ministry.



**The proposed electoral reforms are as follows:****1. Election Finance**

The Law Commission have proposed reforms on the issue of expenditure limit by candidates; disclosure obligations of individual candidates and political parties and penalties imposable on political parties and examining the issue of state funding of election.

**2. Regulation of Political Parties and Inner Party Democracy.****3. Proportional Representation.****4. Anti-defection Law in India.****5. Strengthening the office of the Election Commission of India (ECI).****6. Regulation of issue of paid news and political advertisements in the Representation of People Act (RPA).****7. Opinion Polls.****8. No compulsory voting due to being undemocratic, illegitimate, expensive, unable to improve quality political participation and awareness and difficult to implement.****9. Election Petitions**

Wide-ranging reforms have been suggested to Part-VI of the RPA dealing with “disputes regarding elections”.

**10. NOTA and the Right to Reject the candidate.****11. No Right to Recall.****12. Totaliser for counting of votes.****13. Restriction on Government Sponsored Advertisements.****14. Restriction on the number of seats from which a candidate may contest to only one constituency from two constituencies.****15. Debarring of Independent Candidates due to dummy or non-serious candidates who only increase the voters confusion.****16. Preparation and use of common electoral rolls for Parliamentary, Assembly and Local body elections.****CONCLUSION**

Electoral reforms refers to improvements and legal changes done in the electoral procedures of India, in order to promote democracy, free and fair elections, smooth, efficient, effective and transparent elections, equal representation and selection of the best candidate for election. The Election Commission of India has to be made independent, transparent, powerful and empowered in order to make elections in India strong. The different Constitutional Articles regarding electoral reforms in India are Articles 324, 325, 326, 327 and 328. The various committees and commissions which have played an important role in evolving and refining electoral laws and practices are the Tarkunde Committee (1994), Jaya Prakash Narayan Committee (1974), Dinesh Goswami Committee in Electoral Reforms (1990), Vohra Committee Report (1993), Indrajit Gupta Committee on State Funding of Elections (1998), Law Commission Report on Reform of the Electoral Laws

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