

## Election reforms in India and issues before the election commission

Bashir Ahmad Sheikh

Ph.D, Research Scholar, Barkatullah University, Bhopal, Madhya Pradesh, India

### Abstract

Elections constitute the signpost of democracy. The attitudes, values and beliefs of the people towards their environment are reflected through these medium. Election grant people a government and the government has constitutional right to govern those who elect it. Elections provide an opportunity to the people to express their faith in the government from time to time and change it when the need arises. Elections symbolize the sovereignty of the people and provide legitimacy to the authority of the government. Thus, free and fair elections are indispensable for the success of democracy. In democracy the public is most powerful entity. If the public do not vote in favour of criminals, dishonest and corrupt politicians who wish to purchase their votes by money or muscle powers, everything shall function nicely and the democracy will shine in the dark spectrum of hitherto corrupt and criminalised political system. So, though the EC is working hard in this direction, but it cannot succeed unless all political parties and voters realize their responsibility. Finally there should proper mechanism, fully functional and fully equipped to fight with any triviality. Free and fair election is a mandate given by our constitution for a parliamentary democracy. Only free and fair elections to the various legislative bodies in the country can be guarantee the growth of a democratic polity.

**Keywords:** election reform, issues, democracy, criminalization of polity, money power

### 1. Introduction

Election reform is change in election system to improve how public desires are expressed in election results. This can include reform of: Voting system, such as proportional representation, a two round system (runoff voting), instant-runoff voting, and instant round Robin voting called Condorcet Voting, approval voting, citizen initiatives and referendums and recall elections.

India is often referred as a vibrant and vigorous democracy. But just because we have elections regularly, or rather far too often, does not necessary mean that we have an effective democracy. Election can be defined as a system by which voters select their representatives by casting of votes. It is a cardinal necessity of every democracy and Right to vote is a constitutional right of its citizens. The constitution of India provides of an Election Commission of India which is responsible for superintendence direction and control of all elections. It is responsible for conducting elections to both the House of parliament and state legislature and for the offices of president and vice-president.

There persists a big swarm of burning issues hampering the democratic piousness and productive representation in our Indian society. The rampant issues bulging out as a handicap to election process are –

- Dominance of money power and Muscle power
- Criminalization of politics
- Financing of election exceeding the legal limit
- Booth capturing
- Intimidation of voters
- Buying Voters
- Tampered electoral rolls
- Large-scale rigging of elections
- Abuse of religion and caste in the enlistment of voters, etc.

### 2. Methodology

In this segment of study both descriptive and documentary methodology has been used. This study mostly based on secondary data and few primary sources has used. For this study In addition to this, data have also been collected from various journals, articles, newspaper, and books. This study is also based on the referred sources – published, unpublished and electronic.

### 3. Issues before the Election Commission

Taking into consideration the major contentions pertaining to the unruly conditions of electoral system, several issues were highlighted.

#### 3.1 Dominance of money power and Muscle power

The term muscle power and money power have unfortunately become synonymous with Indian elections. The target for the power hunger Indian politicians are the simple minded & poor citizens living below poverty line, who are vulnerable to the temptation of easy money & vague promises due to their desperate economic & social conditions. Such poor citizens are cajoled with bribing for votes & are also threatened with muscle power which is nothing but a byproduct of money power. Today both these powers play such a dominant role in elections, that there is little chance for common man with honest intentions, even if he has the capacity.

#### 3.2- Criminalization of Politics

Criminalization of politics has many forms, but perhaps the most alarming among them is the significant number of elected representatives with criminal charges pending against them. In 2005 elections of Bihar, out of 385 candidates 213 were found to be alleged of non- bail able and cognizable offences. Obscuring of the facts and criminal

records acts as an impediment to the fair election process. In order to combat the said anomaly, the Vohra Committee Report on Criminalization of Politics was constituted to spot the degree of the politician-criminal nexus and suggest conduct to combat the menace. It stated "The nexus between the criminal gangs, police, bureaucracy and politicians has come out clearly in various parts of the country and some political leaders become the leaders of these gangs/armed forces and over the years get themselves elected to local bodies, State assemblies, and national parliament." The election commission projected that any attempt to obscure the antecedent illegal evidence under Rule 4A of the Conduct of Election Rules, 1961 was to be punishable with imprisonment for two years or more, in a pending case in which charges have been framed by the Court. The cases where the accused was convicted for an offence other than any of the offences mentioned in Section 8 of Representation of the People Act, 1951, and sentenced to imprisonment for one year or more, led to imposition of penalty under section 125A of the Representative of People Act, 1951 to provide for more severe punishment for two years imprisonment or imposition of fine.

The National Election Commission proposed that candidates alleged of serious crimes whose punishment exceeded 5 years shall be disqualified by the Court of law. And where the year of imprisonment was six years under Sec. 8 of R.P. Act, 1951 an inhibition of 6 years from contesting elections. During the 13th Lok-Sabha elections candidates having criminal cases against them numbered 12 in Bihar and 17 in Uttar Pradesh. Although, whatever may be done to prevent a criminal from contending elections no single step is taken to put a restraint on the representatives who have already been elected, having a criminal record. Therefore, the law breakers are sitting in the parliament as law makers.

### 3.3 Financing of election exceeding the legal limit

The issue of financing of election exceeding the legal limit has adverse repercussion creating compulsion for corruption in public arena. The instance of "Hawala Scam" which unleashed several high profile politicians involved in the perpetrating booth capturing, rigging of elections and aiding dreaded criminals and muscle men. In order to tackle this issue the national election commission proposed the legal limit or ceiling of the election expenditure to be fixed at a reasonable rate taking into cognizance the present economic scenario concomitant with disclosure of assets and state funding too. Other than that, the EC appoints expenditure observers to keep an eye on the individual financial records of election outlays made by contestants, during election campaign. In pursuance of an order of the Supreme Court judgment, in the Peoples Union for Civil Liberties & another vs. Union of India [(1997) 1 SCC 301] case, the EC apprehended for electoral office to submit mandatorily, an affidavit disclosing his assets and liabilities. The 2004 report of the Election Commission acknowledged that political parties were required to make public their financial statement. Therefore, refinement of elections is the imperative itinerary by which corruption and maladministration can be cramped. It would not be wrong to say that the whole superstructure stands on the infrastructure of corruption.

### 3.4 Booth Capturing

Booth capturing is a type of electoral fraud, found primarily

in India, in which party loyalists "capture" a polling booth and vote in place of legitimate voters to ensure that their candidate wins. Though it is a kind of voter suppression, unlike other forms of voting fraud, booth-capturing is a malpractice witnessed mainly in India and the least subtle of all. Almost every State in the country has witnessed some booths being captured either by the ruling or opposition parties, though it is disproportionately widespread in states in North India like Bihar, Uttar Pradesh and West Bengal. The issue haunting the electioneering process is Booth capturing, by which the parties patrons try to manipulate and the number votes in their votes. The tampering of electoral rolls in the elections is done on large scale. To curb such activities the election commission has laid down guidelines to ensure if any booth capturing is going on the returning officer is to notify it to the election commissioner and apt decisions would be taken to declare the polling in that area to null and void.

### 3.5 Buying Votes

The practice of enticing the voters by distribution of stuffs in cash and kind to the masses are done since they form the major chunk of the voter bank. To the extent they are also served with liquor and drugs to gather votes, thanks to the slothful and sluggish people. And if these tricks don't fetch votes then intimidation and coercion serves as the last resort. By manipulating, tampering of electoral rolls or by use of force, intimidation and coercion the process of rigging of election has been quite successful down the line of several decades. The National Election commission directed the returning officer, civil society and any person to intimate about booth capturing or any kind of rigging to the commission to take strong action against the perpetrator of anarchy under section 58 A of Representation of people Act, 1951.

### 3.6 Abuse of caste and religion

The question of abuse of caste and religion is of greater magnitude. The political parties tend to allow only those candidates to fight elections who can muster the minority groups and castes to their favor. Communal loyalties are used at the time of election campaigning to attract the minority voters. And it is very well observed that the electorates too cast their vote taking into consideration the case and religious prejudices. The National Election Commission also commended about the paradigm of 'Neutral Voting.' This concept states that if the voter does not find any candidate suitable, he may get the 'Right to Reject' also with the management of every EVM's (electronic voting machine) having option in the end as 'None of the above.' The basic notion behind this paradigm is to bring transparency in the election process but it has not been implemented yet due to various issues involved.

### 3.7 First –Past- the- Post- System: Legacy of colonialism

One of the basic reasons for these many inconsistencies is the structural defect in the procedure of election. The process followed in our country is first –past- the- post-system. The ideal principle of election is the 'majority rules principle', whichever party gets more than 50 % votes emerge out to be victorious in the polling. But the principal followed in our country i.e., the First-past –the-post-system is based on irrational ground. Since, according to this principle a person can win elections even if the margin is

less than 100 votes and the party which gets just 30% – 35% votes will count to emerge victorious in the elections. Hence he or she cannot be the choice of majority. The National Election commission therefore, proposed to replace this system with two staged election. If no candidate gets majority more than 50% then second round will take place consisting of top two candidates and whoever gets more than 51% shall be deemed elected.

### 3.8- Initiatives by the Election Commission

Other than dealing with challenges faced in the election process, the Election commission lays down the model of Code of conduct, since it is the custodian of fair and free elections. But the harsh reality is that political parties never obey the code of conduct. The predicament is not lack of laws, but want of any strict execution. In order to squash out this iniquitous inclination, there is a need to reinforce the hands of the EC and to give it more officially authorized and institutional powers. The EC must be delegated with powers to penalize the wayward politicians who go astray and disobey the electoral laws.

The Commission has taken numerous new initiatives in the recent past. Prominent among these are, a scheme for Electronic Media as a medium for broadcast by Political parties, checking criminalization of politics, computerization of electoral rolls, providing electors with Identity Cards, un-complicating the formula for maintenance of financial records and filling of the same by candidates. A multiplicity of channel for stern compliance of Model Code of Conduct provided a level for contestants during the elections. And this is the rationale why the EC has been operational for the renovation of the election process since it came into motion. It is apparent from the varying electoral system is full of upheavals but the demand of time is to preserve and strengthen the Democracy.

### 3.9 Caste system

Candidates come to be selected not in terms of accomplishments, ability and merit but on the appendages of caste, creed and community. Ultimately caste becomes the deciding factor on selection. Caste based politics and castism are eroding the „unity“ principle in the name of regional autonomy. In many political parties, in place of ideological polarization there occur the determination of policies and programmes as well as the nomination of electoral candidates and the extension of support to them on caste consideration. Caste dominates the political field, especially at the lower level. Although there is hardly any instance in India of a political party being totally identified with any particular caste group, yet there are cases of certain castes lending strong support to particular political parties. Thus while political parties struggle among themselves, to win different caste groups in their favour by making offers to them, caste groups too try to pressurize parties to choose its members for candidature in elections, If the caste group is dominant and the political party, is an important one, this interaction is all the more prominent.

### 3.10- Communalism

One of the dangerous Issues before the Election Commission is communalism. The emergence of India as a „secular“ state, the politics of communalism and religious fundamentalism in the post independence period has led to a number of separate movements in various states and regions

of the country. Communal polarization, rather multi-polarization, has posed a threat to the Indian „political ethos of pluralism, parliamentarianism and federalism. Despite the adoption of the „principle of „Secularism“ as a constitutional creed, which ironically allows communal parties to compete, the trend towards communalism and fundamentalism in Indian politics have been growing day by day. The spirit of tolerance that is essential for a „secular“ society seems to have completely vanished from the body politics of India. The dynamics of national and state politics of the „last decade is a mute witness of the clashes and conflicts between the so-called. „Secularist and the communalist“. Caste and religion have in recent years emerged “as rallying points to gain electoral” support. Unfortunately there is a tendency to play upon caste and religious sentiments and field candidates in elections with an eagle eye on the caste equations and communal configurations.

## 4. Suggestion

The scandals and controversies that marked the 15th Look Sabah and the recent events after the general elections in India were announced, where smaller and regional parties have held bigger parties to ransom over various issues like that of seat-sharing, have once again highlighted the urgent need of electoral reforms in India. Some of the suggestions given below have been widely discussed in various forums and have found acceptability among various policy-making organizations including the Election Commission of India. It is high time that they are implemented in the earnest.

### 4.1 Abolish the first-past-the-post system

This has been amongst the most widely discussed electoral reforms in India. Multi-cornered contests have become a norm in India rather than an exception due to the increase in the number

of smaller and regional parties. There have been cases in the state assembly elections where a candidate has been declared winner with the victory margin of less than 100 votes. Apart from this anomaly, in most cases, a candidate wins the election by securing just 30-35 per cent of the total number of votes polled. Hence he or she cannot be deemed to be a choice of majority of the electorate. To overcome this limitation, the first-past-the-post system should be replaced with a two-stage electoral process. In this, a second round of election will be held if none of the candidates in the fray is able to get 50 per cent of the total number of votes polled in the first round. The two candidates who have obtained the maximum number of votes in the first round will fight in the second round. Whoever between the two gets more than 51 per cent of the total votes polled in the second round is declared the winner.

### 4.2 Simultaneous elections for union and state legislatures

Currently 3-4 states in India go for elections every year. This undermines the working of the union government as the regime in power cannot take tough decisions due to the fear of a backlash in the next round of assembly election. Hence simultaneous elections will not only ensure that governments at the centre and the states carry out their responsibilities in a smooth manner but also curtail unnecessary election expenditure. The arrangement of simultaneous elections can be extended to the elections for

the municipal corporations and other Panchayati Raj institutions.

#### **4.3 Fixed tenure of elected legislative bodies with no-confidence motion followed by a confidence motion**

This is another move that will curtail the unnecessary election expenditure and at the same time ensure stable governments at the centre and in the states. In case none of the parties or coalition is able to form a government on its own, the members of the house should together elect an executive head among them and form a cabinet that has representation from members of all political parties on the basis of the number of seats they have secured in the elections.

#### **4.4 Decrease number of registered parties**

This move is necessary because the smaller parties are far more vulnerable to “ideological shifts” and in this era of fractured mandates, hold the bigger parties to ransom for their narrow political gains. The election commission should be given powers to de-recognize smaller political parties on the basis of their performance. Another move to achieve this goal would be to increase the minimum number of primary members that are needed to form a political party.

#### **4.5 Increase the amount of security deposit**

This move is necessary to put a check on the number of non-serious candidates contesting union and state assembly elections. Such a move has been taken in the past and has shown desired results. However in recent times, the number of candidates fighting elections has shown an increasing trend and hence there is a need to review the amount of security deposit.

#### **4.6 Online Voting**

Online voting must be encouraged to increase the percentage of voting during election.

#### **4.7 Decriminalization of politics**

There must be some rules to stop contesting in an election for the candidates having a criminal background.

#### **4.8 Transparency in funding of political parties**

The necessity for transparency in financial accounts of political parties and political donations has been in discussion. Political parties must be pulled under the ambit of RTI act.

#### **4.9 Not allowing candidates to contest from more than one constituency in an election:**

This is necessary to curtail the unnecessary expenditure that election commission has to make when a candidate contests election from more than one constituency and wins from all the constituencies he has contested from. The bye-election that is necessitated by the candidate choosing one seat and vacating others seats he has contested from will no longer be needed.

#### **4.10 Use of common electoral rolls in the union and state elections**

This move will put a check on the cases of people finding their names missing in the electoral rolls. This happens because different lists are prepared by the Election Commission of India for general elections and the state

election commissions for the elections of the state assemblies and local bodies. The effort and expenditure that is involved in making two lists for similar purpose will be greatly reduced.

#### **4.11 Making false declarations in election affidavits an offence**

This is necessary to ensure transparency about the profile of candidates contesting elections, many of whom have criminal cases going on against them on charges of heinous offence like kidnapping and murder. Anyone giving false information in the affidavits should be debarred from contesting elections for a minimum duration of five years.

#### **4.12 Allowing negative/neutral voting**

This will allow a voter to express his dissent by rejecting all the candidates contesting in his constituency if he finds none of them suitable to be elected. Currently a large number of people do not go to the polling booth because of their disenchantment with the candidates put up by the political parties. This is reflected in the falling poll percentages. Democracy in India will be strengthened if people participate in large numbers in the electoral process and have a choice to reject all the candidates instead of being forced to select one who they think is less bad than the others in the fray.

#### **4.13-Ban on publication of exit/opinion polls results till voting is over for all phases**

To ensure free and fair elections in India, the election commission holds them in different phases so that the available security staffs are effectively deployed. Publishing the result of opinion poll on the earlier phases will have an impact on the voting pattern in the subsequent phases. Similarly, the opinion polls that are conducted before the election also influence the voting pattern. Hence there is a need to put a ban on the publication of the results of the exit/opinion polls conducted by various media agencies till all the phases of elections are over.

#### **4.14 Regulating political parties**

It is desirable objective to promote the progressive polarization of political ideologies and to reduce the less serious political activity. The election commission should progressively increase the threshold criterion for eligibility for recognition so that the proliferation of smaller parties is discouraged. There are more than 1600 political parties registered with the ECI, however, only few ever contest elections. ECI should be authorized to de-register such parties, which do not contest election.

### **5. Conclusion**

In democracy the public is most powerful entity. If the public do not vote in favour of criminals, dishonest and corrupt politicians who wish to purchase their votes by money or muscle powers, everything shall function nicely and the democracy will shine in the dark spectrum of hitherto corrupt and criminalised political system. So, though the EC is working hard in this direction, but it cannot succeed unless all political parties and voters realize their responsibility. Finally there should proper mechanism, fully functional and fully equipped to fight with any triviality. Free and fair Election process is a foundation of healthy democracy. The Democratic future of India depends

upon healthy political environment, and to protect it free and fair election process is inevitable. The entry of criminals in election must be restricted at any cost. A number of commissions and committees have examined the issue of criminalization of politics however; the problem is increasing day by day. The parliament has taken efforts by amending the laws but the exercise has proved futile.

## 6. References

1. Website of Association for Democratic Reform. [www.adrindia.org](http://www.adrindia.org)
2. [http:// www.civildaily.com/story/electoral-reform-in-india/](http://www.civildaily.com/story/electoral-reform-in-india/)
3. Butler W. Electoral reform” parliamentary affairs, 2004.
4. Agarwalla Shyam Sunder. Religion and Caste Politics, Jaipur: Rawat, 1998, 118.
5. Prakash. Chandra. Changing Dimensions of the Communal Politics in India, Delhi: Dominant Publishers; see also, Singh, Mahindera Prasad, “Communalism and Party Politics in India”, Trends in Social Science Research. 1999; 1(1):18.
6. Bhanthri CP. Party without Ideolog,“ Hindustan Thnes, Chandigarh, 1998.
7. Indian polity” M. Lakshmikanth McGraw publications, New Delhi.
8. National seminar on Electoral Reforms Calcutta, 2007.
9. Balaji J. EC keep on poll reform to decriminalize politics: Quarish” the Hindu New Delhi Nov19, 2011
10. Raja, CPI leader, “right & reject” the economics times. Times of India
11. Denis Pilon. The Politics of Voting. Edmond Montgomery Publications, 2007.