



## Electoral Reforms : A Step Towards Just Political Regime

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Holistic development of the political system is not possible if the government and its representatives are not elected through fair means. To build an equi-table and just political regime it is inevitable for us to reform our electoral process. In this article we take a cursory and simplified look on electoral is-sues and their suggested solutions.

Abstract- India as a procedural democracy is growing well and citizens are gradually becoming aware of their political rights. Voting percentage is in-creasing and people from every section of the society are coming out to vote. The Election Commission of India, the Government of India, civil society or-ganizations and even the private sector is playing an important role in en-couraging voters to exercise their franchise. The younger generation is be-coming more aware about the democratic system, and has started playing a key role in encouraging people to vote. However, these encouraging trends aside, we are still far away from reaping the advantages of the democratic surplus that we are gifted with. There is a need to overhaul our electoral governance to bring in effective systemic changes that would make serious dent on electoral malpractices and in the process change the fortunes of our people in a better way.

Holistic development of the political and social system is not possible if the government and its representatives are not elected through fair means. The chances are greater for the whole system to be corrupt if unaccounted money is involved in elections. To build an equitable and just political re-gime it is inevitable for us to reform our electoral process.

Keywords - Electoral Reforms, Indian Democracy, Constitution, Indian Polit-ical Parties.

**Electoral Reforms: The way ahead-** In this article we take a cursory and simplified look on electoral issues and their suggested solutions. It is not our Endeavour here to claim that the solutions mentioned are the only possible way out. Our sole purpose is to contribute to the debate of electoral reforms in an informed manner.

The biggest test of democracy is how well democratic institutions are able to represent the will of the people. The idea is to make the polity inclusive for people and should be reflected same in the

decisions that are taken. The health of democratic institutions (particularly legislature and executive) primarily depends on it. The whole concept of election is embedded in democracy and is vital source of legitimacy of ruling regime and also for the political accountability in governance.

Over the years it has been realized that our democratic system has been subjected to many distortions, drawbacks and malpractices. There is deep concern with regard to growing socio-economic inequality, role of muscle and money power, criminalization of politics, misuse of governmental machinery and rise of divisive politics. This has led to unfortunate developments and has created a paradox wherein on the one hand we are witnessing deepening of democracy for the last many years in terms of increased political contestation and on the other hand we are witnessing increasing distance between the citizens and political class representing them. This indicates that the structure and laws regulating our electoral process presently are unable to deliver the desired outcomes and, hence, there is an urgent need for electoral reforms in our polity.

The democratic polity of our country is facing challenges at many levels. We have tried to classify these challenges at three levels: at the level of political parties and their candidates; at the level of Election Commission's (EC) working and its structural constraints; and finally at the level of voters. Following part of this article elaborates upon the challenges at all these levels.

**Challenges faced by political parties and candidates-** There are many issues at the level of political parties and their members that are plaguing the democratic functioning of our country. Prominent among them are discussed below:

1. Financing of political parties: The National Commission to Review the Working of the Constitution, 2001, noted that "electoral compulsions for funds become the foundation of the whole superstructure of corruption." The role of money power in elections has, therefore, become a standard concern in recent discourses on electoral reforms in India. The main problem with respect to finance of political parties has been the unaccounted and unauthorized source of donations received by them which cannot be traced legally and, therefore, audited. The EC from time to time has prescribed the limits on election expenditure. However, money provided by the party and other supporters for the candidate is not included in campaign expenses incurred by a candidate, for the purpose of ceiling, making the limit an exercise in futility. Section 77 of Representation of People Act, 1951, was amended by the government to introduce this relaxation in order to annul the direction of the Supreme Court which was contrary to this amendment. From the perspective of political parties, they lament that the limits prescribed by the EC are not practically decided and, hence, many of them have to resort to malpractices to circumvent these rules.
2. The issue of paid news is also very concerning since the recent practice of media houses to charge money for broadcasting or printing favourable news for a political party also accentuates the problem wherein political parties amass wealth from unaccounted sources.
3. A related problem is the politician-corporate nexus which is growing at an alarming rate, thereby, threatening the nature of policies to be drafted. The laws related to corporate financing are not effective since there is no proper mechanism to audit the finances of political parties. There is also an increasing trend of businessmen contesting elections and entering into legislatures across the country.

4. Inner party democracy: Political parties act as a bridge between the people and the government. Political parties not only act as intermediaries but also as facilitators for citizens to increase their political competence and maturity. To fulfill this role, parties' decision-making structures and processes should provide opportunities for individual citizens to influence the choices that parties offer to voters. Democratic reform of internal party structures is necessary for right selection of representatives and leaders who would in turn contribute to effective policy making, and it is also essential for enhancing political competency of the citizens.

In India decision making is not democratic in political parties and the process of candidate selection is done by a bunch of influential people who are at the helm of operations. Information flow is unidirectional (from top to bottom) and there is no significant discussion among the high party officials and the members. Candidate selection is marked by casteism, factionalism and many a times with corruption. Both the major national parties (Congress and BJP) use highly restricted methods of candidate and leadership selection. Candidate selection is carried out with input from local leaders but the final choice is almost always made by smaller, national executive bodies. Ordinary members elect only the lowest level of committee members and have little voice in the national affairs of the party. These restrictive systems allow the party to retain significant control over its ideology and message. But they also prevent new ideas and new people from entering the party and climbing the ranks.

**Solutions suggested-** The solutions suggested by various commissions and committees can be clubbed into these broad suggestions:

1. It has been suggested that explanation 1 added to section 77 must be removed so that electoral expense of candidates can be rightly determined and misuse of money power can be effectively checked. The electoral expenses of candidates should also include contributions from political parties and from other individuals and associates.
2. It is very important that the details of accounts of political parties must be submitted to the EC, which should have full power to audit them and take penal actions if wrong information is furnished.
3. Some commissions (most prominently the Indrajeet Gupta Committee) have proposed state funding of political parties. However, the details of its implementation are not clearly mentioned.
4. It is also suggested that to curb the menace of paid news, private channels should be asked to allot equal air time to major political parties for their advertisements so that level playing field can be ensured.
5. EC should revise the limit to electoral expenditure at regular intervals so that the limits, thus, arrived at are practical and in tune with the need of the hour.
6. According to section 29A in Representation of People Act, 1951 all political parties need to apply for registration with the EC. While the EC can ask for information, by and large it registers parties as they apply for registration. Subsequently, there is no guideline or requirement for their functioning. The solutions suggested by Law Commission on Electoral Reforms are worth considering with regards to introducing inner party democracy reforms. The 170th Report of the Law Commission on Electoral Reforms is by far the most comprehensive document on the functioning of the political system in India. An entire chapter is dedicated to this. Chapter I of Part III, deals with the 'Necessity

for providing law relating to internal democracy within political parties.’ Para 3.1.1 of the Law Commission report says, “...for bringing a sense of discipline and order into the working of our political system and in the conduct of elections, it is necessary to provide by law for the formation, functioning, income and expenditure and the internal working of the recognized political parties both at the national and state level”.

The Law Commission Report actually gives the draft of a new chapter titled ‘Organization of political parties and matters incidental thereto,’ to be added to the Representation of People Act, 1951, which specifies regular holding of elections, transparency of financial affairs, etc. Non-observance of these provisions should attract de-recognition according to them.

**Challenges faced by the Election Commission** - The EC for years has worked assiduously, has conducted elections in India with a huge electorate (more than 750 million voters) and has acted as custodian of Indian democracy. The powers of the EC have been gradually strengthened in these years by the decisions taken by the judiciary and laws made by the executive. However, they still face many challenges at their level which are discussed below:

(i) The EC is in serious and urgent need of more coercive powers: For example in the case of establishing a model code of conduct, it is said that the EC has only persuasive powers and the maximum action it can take against its violation is ‘censure’(i.e. to advice or warn). This power is so limited that at times it becomes ineffective in restraining political parties or its candidates from violating the model code of conduct. Another case in point is the power to countermand polls. The EC has decided, in the past, that it would not countermand polls in case of death of an independent candidate and would only do it if the candidate belonged to a political party.

However, it did not exercise its power when it came to countermanding an election until recently when for the first time it cancelled the Rajya Sabha election in Jharkhand on the account of abuse of money power. This decision of the EC was challenged by many parties and even in the courts. The EC is also constrained in terms of having full power to control the law and order situation in an area where election is to be held. The EC should have primary say in deciding as to how and in what manner the security machinery has to be deployed to ensure free and fair elections.

(ii) EC’s power to audit the financial accounts of political parties is severely restrained: Most parties either do not submit the details of their financial accounts for audit or their information is incomplete and misleading at times. There is no legal provision with the EC to impose strict penalties on political parties in such cases. This power is also limited when it comes to disclosure of information about the candidates.

(iii) Rise of political considerations in the appointment of election commissioners may hamper the independence of the EC: The EC is expected to be independent and non-partisan in its functioning. However, if appointment to the EC gets political in nature there is a danger that the EC may succumb to political pressures in its decision making.

(v) There is no proper clarity in laws enacted to prevent criminals from contesting elections: Due to this, the EC finds its hands tied when it comes to counter increasing criminalization in Indian politics.

**Solutions suggested**

(i) In the appointment of election commissioners there is a need to form broader collegium (consisting of leader of opposition, Chief Justice, etc) to counter the dominating influence of political executive and bring about transparency. Also, when it comes to removal, all election commissioners should enjoy the same immunity as provided to the Chief Election Commissioner.

(ii) To prevent political interference the EC's budget should be charged to the Consolidated Fund of India and not voted in parliament. The EC should have the same status as that of the Supreme Court, CVC, CAG, and the UPSC in this relation.

(iii) The EC should have an independent secretariat on the lines of the parliament to get its career employees.

(iv) More coercive powers should be vested in the EC when it comes to auditing financial accounts of political parties or to stop criminals from contesting elections. New judicial institutions (for example, special courts) should be established for quick disposal of election petitions.

(v) The EC should be entrusted with the task of organizing internal elections in the political parties for the selection of office bearers to ensure inner party democracy in the parties.

**Challenges faced by the voters-** As far as the voters are concerned, the following issues need to be addressed:

(i) Increasing de-politicization: People are increasingly getting disenchanted with the political system of our country and electoral verdicts no longer hold any importance for them. This is because they have been continually witnessing the vicious cycle of money power, polling irregularities and corruption. They have negatively adapted to the system in terms of voting for short-term gains and on the lines of parochial tendencies. As a result of this, people readily accept resources offered by the parties to get their votes. This has turned elections into a gala event and politics has been transformed into business practice, seriously hampering governance in India. This has accentuated the problem of skyrocketing electoral expenditure, further giving boost to political corruption.

(ii) Information about contestants: Although due to recent steps taken by the EC, information about candidates (regarding their financial assets and criminal record) are made public, they are still not readily accessible to people at the grassroots level.

(iii) Confusion regarding the electoral rolls: People face many difficulties in understanding the concept of different electoral rolls for different levels of election. They also face difficulties in terms of getting their names registered into these electoral rolls. This process should be simplified to remove the complexities.

#### **Solutions suggested**

1. Awareness programs: We need to initiate awareness programs among the people on a larger scale to make them aware about their rights and powers. Our main agenda should be to move from representative democracy to participative democracy so that people can have a larger say in the policies framed for them. They should be made aware about the benefits that can be derived from electoral participation. Apart from the awareness programs started by the EC, all civil society organizations working in this domain should be engaged constructively to spread awareness among the citizens. A major component of awareness is dissemination of information about the candidates. This should also be done in a manner to ensure uniform accessibility of information.

2. There is a need to prepare combined electoral rolls for every tier of election. It is suggested by some experts that post offices can be made nodal agency for people to get their names registered in the electoral rolls.
3. Other reforms at this level are interconnected with the reforms suggested earlier for the other two levels.

**Conclusion-** All the major challenges to electoral reforms in India, and their suggested solutions, have been discussed briefly above. There is no doubt that we need these reforms at the earliest to effectively sanitize our political system. At the level of the political parties we must realize that if we proceed with anti-party agenda it could prove wrong and entirely counterproductive. Party building exercise is very important in a democracy as it is a link between the people and the state. We must, therefore, channelize all our efforts and try to get all reforms implemented that are suggested for the restructuring of the political system.

At the level of our structures managing electoral process, we need to realize that election is not a 45 days process, rather it is a dynamic and continuous process and we must take our strides in that direction incessantly. It is required that we adapt to the changing times and act accordingly. We are witnessing changing political realities in terms of increasing demand for political space due to the participation of newer sections of society. Hence, political contestation in our democratic polity has increased. In these changing times we cannot rely solely on legal measures to counter the various malpractices that have plagued our democracy. Infact, we also need to think on the lines of taking a political approach to tackle these issues.

At the level of citizens, it is very evident that de-politicization is creeping into our society, and it can only be checked with proper politicization. It is often said that answer to 'bad politics' cannot be 'no politics' but it has to be countered with 'good politics'. Electoral reforms are an essential pre-requisite for all other reforms, and we cannot afford to ignore them. In fact, we should proceed further with renewed vigour to get electoral reforms implemented by building consensus among all stakeholders, be it political parties, political elites, legal and formal structures of our country, civil society and most importantly our citizens.

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