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Electoral Reforms in India after independence: A critical study

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Abstract

The Indian general election of 1951–52 elected the first Lok Sabha since India became independent in August 1947. Until this point, the Indian Constituent Assembly had served as an interim legislature. Polling was held between 25 October 1951 and 21 February 1952. 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 criminalization of our political system has been observed almost unanimously by all recent committees on politics and electoral reform. 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. Two measures recommended by previous committees are discussed in this paper: enforcement of the disclosure of criminal antecedents of candidates, and eligibility restrictions for candidates with criminal cases pending against them. The reforms start from very long near about 1930 or earlier. Many reformers works in that Dr. Ambedkar was main pillar, lots of countries constitutions concerned to frame our Indian constitution and voting system.

Key Words

Accountability, Democracy, Money-power, Muscle-power, Corrupt practices, Crime, Criminal, Elected legislators, Constitution of India, Parliament of India, Corruption.

Introduction

After the freedom India 1947 the father of Indian constitution DR. B.R Ambedkar brings the ultimate concept for the largest democratic country elections right of vote for every citizens of India. That means Indian Democracy Time to be “Of the People, By the People and For the People” the work starts on the electoral system from the Britishers near about 1930 first round table, To draft a new Constitution involving self-rule for the native Indians, the British invited leaders of different parties in the Round Table Conferences in 1930-32. Mahatma Gandhi did not attend the first and last but attended the second of the Conferences. The concept of separate electorates for the Untouchables was raised by Dr. Ambedkar. Similar provisions were already available for other minorities, including Muslims, Christians, Anglo-Indians and Sikhs. The British government agreed with Ambedkar's contention, and British Prime Minister Ramsay MacDonald's Communal Award to the depressed classes was to be incorporated into the constitution in the governance of British India. Gandhi strongly opposed it on the grounds that it would disintegrate Hindu society. He began an indefinite hunger strike at Yerwada Central Jail from September 20, 1932 to protest against this Award. In India stands as a model for many emerging democracies around the world. Free and fair elections are the hallmark of a well-functioning democracy. While we are justifiably proud of our democracy, there are a number of areas which need to be strengthened for us to realize the true potential 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.

ELECTORAL REFORMS IN INDIA

“Whoever wishes to foresee the future must consult the past; for human events ever resemble those of preceding times? This arises from the fact that they are produced by men who ever have been, and ever shall be, animated by the same passions, and thus they necessarily have the same results”. –Machiavelli

FREE AND FAIR ELECTIONS

India is the largest democracy in the world. Since 1947, free and fair elections are held at regular intervals as per the guidelines of the Constitution and the Election Commission. The Constitution of India has vested in the Election Commission of India the superintendence, direction and control of the entire process for conduct of elections to Parliament and Legislature of every State and to the offices of President and Vice-President of India. Elections are conducted as per the constitutional provisions and the laws made by Parliament. The major laws are Representation of the People Act, 1950, which mainly deals with the preparation and revision of electoral rolls with all aspects of conduct of elections and post-election disputes. Now the upcoming elections are going to be unique — there are four observers deputed for each parliamentary constituency, who have been taking extra efforts to ensure free and fair elections to the



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maximum extent possible. The four observers are — a general observer, an expenditure observer, a police observer in particular constituencies, and a general awareness observer. -

CRIMINALIZATION IN ELECTORAL SYSTEM

“If we are going to spend a lot of money to deal with the problem of 200 million guns in the country owned by 650 million gun owners, we ought to have a system which will work and catch criminals.”- **John Dingell**

Criminalization in politics has contributed towards a feeble electoral system. The representatives who stand for elections are stuffed with various criminal charges against them. It is a well-known perspective from a common man's eyes that these politicians take the comfort of criminal elements to ascend the ladder. This is really a matter of amazing the citizens who go and vote for them. If they give vote considering that it is their fundamental right, then are these politician scum criminals who are leading us creating a just atmosphere? The answer will always be a big “no”. The Law Commission of India Reports contains the bio data of the politicians, describing their social background, charges against them, if any, etc. It is our fundamental right to know the antecedents of every person to whom we give vote. But very few make use of such benefit. This is because of the lack of awareness among people. Section 8 of People Representation Act, 1951 provides for disqualification of any candidate on being convicted by a Court of Law. It also includes that such candidate shall be barred from contesting any election further for six additional years since the date of conviction. This shows an austere step to control criminalization in politics. But the question is; is there a hardhearted implementation on the same? Is it so that we have corrupt free officials? Also, do they feel the endurance of such tests meant for scrutinizing their background? To all this, the answer remains “no”. The reason for this is the use of money power in politics.

“The only power the government has is the power to crack down on criminals. Well, when there aren't enough criminals, one makes them. One declares so many things to be a crime that it becomes impossible for men to live without breaking laws.”-**Ayn Rand**

The Election Commission of India issued an order on 27 March, 2003 in pursuance of the judgment of the Supreme Court dated 13 March, 2003 in the Peoples Union for Civil Liberties & another vs. Union of India case, those candidates for electoral office must submit an affidavit disclosing his assets and liabilities. It has been noted by the Election Commission of India in its report “Proposed Electoral Reforms”, 2004, that “there have been many cases where the candidates are alleged to have given grossly undervalued information, mainly about their assets”.

Lok Sabha MPs with criminal cases: 162 Lok Sabha MPs from 2009 out of 543 analysed have declared criminal cases against themselves.

Lok Sabha MPs with serious criminal cases: 76 Lok Sabha MPs have declared serious criminal cases against themselves including murder, attempt to murder, kidnapping, robbery etc

Average Number of Years Criminal Cases have been Pending: The average number of years that criminal cases against MPs have been pending is 7 years (until 2009).

While in election of 2014 BJP is leading the chart with as many as 98 winning candidates 35% out of total 282, are facing criminal charges. While 8 out of total 44 MP candidates of Congress are facing criminal charges. In AIADMK 6 out of 37 winners MP have been booked by police in some miscellaneous cases. The percentage of candidates facing criminal charges is highest in Shiv Sena as its 15 candidates out of the total 18 are booked in some cases or other. Trinamool Congress' 7 out of 34 winners are facing criminal charges. ADR in its analysis also found that on an average four out of five candidates in the 2014 Lok Sabha polls have declared assets worth over Rs.1 crore. “Out of the 541 winners analysed, 442 (82 per cent) are crorepatis,” the analysis pointed. In this category also BJP is leading as 237 (84 per cent) out of its 281 winners are crorepatis. In Congress, 35 (80 per cent) out of 44 winners are crorepatis. ADR also underlined that chances of candidates with criminal charges were almost double as compared to clean candidates. The chances of winning of a candidate with criminal cases in the Lok Sabha 2014 elections are 13 per cent while for a candidate with a clean record it is 5 per cent,” ADR said in its analysis.

Recommendations of judiciary

While the judiciary has taken very important steps during decriminalizing Indian politics (including the 10th July, 2013 judgment in the case of Union of India vs Lily Thomas, where the SC debarred elected representatives from continuing in office upon conviction) political parties have continued to field candidates with serious criminal cases because of their “winnability” factor. In this scenario, the role of citizens becomes pre-eminent. The upcoming Lok Sabha elections give



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us the opportunity to elect a cleaner and more accountable Parliament. The Association for Democratic Reforms and National Election Watch urges all citizens to vote for clean candidates during 2014 Lok Sabha elections.

RIGHT TO REJECT: MEANING AND CONCEPT

Right to reject or None of the Above (NOTA), also known as "against all" or a "scratch" vote, is a ballot option in some jurisdictions or organizations, designed to allow the voter to indicate disapproval of all of the candidates in a voting system. It is based on the principle that consent requires the ability to withhold consent in an election, just as they can by voting no on ballot questions.

Entities that include "None of the Above" on ballots as standard procedure include India, Greece, U.S. state of Nevada, Ukraine, Spain, Colombia, Bangladesh introduced this option in 2008, Pakistan introduced this option on ballot papers for the 2013 Pakistan elections but later the Election Commission of Pakistan rejected this.

Supreme Court gives voters right to reject all candidates

NEW DELHI: In a landmark judgment, the Supreme Court for the first time allowed voters to cast negative vote by pressing a button saying none of the candidates is worthy of his vote. (Highlights)The SC asked the Election Commission to provide none of the above (NOTA) button on EVMs and ballot papers.

RIGHT TO RECALL:

Today we give our vote to a candidate, he or she wins the election, and then they disappear from our life. Today most elected representatives make no time to listen to the problems of their constituents. And in the current electoral system, the people have no choice but to suffer this candidate for 5 years. We want to create an alternative. We will enact a Right to Re-Call law wherein the common man does not have to wait for 5 years to remove a corrupt MLA or MP from office. People can complain to the election commission anytime to recall their representative and call for fresh elections.

DOUBLE VOTE RIGHT:

Dr. Ambedkar supports the double vote right for SC and deprived classes for double vote rights. But it was greatly opposed by Gandhi and they are not in favour of to give double vote right. Now the great problem with the society is that the SC MLA and PM are not free to take their decision. Because they elect by whole voters of state not only by SC and deprives voters. So that they can't protect the rights of this categories. That is also a lacuna in the electoral system.

STATE FUNDING OF ELECTIONS

A major concern associated with the high cost of elections is that it prevents parties and candidates with modest financial resources from being competitive in elections. It is also feared that if candidates need to raise funds from a variety of sources, then their policy decisions after being elected as policy makers may be somewhat biased in favour of groups that fund them. State funding of elections (in various forms) has been proposed as a potential solution to this problem.

RIGGING THROUGH MUSCLE POWER AND INTIMIDATION

Rigging of elections is possible not just through tampering of booths, ballots, and electoral roles, but also out of sheer 'muscle power' and intimidation of voters.

RESTRICTIONS ON OPINION POLLS

Previous committees on electoral law have debated the possibility of whether opinion polls are misused to manipulate voters on the eve of elections. So now banned on the opinion of the newspapers or electronic media.

VICTIMIZATION OF OFFICERS DRAFTED FOR ELECTION DUTIES

The Election Commission utilizes the services of a large number of government officers for election duties, which perform important statutory functions in connection with preparation of electoral rolls and conduct of elections. The Election Commission has observed many of these officers are later subjected to humiliation and even vindictive disciplinary action by the government.

ISSUES AND CHALLENGES BEFORE THE ELECTION COMMISSION

There has been universal appreciation of the Indian electoral system. People have hailed the manner in which elections have been conducted in India. But there are its weaknesses. It has been seen that in spite of the efforts of Election Commission to ensure free and fair election, there are certain shortcomings of our Electoral system and also there are



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some issues before election commission of India. The role of unaccounted money in elections has become a serious problem. The political parties collect funds from companies and business houses, and then use this money to influence the voter to vote in their favour. The business contributions are mostly in cash and are not unaccounted. Many other corrupt practices are also adopted during election such as bribing, rigging or voters intimidation, impersonation and providing transport and conveyance of voters to and fro the polling stations. The reports of liquor being distributed in poor areas are frequent during election. These are some illegal practices performed by the candidates during elections on the basis of their money power. The dominant role of money in elections, which is taking newer and outrageous form, is deeply worrying. Instances of politicians paying for news coverage and bribing voters were widespread in 2009-2010 elections and even vote for money scam is one of the biggest examples of money power. On seeing these instances, politics seems to be the market of barter system that is not a bad vote.

As a result violence during elections has also increased. Though these activities do not take place very openly but are still in progress, there are many small towns where these activities take place before and even after the elections and there is nobody to oppose it. Generally the candidates are given tickets by the political parties on the consideration whether the candidate can muster the support of numerically larger castes and communities and possesses enough resources. Even the electorates vote on the caste and communal lines. Communal loyalties of the voters are used at the time of propaganda campaign.

Conclusion:

The way our Legislature, the Lok Sabha, the Rajya Sabha and the State Legislative Assemblies function, it does not make us feel proud. One of the major problems with the Legislature is the number of unsatisfactory candidates who find their way to Legislatures. For example, it was reported by the media that more than half of the MLAs in the present state assembly election in Uttar Pradesh had noteworthy criminal records. It is quite common to put almost the entire blame for the current state of affairs on the so-called political class in the country. But those who blame them entirely overlook the fact that this political class emerges from the society only. They are not developed in vacuum or in isolation. It's the citizens who do not make use of the benefit furnished to them. Therefore, one way to change the behavior of the political class would be to change the system in which they have to operate. This is where electoral reforms become important. The Government believes that our political system is broken. We urgently need fundamental political reform, including a referendum on electoral reform, much greater co-operation across party lines, and changes to our political system to make it far more transparent and accountable. There should be double vote rights for SC and BC. Recall system should be adopted by government/ election commission there should be check on advertisement and funding on election. Check on the rigging through muscle power and intimidation. The election commission should take immediate action against the victimization of officers drafted for election duties. In India for the first time the election has been fought for the progress and anticorruption. So we can say that there has been a change in the 16th Lok Sabha and people now thinking for the country they want a clean administration it is a hope in the mind of Indian people that Modi really will bring a large change for Indian citizens. And the election is a hope of good and clean governance. Because of election we can change the government after every 5 years. After 30 years the BJP government is in majority. It is a hope of the citizens that majority government will take strong steps to uplift the country and its economy.

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