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# Politics and Democracy: Two Sides of a Coin

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## ABSTRACT

*Elections determine who is in power, but they do not determine how power is used. The faith of people requires to be ensured not just in the rule of law but in the electoral system also. This paper will investigate on the role of crime and lagging gist in elections and politics in the context of the three organs, believed to be keeping a vigilant eye on each other- legislature, executive and judiciary. Democracy should become the basic structure and value system of the society. It is not a responsibility just of the authorities running for its safeguard but also of the people constituting the power to choose the system. Although very thorough systems of elections and laws have been advanced by the Parliament to ensure free and fair elections, the electoral system is surrounded by many corrupt practices. In accordance to the recount of Association of Democratic Reforms (ADR) on September 25, 2018, 21% of Lok Sabha MPs and 9% of Rajya Sabha MPs are confronting grave criminal cases, adding on, as examined by ADR, 22% MLAs are also accused of serious criminal charges. There are 48 MPs and MLAs who have been charged with crimes against women; 64 MPs and MLAs are accused for kidnapping; and 56 MPs and MLAs are facing murder allegations. Many are accused with numerous offences. The paper further elaborates the subject matter and the safeguard and loopholes in the functioning of the Election Commission.*

**Keywords:** *loopholes, safeguard, crime, democracy, electoral system.*

## I. INTRODUCTION

India has the contrast of being the largest democracy of the world. The magnitude of Indian ballot is inordinate. Around 23.1 million or 2.7% of the entire qualified voters were first time voters (18-19 years) in 2014. A whole of 8251 applicant contended for the 543 Lok Sabha seats. It was regulated in 9 phases and the voter turnout 66.38% was the highest ever taped in the bygone days of Indian General Elections. The nation spent Rs. 3426 crores to regulate the Lok Sabha polls. 81.45 crores of Indians were on the eligible voters' index. 55.1 crore voters bestowed their franchise. About 9, 30, 000 polling stations were set up all over the country. 10 million officials (including police security) were deployed to regulate the elections. The consummate size of the resources comprised in the elections is cosmic than the inhabitants of

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most countries in the globe.

If something can corrupt you, you are corrupted already. Democracy is not inherently a form of only Government but fundamentally a form of society also. It should become the basic structure and value system of the society. A society whose principle lay on four paramount essences of human dignity- justice, equality, liberty and fraternity. Democracy as such cannot be thrust externally. It requires unfolding from within. A democratic government means the rule of people constituting the power to choose the system. The three pillars of democracy, believed to be keeping a vigilant eye on each other- legislature, executive and legislation are no longer as transparent as they were when the Constitution was drafted. The faith of people requires to be ensured not just in the rule of law but in the electoral system.

Election determines who is in power, but they do not determine that how the power is to be used or implemented. Elections should not be seen as mere ceremonies or traditions but the routes of democracy. Elections are the most indispensable and constitutive part of politics in a democratic system of governance. Election is a task of establishing the political power as legitimate. Democracy can certainly operate only upon this reliance that elections are free and fair and not pre-arranged and manipulated, that they are effective instruments of ascertaining will both in materiality and in form and are not mere rituals calculated to procure illusion of difference to mass opinion, it cannot function without free and fair elections. The election at the current place are not being hold in ideal conditions because of the huge amount of money asked upon to be spent and large muscle power needed for winning the elections.

## **II. HISTORY**

The background of elections in India, in fact ponders to the Act of 1919 there original, notwithstanding, is rooted in the Act of 1861 itself. Chief amidst the cause of the Indian Revolt of 1857 was the absence of any touch among the rules and the ruled. "It was clearly dangerous to continue", as Sir BERTLE FRERE, in his prominent minute of 1860 noticed, "to legislate for millions of people with few means of knowing, except by a rebellion whether the laws suit them or not". It was, thus, tactfully resolute to provide some non-official description on the Governor General's and the Governors councils. The Indian councils Act of 1861 were the consequences of this decision. The Act provided the appointment additional members, not fewer than six and not more than twelve, for two years, of whom not fewer than half were to be non-officials. In addition of Indians in the council was not constructed upon the principles of democratic representation, for inevitably the person nominated were the Indian princes, their Dewans or big land holders. The Indian Councils Act of 1892, as the

preceding Act was unsuccessful to satisfy the Indians, predominantly the nascent Indian National congress, increased the number in the case of the supreme council to not less than ten and not more than sixteen, and "prescribed the procedure in which such regulations were supposed to be carried into effect". This provision was considered sufficiently inclusive with the method of election. ML Schwann, the member of the parliament from Manchester, had no surety whether the system of election would be effectively introduced in practice; when, even the word election was not mentioned under 1 Government of India, Report on the Indian Constitutional Reforms, 1918, p. 38. 15 the Act. He, therefore, moved an amendment which declared "no reform of the Indian councils which does not embody the elective principle will prove satisfactory to the Indian people or compatible with good Government". Lord Curzon said, "In reply I should like to point out that our Bill does not exclude some of such principles, be it the method of election, or selection or delegation"

The principle of a democratic election is freedom of choice. In modern times elections have been fundamentally associated with the system of representative structure of government. In all democratic countries of the world the electoral systems were customary on the basis of the natural right of the individuals. This succeeded freedom of applicants and universal franchise. For putting the system into consideration we find that since the 19th century states have been depended upon political parties for the alternatives of candidates in accordance with the principles and procedure of the party machinery. With the transit of time laws were enacted to control the entire electoral system. Once the candidates leap into fray, their prime objectives is to win the election, so that his desire to represent the electorate is satisfied. Winning an election has not been an easy task and since the candidate, his party followers and workers, as well as his agent, want victory and this desire too often sources them to adapt undesirable tactics. Laws have, therefore, been made restraining prohibited activities which may not only regulate the conduct of the candidate at elections but proclaimed certain activities as corrupt practices.

### **III. CRIMINALIZATION IN POLITICS**

The Vohra Committee Report on Criminalization of Politics was composed to identify the extent of the politician-criminal nexus and suggested ways in which the menace can be countered. The report of the National Commission to reconsider the Working of the Constitution, states the Vohra report as follows: "The nexus between the criminal gangs, police, bureaucracy and politicians has come out clearly in various parts of the country" and that "some political leaders become the leaders of these gangs/armed senas and over the years

get themselves elected to local bodies, state assemblies, and national parliament.” This point becomes self-evident when one glance at the number of elected representatives with unsettled criminal cases against them at all levels in our federal system. As per an analysis by the Association for Democratic Reforms, more than 30 percent of current Lok Sabha MPs have been pronounced criminal charges including serious criminal charges like murder, kidnapping etc. Disclosure of criminal antecedents of candidates started with the Supreme Court judgment in Writ Petition (Civil) No. 515 of 2002 (*Association for Democratic Reforms vs Union of India and another*) (**AIR 2003 SC 2363**), following which Election Commission of India issued order no. 3/ER/2003/JS-II, dated 27th March, 2003, requiring candidates opposing elections to the Parliament and State Assemblies to file affidavits in the specified procedure as vital parts of their nomination forms. The Election Commission has since reviewed the format of the affidavit vide their order no. 3/ER/2011/SDR dated 25th February, 2011. This reviewing has been done based on the experience from 2003 to 2010. ADR recommendation is that this procedure should continue. In addition, ADR carry the Election Commission of India’s recommendation, in its report on Proposed Election Reforms, 2004, that (a) an amendment should be made to Section 125A of the Representation of the People Act, 1951 to allocate for more stringent punishment for hiding or providing wrong information on Form 26 of Conduct of Election Rules, 1961 to minimum two years imprisonment and removing the alternative punishment of assessing a fine upon the candidate, and (b) Form 26 be amended to is inclusive of all items from the additional affidavit prescribed by the Election Commission, add a column necessitate candidates to disclose their annual declared income for tax purpose as well as their profession.

The Association for Democratic Reforms (ADR) in alliance with Rajasthan Election Watch has systemized the affidavits of candidates. It declares that 22% candidates of Congress have criminal cases unresolved against them, while 17% of BJP candidates have criminal cases pending cases against them.

Other than criminals support in the polls, both main parties have also relied on crore pates. In BJP, 81% candidates have unfolded assets above Rs 1 crore, while Congress is just beyond 77% of its candidates have claimed assets above Rs 1 crore.

This has been the subject for debate from time to time. The use of religion, caste, community, tribe, and any other form of group specification for electoral gain or for gathering political support should not be authorized and the Representation of the People Act, 1951, be suitably amended to give the Election Commission potential to take deterrent actions countering those candidates and political parties who employ to it, such actions should include, but not limited

to, disqualifying candidates from contesting elections and de-registering the offending political parties. Political parties ought also not to be allowed to use overtly religious, caste, community, tribe, and other such expressions and words in their names.

#### **IV. UNDUE INFLUENCE**

The dominant type of dishonorable practice is undue influence. Undue influence, as described in the law, is wide in its term and examines four distinct forms of interference with the free exercise of any electoral right, namely, direct interference, indirect interference, direct attempt at interference or indirect attempt at interference. Electoral right procures the right of a person to stand or not to stand as a -candidate or to extract or not to withdraw from being a candidate or to vote or refrain from voting at an election. Any interference or attempt at interference at such electoral right whether direct or indirect is corrupt practice. However, such direct or indirect intervention or attempt to interference must be with the consent of the candidate or his election agent. This interpretation in the election law is wider than the definition of the same expression in the Indian Penal Code, inasmuch as the words 'direct' or 'indirect' are not to be found in the Penal Code. Undue influence is used in contra-distinction to proper influence which may be safeguarded through affection bestowed or from kindness indulged. A friendly advice or an influence arising from gratitude or esteem is not undue influence unless thereby the functioning of a free mind is destroyed.

The Congress has taken a guide for fielding candidates with criminal background in assembly polls, as compared with other political parties, including the BJP. The ruling party didn't disappoint and scored over his arch rival Congress by deposing faith on 81% crorepati candidates.

#### **V. CHALLENGES AND ISSUES**

Electioneering is an expensive affair in every democratic polity which inspects a more vital role in India. Money power frolics in our electoral system destructive role affecting seriously the working of periodic elections. It leads to all round corruption and contributes chiefly to the generation of black money economy which rules at present our country? A prospective candidate in each constituency has to occupy millions of money towards transport, publicity and other essential items of election campaign. In recent years the election expenses have increased beyond any limits due to the desire on the part of every political party to spend more than their rivals in the fray. The elections were not as costly in 1952 as they have become today. Political leaders and workers considered it unethical to work with a desire for any reward. But scenario now has changed. The elections in Indian polity are fetching

increasingly expensive and the gap between the expenses incurred and legally permitted is increasing over the years. The observers are watching the system that necessities unbelievably enormous expenditure collected through the dubious methods by political parties and their candidates. The adoption of planning and of mixed economy with an enormous amount of control, regulation, licenses, permits and quotas in free India procured enormous opportunities for political corruption and resulted in an unethical nexus between the electoral politics and the business sector of the country. This seems to be continued even today with more disastrous consequences of an overflow of black money into the corridors of political parties despite the liberalized economy induced to the political system of country. Elections in India so far from a common man, only those people can participate in elections as a candidate who has a lot of money, because today vote is not a mean of public opinion. It is being purchased.

It is generally criticized that the government in authority at the time of election misuse official machinery to supplement the election prospects of its party candidates. The exploitation of official machinery takes discretionary forms, such as issue of advertisements at the cost of government and public exchequer highlighting their acquirement, disbursements out of the discretionary funds at the ejection of the ministers, use of government vehicles for canvassing etc. The misuse of official machinery in the ways mentioned above gives an unfair advantage to the ruling party at the time of elections. This escorts to misuse of public funds for furthering the prospects of candidates of a particular party

Although there is barely 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 benevolence by making offers to them, caste groups to try to intimidate 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. In many political parties, in place of ideological polarization there occurs the determination of policies and strategies as well as the nomination of electoral candidates and the addition of support to them on caste consideration. Caste dominates the political field, especially at the lower level. The emergence of regional parties and the withering away of national outlook and spirit thus sets off another crisis. Candidates come to be stipulated not in terms to 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 castes are dissolved the unity principle in the name of regional autonomy. 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 constituted a threat to the Indian political ethos of pluralism, parliamentarianism and federalism. Regardless of 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 has 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 collision and conflicts between the so-called. Secularist and the communalist. Although a comprehensive constitutional amendment Bill (80th Amendment Bill) and Representation of the People (Amendment) Bill 1993 were introduced to de-link politics from communalism, castes, and linguist etc. by the minority Government, these could not pass through the Parliament. Caste and religion have in current years emerged “as rallying points to gain electoral” support. Unfortunately there is a tendency to play upon caste and religious sentiments and field applicants in elections with an eagle eye on the caste calculations and communal configurations. Lack of Moral Values in Politics: There has been very sharp erosion in the ideological orientation of political parties. Party dynamics in India has led to the emergence of valueless politics much against the ideals of the father of the nation, Mahatma Gandhi, who suggested that the Congress party should be disbanded after the achievement of Independence and its members should engage themselves in the service of the people. While Gandhi taught us tremendous selflessness, self sacrifice and service, to the people, such inspirational values, the democratic norms and institutions have been destroyed systematically over the last years of the employed of the Constitution. In the process, both the politicians and political parties have lost their credibility, the eventual value that should bind them with the masses. There appears to be a crisis of character amongst the politicians, as the system does not encourage the honest leader. Because of the falling moral standards both in the public and among the leaders, criminalisation of politics and politicization of criminals has become the norm. Due to degeneration of leadership, parties have been twisted in power struggle for the sake of personal ends. In a moral pursuit of power politics, every major player seems to be playing a no holds barred game. The Gandhi an merit of the spirit of service to the nation has become completely extinct from the present day politics. The money and muscle powers are the basic evils that pollute and defile the process and motivate participants to resort to mal practices in elections. This leads to the decline of moral values in

the arena of electoral politics. Radical measures- legislative administrative and reformatory are needed to stem the root that is eating vitiate of the democratic process. A game can be fair only if the players are honest and true to its spirit.

## **VI. RECOMMENDATIONS**

Registration and de-registration of political parties:

- The command for registration, de-registration, recognition and de-recognition of parties and for appointing the body of auditors should be the Election Commission. The conclusion of the ECI should be final theme to review only by the Supreme Court of India
- This is arguably the solitary most critical and important reform needed to make India a truly democratic society. It is completely beyond any doubt that political parties are sine qua non (political parties are an essential requirement) of a representative democracy, that India has chosen for itself. The judgmental issue is how do they function or how should they function. While it would be ordinarily expected that political parties which function in a democracy, and claim to be defenders of democracy at every opportunity, would should function, in their own internal functioning, in a democratic manner but that, as we have discovered, unfortunately, this does not happen. Absence of internal democracy makes any organization, and political parties are not an exception here, over-centralized. In addition, in a party, which does not have interior democracy, power will be exercised more remotely from the people (members of the party), thereby increasing the distance between authority and accountability. Moreover, in immense political parties without internal democracy, there will be very few decision makers. As a matter of fact, it is no secret that in a stupendous number of parties in India, there is usually only one decision maker. ADR therefore strongly recommends that provisions should be made to introduce inner-party democracy within the political parties. This should carry mandatory secret ballot voting for all elections for all inner party posts and selection of candidates by the registered members, overseen by Election Commission of India.
- This is also one of the primarily deeper political reforms that are a necessary precondition that must be contended before any meaningful electoral reforms can actually take place on the ground. Magnitude of the donations is currently from unknown sources of funds and the introduction of 'Electoral Bonds' has made the financial transparency even more opaque than earlier. Political parties should be necessitate to maintain proper accounts in predetermined account heads and such accounts should be audited by auditors recommended and approved by the Comptroller and Auditor General of India (CAG), and convenient for the information

of the public. For bringing a sense of penalties 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 apprehend political parties both at the national and State level. ADR therefore recommends that a comprehensive law be enacted to regulate the working of political parties. Conclusion Despite landmark judgments delivered by the SC and efforts by the ECI, the system resumes to be prone to mischief. To stamp out these tendencies, there is a need to strengthen the EC to punish errant politicians and defiant political parties. Maintaining the sanctity of electoral process demand a multi-pronged approach, among removing illegal elements and moneybags in politics, set out poll petitions, introducing internal democracy and financial openness in the functioning of the political rave.

Another recommendation that has been recommended by previous committees to diminish the cost of elections is state funding of elections. The idea is to stable such conditions where even the parties with humble financial resources may be able to contend with those who have superior financial mitten. However, ADR feels that prior to state financement of elections, an instantly overhauling of the electoral process is needed. Elections need to be freed from the inducement of all vitiating factors, especially, criminalization of politics. It is understood that money power and muscle power go together to spoil the electoral process and it is their combined effect, which is sullyng the clean of electoral contests and effecting liberal and fair elections. Meaningful electoral correct in other orbit of electoral activity are also urgently needed. Additionally, it is powerfully recommended that the appropriate regulatory framework be put in area with regard to political parties (provisions ensuring internal democracy, interior structures and maintenance of accounts, their auditing and submission to Election Commission) before state funding of elections is attempted.

All obsolete committees on politics and electoral reform have noticed the criminalization of our political system almost unanimously. Criminalization of politics has indefinite forms, but perhaps the most fear among them is the important number of elected representatives with criminal charges waiting against them. The topic of electoral reforms has been taken up by numerous government committees in the dated past, including but not limited to:

- Go swami Committee on Electoral Reforms (1990)
- Vohra Committee Report (1993)
- Gupta Committee on State Funding of Elections (1998)
- Law Commission Report on Reform of the Electoral Laws (1999)

- National Commission to Review the Working of the Constitution (2001)
- Election Commission of India – Proposed Electoral Reforms (2004)
- The Second Administrative Reforms Commission (2008)

## **VII. CONCLUSION**

It is an agreeable objective to promote the advanced polarization of political ideologies and to reduce less serious political activity. The Election Commission obliged progressively increases the threshold criterion for worthy for recognition so that the proliferation of smaller parties is discouraged. There are more than 1600 political parties registered with the ECI, however, only a few ever struggle elections. ECI should be authorized to de-register such parties, which do not contest elections.

There exists a wide gulf between morals and practice in today's modern political era. Actually the roots of the problem false in the political system of the country. There is lack of political will to battles the problem. As being said earlier, Election is a spirit of Democracy, that not only nourishes the faith of mutual person in the ideals of democracy but also protect the nation from the threat of authoritarian politics. Potency electoral system is a biggest danger not only to the national integration but also to the Democratic Consolidation of India. Electoral Reforms of root nature can only save this ecstatic nation from political deterioration. Sacred and purity of Elections must be defended at any cost, as the future of India depends on it.

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