

Electoral Reforms

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'Rescue Democracy from Money Power' was the call given by Chakravarthy Rajagopalachari immediately after the emergency. The Nestor of India politics, he was the democratic conscience of post Independence India. Nearly six decades later, the chorus is the same.

India is the largest democracy in the world. 70 years since independence, we no longer are babes in the democratic world. 7 decades is far too long a period to mature as a vibrant democracy. The size of Indian elections is mind boggling. Around 23.1 million or 2.7% of the total eligible voters were first time voters (18-19 years) in 2014. A total of 8251 candidates contested for the 543 Lok Sabha seats. It was conducted in 9 phases and the voter turnout 66.38% was the highest ever recorded in the history of Indian General Elections. The nation spent Rs. 3426 crores to conduct the Lok Sabha polls. 81.45 crores of Indians were on the eligible voters list. 55.1 crore voters exercised their franchise. About 9,30,000 polling stations were set up all over the country. The ballot boxes were sealed on May 12, 2014 for the last time and the results were declared on May 16, 2014. 10 million officials (including police security) were deployed to conduct the elections. The sheer size of the manpower involved in the elections is greater than the population of most countries in the globe. It is beyond the comprehension of a non-Indian mind. It is to the credit of India that it has successfully conducted 16 elections to the Lok Sabha and several to the states since independence.

Parliamentary democracy has survived over the last 70 years. If it has to thrive on our soil, it is imperative to create a corruption free and congenial climate for it till the tap roots go deep into the soil. Today, can a common

man, however popular and deserving, think of contesting elections? Elections are such an expensive affair that even a very well-to-do person will shy away. If we desire to release merit from the entanglement of party funds, the need of the hour is to make election, much less expensive.

Through the ages, India has been a pathfinder – Margadarshi. We have a genius for constructive synthesis which is the hallmark of our culture. We have to cure the disease that has enveloped our elections over the years – dominance of money power, muscle power, criminalisation of politics, intimidation of voters which is ofcourse on the wane, abuse of religion and caste in the enlistment of voters and seeking votes on such a basis and many more have to be weeded out. Over the years, the Election Commission has handled a number of issues and accomplished commendable electoral reforms to fortify democracy and augment the even-handedness of elections. These alterations are ample and laudable. Undeniably, the election machinery, under the supervision of the commission, justifies its credibility for organising elections in a free and fair manner.

There is a general perception that the concept of democracy became known to us only through the West. The reality however is that even from the Vedic period, the kingdom was managed by Kings in such way as to provide for opinion of all the subjects. Vedas mention three kinds of organizations : Sabha, Samiti, Vidhata.

Rudram which is part of the Yajur Veda mentions the Sabha and Sabhapati. In Pancharudra which comes in Rig Veda, it is clearly mentioned that only a person who

is outstanding in intellect, character and articulation is a Sabheyan, one worthy of becoming a member of the Sabha. At the end of Rig veda, there is a Veda Suktham that instructs Sabyheyas: how to take decisions after debate and careful analysis of people's welfare and how they should be executed in a unified manner. The earliest documenting of an election system goes to the Chola regime. During the 3rd and 4th century B.C. when the history of Tamil Nadu began according to the modern day researchers, the dynasty of Chera, Chola and Pandians were in power. Literatures of the Sangam period allude to the greatness of several Chola kings. The election system was first brought in during the period of Paranthaka Chola. A thousand year old inscription 920 A.D. in Uthiramerur in Kanchipuram district contains interesting details about the elections. In Chola kingdom, it was divided into several administrative divisions. The biggest was Mandalam, next level was Wayanadu consisting of 18 localities, within Wayanadu there was Kuthram followed by Kottam and then finally the smallest division Oor which means village.

The election system provided for the people to be represented in any division. The qualification for the candidate for Oor was :

- He must own atleast one quarter Veli of land that is taxable.
- He must have own house built on his own land.
- He should not be older than 70 years and less than 35 years.
- The candidate must possess knowledge of vaidik dharma i.e. they must be well educated.
- That the candidate should not have acquired properties through wrong means
- The elections were conducted every year. After one term it was ineligible to take part in the elections for three successive years.
- Any new member must not be closely related to the existing member.

These very issues several centuries later we want to have and many more in our electoral system.

Electoral reforms have been intensely debated in all fora. Successive Law Commissions have dwelt deep on the subject. While there is consensus that elections have to be reformed, there are no clear agreements on how to achieve this. Any discussion on the subject is yet another perception / view and finality can come only if public opinion articulates the process and the law makers have no other option but to respect the will of the people. Some of the reforms that are required, are given below. There is no such thing as an original thought. A few simple steps to better our election process

Political Parties under the ambit of RTI

Political parties should not be allowed to conduct their affairs in an opaque manner. They should be included under 'Public Authorities' and brought under Right to Information (RTI).

Contribution to Political Parties

Presently Registered Parties have to disclose full details of contributions of Rs. 20,000/- or more received, to the Election Commission. Most parties resort to under reporting to evade disclosure. They are split down to small denominations. To plug this loophole, cash donations accepted by political parties should be a maximum of Rs. 2000 and all donations in excess of Rs. 2000/- should be disclosed both in the website of the party as well to the Election Commission.

How far the recently proposed electoral bonds will work to bring transparency in funding of political parties, has to be assessed after a year or two of implementation.

Government Advertisement

The Law Commission has recommended that government sponsored advertisements should be regulated and restricted six months prior to the dissolution of the house in the normal course. The Election Commission should be the arbiter for release of such advertisements during this restriction period. The case of AAP Party Government advertising outside New Delhi is a pointer to influencing voters going

to polls in other states. Since television has a reach all over the country, all state sponsored advertisement should be stopped atleast one month prior to the dissolution of the house. These are difficult to be implemented but can be perfected over a period.

Anti-Defection Law

Anti defection law has become too complicated to offer a simple solution to defection. The various interpretations of the courts need to be the basis for overhauling this Act. A simple solution is if you defect after getting elected on a party ticket, you will be deemed to have vacated office under all circumstances. This is riddled with several practical difficulties but is the ultimate prescription.

Model Code of Conduct

The power of the Election Commission to enforce Model Code of Conduct during the election is limited only to reprimanding or censuring the candidate for violating the model code of conduct. This does not have the desired effect of ensuring strict adherence to the model code of conduct to ensure a free and fair poll. While substantive issues in relation to the election may be addressed in the election cases filed in High Court, the Election Commission should be empowered, upon upholding the violation of the model code of conduct, based on the severity of violation to even direct suspension of campaigning during the campaign period putting the offending candidate to greater risk of losing the elections. This can have a positive impact for observance of the model code of conduct.

Criminalisation of Politics

The General elections of 2014 saw the highest number of politicians with criminal record being elected to the 16th Lok Sabha. The Association for Democratic Reforms (ADR) reported that 34% of the elected parliamentarians i.e. 186 have confessed in their election affidavits that they have criminal cases against them. 112 have declared that they have serious criminal cases like murder, attempt to murder, kidnapping and crimes against womens. Nine MPs have murder

charges while another 17 have charge of attempt to murder against them. Do they deserve to represent us? Before we pass judgements, politicians have often claimed that most criminal cases have been foisted on them due to political rivalry and unless they are held guilty by the courts they are entitled to being declared innocent in law.

We need to build a consensus on how to prevent individuals with criminal records from contesting the elections.

Section 8 of the Representation of Peoples Act, 1951 provides for disqualification of elected representatives on conviction for certain offences. U/s 8 (3) : any person convicted of any offence and sentenced to imprisonment for not less than 2 years shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release. The Supreme Court had ruled in 2013 that a person in jail or police custody cannot contest elections to legislative bodies. It also struck down a provision in the Representation of Peoples Act that protects a convicted law maker from disqualification on the grounds of pendency of appeals in the higher court.

We need fast track courts to dispose of criminal cases against elected representatives, with a time frame to dispose of the cases, only then ends of justice can be met and once convicted, the elected representative can be unseated. Singularly, this is the most important electoral reform that is required to cleanse the election system.

National Voters Day

This day is celebrated on 25th January each year. The day is followed by Republic Day. The entire week starting from the National Voters Day should be addressed to enlisting new voters. Colleges all over the country should become centres for registration of students who would have just crossed 18 years of age. Campus enrolment would atleast ensure that urban youngsters join the election process as soon as they become eligible.

Voter Database

Election Commission should examine whether the voter database can be linked to Aadhaar Card. Aadhaar card is the world's largest biometric ID system with over 1.123 billion enrolled as at 28th February 2017. As on date, over 99% of Indians aged above 18 years have enrolled for Aadhaar. The missing voter list that is being perennially complained of, needs immediate solution.

Compulsory Voting

Eventhough Law Commission of India's report headed by Justice A. P. Shah does not recommend compulsory voting, in about a decade's time, we should progress to that stage. With NOTA being introduced into the ballot, the oft repeated complaint that non standing for the election deserves a vote is addressed. To ensure that the day's wages are not lost, polling booth should be created in work places within the constituency of the voters to enable them to exercise their franchise. Some of the fiscal benefits like Gas, free medical treatment should be linked to voting. A sophisticated programme resulting in a system generated non voting list linked to the Aadhaar card could be a great step forward. Issues relating to old age, extreme sickness, hospitalization etc. need to be factored in.

Right to Recall

The Law Commission of India is not in favour of the Right to recall. It's about time we start concept outline so that in about a decade's time, this can be implemented.

If the attendance during the year of an elected member in the parliament / assembly is less than 25%, the speaker can notify this position at the beginning of the next year and the election commission can declare the candidate as having vacated his office and can set in motion the by-poll process.

Interstate Migrant Voting

Special booths should be created in every state where voters on work, or family duty outside their ordinary place of residence on the date of voting, could exercise their franchise. The EVM's should have inbuilt features to feed in

the voter details and if found correct from the voter database, should print on the screen the ballot paper of the constituency for the voter to exercise his right. Even this will require several technological upgrades to allow such voting. It can be experimented first at assembly level polls for migration within the state before being scaled up for national elections.

Restriction on number of seats which a candidate may contest

In view of the wasteful expenditure for a bypoll once a elected candidate opts out one constituency in favour of another, no candidate should be allowed to contest more than one seat and if the elections to Lok Sabha and state assembly are conducted simulataneously, the candidate should stand either for the Lok Sabha or state assembly. The present limit of two should be done away with immediately.

Effective Campaigning Period

Over the years both the national and state assembly elections have become party centric. The number of independents getting elected has dwindled. 14 days from the last date of withdrawal of nomination is allowed for campaigning. The dust and din of the elections can be further reduced by curtailing the campaign period to 10 days and political parties be encouraged to use national television time for debates and discussions with the voters. Their policies and manifestos can also be better understood through such discussions. Town Hall meetings with candidates can be released over local TV for other voters to make up their mind while preparing for voting.

Election – Deposit

The level of deposit should not keep away serious candidates while at the same time should dissuade non-serious contestants from entering the fray. The Deposits charged now are

S.No.		General Candidates	SC/ST
1.	Lok Sabha	10,000	5,000
2.	State Assemblies	5,000	2,500

While registered political parties and state recognized parties can be allowed to pay deposits as above, a higher amount of deposit is required for Independants. It can be increased to Rs. 25,000/- for general candidate, Rs. 10,000/- for SC/ST candidate for the Lok Sabha and Rs. 10,000/- for state assemblies for general and Rs. 5000/- for SC/ST candidates. An effective step to deter non-serious candidates from entering the fray.

Non serious independent candidates are largely floated by parties either to cut sizeable portion of votes of rival candidates or to split the votes on caste lines.

Maximum Expenditure for Elections

Presently the scales of expenditure permitted is as under :

Rs' Lakhs			
S. No.		Bigger State	Smaller State / UT
1.	Lok Sabha	40	16 – 40
2.	State Assemblies	16	8 – 16

While the direct expenditure incurred by the candidate is ascertainable to some degree of accuracy, we need more effective basis for

apportioning common expenditure of political parties to their contestants. A separate website should record reports of the common voter on the field on expenditure incurred, going unreported. Of course such reports should be corroborated with further evidence and proof of payment.

Mahatma Gandhi, it has often be stated wished to spiritualise politics. He firmly held the view that we cannot keep politics and morality apart. Indeed he wanted politics to be rebuilt based on a true and reliable foundation i.e. individual honesty. Electoral reforms are the first step to secure that honesty. National character is the keystone on which rests the fate and future of our public affairs not this or that “ism”. With comfortable majority that the government would enjoy in both the houses of the parliament and most state legislatures by 2018, it could make substantial changes to the election laws and usher in a new polity that would meet the aspirations of the people.

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