

Constitutional Principles and Legal Mechanisms Shaping Indian Elections

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ABSTRACT

Elections in India are a vital part of its democratic process, allowing citizens to choose their representatives at various levels of government. Elections in India are a vital part of the country's democratic framework, enabling citizens to choose their representatives at various levels of government, from the local panchayats to the national parliament. Conducted by the Election Commission of India, which is an autonomous constitutional authority, these elections are generally held every five years. India follows a parliamentary system, and the process is largely based on adult suffrage, meaning every citizen above 18 years has the right to vote regardless of caste, religion, or gender. The system ensures fair representation through periodic elections, fostering political participation and accountability. Indian elections are known for their large-scale participation, with millions of voters exercising their right to vote.

Keywords: Constitutional, Legal Framework, Governing Elections in India

INTRODUCTION

Election in India is a vital part of the democratic process. It is the method through which people choose their representatives to govern at various levels from local bodies to the Parliament. India follows a parliamentary system where elections are held periodically; ensuring the citizens' right to vote is exercised freely and fairly.¹ The Election Commission of India is an independent legitimate authority that conducts and supervises elections, ensuring transparency and impartiality. Voting is a fundamental right of every citizen above the age of 18. Elections promote accountability and allow people to express their opinions on governance.²

In the conduct of elections is governed by a comprehensive legal framework designed to uphold democratic values and maintain electoral integrity. This framework is primarily rooted in the Constitution of India, supplemented by legislative enactments such as the acts, rules framed thereunder, and judicial pronouncements that shape electoral jurisprudence.³ Despite this robust framework, the Indian electoral system faces several challenges ranging from the influence of money and muscle power to electoral malpractices, criminalization of politics, lack of inner-party democracy, misuse of social media, and questions over transparency and accountability.⁴

The idea of "One Nation, One Election" to explore the feasibility of this concept, the Government of India has formed various committees over the years.⁵ The most recent and prominent is the High-Level Committee (HLC) constituted in September 2023, chaired by former President Ram Nath Kovind. This committee has

¹ S. K. Palit, "Electoral Reforms in India: A Critical Appraisal," *Journal of Indian Law and Society*, Volume: 10, Issue: 2 (2019).

² Nikhil Phool, Dr. Mohd Rafiq Dar, "Election Laws and Electoral Reforms in India and U.K.," *Legal Research Development*, Volume: 8, Issue: IV (2024).

³ D.N. Ghoshal, "Electoral Reforms in India: Issues and Challenges," *Indian Journal of Political Science* Volume: 72, Issue: 1 (2011).

⁴ P.K. Tripathi, "The Role of the Judiciary in Electoral Reforms in India," *Journal of the Indian Law Institute*, Volume: 50, Issue: 2 (2008).

⁵ Ajay Raj Singh and Sonal Jain, "Constitutional Aspects and Challenges for Implementing One Nation One Election," *International Journal of Law Management & Humanities*, Volume: 7, Issue: 1 (2024).

been tasked with examining the legal, constitutional, logistical, and financial challenges of implementing synchronized elections across India.⁶ Earlier, the Law Commission of India (2018) and the NITI Aayog (2017) also studied the proposal and submitted reports suggesting constitutional amendments and better coordination between the Election Commission and state governments. While the idea promises cost efficiency and reduced disruption to governance, it faces significant legal, federal, and logistical hurdles, including the need for multiple constitutional amendments.⁷

CONSTITUTION OF INDIA, 1950

Article 324 of the Constitution⁸: deals with the superintendence, direction, and control of elections in India. It is a significant provision related to the Election Commission of India, which is entrusted with the responsibility of ensuring free and fair elections at the central and state levels. The Commission ensures free and fair elections by preparing electoral rolls, conducting polling, counting votes, and declaring results. It also has the power to recognize political parties and allot symbols.

Article 325 of the Constitution⁹: No voter can be excluded or discriminated against during the preparation of electoral rolls. This means no separate or special rolls for different communities (unlike in colonial times when separate electorates existed for different religious groups).¹⁰

Article 326 of the Constitution:¹¹ Election shall be conducted based on universal adult suffrage, which means that every citizen who is 18 years or older has the right to vote, irrespective of caste, race, religion, or gender, provided they are not disqualified under the Constitution or any law. Ensures equal voting rights for all eligible citizens.

Article 327 of the Constitution: This article ensures that while the Election Commission is responsible for the superintendence, direction, and control of elections, Parliament has the legislative competence to create and amend laws on the subject.¹²

Article 328 of the Constitution:¹³ This means that while the Parliament holds overarching authority on election laws, State Legislatures can legislate on election-related matters within their jurisdiction, as long as there is no conflict with central laws. In essence, Article 328 ensures cooperative federalism in electoral matters, allowing both the Centre and the States to play a role while maintaining constitutional harmony.

Article 329 of the Constitution¹⁴: Article 329 provides a constitutional bar on judicial interference in certain electoral matters. It ensures that elections are not interrupted or delayed by legal proceedings while they are in progress. Courts cannot interfere in the electoral process while it is underway. This article protects the sanctity and continuity of the electoral process by preventing frivolous or premature legal challenges.

ELECTION COMMISSION OF INDIA: POWERS AND FUNCTIONS

Powers and Functions of the Election Commission:

1. Conduct of Elections: Conducts elections to in all over in India.
2. Preparation of Electoral Rolls: Supervises the preparation, revision, and maintenance of electoral rolls. Ensures there is no duplication or fraudulent entry.

⁶ Dr. Prasanna Vijay, "Harmonizing Democracy: Assessing the Feasibility and Implications of One Nation One Election in India," *Journal of Legal Studies & Research*, Volume: 9, Issue: 6 (2023).

⁷ Aditya Pratap Singh and Ambar Srivastava, "Legal Perspectives on the Feasibility of 'One Nation, One Election,'" *International Journal of Law Management & Humanities*, Volume: 7, Issue: 2 (2024).

⁸ Constitution of India, 1950, art.324,

⁹ Constitution of India, 1950, art.325,

¹⁰ S. K. Palit, "Electoral Reforms in India: A Critical Appraisal," *Journal of Indian Law and Society*, Volume: 10, Issue: 2 (2019).

¹¹ Constitution of India, 1950, art.326,

¹² Constitution of India, 1950, art.327,

¹³ Constitution of India, 1950, art.328,

¹⁴ Constitution of India, 1950, art.329,

3. Recognition of Political Parties and Allotment of Symbols: Grants recognition to political parties as national or state parties. Allots election symbols to parties and independent candidates.
4. Model Code of Conduct: Enforces the Model Code of Conduct to safeguard a equal playing field during elections. Takes actions against violations, including reprimands and bans.¹⁵
5. Adjudication of Election Disputes: Decides disputes related to the recognition and de-recognition of political parties and candidates. Powers are quasi-judicial in nature.
6. Monitoring Election Expenditure: Monitors and regulates expenditure by candidates and parties during elections. Appoints observers and auditors.
7. Advisory Role: Advises the President and Governors on disqualifications of MPs and MLAs under Articles 103 and 192 respectively. Provides recommendations on electoral reforms.
8. Power to Cancel Elections: Can cancel or postpone elections in cases of violence, rigging, or some additional malpractices.¹⁶

The Representation of the People Act, 1951

This act is a key legislation in India that lays down the legal framework for conducting elections in India, and for resolving election disputes. Enacted under the powers conferred by The Act provides detailed provisions on matters such as the qualification and disqualification of candidates, conduct of elections, electoral offences, corrupt practices, and election petitions.¹⁷ The Act also contains rules regarding the declaration of results, by-elections, and the removal of elected representatives in cases of misconduct or legal disqualification. Over the years, it has been amended multiple times to strengthen electoral integrity and promote transparency in political funding and campaigning.¹⁸

Election Symbols (Reservation and Allotment) Order, 1968

This Order governs the acknowledgment of political parties and the reservation/allotment of election symbols to political parties:¹⁹

1. Classification of Symbols: Symbols are classified into: Reserved Symbols: Exclusively allotted to recognized national and state parties. Free Symbols: Available to unrecognized parties and independent candidates.²⁰
2. Recognition of Political Parties (Para 6) Political parties can be recognized as: National Party, State Party. Recognition is based on criteria such as: Performance in elections (votes polled, seats won), Presence across multiple states (for national parties).
3. Allotment of Symbols: Recognized Parties: Get exclusive right to use a reserved symbol. Unrecognized Parties/Independents: Choose from a list of free symbols. If multiple candidates request the same free symbol, priority is given based on: Party's past performance, First-come-first-serve basis, Lottery system (if needed).²¹

¹⁵ Dr. Abhay Kumar Verma, "Electoral Reforms in India: Needs, Issues, and Challenges," *International Journal Of History And Political Sciences*, Volume: 3, Issue: 5 (2023).

¹⁶ D.N. Ghoshal, "Electoral Reforms in India: Issues and Challenges," *Indian Journal of Political Science* Volume: 72, Issue: 1 (2011).

¹⁷ R. Mathew, "Electoral Reforms in India: The Way Forward," *Journal of Public Affairs*, Volume: 18 Issue: 3 (2018).

¹⁸ The Representation of the People Act, 1951.

¹⁹ The Election Symbols (Reservation and Allotment) Order, 1968.

²⁰ The Election Symbols (Reservation and Allotment) Order, 1968.

²¹ Jagdeep S. Chhokar, "Money, Muscle and Elections: Criminality in the Indian Political System," *Economic and Political Weekly*, Volume: 41, Issue: 34 (2006).

4. Symbol Reservation Disputes (Para 15): In case of a split in a recognized party, the Election Commission decides which group retains the symbol. The decision is binding and based on: Support within the party's legislative and organizational wings.²²
5. Linking of Voter ID with Aadhaar: Ensuring that a person is registered only once in the electoral roll. Aadhaar linkage is voluntary; it is not compulsory, but encouraged to prevent duplication of voter entries.²³

Offences Related to Elections in Bharatiya Nyaya Sanhita, 2023

The Bharatiya Nyaya Sanhita (BNS), 2023 Chapter IX to address offences related to elections. The primary objectives of these laws are as follows:

1. Ensure Free and Fair Elections: By criminalizing these actions, the law ensures that voters are not manipulated or intimidated, guaranteeing their right to vote freely.
2. Protect Electoral Integrity: The law seeks to safeguard the sanctity of the electoral process by addressing offences that can distort election results, including false statements, illegal payments, and the use of violence or fraud to influence voters or candidates.
3. Promote Transparency and Accountability: By requiring candidates and political parties to maintain transparent records of campaign expenditures, the law ensures that all financial activities in an election are accounted for and that illegal funding or undue financial influence is deterred.
4. Ensure Equal Opportunity for All Candidates: Offences related to vote buying, intimidation, and corrupt practices are specifically criminalized to ensure that no candidate can gain an unfair advantage over others, thereby promoting equal opportunities for all candidates to contest elections.
5. Preserve Public Trust in the Electoral System: By penalizing those who attempt to manipulate the election process, the law seeks to foster public confidence in the electoral system, assuring citizens that their votes will be counted fairly and that the democratic process will not be subverted.
6. Ensure Voter Education and Awareness: The law is also aimed at preventing misinformation and deceptive practices that may confuse or mislead voters. By criminalizing false claims and spreading misinformation, the law encourages informed voting.
7. Deterrence of Electoral Crimes: The law provides stringent penalties for those found guilty of election-related offences, serving as a deterrent for potential offenders. The severity of punishment helps reduce the likelihood of such crimes occurring during the election cycle.
8. Uphold the Rule of Law: The legislation emphasizes the importance of legal compliance in the electoral process, ensuring that all individuals and entities involved in elections are held to high legal standards. It reinforces the idea that the rule of law prevails, even in the conduct of elections.

Bribery: Section 170 of BNS²⁴

Section 170 of the BNS, 2023 criminalizes the act of bribery during elections. It addresses the issue of offering or accepting bribes to influence the electoral process, particularly to sway voters or candidates in favour of a particular political party or individual. This section ensures that elections remain free from external influences, such as financial inducements, that can distort the fairness and integrity of the democratic process.

Undue Influence at elections: 171 of BNS²⁵

This provision is designed to ensure that elections are conducted fairly, without coercion, intimidation, or any form of external influence that could disrupt the free and independent will of the voter.

²²Chandan Chandr, "Ensuring Independence of ECI and Need for Electoral Reforms in the Light of the Challenges Faced by ECI in Ensuring Free and Fair Elections," *International Journal of Legal Science and Innovation*, Volume: 6, Issue: 3 (2024).

²³Chandan Chandr, "Ensuring Independence of ECI and Need for Electoral Reforms in the Light of the Challenges Faced by ECI in Ensuring Free and Fair Elections," *International Journal of Legal Science and Innovation*, Volume: 6, Issue: 3 (2024).

²⁴ Bharatiya Nyaya Sanhita, 2023, s.170.

²⁵ Bharatiya Nyaya Sanhita, 2023, s.171.

Personation: Section 172 of BNS²⁶

Section 172 of the Bharatiya Nyaya Sanhita (BNS), 2023 addresses the offence of personation during elections. Personation refers to the act of voting on behalf of another person, either by impersonating the individual or by voting multiple times in violation of the electoral process. This offence undermines the fundamental principle of free and fair elections, where each individual voter's choice must be unique and genuine.

Section 175 of the BNS, 2023²⁷ criminalizes the act of making false statements in connection with an election. This provision is designed to ensure that the electoral process remains truthful and that no individual or party spreads misleading or deceptive information to influence voters or the outcome of an election. Such false statements may include fabricated claims about candidates, their policies, or the election process itself.

Section 176 of the BNS, 2023²⁸ addresses the offence of illegal payment in connection with an election. This provision is designed to prevent the use of money or material benefits to improperly influence voters, candidates, or the election process itself. It aims to safeguard the integrity of elections by ensuring that voters and candidates are not swayed by financial inducements or other unlawful payments that could corrupt the democratic process.

Section 177 of the BNS, 2023²⁹ This section helps curb the misuse of black money and illicit funding, ensuring that elections are fair, transparent, and based on ethical principles. By imposing penalties for non-compliance, the law strengthens the accountability of those involved in the electoral process.

ROLE OF JUDICIARY

In the Indian judiciary has emerged as a powerful force in initiating and sustaining electoral reforms aimed at preserving the integrity of the democratic process. Through landmark judgments such as *Union of India v. Association for Democratic Reforms*³⁰, which recognized the voter's right to know the antecedents of candidates, *People's Union for Civil Liberties v. Union of India*³¹ which upheld the right to vote as a facet of freedom of expression, and *Subramanian Swamy v. Election Commission of India*³² which mandated the introduction of VVPATs, the Supreme Court has consistently emphasized transparency, accountability, and voter empowerment. Additionally, rulings like *Lily Thomas v. Union of India*³³ and *Public Interest Foundation v. Union of India*³⁴ have played a crucial role in combating criminalization in politics. These judicial interventions reflect a robust constitutional vision where courts act as guardians of democracy, ensuring that electoral processes remain free, fair, and reflective of the will of the people. However, sustained reforms also require legislative and administrative cooperation, making it essential for all democratic institutions to work in harmony towards a more transparent and participatory electoral system.

CONCLUSION

India's electoral process is backed by a detailed constitutional and statutory framework, including the Constitution, the Representation of the People Act, the Election Symbols (Reservation and Allotment) Order, and the Bharatiya Nyaya Sanhita, 2023. Although this framework has facilitated widespread democratic participation and judicial support has pushed for reforms, several issues remain. Persistent concerns such as the use of illicit funds, political criminalization, and lack of inner-party transparency continue to hinder the

²⁶ Bharatiya Nyaya Sanhita, 2023, s.172.

²⁷ Bharatiya Nyaya Sanhita, 2023, s.175.

²⁸ Bharatiya Nyaya Sanhita, 2023, s.176.

²⁹ Bharatiya Nyaya Sanhita, 2023, s.177.

³⁰ [(2002) 5 SCC 294].

³¹ [(2003) 4 SCC 399].

³² [(2013) 10 SCC 500].

³³ [(2013) 7 SCC 653].

³⁴ [(2019) 3 SCC 224].

fairness of elections. Additionally, while linking voter IDs with Aadhaar aims to reduce duplication, it raises legitimate concerns about data security and potential disenfranchisement.

Judicial rulings have certainly advanced transparency and accountability, yet reform efforts often face delays due to inadequate legislative and administrative follow-through. To strengthen electoral democracy, future efforts must focus on stricter enforcement, improved political transparency, robust voter awareness, and the adoption of secure electoral technologies. Reforms like "One Nation, One Election" should be evaluated cautiously to maintain the balance of federalism. A credible and inclusive electoral system remains essential for nurturing democratic values in India.