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# The World's Largest Democracy – Election View

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DARSHNI GALA<sup>1</sup> AND AVADHI JAIN<sup>2</sup>

## ABSTRACT

*“Democracy is based upon the conviction that there are extraordinary possibilities in ordinary people” - Harry Emerson Fosdick. Elections form a very important aspect of a representative democracy of India. The election process in India is still in a developing state. It needs many changes and the Election Commission with a thinktank in place, should periodically suggest the needed reforms. Although as the world's largest Democracy, India has the most crucial types of election laws required but are they enough with the continuous evolution and growing structure of the country ? Are those laws apt for the majority of the population of India with their being more than 1.3 billion people being a part of the Country? From as small as the inkling of the vote to the Electronic Voting Machine, everything must be scrutinized thoroughly. To consistently bring more and more people to vote each election, India should build an efficient process that aims to support and make the democracy stronger and superior. The conduct of election in India requires huge amount of security management. Slouching down to low levels and engaging in misconduct, especially in a country like ours is quite facile. Nevertheless, it is the duty of the Election Commission to keep the process of election independent of any influencing force or factor.*

## I. INTRODUCTION

Law means rules that govern the society or community or the place you live with authority . Election as we all know means a way we choose a person or an individual who would hold public office after he or she is elected. “An election is a process in which people vote to choose a person or group of people to hold an official position.”<sup>3</sup>

Election Law is that integral part of the country be it following any kind of government from dictatorship to democracy. Specially in democracy election and election law play a very vital role because as said by Abraham Lincoln that "Democracy is of the people, by the people and for the people." When it comes to Democracy then every person gets to vote, to choose who they would feel should have the power or hold the public office.

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<sup>1</sup>Author is a student at Rizvi Law College, Mumbai University, India

<sup>2</sup>Co-Author is a student at Rizvi Law College, Mumbai University, India

<sup>3</sup> <https://www.collinsdictionary.com/dictionary/english/election>

Overview of literature on the electoral system as a political institution. Includes a section on changes in electoral systems, with primary focus on changes at democratization, but including changes in established, advanced industrial democracies.<sup>4</sup> The main essence derived from these words is that no democracy can ever have an established system no matter how perfect it may seem at the time of it being made because with time society evolves and so does technology and all of its needs go hand in hand for people to be voting hassle free and with complete security that there won't be any troubles when they vote for their choice of the candidate that is the candidate of their choice would be elected and their voice would be heard. Not only the system then needs to be changed but also the laws need to change for reasons that being a democratic country all that matters is the citizens of the country because the country belongs to the citizens and not only to the candidates they have elected. Thus the laws need to be well equipped if any issues come with the voting. Because then the vote is not only a right but their opinion for the country as well.

Maintaining free and fair elections is one of the most important goals of the Indian democracy. As it was very accurately put in the case of *Indira Nehru Gandhi v Raj Narain*<sup>5</sup>, "Democracy can indeed function only upon faith that elections are free and fair and not rigged and manipulated, that they are effective instruments of ascertaining popular will both in reality and form and are not mere rituals calculated to generate illusion of defence to mass opinion."

Role of Election in a democratic nation of India is very essential. It makes people aware of political education, ensures political stability, helps people to voice their opinions and choose a person to represent the nation and more so. The importance of elections and the laws relating to it cannot be disregarded. But what is the outcome when the most important part of democracy is corrupted? The democratization is destroyed when such strategies of fraud are carried out.

Over the years, India has faced quite a lot of struggles. Not only in context to 1947, when India gained independence but even after. The struggle of a new democratic nation, on its way to succeed goals that it had set for itself was quite intricate. The first general election of

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<sup>4</sup> Bowler, Shaun. "Electoral Systems." In *The Oxford Handbook of Political Institutions*. Edited by R. A. W. Rhodes, Sarah A. Binder, and Bert A. Rockman, 577–594. Oxford Handbooks of Political Science. Oxford: Oxford University Press, 2006.

<sup>5</sup> *Indira Nehru Gandhi vs Shri Raj Narain & Anr* on 7 November, 1975, Appeal (civil) 887 of 1975

independent India was held in 1952. Pre 1952, the idea of elections was foreign to most of the population. Thus, the success of these elections marked a new era in the history of India.

Despite all the accomplishments that India has gained there still exists many dilemmas which hampers the growth of the country.

The election process, over the years, has changed. Although few things like the ink on the finger has still remained the same, the voting system has altered quite a bit. The traditional paper ballot system has changed to the modern Electronic Voting System.

With new system, comes new rules too. The Model Code Of Conduct For The Guidance Of Political Parties And Candidates is one set of norms which has changed simultaneously with the process of elections. As the name suggests, this Code is for the guidance of the political parties who are required to bind by it.

The Model Code Of Conduct For The Guidance Of Political Parties And Candidates has precisely mentioned that “All parties and candidates shall avoid scrupulously all activities which are “corrupt practices” and offences under the election law, such as bribing of voters, intimidation of voters, impersonation of voters, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.”

But it is unfortunate to say that many such corrupt practices have been in motion and the parties have been successful in suppressing such practices and keeping them out of public knowledge. The important aspect of democracy, transparency is infringed in such a process.

The Representation of the People Act mentions within itself a whole set of offenses and provisions for disqualification of a candidate from election for any malpractice. However, despite such an elaborate classification of electoral corruption that would potentially nullify the election of a candidate, electoral malpractice continues to flourish.

Electronic Voting Machine (also known as EVM) is voting using electronic means to either aid or take care of the chores of casting and counting votes. Electronic Voting Machine has been a issue of intense debate.

There have been many articles that extensively link Electronic Voters Machines to fraud practices. There are about 120 countries that practice democracy. Of these, only about 25 have experimented with or used electronic voting machines to elect their governments. So,

the EVM is obviously not the dominant choice globally for recording votes in elections.<sup>6</sup>

In this day and age, manipulating an EVM machine is not very difficult. Although the technology advancement is much appreciated, the substantial irregularities at micro level cannot be disregarded. Dr. Alex Halderman, professor of computer science in the University of Michigan says, “EVMs used in the West require software attacks as they are sophisticated voting machines and their hardware cannot be replaced cheaply. In contrast, the Indian EVMs can easily be replaced either in part or as wholesale units.”

The Software and Hardware of the EVM machine can be tampered such that even the manipulation attempt would go undetected. Software malfunction, thus leading to inaccurate results. The corruption prone environment of India makes it easier to tamper with such processes. India being a democratic country, elections play a huge role. But when such a process of election is vulnerable due to malicious intentions of hacking the technology of an EVM and tampering with the votes, it creates a major drawback.

Another issue of EVM is the political ties to the manufacturer. Considering our political culture, it is a reality that any maker or organization employed for the manufacturing of such EVM might or will tailor the e-casting machines as per the 'needs' of the current political party in power. Hence, there is no guarantee that the voting on these EVMs would be unbiased and fair. The involvement of local administration and officials in subverting the electoral process can thus lead to unfair elections, resulting in the infringement of democracy.

A study by scientists and technologists have proved very efficiently that even though the Election Commission has talked about EVMs as "infallible" and "perfect", it is not the true case. Around the world, Electronic Voting Machines have shown serious security problems. “Tampering with them would not present a challenge to an attacker.”

The General Instructions on Storage of Polled and Unpolled EVMs state that "It is reiterated that under no circumstances any person will take any EVM, whether polled EVMs or reserve EVMs in the custody of sector officers, to his home or any private place. All polled EVMs and all reserve EVMs after the poll shall be under cover of armed police at all times. Reserve EVMs should also be returned at the same time when the polled EVMs are returned at the receipt centre. Reserve EVMs shall not be kept in the strong room meant for polled EVMs. They shall be kept in another strong room meant for keeping reserve EVMs. It must be ensured that all reserve EVMs are also deposited in the strong room meant for reserve EVMs

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<sup>6</sup> <https://www.indiatoday.in/elections/story/the-many-claims-of-evm-tampering-in-india-1435638-2019-01-21>

at the same time when the polled IIVMs are deposited in the strong room meant for polled EVMs." There have been several allegations regarding the security of EVMs. All such allegations have been dismissed by the Election Commission without proper investigation and considered as "baseless". The lack of transparency in such governmental body results in the lack of public trust. Furthermore despite the clarifications, the Election Commission has not explained as to why the reserve machines are not being transported with appropriate scrutiny, as the guidelines require.

Additionally, "The ECI did not respond to RTI queries on expenditure on acquiring EVMs from ECIL. Interestingly, ECIL stated that it had not supplied a single EVM to any State between 2006-07 and 2013-14. Yet, an RTI response from ECIL showed that between March and October it got Rs.50.64 crore from the Maharashtra government, through the ECI, as the money for supplying EVMs."<sup>7</sup> This yet is another example of the corrupt practices of the EC.

Indian elections have been the "foundation of corruption". In India elections are not just being tampered with they are being manipulated by the political parties as well. The parties have long forgotten the morals our freedom fighters and leaders had thought and fought for. They are now only considered about them being in power. The leader have stoop down to degrading the person, humiliating other candidates in front of people via media channels, newspapers and even social media. They have done much worse things as well like plotting against the candidate, giving people bribes not only of money but even of Alcohol and food which is a what a lot of candidates use in the rural sector. There have been incidences of candidates where they have been bribing people into voting them with bad mouthing other religions, commenting on sexuality, discriminating on their castes and a lot more. The moral etiquettes and the moral society have long been forgotten in India when the question is about vote bank. The vote bank is an actual thing in India where a candidate would target certain group of people for him to be voted by them and to please them he would all possible means.

India has a certain pattern of voting when it comes to the procedure for voting for Lok Sabha members it's called FPTP (first past the post electoral system) that means that every candidate who is standing in the election even if he/she has not won the majority of the votes still wins if he has more votes than the other candidate even if the difference between the votes of the candidates is one or two. This system is also been practiced in countries like Antigua and Barbuda, Azerbaijan, Bangladesh, Bahamas, Bhutan, Canada and in many more countries around the globe. But there is a different way as to how the people in these

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<sup>7</sup> <https://frontline.thehindu.com/cover-story/article27056139.ece>

countries vote though the way of declaring the vote is FPTP. For example the voting system in Canada is not like it is in India, over there the elections are done via ballot paper and not by EVMs. Also in Canada they have one more option that is mail in voting, “*where you essentially vote by mail. You do this if you live overseas as well. But you have to stay on top of deadlines related to this process. You need to either call or go online to request a mail-in ballot and then get the kit, And then there’s a double envelope system and you have to either mail it in or bring it in to an Elections Canada office before the close of polls.*”<sup>8</sup>

Quite often we hear that since many countries have rejected EVMs, why should India use them at all? Is this not a threat to our democracy?

“Serious doubts about safety, accuracy, reliability, and verification of elections through electronic machines are raised throughout the world. It is surprising that even some in major developed countries of the world do not rely on the technology of EVMs. Many countries of the world, including England, France, Germany, the Netherlands and the United States, have banned the use of EVMs. The only form of e-voting in the USA is via email or fax. Technically, the voter is sent a ballot form, they fill it in, return it by email, or fax a digital photo of the ballot with their choice marked.”<sup>9</sup>

## II. SOLUTION /RECOMMENDATIONS

- As a citizen of India I realise that not only a fraction of the politicians we elect have a criminal case on them but way more than that and yet we choose them as leaders of the present because a lot of us don't vote and those who do out of them the majority of us feel that instead of going to the booth and pressing that button on NOTA (None Of The Above) we should give vote to someone. It's not entirely anyone's fault it's the way we have trained our minds to be that instead of nothing something is better. But now it's time to realise that having nothing is also good at times.
- One of the major concern of the youth today is that we do not have an option to vote someone who is not the criminal record all we have our traditions either some criminal case pending or some have already been criminals been to present the papers is written in also show structure effects of the subjects that you would like the EC election

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<sup>8</sup> <https://globalnews.ca/news/5967682/how-to-vote-canada-elections/>

<sup>9</sup> <https://www.jagranjosh.com/general-knowledge/which-countries-use-electronic-voting-machines-1548418168-1>

commission to have is that there should be no one who has a criminal case pending or is a criminal to be ever allowed to participate or even register for being leader of the country which is completely dependent on the leaders during any and every time.

- Every person who registers to be the candidate for the election campaign should have his information upfront on the government website for people to look at whenever needed. Information from the person's wealth to the records of any cases registered or on going about him/her. And if there are any cases especially criminal he/she should not be allowed to participate in election till the judgement is delivered and the registered candidate is found not guilty
- The process of free and fair election means them to free from any form of illegal activities and fair means it to equal treatment for all. But in today's India it isn't this way so the best way to have the essence of free and fair election back is to make it free from all possible ways of corruption and using of power and contacts. the essence of word fair would be back only if all would be treated equally that is without any benefits given to anyone if the person standing is from a party or individually. The most important way is to ban the news channels from promoting single party or for them to show all the candidates only on the basis of their manifesto.
- The whole process of the Election commission should be transparent from the candidate filling the nomination form to the candidate being elected. the whole process should be available to the citizens. The setting of EVMs that is done by the Election Commission should also be done in front of the citizens. there should not be any back hand handling of any work related to the candidates no matter who they are or who they stand with.
- The voting list should be updated quarterly with direct registration of the person from the time of birth or once given the citizenship of the country. The intent is to make have direct online portal to make as well as cancel the names of the people for the voting list.
- No one no matter what should be allowed to not vote that is of the person is in India at that time of election he/she has to vote from the nearest voting booth available. If he/she fails to do so they should be punished with fine. For those with special reason or emergency can be allowed to not vote only if there reason can be backed up with complete undeniable proof.
- We have been seeing then and again heard people complaining about EVMs being Tampered. But have we ever thought of what can be the solution to it as a citizen? We believe the best alternative to this is fingerprint voting, the main reason to support this

system is that it helps realise that there are no fake votes for any candidate because of people voting under different names, or using dead people for votes. There have been African countries where this system has been accepted but if applied in India there will be some modifications required and then this would be the best fit system possible. The changes like sealing of the machine, data safety and bulk employment with safety of these machines.

- In India we miss the value of votes when we are abroad and cannot cast the vote so like in Canada they have mail in vote even India needs to come with such kind of pattern where even if abroad a citizen can cast his valuable vote.
- One of the most important thing that needs to be banned in that of election polls that are shown on news channels because they influence people to a lot of extent.
- Additionally, when it comes to election the candidate appearing should only be speaking about his manifesto while he/she is giving any interviews related to his campaign or to an extent he may make further additions as to his views about a certain event. But no candidate should be allowed to ill-treat, bad mouth and candidate, any religion, any caste and or anyone just for the sake of pleasing his/her vote-banks.

The elections should be held completely neutral for any candidate irrespective of his choices, his personality, his appearance, his sexuality and or any such things. The other candidate should not be allowed to ill-treat any candidate based on these and if found to do so his/her registration should be cancelled their and there with immediate effect and also they should be liable for a fine depending on the statements made by them.

As once Lyndon B. Johnson said "The right to vote is the basic right without which all others are meaningless. it gives people, people as individuals, control over their own destines." The election laws, the system and any part of it is all that people need to make their country, the country they will and would be proud of. The election don't just give them the sense of their development but also give the citizens, the individuals the essence of them to be involved in decisions the country makes in all sectors and frames from domestic to international front, from villages to metropolitan cities, it is the essence of the vote that unites them togethering all ways as they choose candidates on the basis of their qualifications and views about the constituency from which they stand, to their views on the country at large.

The vote is not only that counts, it is all the backhand laws, the electoral system, the mechanism which altogether makes the democratic country stand high and tall in front of the world. The most essential reason for that is the citizens, the individuals of that country have

the most essential right to voice their opinion and that is the RIGHT TO VOTE.

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