



Corrupt practice and electoral reforms in elections in India

Jagbir Singh Dahiya¹, Anita Dahiya²

¹ Professor, Dean, School of Law, Sushant University, (Erstwhile Ansal University), Gurugram, Haryana, India

² Research Scholar, Former Civil Judge, School of Law, Sushant University, Gurugram Haryana, India

Abstract

The aspect of free and fair elections is pertinent in any democratic society. Elections offer an opportunity to reconsider and decide how a country will be governed by its people. The political class, those who are the crucial representatives of a democracy, is incapable of caring for the welfare of the people. Bribery, unfair influence, and hate words are some of the most pressing election-related issues in India. These are all unethical actions taken to undermine the credibility of the electoral commission. Also of importance is the issue of concealing election expenses, which is considered an offense under law. Legislative efforts and intervention are insufficient to address electoral offenses and electoral corruption. Conversely, electoral malpractices are difficult to prove and detect due to the sheer size of the Indian elections. The judicial approach to abolishing electoral fraud and malpractice is strict in nature. Whenever there is no compliance with the legislative impediments or where there are loopholes in the statute, then, in such a scenario, the judicial organ is the ultimate savior and provides a stringent mechanism to curb the wrong and illegal practices. The electoral board's authority must be increased in both the legislative and administrative realms. It must also be given the power to reprimand bad candidates who disobey and break the voting rules. Politicians use the news to spread spoiling, sensational, and repulsive content. It is not categorically forbidden, nor is there a law that addresses election ads.

Keywords: Elections in India, panchayat election, Legislative Gaps

Introduction

The study highlights the issues with corrupt practices and election reforms in a democracy. Elections offer an opportunity to reconsider and decide how a country will be governed by its people. By choosing their leader, the people indirectly impose their will on the country's average citizen. Through elections, the general populace chooses the elected officials who run the government and the system. According to Black's Law Dictionary, an election is the procedure through which a person is officially confirmed to hold an office of national trust. In such a situation, the role of the government is to guarantee democratic elections that are free and fair. However, polling is a system where the preparation, evaluation, and delineation of the voting register are done (Plattner *et al.*, 2007).

In particular, the aspect of elections is not related to the feature of free and fair elections. In addition, a free and fair election also implies that no one is used as a pawn in the entire election system and that no unjustified control or authority is used in the political mandate of religious belief, tribe, gender, racial group, or ethnicity. However, as discussed above, once a person enters the race, their only objective is to win the votes under any circumstances. The entire concept of democracy is undermined by the illegal activities and unethical practices related to elections. Additionally, these are the actions that obstruct the peaceful exercise of the right to vote and also involve bribery, improper pressure, polling booth capture, empty assurances in election campaigns, etc. The average population feels insecure because of these negative strategies and the unattractive actions of the politicians. Similarly, there is enough data to conclude that a politician's prospects of winning a vote are increased by their financial position. The

misuse of money has corrupted the minds of the candidates. The political class, those who are the crucial representatives of a democracy, is incapable of caring for the welfare of the people because of its bribery, incompetence, indiscipline, and moral instability. In light of this background, various law commission findings, political initiatives, law reforms, and judicial strategies have attempted to reduce the problem of voting malpractice and election violations (Kohli *et al.*, 2001) [1].

The practices of election reforms

Every election, whether it be a local election, a panchayat election, a constituent assembly election, etc., exhibits issues related to electoral violations. The majority of these issues are clearly outlined in a number of pieces of legislation, including the Representation of the People Act of 1951 and the Indian Penal Code of 1860. These are all unethical actions taken to undermine the credibility of the electoral commission and the conduct of free and fair elections. As noted above, the most significant issue with election corruption is the matter of bribery. In this instance, public funds are being wasted and misused for private gain. Furthermore, the nation's immoral atmosphere is a result of the misuse of public funds. Nonetheless, corruption has crept into everyday life, and honesty has turned into an oddity. Unfair influence, on the other hand, refers to situations in which power over a particular group of people or an individual is misused or controlled. Unfair influence has several components, including false promises and obligations. Then again, votes are asked based on fictitious pledges. Despite this, the issue of improper influence mostly affects the weaker members of society. (Fourth Report, 2007).

Evidently, the appeal to vote on the basis of caste, race, community, or religion is mostly witnessed in areas where a majority of the population is caste- or religion-specific. Through a social agenda or favoritism for a certain tribe, the political parties seek to preserve the authority of individuals who are motivated by their religious beliefs. In short, the legislation should completely forbid any moral appeals depending on ethnicity, religion, or other factors. For this reason, promoting hatred or enmity on the grounds of religion is the case when a specific candidate belonging to a specific religion tries to extort votes by using this tactic. Specific hate words are used in order to create a negative impact in the minds of the voters. Thus, booth capturing is the issue where the candidate himself or through his agents indulges in activities such as seizure of a polling station or a place fixed for polling, allowing their supporters to vote and preventing the coercion of others to vote in favor of a specific candidate. Accordingly, seizure of a place where the counting of votes is taking place. The finest illustration of an election campaign is focusing on the cash needed to cast a ballot. Subsequently, the erosion of democratic and legal standards in political cultures is due to ongoing resignations and the toppling of regimes. It is a fact that the citizens of the nation support one particular political party by embracing cash in the legislature and the executive branch. To be more precise, there are a few more offenses with respect to elections, such as impersonation in an election booth. It refers to those instances where any person at an election votes in the name of another person or applies for a voter card in the name of another person. Also of importance is the issue of concealing election expenses, which is considered an offense. A separate and correct account of the election expenses is mandatory for every candidate contesting the election. Notwithstanding, free conveyance of voters on the day of voting is another major offense that has been witnessed recently in different elections (Fourth Report, 2007).

Legislative Gaps to meet the problems

As previously stated, legislative efforts and intervention are insufficient to address the issues associated with electoral offenses and electoral corruption. Despite the fact that the Indian Penal Code 1860 is the primary source for punishing wrongdoers involved in electoral campaigns and practices. The Representation of the People Act, 1951, is a significant piece of legislation dealing with election administration, election organization, and so on. Most of the offenses have been added by the amendments to the original Act. A total of eight offenses are described as corrupt practices under the Act. Despite such a detailed description of the offenses in the RP Act, 1951, electoral offenses and malpractices have persisted. In particular, the ground-level reality and implementation of honest practices are difficult (Kaur, 2008).

The earlier discussion on the election commission has been quite assertive and has wielded significant influence. But election fraud has evolved over time. Subsequently, new forms of electoral corruption and malpractice are observed. According to a study, over the last 15-20 years, at least one fifth of India's electorates were paid in cash for their vote casting. In spite of leaked internet sources and political leaders' private discussions about vote bribery, the campaign spending cap is consistently violated and breached by candidates. However, electoral malpractices are difficult to

prove and detect due to the sheer size of the Indian elections. The judicial approach to abolishing these malpractices is strict in nature. The following section of this paper will go over judicial approaches to preventing electoral fraud (Kaur, 2008).

Legislative impediments during election campaigns

What is more, the Supreme Court, the High Courts, and the subordinate judiciary are the final protectors of rights. Whenever there is no compliance with the legislature or where there are loopholes in the statute, then, in such a scenario, the judicial organ is the ultimate savior and provides a stringent mechanism to curb the wrong and illegal practices. On one hand, the Supreme Court of India has been quite strict with respect to accountability in the conduct of elections and the behavior of the candidates participating in the elections. Another point to consider is that the provision is not unlawful, but it was decided that it would be assumed that the applicant or his election agent approved expenses in relation to the vote of the contestant that they knew about. It is important to highlight that the Election Commission received a censure from the Supreme Court for failing to take action against politicians who used bigotry during their campaigns. In effect, the Commission has limited ability to intervene in such cases. As of now, the judiciary has not taken any substantial action in response to the claims of hate speech in political campaigns. The electoral board needs to take more initiative on these problems. The electoral board, meanwhile, has asserted that they are "powerless" in cases involving bigotry (SCO, 2022).

On the other hand, there is a serious issue with the criminalization of politicians. Also, individuals with a fugitive history remain in office in state and local legislatures. As a result, when convicted criminals write the laws and move about with police surveillance, a highly awkward and unfavorable scenario arises. The infiltration of criminals and deviant people into the voting process has drawn the attention of electoral boards. It has established standards and given advice to the state to stop legalizing such politicians. Consequently, the electoral board has implemented a series of admirable election changes to enhance transparency and improve electoral justice. Undoubtedly, these changes are wonderful and completely appropriate. Without a doubt, the electoral boards and the electoral equipment have to be commended for holding impartial and transparent votes. Rather, politicians use dishonest tactics and unethical behavior to win over voters. This kind of malice motivates immoral elements to participate in the democratic process. Not having enough laws is not the issue, but it is how strictly they are applied. The electoral board's authority must be increased in both the legislative and administrative realms so as to combat these unjust trends. Finally, the electoral board must be given the authority to reprimand bad candidates who disobey and break the voting rules (Mainstream Weekly, 2008).

Compliance of laws with Paid media

In summary, the legislative efforts and the intent of the legislature have been quite clear to abolish the malpractices existing in electoral practices. However, there are still loopholes in the system. As a consequence, the judicial approach has not been quite strict enough to resolve the electoral malpractices. Hence, the reach of the judiciary is

very limited, as it can only resolve those issues that come before the court. All suggestions and recommendations are provided in light of the various law commission reports constituted from time to time by the government. It is clear that a strict approach and compliance are required with respect to the law commission's reports. The very first suggestion is with specific reference to keeping track of, examining, and disbursing records of the costs expended by a political party and its political leader in the campaign before the election. The second recommendation can be in the form of a disqualification from contesting the election if any candidate is found involved in electoral malpractices. The disqualification needs to be strict and stringent, as the electoral offenses affect society at large. The witness in the prosecution case should be given protection from these political leaders, as these leaders have strong political clout and influence. As a result, protection must ensure that the witness provides credible testimony in court (Plattner *et al.*, 2007).

The most obvious situation of the "paid media" in the election scene is the variety of "packages" that news sources provide to politicians. In comparison, many news companies are funded by political parties in exchange for advantageous publicity. It is to be noted that unique content, front-page stories, unfavorable publicity of rivals, etc., are all included in packages. Therefore, politicians spend enormous funds as a part of a "package" agreement to fabricate positive news material in an effort to sway voters. Likewise, campaign strategists use the news to spread spoiling, sensational, and repulsive content. This conflicts with the view held by newspapers and television that they won't give a political party's advertisement coverage unless the party is prepared to pay the media the money it seeks. To this end, the practice of publishing news for money also includes withholding or postponing the broadcast. As stated previously, this has two effects: a) it impacts the legitimacy of voting, lynching a politician's chances to his monetary capacity to pay the press for attention; and b) the electorate's right to information, which is a component of their fundamental right under Article 119(1)(a), is affected. Lastly, politicians who are willing to spend are given special preference in the media. The aforementioned issues with premium content are being addressed gradually. By focusing on sponsored news, it is not categorically forbidden, nor is there a law that addresses election ads. Therefore, it is necessary to make laws and establish standards to stipulate punishments in cases of breach. However, election campaigning and sponsored news are impacted by the characteristics of the existing legal framework that governs elections (Law Commission of India, 2015).

Conclusion

The representative institution and its leaders are well-known to be the essence of a democratic system. The current research article is an elaborative and illustrative study of the electoral malpractices and corruption existing in the electoral system of India. Legislative intervention has been there, but the same cannot be said to be up to par. Instead of relying on any other entity, they should start making electoral changes on their own. The role of the judicial wing has fulfilled the expectations of the common man of the nation by providing a clear interpretation of the gray areas of the electoral system. In order to restrict the printing,

advertising, or distribution of any election-related information by print or digital media, Section 126(1) (b) of the Representation of the Peoples Act, 1951, should be changed. The prohibition on polling data in digital news does not apply to print advertising. through any other method, such as but not limited to, advertisements, forums, polls, media coverage, and public announcements, within the forty-eight hours prior to the polls' closing. The strength of such an approach is that the citizens' need to be sufficiently informed that polling results are assumptions of forecasts, and so they are susceptible to error. That is why legislation on polling results is essential to confirm that the credentials of the organizations conducting the poll are known to the public. Secondly, the citizens have the opportunity to evaluate the authenticity of the techniques used in the polling results. As a result, the RPA needs to include new sections 126C and 126D (Law Commission of India, 2015).

To conclude, the existing structure is a profusion of autonomous electors, most of whom are puppets or non-serious individuals or stand with a similar name to confuse voters. Thus, it is advisable to ban independent candidates from running in elections. Consequently, it is necessary to change Sections 4 and 5 of the RP Act to limit the election participation of political parties that have registered with the election board (Law Commission of India, 2015).

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