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## LEGAL ASPECTS OF ELECTORAL REFORMS IN INDIA: A CRITICAL ANALYSIS

~ *Alena Mary Jacob*

### ABSTRACT

*Abraham Lincoln* once made a poignant statement that "*the ballot is stronger than the bullet*", expressing his belief that holding elections is the only way for democracy to continue. However, is it really possible for electoral democracy to be a true expression of the people's will if the factors like the power of money, crime, hidden political funding, and electoral fraud still determine the results of the elections? This paper tries to understand the legal side of the electoral reforms in India by studying the constitutional provision related to elections, the Election Commission of India's role, and analyzing the Representation of the People Acts, 1950 and 1951. It highlights the reforms that have been made to address major issues like the criminalization of politics, political funding, and the courts' involvement in electoral governance. It discusses the problems faced by the present day like the influence of money and muscle power, paid news, the role of media, and the EVM-VVPAT controversies.

### KEYWORDS

Electoral Reforms, Election Commission of India, Representation of the People Act, Criminalization of Politics, Political Funding, Judiciary, Elections, Democracy, Constitution.

### 1. INTRODUCTION

Election is a major feature of a democratic system. As political systems keep changing, electoral laws and institutions need to be changed to be able to tackle the new challenges that may hinder democratic representation. Hence, electoral reforms have been considered a necessary part of the most recent democracies. In India, electoral reforms have moved ahead step by step. One of the main reasons is that the nature of political scenarios has been continuously changing. Unlawful activities of politicians, escalating election expenses, lack of

transparency in political financing, the use of official machinery to influence elections, and various other forms of electoral malpractices have been the focus of attention again and again not only for the members of the Parliament but also for the judiciary, Election Commission of India, and the citizens as per the constitution of the country.

### ***1.1. Statement of the Problem***

India is a democratic republic with the world's largest population. Elections are the main character of democratic government in India. The election system in India has undergone numerous changes for various reasons; the main reason being that the Indian electoral system should guarantee that elections are held in a free, fair, and transparent manner. Despite its changes, problems still affect the fairness of the election system. The growing involvement of criminals in politics, the role of money in determining political power, the lack of openness in political funding, the misuse of media and the issues related to the election processes are the reasons that have led to the questioning of the effectiveness of electoral laws. However, constitutional provisions, statutory structures and judicial intervention have gone a long way to help strengthen the electoral process; in fact, there still remain major problems with these elections, so reform of electoral legislation must continue.

### ***1.2. Background of the Study***

Elections form the very core of representative democracy and are the main channel for people to have a say in running their country. Since the drafting of the Indian Constitution, India remains one of the few countries in the world that has held regular elections using the universal adult franchise. Representation is the core of democratic administration. People's representatives should work for the majority's well-being. Electoral bodies are very important in a multiethnic country like India for enabling citizens' political participation, the politicians' accountability, and the democracy's legitimacy. The Election Commission of India, the judiciary, and various committees have contributed much to electoral reform. Judges have made rulings which have both opened up the scope of electoral transparency and extended the rights of voters, disclosure of criminal records, accountability of candidates, and political funding. In this context, research is being done to understand the laws related to elections and to take a fresh look at how effective electoral reforms are in India today.

### ***1.3. Research Objectives***

This research paper aims to study the following objectives in the context of Electoral Reforms in India:

- To examine the constitutionality and legality of the election laws in India.
- To analyze electoral reforms related to criminalization of politics, political funding, and judicial intervention.
- To evaluate the contemporary challenges faced during the election processes of India.

#### ***1.4. Research Questions***

The study seeks to address the following questions:

- What are the constitutional and legal provisions governing elections in India?
- How effective has electoral reforms been in addressing contemporary issues such as criminalization of politics and political funding?
- What are the major challenges faced during the election processes in India?

#### ***1.5. Scope & Methodology of the Study***

This research paper work confines only to the study of the legal facets of electoral reforms in India. It studies the constitutional provisions related to elections, the mandate of the Election Commission of India, the electoral laws such as the Representation of the People Acts, 1950 and 1951, the impact of courts on electoral reforms, and political challenges disrupting the electoral process. The study uses a doctrinal research design relying on secondary sources of data. Relevant information has been extracted from books, journal articles, constitutional provisions statutes reports, government publications, and judicial decisions.

## **2. LITERATURE REVIEW**

Electoral reforms in India have been a continual theme in both the academic as well as legal circles mainly because of their indispensable function in raising the quality of democratic governance. Scholars, constitutional experts, committees, and courts have jointly reflected on the effectiveness of electoral laws and the weaknesses inherent in the electoral system. In his reference work *Governance in India*, M. Laxmikanth thoroughly discusses the election-related constitutional and legal setup including the Representation of the People Acts, Election Commission of India powers, and the evolution of electoral reforms. His book emphasizes the institutional arrangements made for holding elections in a free and fair manner. *Subhash C. Kashyap* strongly believes in the importance of electoral reforms. He lays special emphasis on these reforms in his treatise on parliamentary democracy as well as the book *Our Constitution*.

He explains that electoral reforms become even more important if the democratic institution is to be successful, the people are to remain trusting the representative government, and thereby democratic accountability is to be increased. *Ramachandra Guha*, in the book *India After Gandhi*, chronicles the democratic India. His work gives an insight into the problems as well as the immense vitality of India's electoral democracy by going through the electoral politics, political diversity, regionalism, and democratic engagement of the country. Judicial interventions through the issuance of landmark judgments *Association for Democratic Reforms v. Union of India*, *People's Union for Civil Liberties v. Union of India*, *Lily Thomas v. Union of India* and *Subramanian Swamy v. Election Commission of India* and others have opened up electoral transactions greatly, strengthened voter rights, and contributed to the promotion of a healthy democracy. Research shows that some long-standing issues like disguised political financing, use of money and muscle power, and election fraud still hound the democratic process.

### **3. LEGAL FRAMEWORKS FOR ELECTIONS IN INDIA**

The Electoral System in India is deemed to be on deputation to the Election Commission and is subject to its control, superintendence and discipline during the election period, extending over a period of one and a half to two months. The Constitution of India provides for a Parliamentary form of Government, which is federal in structure with certain unitary features. Elections are conducted according to the constitutional provisions, supplemented by laws made by Parliament. The major laws are Representation of the People Act, 1950, which mainly deals with the preparation and revision of electoral rolls, and the Representation of the People Act, 1951, which deals, in detail, with all aspects of conduct of elections and post-election disputes. The Supreme Court of India has held that where the enacted laws are silent or make insufficient provision to deal with a given situation in the conduct of elections, the Election Commission has the residuary powers under the Constitution to act in an appropriate manner.<sup>1</sup>

#### ***3.1 Constitutional Provisions***

Elections have been the usual instrument by which modern representative democracy has functioned since the 17th century. Our discussion is restricted to part XV of the Constitution of India which deals with Articles 324 to 329. According to the case of *Union of India v. Association for Democratic Reforms*, the phrase conduct of elections is held to be of wide

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<sup>1</sup> Dr. M.S. Gill, *The Electoral System in India* (Election Comm'n of India 1998).

amplitude which would include power to make all necessary provisions for conducting free and fair elections. Therefore, the Election Commission, under Article 324 of the Constitution of India has been given the power to make all the necessary arrangements to make sure that the elections are being conducted in a fair and free manner. These articles are the requirements related to elections which are cherished in the Constitution. Electoral improvement describes the process of introducing fair electoral schemes where they are not in place or improving the fairness or efficacy of existing systems. Article 324 of the Constitution of India prescribes the members who shall constitute the Election Commission. Article 325 is of critical significance for maintaining the secular character of the Constitution. According to Article 327 of the Constitution of India, Parliament may from time to time by law make provisions with respect to all matters relating to, elections to either House of Parliament or to the House or either House of the Legislature of a State counting the preparation of the electoral rolls, the demarcation of constituencies and all other matters. According to Article 328 of the Constitution of India, subject to the provisions laid down in the Constitution, the Legislature of a State may from time to time by law make provision with respect to all materials relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the grounding of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses. Article 329 of the Constitution of India basically safeguards the laws made by the Parliament and the Legislature exercising their respective powers under Articles 327 and 328 respectively. It basically ensures the fact that the validity of a law made by a Parliament and the Legislature of the State with respect to delimitation of constituencies or the allotment of seats to such constituencies, cannot be questioned in any court. The term “election” as occurring in Article 329 has been held to mean and include the entire process from the issue of the notification under section 14 of the Representation of the People Act, 1951 to the declaration of the result under section 66 of the same act.<sup>2</sup> The constitutional provisions attributed to the Election Commission under Article 324 of the Constitution of India ensure a free and fair method of the election process.

### ***3.2 Election Commission of India***

The Election commission is an independent body, set up to ensure a free and fair election. The election commission of India is in charge of hosting the Lok Sabha elections. The constitution has vested the Election Commission to direct, superintendent, and control the elections of the

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<sup>2</sup> *Constitutional Provisions for Elections in India*, Indian J. L. & Legal Stud.

parliament, state legislature, the President, and the Vice President of India's office. Article 324 of the Indian constitution states about the provisions regarding composition of the Election Commission of India. The President is in charge of appointing the Chief Election Commissioner and the other election commissioners. Chief Election Commissioner acts as the chairman of the election commission, when other election commissioners are appointed. They have tenure of six years, or up to the age of 65 years, whichever is earlier. They enjoy the same status and receive salary and perks as available to Judges of the Supreme Court of India. The Chief Election Commissioner can be removed from office in like manner and on like grounds as a judge of the Supreme Court. The President has the power to appoint regional commissioners to assist the Election Commission. The Election Commission plays a vital role in the process and processing of the election. Their key roles include setting up and implementing rules and code of conduct for organized and fair elections. In case of any disputes, chaos, or misbehaviors, they are obliged to interfere and govern the parties. The Election Commission of India is a permanent constitutional body.<sup>3</sup> The powers vested on the Election Commission are as follows:

1. The Constitution has given the election commission the power to direct and control the entire conduct of elections in the country.
2. The Commission looks after the elections to the offices of the President and the Vice-President, state legislators, and the parliament. It can be divided into three categories – Administrative, advisory, and quasi-judicial.
3. The Election Commission advises the President on whether elections should be held in a state currently undergoing the President's rule.
4. The Election Commission acts as a court to end all the disputes that concern the granting of recognition to political parties and assigns them election symbols
5. Appoints officials to look into disputes that may concern electoral arrangements.
6. The Election Commission has the power to cancel polls in cases such as booth capturing, rigging, violence, etc.

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<sup>3</sup> D.D. Basu, *Introduction to the Constitution of India* (27th ed. 2024).

7. The Election Commission has the power to choose the territorial areas of the electoral constituency throughout the country, based on the Delimitation Commission Act of the Parliament.

The functions of the Election Commission are as follows:

1. The commission looks after the elections to the offices of the President and the Vice-President, state legislators, and the parliament.
2. Scheduling the election timings to hold periodic and timely elections for general and by-elections.
3. Deciding the spot of the polling stations, assigning voters to their polling stations, a spot for counting centers, and deciding in the polling stations and counting centers and other related matters.
4. To issue the Electronic Photo Identity Card (EPIC) and create the electoral roll.

The Election Commission resolves election-related issues in a transparent and neutral manner. The Commission functions as an arbitrator in cases of claims of electoral malpractice, infractions of election regulations.

### ***3.3 Representation People's Act of 1950 & 1951***

India is a constitutional democracy with a parliamentary system of Government, and at the heart of the system is a commitment to hold regular, free and fair elections. Elections are conducted according to the constitutional provisions, supplemented by laws made by the Parliament. The major laws are Representation of the People's Act (1950), deals with the preparation and revision of electoral rolls whereas, the Representation of the People's Act (1951) deals in detail, all the aspects of conduct of elections and post-election disputes. Part XXI of the Constitution contained the translational provisions, that empowered the Provisional Parliament to make legislations. The Representation of the People Act of 1950 (RPA 1950) is an act of the Indian Parliament, which was enacted to deal with the electoral system of the nation at the national and state level. It aims to provide for the allocation of seats to the Lok Sabha and state legislative assemblies, and state legislative councils, the delimitation of constituencies for the purpose of election, qualifications and disqualifications of voters, preparation of electoral rolls and manner of filling the seats.

<b>PART</b>	<b>PROVISIONS</b>
PART I (Sec. 1 and 2)	Gives the title and definitions
PART II (Sec. 3 to 13)	Provides for allocation of seats and delimitation of Constituencies in the Lok Sabha and the State Legislative Assemblies and Councils
PART IIA (Sec.13A to 13CC)	Details the officers connected with the preparation of Electoral Rolls
PART IIB (Sec. 13D)	Provides for Electoral Rolls of Parliamentary Constituencies
PART III (Sec. 14 to 25A)	Provides for Electoral Rolls for Assembly Constituencies
PART IV (Sec.27)	Provides for Electoral Roll for Council Constituencies
PART IVA (Sec.27A to 27K)	Provides for the manner of filling seats in the Council of States
PART V (Sec. 28 to 32)	Gives general provisions with regard to the jurisdiction of Civil Courts; making available staff from local authorities, etc.

***Table 1.1 Representation of People's Act 1950 contains 32 Sections in 8 Parts***

The RPA Act (1950) has got four Schedules. They are,

- The First Schedule – Allocation of seats in the House of the People.
- The Second Schedule – Total number of seats in the Legislative Assemblies.
- The Third Schedule – Allocation of seats in the Legislative Councils.
- The Fourth Schedule – Local authorities for purposes of elections to Legislative Councils.

The Representation of the People Act, 1951 (RPA 1951) is one of the most important laws governing India's democratic framework. It lays down rules for conducting elections to Parliament and State Legislatures, defines eligibility and disqualification criteria for candidates, and regulates the registration and functioning of political parties. The Act empowers the Election Commission to enforce these provisions and maintain the integrity of India's democratic process. Its primary objectives, include the regulation of election conduct,

prescription of qualifications and disqualifications of candidates, prevention of electoral malpractices, and creation of an effective administrative machinery for the conduct of free and fair elections.

<b>PART</b>	<b>PROVISIONS</b>
PART I (Sec. 1 and 2)	Preliminary
PART II (Sec 3-11B)	Qualifications and Disqualifications
PART III (Sec 12-16)	Notification of General Elections
PART IV (Sec 19-29)	Administrative Machinery for Conduct of Elections
PART IV A (Sec 29A-29C)	Registration of Political Parties
PART V (Sec 30-78)	Conduct of Elections
PART V A (Sec 78A-78B)	Free Supply of Certain Material to Candidates of Recognized Political Parties
Part VI (Sec 79-122)	Disputes Regarding Elections
Part VII (Sec 123-138)	Corrupt Practices and Electoral Offences
Part VIII (Sec 139-146C)	Disqualifications
Part IX (Sec 147-151A)	Byelections
Part X (Sec 152-168)	Miscellaneous
Part XI (Sec 169-171)	General

**Table 1.2 Representation of People's Act 1951 contains 171 Sections in 13 Parts.**

#### **4. ELECTORAL REFORMS IN INDIA: A CRITICAL ANALYSIS**

India has recently conducted the biggest electoral exercise of the century on this earth, when it held the twelfth general election to the House of the People in the months of January-March, 1998. The general election was unexpected, as there was sudden premature dissolution of the House on the 4th December, 1997. The electorate exceeds 605 million, voting in nearly 800,000 polling stations, spread across widely varying geographic and climatic zones. Electoral reforms in India have evolved over the decades, driven by changing political dynamics, legal interventions, civil society activism, and the growing demand for greater accountability in

public life. These reforms span a wide spectrum ranging from the introduction of Electronic Voting Machines (EVMs), measures to curb electoral malpractices, and reforms in campaign financing, to initiatives aimed at enhancing voter participation and transparency in political funding. While reforms mandating disclosure of criminal backgrounds have been implemented, their deterrent effect remains limited in the absence of swift legal action and voter sensitization. Alongside this, political financing continues to be opaque and unregulated, particularly after the introduction of electoral bonds, which allow anonymous donations to political parties. This undermines transparency and accountability, paving the way for undue corporate or special interest influence in policymaking.<sup>4</sup>

#### ***4.1 Criminalization of Politics***

In *India v. Association for Democratic Reforms*, the Supreme Court has held that free and fair elections are part of the basic structure of the Constitution. The voter has a right to know the antecedents of a candidate contesting the elections and ask the Election Commission to obtain the certain information from the candidates. Further, voters can also demand information about the assets, liabilities movable and immovables well as the financial and educational status of the candidate.<sup>5</sup> *Madabhushi Sridhar* in his book *'The Law of Expression'*<sup>6</sup> has clearly identified criminalization of politics as a serious issue threatening the very existence of Indian democracy. According to him the growing influence of mafia and enormous amount of easy money over every constitutional institution and growing need of abundant amount of money in fighting an election in the present conditions are the most worrying factors, as they threaten the very purpose of electoral democracy and mechanism of representative governance. In 2004, the *Peoples Union for Civil Liberties (PUCL)* approached the Supreme Court challenging Section 33B of the Representation of People (Third Amendment) Act which nullified the decision in *Association for Democratic Reforms (2002)* by providing that candidates contesting elections need not file affidavit of criminal antecedents and particulars as directed by the Court. This provision was held unconstitutional and void as it infringed the "right of electors' to know", a constituent of the fundamental right to free speech and expression and hindered free and fair elections, which is part of the basic structure of the Constitution. Subsequently, all criminal records and antecedents of candidates contesting elections are now mandated to be

<sup>4</sup> Sambhaji Atmaram Khandekar, *A Critical Analysis of Electoral Reforms in India: Evolution, Effectiveness, and Emerging Challenges*, in *New Horizons in Humanities and Basic Sciences for Sustainable Development* 7 (2025).

<sup>5</sup> B. L. Shankar & Valerian Rodrigues, *Parliament-Judiciary Relationship*, in *The Indian Parliament: A Democracy at Work* Ch. 6 (Oxford Univ. Press 2011).

<sup>6</sup> Madabhushi Sridhar, *The Law of Expression*, (1st ed. Asia Law House 2012).

matters of public record.<sup>7</sup> One of the major impacts of criminalization of politics is that the law-breakers get elected as law-makers. Thereby, making the Parliament less efficient in enacting laws for the effective administration of the country. The Parliament loses its credibility and the Council of Ministers loses its legitimacy to administer the country. In the landmark judgement of *Lily Thomas vs Union of India (2013)*, the Supreme Court's ruling in this case strengthened democratic accountability and brought clarity to the provisions of the Representation of the People Act, 1951. In *Lily Thomas v. Union of India*<sup>8</sup>, the Court held that Section 8(4) of the RPA, which allows MPs and MLAs who are convicted while serving as members to continue in office till an appeal against such conviction is disposed of, is unconstitutional.

#### ***4.2 Electoral Bonds & Political Funding***

Political parties receive varying amounts of money, and this reflects the diverse sources of financial support for India's multiparty system. Business Corporations contributing to these parties for their strategic interests, political lobbying, and influencing the regulatory environment beneficial for them. Political donations raise a question for democratic governance. Although money is a lifeline for politics, the flow of funds should not be a means to breach transparency, accountability and fairness codes. One of the most controversial aspects in the political financing system of India that regularly emerge are the Electoral Bonds, a tool to cleanse political funding and donations. However, electoral bonds in themselves were not enough to make political funding through banking channels transparent. Reports have revealed that many regional parties like DMK and BJD have also been receiving huge amounts through undisclosed sources. *The Indian Express*, cited that almost 82% of the total income from unknown sources by national political parties in 2022-23 was derived from electoral bonds<sup>9</sup>. *The Association for Democratic Reforms (ADR)* analyzed the national parties' audit reports and donation statements filed with the Election Commission (EC) had unknown sources. Political Parties in the south, TRS, TDP, YSR Congress Party, DMK and JD(S) topped the list of regional parties with highest incomes from "unknown" sources. "Electoral trusts may be legal, but they normalize a system where money determines access, policy, and electoral success," Parayil Sreerag, a political strategist, argued that such a mechanism "*favours the ruling party, marginalizes smaller movements, and erodes democratic competition and public trust.*"

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<sup>7</sup> People's Union for Civil Liberties (PUCL) v. Union of India, (1997) 1 SCC 301.

<sup>8</sup> (2013) 7 SCC 653

<sup>9</sup> *ADR Report: Party Donations, Electoral Bonds*, Indian Express, Nov. 12, 2021.

From 2003-2017, reforms partially enhanced transparency by allowing tax-deductible donations and compel disclosure of donors for contributions of over 20,000. However, controversies about the opacity issues in political funding were revived by the later introduction of electoral bonds. The Supreme Court ruling on the electoral bonds issue reveals the need for a constant check and more changes in order to make political funding work for democracy with transparency and integrity. A combination of state funding, transparency measures, and alternative ways of financing will lessen the reliance on corporate donations and will enable the holding of free and fair elections.<sup>10</sup>

### ***4.3 Role of Judiciary in Electoral Reforms***

The decisions of the Commission can be challenged in the High Court and the Supreme Court of the India by appropriate petitions. By long standing convention and several judicial pronouncements, once the actual process of elections has started, the judiciary does not intervene in the actual conduct of the polls. Once the polls are completed and result declared, the commission cannot review any result on its own. This can only be reviewed through the process of an election petition, which can be filed before the High Court, in respect of elections to the Parliament and State Legislatures. In respect of elections for the offices of the President and Vice President, such petitions can only be filed before the Supreme Court. ***Dinesh Goswami Committee*** on electoral reforms was established in 1990 had given the recommendation that legislative measures can check election malpractices such as ***rigging of votes, booth capturing, proxy voting, threatening of voters and buying of votes etc.*** Scopes in which the judiciary can invoke judicial activism to combat this trend can be unfolded diligently. The right to information can be pursued about the political parties, their candidates, source of income, election expenditure, and fulfillment of manifestos and so on. The Court's message must touch the inner conscience of the politicians. Recently, Supreme Court directed the Government to set up special courts to exclusively conduct time-bound trials of politicians accused of corruption and criminality.<sup>11</sup> Money power, politicizing crime and finance are among the issues plaguing India's election system. The Supreme Court has played the role of a guardian of electoral integrity through its landmark decisions like ADR, PUCL and Lily

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<sup>10</sup> Association for Democratic Reforms, *Transparency and Accountability in Political Funding* (2024). <https://adrindia.org/content/electoral-trusts-route-rs-3826-crore> (last visited May 30, 2026).

<sup>11</sup> *Report of the Committee on Electoral Reforms*, May 1990, Government of India, Ministry of Law and Justice, Legislative Department.

Thomas, enhancing transparency and accountability. The recent striking down of the Electoral Bonds Scheme gave another financial openness.

## **5. CONTEMPORARY CHALLENGES IN THE ELECTORAL SYSTEM**

The heart of India's democratic system witnesses regular elections with the participation of the largest electorate in the world. In order to safeguard the core values of free and fair election process, a just and unbiased electoral process must be carried out with greater citizen participation. Machiavelli has said that *"Whoever wishes to foresee the future must consult the past; for human events ever resemble those preceding times? This arises the fact that they are produced by men who ever have been, and ever shall be, animated by the same passions, and thus they necessarily have results"* Election Commission of India has made several changes over the period of time but there are still some concerns, issues and challenges like booth capturing, misusing the government machinery, use of muscle power and money etc. that might need a legislative action because Electoral reforms are the need of today and tomorrow. Government cars are used for campaigning; advertisements are published at taxpayers' expense and discretionary funds are disbursed by ministers. These are all examples of how government machinery is being abused. Another serious flaw in our democratic process is the role of money in politics. Elections have become increasingly expensive in recent years. In 2004 and 2009, the numbers were 24% and 30%, respectively. "The average length of criminal cases declared by MPs under Sections 8(1) and 8(3) of the Representation of Peoples' Act, according to the ADR report, is 10 years". Another crisis is triggered as a result of the formation of regional parties and the "withering away of national view and spirit." Candidates end up being selected based on their achievements, abilities, or merit but on the trappings of caste, creed, and community instead. When all is said and done, caste winds up being the deciding factor in selection. The notion of "unity" is being eroded in the name of regional autonomy by policies that are caste-based and casteism.

### ***5.1 Impact of Money & Muscle Power in Elections***

The Election Commission, under Article 324 of the Constitution of India has been given the power to make all the necessary arrangements to make sure that the elections are being conducted in a fair and free manner. Superintendence and control over the conduct of elections by the Election Commission include the scrutiny of all expenses incurred by a political party, a candidate or any other association or body of persons or by any individual in the course of the election. The expression 'conduct of elections' is wide enough to include in its sweep, the

power to issue directions – in the process of the conduct of the election – to the effect that the political parties shall submit to the election commission, for its scrutiny, the details of the expenditure incurred or authorized by the parties in connection with the election of their representative candidates.<sup>12</sup> A political party cannot utilize an amount of money which is beyond reasonable thinking. It is a very important duty of the Election Commissioner to make sure that the funds utilized by the political parties shall be subject to a limitation and hence it has been the given the power to scrutinize the same.

### ***5.2 Influence of Media Houses and Paid News***

The Election Commission of India has a comprehensive policy for the media. It holds regular briefings for the mass media print and electronic on a regular basis, at close intervals during the election period and on specific occasions as necessary on other occasions. The Commission also publishes statistical reports and other documents which are available for research and study to members of the academic fraternity; media representatives and anybody else interested. The Commission has, in cooperation with the State-owned media – *Doordarshan* and All India radio taken up a major campaign for awareness of voters. *The Prasar Bharti Corporation* which manages the national Radio and Television networks, has brought out several innovative and effective short clips for this purpose.<sup>13</sup> Free and fair elections is the foundation of any democracy. According to a study conducted by the Commission, during the assembly elections held in the period 2011–2013 there have been 1987 cases where a notice for paid news was issued to the candidates and 1727 cases where the practice of paid news was confirmed by the District/State Level Committees appointed for the purpose. The problem of ‘paid news’ especially during election campaign is a widespread phenomenon. This phenomena of paid news and its equivalent, political advertising being presented as news, are issues that cannot be treated separately. The Press Council of India also, in its report regarding paid news cases had recommended that paid news may be made a corrupt practice.

### ***5.3 EVMs & VVPAT Controversies***

The Electronic Voting Machine was used universally in all polling stations in the country during the Lok Sabha election 2004. However, the voter awareness about the EVM cannot be taken for granted. It is an endeavor of the Commission to spread the awareness about the EVM among all the voters particularly, in the remote areas and among the new voters. The

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<sup>12</sup> Common Cause v. Union of India (1996) 2 SCC 752.

<sup>13</sup> M. Laxmikanth, *Representation of People Act, in Governance in India* 451 (2d ed. 2017).

Commission has introduced the system of randomization of EVMs for allotment of EVMs to the polling stations and specific responsibility has been given to the Returning Officer. By the system, the first-level checking of EVMs is carried out only by BEL/ECIL Engineers, as the case may be, only at the District Headquarters. At this stage, the EVMs are randomized in the presence of representative of recognized political parties for distribution to Assembly Constituencies. EVMs were first deployed in India in the early 1980s. In the 2004 General Elections, in all 543 parliamentary constituencies were used for voting for the very first time. Paper ballots were out and so was the tedious task of manually counting votes. However, the switch still had apprehensions, with a number of transparency and tampering concerns around the use of EVMs. The Election commission has introduced VVPAT system at selected polling stations and has ordered that a printer with drop box of such design, as may be approved by the Election Commission may also be attached to a voting machine for printing a paper trail of vote, in such constituency or constituencies or parts thereof as the Election commission may direct where printer for paper trail is used, the electors shall be able to view through the transparent window of the printer, the printed paper slip showing the serial number, name and the symbol of the candidate to whom he has cast his vote before such slips gets cut and drops in the drop box of the printer.<sup>14</sup> In the *Subramanian Swamy v. Election Commission of India* (2013), the Supreme Court held that a paper trail was an “indispensable” requirement of free and fair elections and that the VVPAT system was the way to ensure transparency. The Court also noted that this would pose practical difficulties for the ECI. Therefore, it recommended that the system be introduced in “gradual stages or geographical-wise” in the 2014 General Election general elections.<sup>15</sup> The Court also directed the Government of India to provide required financial assistance for the procurement of VVPAT units. The Court noted that vote-verification was crucial to the electoral process and recommended that EVMs be attached with Voter Verifiable Paper Audit Trails (VVPATs) to ensure transparency and reassure voters. In *Kamal Nath v Election Commission of India* (2018), the petitioners sought for random VVPAT verification in 10 percent of the votes in the 2018 Madhya Pradesh assembly elections. The Court rejected the plea. It observed that over the last few decades, the ECI, as a constitutional authority, had built a reputation of an impartial body and that it had to be trusted.

## 6. MAJOR FINDINGS & SUGGESTIONS

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<sup>14</sup> B. L. Shankar & Valerian Rodrigues, *Changing Conception of Representation: Issues, Concerns, and Institutions*, in *The Indian Parliament: A Democracy at Work* 440–60 (Oxford Univ. Press 2011).

<sup>15</sup> *Subramanian Swamy v. Election Commission of India*, Civil Appeal No. 9093 of 2013 (India Oct. 8, 2013).

The research finds that the Constitution and the Representation of the People Acts, 1950 and 1951 collectively provide a very strong legal system for the conduct of elections in India. Among other things, the Election Commission of India is entrusted with administrative, advisory as well as quasi-judicial powers that enable it to successfully monitor the conducting of elections in a free and fair manner. The judiciary's intervention in steering the electoral processes has, a lot, contributed towards attaining a higher level of transparency of elections, making elections accountable and protecting the voters' rights. However, the electoral process continues to be influenced by non-transparent funding of political parties, utilization of money and muscle power, paid news, and scandals related to EVMs and VVPATs. The studies also show that the electoral reforms have positively impacted democratic governance by making it more effective. It will be necessary to make political funding more transparent, take more rigorous steps against the criminalization of politics, and properly regulate election spending to make the electoral system of India stronger. And that, more voter education, strict law enforcement during elections, and regular assistance to the Election Commission of India can bring even more credibility and fairness to the elections. On top of that, constant examination and change of election-related legislation will be a key to protect democratic principles and conduct free and fair elections.

## CONCLUSION

India's democratic experience has been highly varied with a lot of political debates and different institutions coming up with challenges. It is of utmost essence in increasing openness, responsibility, and people's trust in democracy. According to Guha, in order to comprehend independent India, one must give enough importance to its social and political diversity and also, look at the factors that have made its democracy survive. Changing the electoral system act as necessary tools for safeguarding the democratic nature, inclusiveness, and integrity of the Indian Republic. India, with its enormous social and political variety, electoral reforms have become the central means of achieving more transparency, accountability, and higher level of election integrity. Ramachandra Guha has rightly pointed out that any evaluation of independent India must "properly recognize the social and political diversity of India" and at the same time, "why is there an India at all?"- the perennial question that cannot be ignored must also be addressed. Hence, electoral reforms through having the power of law not only help make elections better but at the same time, help keep democratic unity amid diversity.<sup>16</sup>

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<sup>16</sup> Ramachandra Guha, *India After Gandhi: The History of the World's Largest Democracy* (Picador 2007).

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