

ELECTORAL INTEGRITY IN INDIA: CONSTITUTIONAL VISION, CONTEMPORARY CHALLENGES AND PATHWAYS TO REFORM

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ABSTRACT

Elections are the bedrock of democracy. They provide the basis on which our democracy's legitimacy rests. Yet in India, the sanctity of elections has often been undermined by recurring challenges. The highest level of judiciary have consistently upheld and reinforced the import of free and fair elections identifying them as part of the Constitution's Basic Structure. However, electoral practice continues to suffer from structural deficits- the dominance of money and muscle power, divisive sloganeering bordering on communalism and casteism, the criminalization of politics and growing mistrust in the independence of the Election Commission.

This paper critically examines these concerns through constitutional, judicial and comparative perspectives and supplies reforms to realign practice with principle. The main argument is that India's democracy cannot continue as a mere procedural exercise, it requires substantive electoral integrity rooted in Dr Ambedkar's vision of constitutional morality.

Keywords: Elections, Electoral Integrity, Constitutional Morality, Electoral Reforms, Democracy

1. INTRODUCTION

Elections have long been described as the heartbeat of Indian democracy. They represent not only a periodic exercise but the principal mechanism through which citizens participate in governance. For the remotest and most vulnerable citizen, elections remain a symbol that their voice matters and that their vote counts. From the beginning of India being a Republic, the country adopted the radical choice of universal adult franchise at a time when many Western democracies, despite their long-standing tradition, still withheld full suffrage. Dr. B.R. Ambedkar, leading the Constituent Assembly debates, emphasised that this new step reflected faith in the Indian people despite the widespread illiteracy prevalent then. He also cautioned that political democracy must rest on a deeper and entrenched foundation of social

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and constitutional morality, warning that “democracy in India is only a top-dressing on an Indian soil which is essentially undemocratic.”¹

This insight remains crucial when analysing the integrity of Indian elections today. This courageous decision demonstrates the framers’ faith in the Indian people who were then among the most illiterate populations globally. Recognising the centrality of free and fair elections to the democratic order, the Supreme Court has consistently affirmed this principle as part of the Constitution’s basic structure.²

The Constitution’s framers, with strong foresight, sought to insulate elections from political interference by vesting in the Election Commission of India, under Article 324, the power of superintendence, direction and control of the electoral process.³

Yet, despite this robust constitutional framework, electoral practice in India has faced persistent incursions. The influence of money and muscle power, the increased criminalisation of politics, and the use of communal and caste-based mobilisation have weakened public confidence.

Moreover, questions have been raised about the perceived independence of the Election Commission itself. This divergence between constitutional promise and ground reality underscores the need to critically examine the erosion of electoral integrity and explore pathways for reform.

The objectives of this study are the following:

1. To analyse the systemic challenges that threaten the credibility of Indian elections
2. To examine the strengths and weaknesses of the existing constitutional and institutional framework
3. To propose reforms drawing on comparative global experiences and
4. To reinforce the democratic foundations of the world’s largest democracy.

2. RESEARCH METHODOLOGY

This study adopts a doctrinal and an analytical methodology, with a focus that is critical and reform-oriented rather than merely descriptive. The primary sources of

¹ B.R. Ambedkar, Constituent Assembly Debates, Vol. XI, 25 November 1949.

² *Indira Nehru Gandhi v. Raj Narain*, AIR 1975 SC 2299.

³ The Constitution of India, art. 324.

research include the constitutional provisions relating to elections, particularly Articles 324 to 329 of the Constitution, the Representation of the People Acts of 1950 and 1951, and the Constituent Assembly Debates. Judicial pronouncements form a significant part of the analysis, especially decisions such as *Indira Nehru Gandhi v. Raj Narain* (1975), *Union of India v. Association for Democratic Reforms* (2002), *People's Union for Civil Liberties v. Union of India* (2003), *Anoop Baranwal v. Union of India* (2023) and the 2024 judgment in *Association for Democratic Reforms v. Union of India* concerning Electoral Bonds. Secondary sources include the Law Commission of India's 170th Report on Electoral Reforms (1999), publications of the Election Commission of India studies by civil society organisations such as the Association for Democratic Reforms and scholarly works like M.P. Jain's *Indian Constitutional Law*.

Empirical data in the form of ADR statistics on the criminal background of legislators and official reports on election expenditure supplement this doctrinal foundation. A comparative method has also been adopted, drawing insights from the electoral practices of the United Kingdom which regulates campaign expenditure strictly, South Africa, which follows a proportional representation system and Germany which uses a mixed-member proportional model.

By integrating doctrinal, empirical, and comparative methods, the study aims to identify systemic challenges and suggest practical reforms to strengthen electoral integrity in India.

3. CONTENT / DATA ANALYSIS

To appreciate the nature of India's electoral challenges, it is necessary to first understand the constitutional and legal framework that governs elections. The Constitution of India provides an elaborate scheme for the conduct of free and fair elections which are reinforced by statutory enactments and judicial pronouncements.

This framework not only establishes the institutional structure of the Election Commission but also lays down substantive principles to safeguard electoral integrity.

3.1 Constitutional Framework

Article 324 to 329 forms the basis for India's electoral system. Article 324 vests the power to superintend, direct and control the conduct of elections in the Election

Commission of India- envisaging and independent constitutional authority⁴. The framers of this Constitution deliberately insulated the ECI from an undue executive interference, correctly recognising that such a neutral body could preserve the electoral sanctity of the system which is the basis of the Indian democracy.

Complementing these points is the Representation of People's Act 1950 and 1951. The former act deals with electoral rolls and allocation of seats. The 1951 Act deals with detailed rules regarding conduct of elections, corrupt practices and disqualification of candidates⁵. These acts play a role in translating the constitutional provisions in operational mechanisms and form the backbone of the country's democracy.

The Constituent Assembly debates also underline the radical nature of India's electoral system of India's choice to adopt universal adult franchise, which was unheard of, since the inception of republic. Dr B.R. Ambedkar and other distinguished members of the Assembly emphasised that this decision reflected a profound faith in the capacity of ordinary Indians, even when the majority of Indians were abysmally illiterate⁶. This emphasis on political equality was intended to be safeguarded by the constitutional body i.e. The Election Commission.

The judiciary has also kept a close tab and has been vocal when it comes to free and fair elections. The judiciary has also emphasised that fair and free elections form the basic structure of the Constitution. In *Indira Nehru Gandhi v. Raj Narain*, the Supreme Court categorically held that democracy cannot survive without genuinely free electoral processes.⁷

3.2 Judicial Pronouncements on Electoral Integrity

Alongside the above mentioned constitutional and statutory framework, the Supreme Court of India has also played a pivotal role in shaping the electoral integrity of the country's democratic system. Through a series of landmark judgements, the court has reaffirmed democratic ethos in the system by inculcating and expanding the element of transparency, accountability and independence in the electoral process.

In *Union of India v Association of Democratic Reforms* (2002), the Court ruled that candidates who contest in elections must disclose their criminal antecedents,

⁴ The Constitution of India, art. 324.

⁵ The Representation of the People Act, 1951, s. 123.

⁶ B.R. Ambedkar, Constituent Assembly Debates, Vol. XI, 25 November 1949.

⁷ *Indira Nehru Gandhi v. Raj Narain*, AIR 1975 SC 2299.

assets and liabilities.⁸ This decision was essential as it recognised the importance of the right of the citizens to make an informed decision when choosing their own representatives and upholding the electoral integrity. In *People's Union for Civil Liberties v. Union of India* (2003), the Court built upon the above and ruled that people's right to know about the candidate's background forms the latter's fundamental right to freedom of speech and expression under Article 19(1)(a).⁹ This gave an impetus to the integrity of the electoral process of the country.

In a recent landmark judgement, under *Anoop Baranwal v. Union of India* (2023), the Court reaffirmed the principle of the independence of the Election Commission of India and addressed concerns regarding the same.¹⁰ The Court struck down the dominance of executive dominance in the appointment process of the chief election commission and formed a high level committee consisting of the Prime Minister, Leader of Opposition in the Lok Sabha and the Chief Justice of India. This judgement reinforced the need to safeguard the independence of the commission from any political interference.

In *Association for Democratic Reforms v. Union of India* (2024), the Court also interfered in the electoral finance sphere. The Court struck down the electoral bond financing of political parties for violating the basic principle of transparency and voter's right to know.¹¹ This judgement underscores that the secrecy in the electoral funding of the political parties threaten the electoral integrity and is incompatible with the principle of free and fair elections which is enshrined in the Basic Structure of our Constitution.

3.3 Structural Challenges in Electoral Practice

As observed above, we have robust constitutional and statutory frameworks inbuilt, however the practice of elections has consistently faced some structural challenges. The foremost challenge facing the country's election process is criminalisation of politics. Association of Democratic Reforms (ADR) has indicated that 43% of the MPs elected in 2019 Lok Sabha elections faced criminal cases, including serious offences murder, attempt to murder and crimes against women.¹² Disqualification in some cases also already been incorporated in the Representation of People Act

⁸ *Union of India v. Association for Democratic Reforms*, (2002) 5 SCC 294.

⁹ *People's Union for Civil Liberties v. Union of India*, (2003) 4 SCC 399.

¹⁰ *Anoop Baranwal v. Union of India*, (2023) 1 SCC 1.

¹¹ *Association for Democratic Reforms v. Union of India*, 2024 SCC OnLine SC 165.

¹² Association for Democratic Reforms, Analysis of Criminal Background of MPs, 2019 Lok Sabha (2019), available at <https://adrindia.org>.

but the implementation remains weak. In *Public Interest Foundation v. Union of India* (2018), the Court urged the Parliament to make some strong measures to prevent the entry of individuals in politics with criminal background.¹³

Another challenge is the omnipresence of money power in the elections. The campaign expenditure has often exceeded the limits prescribed under the Representation of People Act¹⁴. They are backed by statute but again implementation remains weak on ground. The Electoral Bond Scheme started in 2017 made the electoral funding process more opaque. It effectively allowed anonymous corporate funding of parties. However, in 2024 the Supreme Court struck down this particular scheme, affirming that it violates 'voter's right to know'.¹⁵ Beyond this, the electoral process is also plagued by 'paid news' and dominance of 'corporate news channels' which continue to skew a supposed level playing field.

First Past The Post System (FPTP) leads to distortions between vote and seat share. This leads to a mockery of a true democracy as parties win elections with less than half the popular vote.¹⁶ This representation deficit weakens the democratic process. Women and marginal groups face barriers to meaningful political participation, raising concerns whether the existing framework underscores the constitutional promise of equality.

The voting in the country is done through the electronic voting machines. Though these machines have streamlined the electronic process, some critics have raised concerns about their susceptibility to tampering.¹⁷ There have been increased demands for 100% verification of Voter Verified Paper Audit Trail (VVPAT) slips. The Supreme Court has also held the importance of transparency in electoral technology.¹⁸ The silence of the Election Commission and lack of comprehensive audit mechanism has increased a mis-trust among a section of the electorate.

The independence of the Election Commission has also come under scrutiny. Before *Anoop Baranwal v. Union of India* (2023), the appointment process of the Chief Election Commissioner was under an executive dominance. This raises the issue of bias.¹⁹ Even after this judicial intervention, the public confidence in the

¹³ *Public Interest Foundation v. Union of India*, (2019) 3 SCC 224.

¹⁴ The Representation of the People Act, 1951, ss. 77–78.

¹⁵ *Association for Democratic Reforms v. Union of India*, 2024 SCC OnLine SC 165.

¹⁶ Law Commission of India, 170th Report on Electoral Reforms 27 (1999).

¹⁷ Subhash C. Kashyap, *Our Parliament* 311 (National Book Trust, New Delhi, 6th edn., 2019).

¹⁸ *N. Chandrababu Naidu v. Union of India*, 2019 SCC OnLine SC 441.

¹⁹ *Anoop Baranwal v. Union of India*, (2023) 1 SCC 1.

Commission has been deteriorating due to the allegation of partisanship in its functioning.

These challenges show a wide gap in the functioning of democratic elections on ground and the Constitutional vision of free and fair elections. Addressing them will not only require structural reforms but also bridge a trust deficit and reaffirm constitutional morality and independence of the institutions concerned with the election process.

3.4 Comparative Glimpses

A comparative perspective is essential to undertake to analyse the strengths and limitations of India's electoral system. By examining other countries' electoral models, a potential pathway to reform can be highlighted to strengthen the electoral integrity in India's democratic setup.

Campaign finance is highly regulated in the case of the United Kingdom's election system. The political parties and candidates must adhere to restrictions and regulation pertaining to funding and expenditure limits. Donations also have to be disclosed above a particular limit.²⁰ The UK's electoral commission also has a statutory backing and can impose and implement these restrictions and regulations with considerable power and independence. This has reduced the presence of unaccountable funding and money in UK elections, which is quite prevalent in Indian elections.

The problem with FTPS in Indian elections have been taken care of in South Africa's election system. They use a proportional representation system which is a more inclusive system and also give smaller political parties (which may represent minorities) a seat at the table. This system provides legislative representation in proportion to the respective vote share.²¹ By giving adequate representation to the vulnerable sections of the country, this process has strengthened the democratic process of elections.

Germany also gives a decent example through its Mixed-Member Proportion System (MMP), which focuses on proportional representation and combines it with the practical political stability ethos.²² This means that in Bundestag (Germany's Parliament) half of the members are elected through direct constituency elections and the other half are filled to ensure a broad proportionality between votes cast

²⁰ United Kingdom, Political Parties, Elections and Referendums Act, 2000, c. 41.

²¹ Constitution of South Africa, 1996, s. 46; Electoral Act, 1998 (Act No. 73 of 1998).

²² David M. Farrell, Comparing Electoral Systems 102–105 (Routledge, London, 2nd edn., 2011).

and seats secured. This is a comprehensive system devised to avoid the limitations of both the FPTP system prevalent in India and the PR system prevalent in South Africa.

These comparatives give an analysis to how India can reform its electoral design and campaign financing and expand the accountability and transparency needed to strengthen India's elections. The exact models of foreign countries cannot be replicated in India as it may not be feasible due to varied and diverse socio-political setup, gradual reforms are required that can narrow the gap between constitutional promise of free and fair elections and electoral realities.

4. ARGUMENTS AND DISCUSSIONS

The challenges facing the Indian electoral democracy are not merely administrative lapses but rather structurally situated deep within the constitutional framework that foregrounds the principle of constitutional morality. This was also famously articulated by Dr BR Ambedkar. He warned in the Constituent Assembly that political democracy would be fragile unless undergirded by social and constitutional morality, cautioning that "democracy in India is only a top-dressing on an Indian soil which is essentially undemocratic."²³ This particular insight now seems to be quite prescient, resonating with the current crises of electoral integrity, where entrenched structural distortions threaten the substantive legitimacy of the democratic process.

A particular recurring theme as observed in Indian politics is criminalisation politics. Despite judicial interventions and pronouncements and inclusion of statutory provisions, candidates with criminal background continue to contest and even win elections. In *Public Interest Foundation v. Union of India* (2019), the Supreme Court even urged the Parliament to institute a law barring candidates charged with heinous offences from contesting elections.²⁴ Unfortunately, no law has been passed weakening the moral legitimacy of the elected representatives and weakening the electoral integrity in the process.

Money power also continues to threaten the electoral and democratic process of the country. It remains to be a corrosive influence despite the judiciary's active pronouncements related to the issue. The Electoral Bond Scheme introduced in 2017 was undertaken to all unlimited anonymous corporate funding of political parties. This scheme was struck down by the top court in *Association for*

²³ B.R. Ambedkar, Constituent Assembly Debates, Vol. XI, 25 November 1949.

²⁴ *Public Interest Foundation v. Union of India*, (2019) 3 SCC 224.

Democratic Reforms v. Union of India (2024), which held that this type of opaque funding is against the voter's right to information- a fundamental right.²⁵ The Court underscores that electoral transparency is not merely a requirement or a policy preference but a constitutional requirement of free and fair elections. A broader debate with a probable consensus related to the issue of political funding is required with some implementable regulation to balance the level playing field.

The electoral system design also contributes to the distortions in representation. First Past The Post System has enabled political parties with 40% of popular vote to have a majority of seats in elections.²⁶ This leads to underrepresentation of women and minority groups which not only deepens the democratic divide but also makes the government less inclusive. Proportional representation or mixed system election was also recommended in the 170th report of Law Commission of India, to make the outcomes more inclusive.²⁷ Comparative models of Germany and South Africa gives an idea of how these better models can work on ground.

The independence of election commission is also under scrutiny. Anoop Baranwal v. Union of India (2023) was a step in the right direction by the Apex Court to insulate the appointment process from executive overreach. However, in 2023 Parliament enacted a new law the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023 which appeared to un-do the safeguard instituted by the Supreme Court in Anoop Barnawal (2023). Under the new act, the judicial member has been replaced by an executive member, who will be appointed by the Prime Minister- where many critics point out to increased executive overreach and bringing the question of independence of the election commission out in public domain. This Act also allows the Selection Committee's recommendations to remain valid even if there are vacancies in its membership (for instance, when the Leader of Opposition post is unfilled), leading to selections of the commission by a committee dominated by executive members. These amendments raises serious questions about the constitutionality of the balance of power principle of institutional independence and whether the 2023 Act undermines the spirit of constitutional morality intrinsic to free and fair elections.

Lastly, the introduction and proliferation of technology has brought in streamlining of the whole election process. The electronic voting machine has expedited the process but the concerns related to its hacking by some nefarious

²⁵ *Association for Democratic Reforms v. Union of India*, 2024 SCC OnLine SC 165.

²⁶ Election Commission of India, *Statistical Report on General Elections*, 2019 (2019).

²⁷ Law Commission of India, *170th Report on Electoral Reforms* (1999).

activities continues to plague the public discourse. In *N. Chandrababu Naidu v. Union of India* (2019), the Supreme Court has only allowed a limited VVPAT verification²⁸, critics are of the opinion that this is not sufficient to dispel the problem of transparency. A robust mechanism attuned with latest technology backed by artificial intelligence can be used to restore public confidence in the whole exercise with some amount of human agency.

The above point out that the country's elections not only face limited or procedural lapses but some serious structural deficiencies. It needs not only incremental changes but some substantive commitment to rectify the whole system. Addressing them will not only make the whole system more robust but also align with Ambedkar's vision of constitutional morality, where elections are not merely reduced to a ritualistic exercise but are living expressions of the democratic tradition of the country.

5. RESULTS / FINDINGS

The foregoing analysis reveals that India's electoral process is constitutionally safeguarded but structural vulnerabilities remain. The principle of electoral integrity entrenched in the Constitution through Article 324 to 329, also forming a part of Basic Structure of the Constitution as held by the Apex Court, continues to face compromises in its application.²⁹

Despite judicial announcements in *Public Interest Foundation v. Union of India* and subsequent ADR cases to reduce criminalisation politics, there has been no comprehensive legislation by the Parliament regarding the all pervasive criminalization element present in the Indian political setup.

Money power has been a continuous corrosive element present in Indian politics with poor statutory implementation of limits on campaign funding. The Electoral Bond Scheme which was introduced in 2017 allowing for unlimited anonymous corporate funding was struck down by the court as constitutional as it was ultravires to the fundamental right of the voter to know.³⁰ Campaign funding and unaccounted political funding has been a major contention and a threat to the sanctity of the democratic ethos of the country's electoral system.

The electoral design of First Past The Post System has allowed parties having less than half the popular vote to retain and win majorities in elections which has

²⁸ *N. Chandrababu Naidu v. Union of India*, 2019 SCC OnLine SC 441.

²⁹ The Constitution of India, arts. 324–329.

³⁰ *Association for Democratic Reforms v. Union of India*, 2024 SCC OnLine SC 165.

played a role in threatening and preventing representation of the minorities and vulnerable sections of the country.³¹

The independence of the election commission is threatened. Through *Anoop Baranwal v. Union of India* (2023), the Court tried to prevent the perception of executive dominance in the appointment committee of the electoral officer, however the subsequent legislation of the Parliament Chief Election Commissioner and Other Election Commissioners Act, 2023 has restored the dominance of the executive in the selection commission.³²

Technology has played an instrumental role and made the process efficient but it has also generated mistrust owing to limited VVPAT verification and lack of transparent auditing.³³

Comparative analysis has enabled alternative models and viable parallels: the United Kingdom's strict regulation of campaign finance, South Africa's proportional representation system that enhances inclusivity and Germany's mixed-member proportional model that balances stability with fairness.³⁴

These findings underscore that while India's electoral system is robust, the implementation has failed to meet constitutional expectations of fairness, transparency and inclusivity.

6. CONCLUSION AND SUGGESTIONS

Finally, the warning of Dr Ambedkar needs to be remembered that democracy in India would remain a 'top dressing' unless it is actually rooted in constitutional morality.³⁵ This is more relevant today than ever before. Elections should not degenerate into merely an exercise dominated by money, muscle and majoritarian rhetoric but should embody fairness, equity, justice, equality and accountability.

³¹ Law Commission of India, 170th Report on Electoral Reforms (1999); Election Commission of India, Statistical Report on General Elections, 2019.

³² *Anoop Baranwal v. Union of India*, (2023) 1 SCC 1; The Chief Election Commissioner and Other Election Commissioners Act, 2023, s. 6.

³³ *N. Chandrababu Naidu v. Union of India*, 2019 SCC OnLine SC 441.

³⁴ David M. Farrell, *Comparing Electoral Systems* 102–105 (Routledge, London, 2nd edn., 2011).

³⁵ B.R. Ambedkar, *Constituent Assembly Debates*, Vol. XI, 25 November 1949.

Reforms should begin with reforms in the Election Commission of India. The independence and the integrity of the Commission should be restored through the involvement of a judicial or an independent member ex-executive. There has to be financial and operating autonomy of the commission so as to safeguard the Commission from political and executive independence.

There should be a strict curb on criminalization of politics. The amendment should be brought backed by the political will of Representation of People Act 1951 to prevent candidates with background in heinous crimes contest in elections at the time of framing of charges rather than conviction.³⁶ Separate courts related to such cases should be included in the judicial hereditary and such cases can be expedited to prevent distortion by candidates with criminal background.

Political funding should be transparent. A remarkable decision by the Supreme Court invalidating the electoral bond scheme marked a turning point. Caps should be introduced on corporate funding, individual funding can be encouraged with proper annual audits and ban on anonymous corporate funding can curb the role of unaccounted money used in elections.³⁷

Representation should be inclusive and there is an urgent need to reform the First Past The Post System electoral design used in Indian elections. An alternative-hybrid approach in the form of a mixed member system can be explored and implemented in the Indian election system. The long delayed Women Reservation Bill should also be implemented to increase the representation in the Parliament. This should be expedited to secure equitable gender representation in Parliament and State assemblies. The researcher has given an overview of election reforms towards Proportional representation. A calibrated and well thought out transition is suggested towards Mixed Proportional Model, which may better reconcile the need for stability with representativeness.

The author has also forwarded a comparative analytical study of other democratic countries thus paving reforms in the Indian election system. This comparative study clearly demonstrates that electoral reforms grounded in mixed member- proportional representation and funding transparency can strengthen representativeness and democratic legitimacy in India.

Technology should be made more robust and a full scale verification of VVPAT verification can be incorporated in with independent technical audits of

³⁶ *Public Interest Foundation v. Union of India*, (2019) 3 SCC 224.

³⁷ *Association for Democratic Reforms v. Union of India*, 2024 SCC OnLine SC 165.

Electronic Voting Machines. Electronic Technology must not be secure but also perceived to be secure to strengthen public and opposition parties confidence.³⁸

Ultimately, electoral reforms cannot be just confined to statutory changes alone. They must be part of a broader democratic culture that promotes civic education, media literacy and citizen vigilance. Only then can India's elections live up to Ambedkar's vision of constitutional morality, reaffirming democracy not as a procedural façade but as a lived commitment to equality and justice.

³⁸ *N. Chandrababu Naidu v. Union of India*, 2019 SCC OnLine SC 441.