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75 Years of Parliamentary Democracy in India: New Dimensions of Indian electoral System

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Abstract

The credit for the last of the three fame goes to the people of India who have embodied that achievement and given it utterance. It also goes to the political parties of India who have recognized the value of the electoral system though they have had to take the bitters of defeat no less than the sweets of victory.

The people of India are the propulsive fuel, The driving energy, of the vehicle of India's electoral democracy.

India is celebrations its 75 years of democratic existence. 75 years ago India gained independence from British rule and went on to become one of the Largest democracies in the world.

In January 1950 India became a republic though India become a free nation on August 15, 1947. It declared itself a sovereign, democratic and republic state with the adoption of the constitution on January 26, 1950.

For a country that started its space program with roket parts being transported to the launch site on a bicycle and ox carts, it now plans to send human to space. More than 25% of Indian population is being covered by 5G reported the research firm Techarc.

India has administered a record 200 Crore vaccine dose in a time bound manner, a feat that would not have been possible for another nation.

Covid-19 has been an example of this common consciousness where citizens came together.

As India celebrates 75 years of Independence, Indians will see this as an occasion to recall Jawahar Lal Neharu's immortal speech. "A **tryst with destiny**" delivered on the night of August 14, 1947.

Keywords: Democracy, Republic, Independence, Sovereign

Introduction

India is valued the world over for a great things, but for three over all other (1) The Taj Mahal (2) Mahatma Gandhi, (3) Indian electoral democracy. The credit for the last of the three fame goes to the people of India who have embodied achievement and given it utterance.

History of election in ancient india

Election in India are not a new phenomenon or a new concept born in modern times. Taking decisions to run their affairs, be they at the level of individual families or at the community level, collectively and with the consensus of all concerned, has been the pervading philosophy of Indian way of life from times immemorial. Our ancient scriptures dating back to the Vedic age are filled with references to republics and democracies prevailing in various parts of ancient India. Ancient historians have recorded graphic details of the people choosing their won heads, Ganapaties, of the great Vaishali Ganarajya, thousands of years back, to lead them in times of peace and war. They were assisted by other wise men and nobles in their decision making, like the present council of ministers.

Tracing the history of elections and evolution, of representative governments in India, the Election Commission of India observed in its report after the first general elections in independent India in 1951-52¹:... republican forms of government existed in many parts of ancient India. There are numerous references to such Governments in the Buddhist literature. Even in

¹ V.S. Ramadevi and S.K., Mendiratta How India vote Election Laws, Practice and Procedure, Edition 2014, PP3-4.

the 4th Century BC, there was a republican federation known as the Kshudrak- Malta Sangha, which offered strong resistance to Alexander the Great. The Greeks have left description of many other republican states in India, some of which were described by them as pure democracies while others were said to be 'aristocratic republics'.

Although complete details of the working of the republican forms of government in ancient India are not available, it is that in some of these republics, every adult male member had the right to vote and to be present in the general assembly, which decided all public affairs. With the increase of population and the growing complexities of the social structure, it became increasingly difficult for all citizens to assemble at one place for the purpose of deliberation on state affairs, and gradually this resulted in the evolution of some kind of representative government. We find numerous references to election, referendum, voting, ballot papers, etc, in the history of the Hindu polity.

The nature of franchise for election to the popular assemblies is not fully known. While in the aristocratic republics, the basis appears to have been a family, in other states, all adult male persons, who were not otherwise disqualified, appear to have had the right to vote. By naturalization, even foreigners could become citizens, and acquire the right to vote.

A vote was known as Chhanda', which literally means a wish'. This expressive term was used to convey the idea that by voting a member was expressing his free will and choice. We also find description of the methods of collection of votes of citizens who could not be present at the meeting of the assembly. For purposes of voting in the assembly, there used to be multi-coloured voting tickets, called Shalakas' (pins). These were distributed to Members when a division was called and were collected by a special officer of the assembly, known as Shalaka Grahak' (collector of pins). This officer was appointed by the assembly as a whole. It was his duty to take the vote, which could be either secret or open.

Apart from the evolution of the democratic form of government in sovereign states in ancient India as described above, the genius of India also evolved, as a natural growth, the system of autonomous and almost self-sufficient village communities, under every system of government.

These communities, which lasted through the ages, were run on truly democratic lines without, of course, the outward trappings of the vote and the ballot box. In later days, they went by the name of village panchayats and were a vital force in the social life of the countryside.

Even after the republican states were absorbed within empires, the system of regulating the local corporate life through popular assemblies survived for a very long time. Almost every imperial conqueror left the conquered states and communities to carry on their administrative and social system in their own way as before. During the Muslim period, the affairs of the trade corporations and the villages continued to be carried on by popular assemblies. A fundamental change came with the British administration when revenue, judicial and legal affairs were centralized and conducted away from the villages. This factor, coupled with the consequent decay of the agricultural and industrial economy of the country side, resulted in the deterioration of

the corporate life of the rural communities and gradually the organizations based on popular will faded out.²

"It is truly the greatest show on Earth, an ode to a diverse and democratic ethos, where 700 million + of humanity vote, providing their small part in directing their ancient civilization into the future. It is no less impressive when done in a neighborhood which includes destabilizing and violent Pakistan, China, and Burma," reports V Mitchell, stn the New York Times on 2 June 2009. About the fifteen general elections in India- the world's largest democracy the most diverse nation on earth in terms of language, religions and cultures, Explaining further, Mitchel says.³

India is the nation where four great religions of the world, namely, Hindum, Buddhism, Jainism and Sikhism were born, She is also the country with the second largest number of Muslims in the world. A country where Christianity has existed for 2000 years; and also a place where the oldest Jewish synagogues and Jewish communities have been living from the time when Romans burnt their 2nd temple; where the Dalai Lama and the Tibetan government in exile reside; where the Zoroastrians from Persia have thrived since being thrown out of their ancient homeland; where Armenians and Syrians and many others have come to live..... ' Another little known fact in the world outside, and yet very significant, as noticed by Mitchel is that Indian democracy has had three Muslim Presidents, and a Sikh representing a small minority is Prime Minister, and interestingly, the head of the ruling party a Catholic Italian woman. One of the three Presidents was a rocket scientist and a hero of the nation. It is also a country where 'a booming economy is lifting 40 million out of poverty each year and is expected to have the majority of its population in the middle class, already equal to the entire US population, by 2025; where its optimism and vibrancy is manifested in its movies, arts, economic growth, and voting, despite all the incredible challenges and hardships; where all the great powers are vying for influence, as it itself finds its place in the world.⁴

Concluding, Mitchel states, ' where all of this happens, is India, and a greater than 1/10 of humanity gets ready to vote, it is an inspiration to all the world.'

Issues and challenges of Indian Electoral system in India:-

Although, India is a vibrant democracy with people electing their representatives of several levels beginning from local bodies and panchayats to the parliament, However, there are many distortions which need to be addressed and those are use of enormous Money Power, Criminalization of Politics caste and increasing attempts to entice the voters with short term benefits at the cost of long term goals of election freebies. Our Prime minister **Namenda Modi** remarked in a public address, Attempts are being made to collect votes by distributing free Revdis. The Revdi culture is very dangerous for the development of the country. He was commenting on the election campaign practice of political parties promising freebies and subsidies in exchange for votes.

² V.S. Ramadevi and S.K., Mendiratta How India vote Election Laws, Practice and Procedure, Edition 2014, PP3-4.

³ V. Mitchell, The New York Times, 2 June 2009.

⁴ V. Mitchell, The New York Times, 2 June 2009.

In this way, there are too many challenges in Indian election system. Although the Election Commission has been striving to conduct elections fairly and impartially at regular intervals as per the principle of constitution of India for this it has taken several new initiatives in the recent past.

Origin and history of election commission of India

Democracy being the basic feature of our constitution set up, there can be no two opinions that free and fair election to our legislative bodies alone would guarantee the growth of a healthy democracy in the country. In order to ensure the purity of the election process, it was thought by our constitution makers that the responsibility to hold free and fair election in the country should be entrusted to an independent body which would be insulated from political and executive interference.

It is interesting in the democratic setup that the agency which is entrusted the task of holding election to the legislature should be fully insulated so that it can function as an independent Agency free from external pressures from the party in power or executive of the day. This objective is achieved by the setting up of an election commission, a permanent body, under Article 324(1) of the constitution.

Constitutional experts regarded the election commission as the greatest gift of the constitution of India to the nation. Empowering the election commission in a federal state empowers citizens to participate actively in the democratic process as well as promotes transparency and accountability. The constitution makers weighed several options to establish parliamentary institutions used on free and fair elections. They considered whether an electoral management body should be created at the center for electing the president, vice president and the union parliament and separate electoral management bodies for election to respective state legislatures or whether a central electoral management body should be entrusted with the responsibility of conducting elections both for the union and the state concerned about the political situation prevailing in various states which was divided on many ethnic, religious and linguistic grounds. In a consideration they chose a unified command in the single electoral management body for conducting all elections.

Thus a central election commission was provided to be constituted under clause (1) of Article 324 in which was vested the superintendence, direction and control of preparing electoral rolls for, and the conduct of election to parliament as well as state legislature and to the offices of the president and vice president of India. Interestingly the Election Commission came into existence even before India became a sovereign republic on 26th January 1950. Article 324 of the constitution of India was brought into force on 26th Nov 1949, when the constitutional was formally adopted by the constituent Assembly. Pursuant to this constitutional provision, the Election Commission was established on 25 January 1950, i.e. a day before the country became a sovereign republic on 26 January 1950. From 2011, on the request of the election commission, 25th January of each year has been declared by the government of India as the national voter's Day.

Sukumar Sen, ICS, was appointed as the first chief Election Commissioner on 21 March 1950. The nation owes him gratitude for laying the foundation of a great institution and for his superhuman effort in conducting the first general

election in 1951-52 in the most difficult circumstances with no infrastructure⁵.

The Saga of Electoral reforms:

An approach to true democracy and the role of Election Commission

Election Commission of India is striving to conduct free and fair election at regular intervals as per the principles of constitution of India, for this it has taken several new initiatives in the past. Some notable initiatives among these are decriminalization of politics, computerized electoral rolls, providing election cards, strict compliance of Model Code of Conduct, EVM, Web casting of polling and voter awareness programme though the election commission is still to intervene and take many remedial measures to eradicate these malaises from our electoral system. The Hon'ble Supreme Court has meanwhile rendered some judgments of far-reaching significance having a telling impact on these political menaces to a great extent.

Firstly the Supreme Court ordained in the case of **People's Union of Civil Liberties**⁶ that all candidates contesting elections to parliament and state legislatures must disclose their criminal antecedents, if any, by filing an affidavit along with their nomination papers furnishing details of their convictions in the past and also of the criminal cases pending against them in which the counts have taken cognizance. They have also to furnish details of their assets and liabilities so that electors may make an informed choice. They can not also suppress any information. By leaving any column blank in the affidavit in the case of Peoples Union for Civil Liberties the court has given the right to electors to express in secrecy their disapproval of all the candidates in the fray by pressing an appropriate button on the electronic voting machine that he does not wish to vote for any of the candidates.⁷

NOTA (None of the above)

In People's Union for Civil Liberties Vs. Union of India⁸ granted the plea of the petitioners to extend the principle of secrecy of ballot to those voters who decide not to vote. It rejected the stand of the Union of India that the principle of secrecy of ballot is extended to those who have not voted at all. The court reasoned that the right to vote and the right not to vote have been statutorily recognized under section 79 (d) of the Representation of the People Act (RPA) and Rules 41 (2) and (3) and 49 (0) of the Conduct of Election Rules. Respectively and the secrecy has to be maintained in both cases. The election commission supported the stand of the petitioner that a provision for NOTA (None of the above) button should be made in the EVM/Ballot papers, so that the elector gets an opportunity to express his disapproval against the contesting candidates and with have the benefit of reducing bogus voting. The court held that not allowing a person to cast his vote negatively defeats the very freedom of expression and right ensured in article 21, that is, the right to liberty.

⁵ SY Quraishi, The Making of the Great Indian Election Empowering the Election Commission, 2014 issue P32-33.

⁶ People's Union of Civil Liberties vs. Union of India & ors SCC 399.

⁷ Lily Thomas Vs. Union of India & ors (2013) 4 SCC 399.

⁸ People's Union of Civil Liberties vs. Union of India & others SCC 399.

The court was optimistic that it introducing a NOTA Button can increase participation in democracy, then nothing should stop it.

The court has taken the view that the right to vote is meaning less unless voters are allowed to say they aren't enamored of any of the candidates in the frag. As a result, their selection of candidates will reflect more seriousness. This is because voters who do not bestir themselves to vote would how exercise their franchise albeit negative.

The Supreme Court, on 10 July, 2013 delivered a verdict in regard to convicted MPs and MLAs. The Supreme Court has ruled that a convicted elected representative cannot continue in office and that the conviction will lead to instant disqualification of the elected representative. The safeguards provided under Section 8(4) of the Representation of the People Act, 1951 have been struck down and declared ultra vires of the Constitution. The Supreme Court has held that there cannot be two separate laws for elected representatives and contesting candidates.⁹

Conclusion

In the last 70 years, India has stabilized its social, cultural, political geographical, economic, linguistic issues peacefully and through dialogue mainly because of established democracy which is possible only because people trust election results. Still, election commission gives 'Agnipariksha' every time after each election.

Despite having conducted 400 assembly election 17 general election and 16 general election and 16 presidential and vice presidential polls, said chief election commissioner (CEC) Rajiv Kumar¹⁰.

On the basis of the above discussion makes its clear that the election commission of India has acquired for it self a significant and unique position in the constitutional structure of India. The commission has been successfully conducting national as well as state election since 1952.

In the words of former president K.R. Narayanan praising the pro-active role of the commission and said, the commission very quickly adapted itself to the changed political milieu that come about in the country from a relatively passive role that it had played in the earlier year following our independence, it quickly responded and acquired center stage to play a vigorous, proactive role to ensure that the democratic process in the country remains, as was envisaged by all at the time of independence, free and fair in both character and content, on analysis of function shows performed by the election commission that most of the function relates to pre-election activities like revision of elections activities like revision of electoral rolls, delimitation of constituencies etc. In changed political scenario, it is necessary that election commission should be given not only powers to curb pre election criminalization of politics but also post election powers in this regard so that the representatives of the people can be made accountable to them. And this will go a long way to enable the Indian democracy to flourish and to grow.

⁹ Lily Thomas Vs Union of India and others 2013 (5) SCJ 613.

¹⁰ Hindustan times march 12, 2023.