

## **15<sup>th</sup> Annual National Conference on Electoral and Political Reforms**

**Date and Venue: 2<sup>nd</sup> – 3<sup>rd</sup> March, 2019 at DDU State Institute of Rural Development, Lucknow**

### **Background Note**

#### **Session: Electoral and Political Reforms: A lack of political will?**

The most integral part of a well-functioning and healthy democracy is the conduct of free and fair elections. After independence, India conducted its first general election between the years 1951 and 1952. Since then the Election Commission of India (ECI) has been credited with successfully conducting 16 Lok Sabha elections, and several state-level elections in multiple phases. Apart from the sheer logistical challenge that this exercise pose, concerns regarding electoral malpractices and lack of transparency in election funding have continued to rise over the years. In the words of former Prime Minister Atal Bihari Vajpayee, “Every legislator starts his career with the lie of the false election return he files”<sup>1</sup>. The first signs of decline in election standards and serious infirmities were noticed in the fourth general election in 1967<sup>2</sup>. However, in the last few years, these concerns have aggravated, largely as a result of increasing relevance of money and muscle power with each passing election.

Several attempts have been made in the past and continue to be made today to address the persisting issues and improve the overall quality of electoral experience. Some of the committees formed to address the issue of electoral reforms include Goswami Committee on Electoral Reforms (1990), Vohra Committee (1993), Gupta Committee on State Funding of Elections (1998), Law Commission Report on Reform of the Electoral Laws (1999), National Commission to Review the Working of the Constitution (2001), Justice JS Verma Committee (2013), 255<sup>th</sup> Report of the Law Commission of India titled *Electoral Reforms* (2015) etc. The Supreme Court has given some of the most compelling judgments on electoral reforms like its decision on disclosure of sources of income of candidates, their spouses and dependants (*Lok Prahari v. Union of India*)<sup>3</sup> given in February 2018.

The ECI from time to time proposes recommendations to successive governments pertaining to financial transparency in the functioning of political parties, internal democracy within parties, election expenditure, empowering EC to de-register defunct and dubious parties, making bribery in elections a cognizable offence as well as the need to address the issue of growing criminalization of politics and paid news. In 2004, the Chief Election Commissioner Mr. T S Krishna Murthy submitted a list of 22 actionable items containing details of desirable electoral reforms to the then Prime Minister of India Dr. Manmohan Singh. A long list of suggestions for electoral reforms was also submitted by EC to the Union government in December 2016. Recently in August 2018, the ECI organized an in depth consultation meeting with all recognized national and state parties with the objective of seeking their suggestions and support in addressing wide range of issues concerning the conduct of free and fair elections<sup>4</sup>.

These recommendations continue to fall on deaf ears as we see successive governments doing little to change the status quo. According to former CEC, Dr. S.Y. Quraishi, the consensus has been evading because of the lack of political will. Whenever political parties want to pass a general bill, it is done even through a slender majority. However, when it comes to electoral reforms, they do not even bring it up in the name of seeking national consensus<sup>5</sup>.

<sup>1</sup> <https://www.thehindubusinessline.com/specials/india-file/trust-in-the-law/article8991299.ece>

<sup>2</sup> [https://adrindia.org/sites/default/files/Electoral Reforms in India Issues and Reform.pdf](https://adrindia.org/sites/default/files/Electoral_Reforms_in_India_Issues_and_Reform.pdf)

<sup>3</sup> <https://www.livewlaw.in/landmark-judgment-electoral-reforms-lok-prahari-vs-uo-i-explainer/>

<sup>4</sup> <http://pib.nic.in/newsite/PrintRelease.aspx?relid=183094>

<sup>5</sup> <https://www.livemint.com/Politics/3I3OASJI3s34G5F3gW9UAI/India-moves-closer-to-wider-electoral-reforms.html>

Political parties relentlessly field candidates with criminal background. 33 per cent (1,580) of our sitting MPs and MLAs have declared criminal cases against them<sup>6</sup>. Between FY2004-05 and FY2014-15, national and regional political parties received 69 per cent (Rs 7832.98 crore) of their income from “unknown sources”<sup>7</sup>. Political parties fail to execute ICAI guidelines on auditing and avoid disclosing full details of their donations. The cost of contesting elections continues to rise; expenditure incurred by national parties over the last 10 years during Lok Sabha elections increased by 386 per cent<sup>8</sup>. There are no rules governing functioning of Electoral Trusts which were established before 2013. Political parties are yet to comply with the 2013 order of Central Information Commission (CIC) stating that they come under the purview of Right to Information Act.

The current ruling dispensation has introduced schemes/rules that have added to the opacity in electoral funding. By bringing amendments to the Foreign Contribution Regulation Act, political parties can now receive funds from foreign companies. The limit of 7.5 per cent on corporate contributions from a company’s net profit of past three financial years and the requirement to disclose the names of the parties receiving these contributions is removed. Finance Minister Arun Jaitley introduced ‘electoral bonds’ (without any consultation with EC) in Union Budget 2017-18, which permitted anonymous payments to political parties.

Given this background, we hope that this panel could reflect on the reasons behind the sluggish pace of electoral/political reforms and discuss the role of political parties in this regard. Also the measures that could be taken to ensure timely implementation of various recommendations proposed ECI, Civil Society Organizations (CSOs) and other agencies for electoral/political reforms which would strengthen our democracy.

By Shelly Mahajan  
Program Associate, ADR

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<sup>6</sup> <https://www.indiatoday.in/india/story/supreme-court-verdict-crime-cases-against-mps-mlas-1348555-2018-09-25>

<sup>7</sup> <https://adrindia.org/content/analysis-sources-funding-national-and-regional-parties-fy-2004-05-2014-15-0>

<sup>8</sup> <https://adrindia.org/research-and-report/political-party-watch/combined-reports/2015/analysis-funds-collected-and>