

# DEMOCRACY IN TRANSITION

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ELECTORAL REFORMS REQUISITES AND  
OBSTACLES

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## THE LIST OF ABBREVIATIONS

<b>ABBREVIATIONS</b>	<b>FULL FORM</b>
&	And
AIR	All India Report
Anr.	Another
Art.	Article
CJ	Chief Justice
Hon'ble	Honourable
No.	Number
Ors.	Others
Pg.	Page
SC	Supreme Court
SCC	Supreme Court Cases
UOI	Union of India
v.	Versus

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3. SCCOnline ([www.sconline.com](http://www.sconline.com))

# INTRODUCTION

Since gaining independence, India, which is acknowledged as the greatest democracy in the world, has witnessed a notable change in its election procedures. Ongoing change is required to preserve inclusivity, justice, and openness. Election procedures, vote tallying, and money utilisation are all altered by electoral reforms, which are essential to correctly representing popular will. In India's reform journey, measures like electronic voting machines (EVMs), voter verifiable paper audit trails (VVPATs), and the 'None of the Above' (NOTA) option, which lets voters reject all candidates, have addressed issues like criminalising politics and electoral malpractices. The Model Code of Conduct is enforced, campaign spending is regulated, and candidate background disclosure is required for increased openness by the Election Commission of India (ECI). Notwithstanding these developments, problems like resource mismanagement and political funding still exist. In "Democracy In Transition: Electoral Reforms Requisites and Obstacles," the changes and the obstacles preventing India's election system from progressing are examined.

## **Purpose of the Article**

This article's main goal is to examine the intricate details of India's election changes. It aims to analyse the essential requirements—such as voter empowerment, strong legal frameworks, technology integration, and financial transparency—that are necessary to fortify the election process. It also tackles the major challenges that these changes face, such as systemic inefficiencies, election manipulation, the spread of false information on social media, and financial influence over elections. By means of this investigation, the paper hopes to promote a thorough comprehension and educated discourse on the necessity of electoral changes to maintain India's democracy.

## **ELECTORAL PROCESS IN INDIA: PAST & THE PRESENT**

India's election system has changed significantly since 1947, when the nation became independent. India originally chose a first-past-the-post (FPTP) election system, in which the candidates with the most votes in a constituency win. This system was modelled after the British parliamentary model. This process started with the first general elections in 1951–1952, which were aimed at creating a democratic framework and uniting various language and regional groupings under a single electoral system. The Supreme Court highlighted the need for a fair electoral process, stating that the integrity of elections is essential for the functioning of democracy.<sup>1</sup> Numerous improvements have been made to the system throughout the years with the goal of increasing efficiency and openness. The 1980s and 1990s saw the introduction of several important changes. The legal foundation for elections was created by the Representation of the People Acts of 1951 and 1952, which included clauses governing election procedures, candidate eligibility, and electoral disputes. A historic development, the adoption of Electronic Voting Machines (EVMs) in the late 1990s sought to lower election fraud and counting mistakes. To further improve transparency, the Voter Verifiable Paper Audit Trail (VVPAT) technology was implemented in conjunction with EVMs to offer a paper trail for votes cast electronically.<sup>2</sup>

India's present electoral system is a multi-stage, intricate one. The Election Commission of India (ECI) is tasked with overseeing, directing, and controlling the whole election process by virtue of Article 324.<sup>3</sup> The ECI has extensive authority to guarantee free and fair elections,

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<sup>1</sup> N.P. Ponnuswami v. Returning Officer (1952) SCR 64.

<sup>2</sup> Dr. Subramanian Swamy v. Election Commission Of India (2014) SUPREME COURT 18.

<sup>3</sup> INDIA CONST. art. 324.

including the ability to register political parties, carry out surveys, and enforce the Model Code of Conduct.

Under the direction of the Election Commission of India (ECI), it consists of both national and state elections.<sup>4</sup> From voter registration to vote counting, the entire election process is supervised by the ECI.

The Supreme Court emphasized the importance of maintaining the purity of the election process and ensuring that elections are conducted fairly.<sup>5</sup>

Important elements of the current setup consist of:

1. *Voter Registration*: To cast a ballot in their individual constituencies, citizens must register. To guarantee accuracy and inclusion, the ECI and state election commissions update and maintain voter rolls.
2. *Elections*: EVMs and VVPATs are used in elections to provide a transparent and safe voting process. Elections for the State Legislative Assembly (Vidhan Sabha) and the House of the People (Lok Sabha) are conducted using the first-past-the-post method. The Supreme Court in *Kuldip Nayar v. Union of India*<sup>6</sup> upheld the constitutionality of domicile requirements for Rajya Sabha candidates, emphasizing the need for inclusive representation at all levels of governance.<sup>7</sup>
3. *Campaign Finance*: The regulation of campaign finance aims to limit election expenses and enhance transparency. Political parties and candidates are required to disclose their sources of funding and expenditures.
4. *Model Code of Conduct*: Enforced by the ECI, this code governs the conduct of political parties and candidates during the election period to ensure fair play and prevent malpractices.

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<sup>4</sup> K.C. Suri "Democracy, Economic Reforms and Election in India." *Economic and Political Weekly*, vol. 39, no. 51, 2004, pp. 5404-5411.

<sup>5</sup> *Mohinder Singh Gill & Anr v. The Chief Election Commissioner* (1978) SUPREME COURT 851.

<sup>6</sup> *Kuldip Nayar v. Union of India* (2006) Supp. (5) SCR 1.

<sup>7</sup> *Ibid.*



## LANDMARK JUDGMENTS

The Supreme Court has time and again interpreted the process of elections in India and has, within its powers and jurisdictions passed several important judgments. Following are a few landmark judgments related to electoral reforms in India;

- In *Union of India v. Association for Democratic Reforms*<sup>8</sup> it was held that Indian voters have a fundamental right to know antecedents of candidates contesting elections to hold public office. The voters have a right to know various things including pendency regarding criminal matters, financial assets of candidates, spouse & dependents, etc.<sup>9</sup>
- However, Section 33B of Representation of People Act<sup>10</sup> nullified the decision of *Union of India v. Association for Democratic Reforms* by providing that candidates need not file affidavit of criminal antecedents and particulars directed by the court. This provision was held unconstitutional and void as it infringed the 'Right to Know'<sup>11</sup> of electors. This was held in *People's Union for Civil Liberties v. Union of India*.<sup>12</sup>
- In the case of *Lily Thomas v. Union of India*,<sup>13</sup> a 2-judge bench ruled that MP's, MLC's and MLA's convicted of crimes where they had been awarded a minimum sentence of 2 years imprisonment, would cease to be members of the house.<sup>14</sup> This case also struck down the provision which allowed convicted members a 3 month time period for appeal against conviction and sentencing.
- The question brought before the court in *Manoj Narula v. Union of India* was whether persons with criminal background or those accused of heinous crimes were fit to be appointed as Ministers in Central & State Governments? It was held that judiciary could not read into the disqualification of members not mentioned under art. 75(1). The court left the appointment of ministers with a criminal past to the discretion of Prime Minister. However, the court recorded that it could be expected that the Prime Minister would not choose a person to be a member with criminal antecedents.

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<sup>8</sup> Union Of India v. Association For Democratic Reforms (2002) 5 SCC.

<sup>9</sup> Supra. Para 7.

<sup>10</sup> THE REPRESENTATION OF THE PEOPLE ACT, 1951.

<sup>11</sup> INDIA CONST. art. 21.

<sup>12</sup> People'S Union Of Civil Liberties v. Union Of India (Uoi) And Anr. (1997) SUPREME COURT 568.

<sup>13</sup> Lily Thomas v. Union Of India & Ors (2013) SUPREME COURT 2662.

<sup>14</sup> Ibid.

- On similar grounds to Manoj Narula, 5 Judge bench in the case of *Public Interest Foundation v. Union of India* held that it cannot disqualify candidates against whom criminal charges have been framed from contesting elections. The court cannot introduce new rules regarding disqualifications but asked Parliament to make a law preventing candidates accused of serious crimes from entering politics.

## REQUISITES OF ELECTORAL REFORMS

### ***Voter Empowerment***

Voter empowerment involves encouraging and facilitating active participation in the political process by ensuring voters have the necessary information, resources, and opportunities to vote confidently. It includes educating citizens on voting rights, improving accessibility for disabled individuals, and offering options like early or absentee voting. This process strengthens democracy by ensuring elections reflect the people's will, promoting voter engagement, and holding officials accountable, with electoral reforms aimed at enhancing election integrity and inclusivity.

### **Measures to Increase Voter Education and Participation**

Extensive voter education programs, such as the National Voters' Day celebration of the Election Commission of India (ECI), educate the public about their rights and the political process. Ensuring equitable participation and meeting the requirements of the elderly and the disabled is ensured via accessible voting facilities. A clean electoral record is maintained by legal and administrative means like the ruling made by the Supreme Court in Lily Thomas,<sup>15</sup> which excluded parliamentarians found guilty. Furthermore, technologies such as internet platforms and mobile apps—such as the ECI's “Voter Helpline” app—allow voters to access information on polling places, candidates, and voting processes.<sup>16</sup>

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<sup>15</sup> Lily Thomas v. Union Of India & Ors (2013) SUPREME COURT 2662.

<sup>16</sup> Bimal Prasad. “Electoral Reforms in India: Issues and Challenges”, International Journal of Humanities and Social Science Invention. 2013; 2(3):1-5.

### ***Technological Integration***

Integrating technology into voting procedures has greatly improved transparency, accuracy, and efficiency in Indian elections. Electronic Voting Machines (EVMs) reduce human error and ballot manipulation, speeding up vote counting. The introduction of Voter Verifiable Paper Audit Trails (VVPAT) enhances trust and transparency by providing a paper trail for audit and verification of electronic votes.

### **Role of Technology in Modernizing Elections**

Technology enhances election process openness, efficiency, and accuracy. Electronic voting machines (EVMs) reduce ballot tampering, while Voter Verified Paper Audit Trails (VVPAT) ensure results verification. Emerging technologies like blockchain and digital platforms also boost security and voter engagement.<sup>17</sup>

### ***Financial Transparency***

Financial transparency is crucial for electoral reforms, reducing corruption, and ensuring fair elections. In India, this involves regulating and disclosing campaign spending and political finance, with the Supreme Court directing measures to curb black money and enhance transparency.<sup>18</sup> Candidates and parties must disclose their funding sources. Electoral bonds, introduced in 2017, aim to ensure transparency while keeping donor identities private. The Election Commission of India sets expenditure limits to prevent unfair advantages and monitors compliance through audits. In *Lok Prahari v. Election Commission of India*<sup>19</sup>, the Supreme Court directed the ECI to ensure that political parties disclose the identity of donors contributing above a certain threshold, promoting transparency in election financing.<sup>20</sup>

## **OBSTACLES TO ELECTORAL REFORMS**

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<sup>17</sup> Sanjay Kumar. "Reforming Indian Electoral Process", *Economic and Political Weekly*. 2002; 37(34):3489-3491.

<sup>18</sup> "Common Cause" A Registered society ... v. Union Of India And Ors (1996) SCC (4) 33.

<sup>19</sup> *Lok Prahari v. Election Commission Of India* (2018) SUPREME COURT 4675.

<sup>20</sup> *Ibid*.

## ***Election Rigging***

### **Prevalence of Election Rigging**

Election tampering, including ballot stuffing and voter intimidation, undermines democratic processes and is frequently reported in India.<sup>21</sup> Vote tampering involves manipulating vote counts or results, either physically with paper ballots or digitally with computerized systems. Common methods include ballot stuffing and dishonest tactics to distort voter preferences.<sup>22</sup> Vote tampering can involve casting multiple ballots or using fake identities, while voter intimidation includes threats to influence or deter voters. Both practices undermine the democratic right to vote freely.

### **Impact on Democratic Integrity**

Election manipulation severely damages democratic integrity and public confidence. Rigged elections lead to diminished faith in the democratic process, resulting in lower voter turnout and decreased participation. This undermines the legitimacy of the government, potentially fostering a corrupt dictatorship where officials are less accountable and more focused on maintaining power through unethical means.<sup>23</sup>

## ***System Inefficiencies***

### **Identifying Inefficiencies**

System inefficiencies within the electoral framework present substantial obstacles to effective reforms. These inefficiencies are often rooted in several key areas:

1. *Bureaucratic Delays*: Electoral processes are frequently hampered by bureaucratic delays, which can affect everything from voter registration to the timely delivery of election materials. These delays often arise from cumbersome administrative procedures and slow decision-making processes, which can hinder the efficient execution of elections.<sup>24</sup>

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<sup>21</sup> Milan Vaishnav, "When crime pays: money and muscle in Indian politics", Vol. 180, No. ¾ Public Choice, pp. 505-509, September 2019.

<sup>22</sup> Pradeep Chakravarty. "Election Rigging in India: Implications for Democracy." Journal of South Asian Studies, vol. 28, no. 2, 2017, pp. 124-137.

<sup>23</sup> Venkatesh Kumar. "Critical Issues in Electoral Reforms", The Indian Journal of Political Science. 2002; 63(1):73-88.

<sup>24</sup> Dr. Vikash Kumar. "Electoral Reforms In India: Needs, Issues and challenges", International Journal of Political Science and Governance. 2020; 2(2): 04-09

2. *Outdated Infrastructure*: The reliance on outdated technology and infrastructure can impede the efficiency of electoral processes. For example, manual voting systems and outdated voter databases are prone to errors and inefficiencies that modern solutions could address. This includes issues such as slow vote counting or difficulties in managing large volumes of voter data.
3. *Insufficient Training*: Election officials and staff often lack adequate training, which can affect their ability to perform their duties effectively. Inadequate training can lead to errors in vote processing, mismanagement of polling stations, and insufficient handling of voter grievances.

### **Impact on Electoral Reforms**

Systemic flaws in the election process undermine its credibility and delay critical reforms needed for modernization. These flaws lead to inconsistent application of election rules and hinder efforts to address malpractices due to outdated protocols and poor management. Inefficiencies can also increase voter apathy, reducing public trust in the system and decreasing voter turnout.

### ***Fake News and Social Media***

#### **Challenges Posed by Misinformation**

Election integrity is seriously threatened by the spread of false information on social media platforms. False information may spread quickly during election seasons, confusing voters and skewing public opinion. These disinformation efforts, which seek to sway election results by dishonesty, can be organised by a variety of parties, interest groups, or foreign organisations. In *Shreya Singhal v. Union of India*<sup>25</sup>, the Supreme Court struck down Section 66A of the IT Act, which criminalized online speech, but highlighted the need for balanced regulation of social media to combat misinformation without infringing on freedom of expression.<sup>26</sup>

#### **Impact on Electoral Integrity**

Misinformation has a negative effect on democratic participation. It polarises communities, erodes public confidence in democratic institutions, and can inspire violence. When voters are

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<sup>25</sup> *Shreya Singhal v. Union of India* (2015) SUPREME COURT 1523.

<sup>26</sup> *Ibid.*

duped by fake news, their democratic participation may suffer as a result of their decisions being based on lies.<sup>27</sup>

## **ANALYSIS AND DISCUSSION**

### ***Balancing Tradition and Modernity***

Maintaining the core principles of grassroots democracy while utilising technical improvements to increase accessibility, efficiency, and transparency is necessary to strike a balance between traditional voting procedures and contemporary necessities. This equilibrium guarantees that the election process stays true to its democratic roots while adapting to new issues. For instance, although electronic voting machines (EVMs) and video vote-by-audit (VVPATs) improve voting efficiency and accuracy, physical polling places and in-person campaigns guarantee voter participation and system credibility. In addition to maintaining the integrity of conventional methods, this hybrid strategy includes the advancements that are required to meet present and upcoming political issues. Article 19 guarantees the right to freedom of speech and expression, which is crucial for political campaigning and public discourse.<sup>28</sup>

### **Incorporating Modern Requirements**

The use of contemporary methods to improve the voting process is required due to the development of technology and the shifting socio-political environment. Paper ballots were significantly replaced with Electronic Voting Machines (EVMs), which provide a more accurate and efficient means of casting and tallying votes.<sup>29</sup> By offering a paper trail for every vote cast and guaranteeing more accountability and transparency, voter-verified paper audit trails, or VVPATs, have further enhanced the legitimacy of electronic voting machines. Voter registration is made easier and more accessible with the use of digital platforms. With the ability to reach a wider audience and promote informed involvement, social media and internet platforms have emerged as indispensable instruments for voter engagement and education.

### **Inclusive Participation in Elections**

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<sup>27</sup> A.Acharaya, & K.Taneja. "Political Parties and Technology: The Use of Social Media in Indian Elections." Media Asia, 44(2),(2017) 103-113.

<sup>28</sup> INDIA CONST. art. 19.

<sup>29</sup> Dr.Akumarthi Nageswara Rao. "Changing Strategies of Electoral Processes, Political Participation and Behaviour in Indian Democracy", International Journal of Novel Research and Development, Volume 8, Issue 6 June 2023

From the research paper titled "The Transformation of Citizenship in India: Issues and Trends"<sup>30</sup> it was summarized; broad political engagement is essential to a healthy democracy. It guarantees that every group in society has an equal chance to take part in the political process, irrespective of caste, gender, religion, or socioeconomic standing. In order to represent the many demands and viewpoints of the populace in government, inclusivity is essential. Initiatives such as designating seats in municipal authorities for women and marginalised populations, for example, guarantee their representation and involvement in the democratic process. By increasing its representativeness and ability to meet the demands of all people, inclusive participation helps to strengthen the democratic fabric.<sup>31</sup>

## CONCLUSION

The evolution of India's electoral system, from its inception to the present, underscores a commitment to enhancing democracy through reforms and technological integration. Since gaining independence, India has continuously worked to refine its election procedures to ensure inclusivity, transparency, and accuracy. Key advancements include the adoption of Electronic Voting Machines (EVMs) and Voter Verifiable Paper Audit Trails (VVPATs), which have significantly improved vote accuracy and process transparency. The introduction of electoral bonds aimed to ensure financial transparency while maintaining donor anonymity. Legal reforms and landmark Supreme Court judgments have reinforced the need for candidate disclosure and financial openness, while also addressing issues like criminality in politics. However, challenges such as election rigging, systemic inefficiencies, and the spread of misinformation on social media continue to impede progress. Balancing traditional voting practices with modern technologies, and ensuring comprehensive voter engagement and education, are crucial for maintaining a robust democratic process. The integration of digital tools, while enhancing efficiency, must be coupled with strong regulatory frameworks and measures to tackle emerging issues. Overall, the journey of electoral reforms in India reflects

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<sup>30</sup> Niraja Gopal. "The Transformation of Citizenship in India: Issues and Trends." *Ethnic and Racial Studies*, vol. 40, no. 3, 2017, pp. 449-461.

<sup>31</sup> K.C. Suri "Democracy, Economic Reforms and Election in India." *Economic and Political Weekly*, vol. 39, no. 51, 2004, pp. 5404-5411.

ongoing efforts to uphold democratic principles and adapt to evolving political landscapes, aiming for a more transparent and inclusive electoral system.