

ENSURING REFORMS FOR ENSURING A STRENGTHENED DEMOCRACY IN INDIA

INTRODUCTION

India holds immense pride in herself for being the largest democracy. And it is not incorrect either. Ensuring democracy in a country with such a huge population with unparalleled diversity, with various groups having varying interests, is no cakewalk. There is no paucity of examples where countries with a large, diverse population have taken a turn towards authoritarianism. However, the claim of being a proper democracy is premised on the assumption that the elections in the country are completely free and fair. Despite certain setbacks to Indian democracy in recent years and the downgrading of India's status to "partly free" from "free" by the Freedom House Index, India had a fairly decent score in the metric of electoral reform in their assessment. The sole scrutiny was raised vis-à-vis the impartiality of the Election Commission, with mentions of allegations levelled against the Commission before the 2024 elections.¹ Post the elections, in the last few months, the Commission has faced much more serious allegations, with no credible answers in sight. This, along with a few other challenges, could mount serious threats to the Indian democracy in future if the issues are not looked into as soon as possible.

ISSUES VIS-À-VIS INDIAN ELECTORAL DEMOCRACY TILL NOW

While the term "free and fair elections" certainly sounds appealing and ideal, the parties involved in conducting such elections have to go to extreme lengths to ensure that they are not marred by irregularities. Incidents of booth capturing, candidates resorting to illicit measures to manipulate voters, instigating violence to manipulate voters and sundries used to be fairly common. It is the measures taken by the legislation, the Commission and the judiciary, along with strict security measures at the ground level, that have contributed to some of these issues being mitigated to a considerable extent.

¹ India: Freedom in the World 2025 Country Report, Freedom House, <https://freedomhouse.org/country/india/freedom-world/2025> (last visited Oct. 31, 2025).

One of the key statutes for which the Indian legislation should be credited in the initial years after Indian independence is the Representation of the People Act (RPA), 1951,² which lays down instructions with regard to election candidates, qualification and disqualification of Members of the Parliament and State legislatures, procedure of the elections, counting of votes, disputes, among others.

Some of the issues faced are those that can be solved with the strict and monitored implementation of security measures, such as booth capturing. Section 135A of the Representation of the People Act, 1951,³ criminalises booth capturing and prescribes the punishment of imprisonment ranging from one year to three years along with a fine. Although the Act has been in implementation since 1951, it is only in recent decades that a decline in incidents of booth capturing has been witnessed, with certain cases still occurring during elections. This serves as a textbook example of the gaps that exist out there between formulating legislation and ensuring its implementation on the ground, and the far-fetched implications it holds.

Another major issue is the candidates resorting to distributing liquor and other intoxicants in exchange for votes, which has been criminalised by Section 135C of the RPA, 1951,⁴ although the issues have not subsided yet.⁵

KEY CURRENT ISSUES MARRING THE INTEGRITY OF ELECTIONS

There is a range of general issues surrounding elections that will continue to pose certain problems, including the ones mentioned above. The severity of these issues, however, has decreased to an extent over time. The core issue that shadows the status of elections being free and fair as of now is the partiality of the Election Commission coming under scrutiny.⁶ The Leader of the Opposition has made serious allegations of there being a number of fake voters in the 2024 Lok Sabha elections. While there have been a number of instances of the losing

² Representation of the People Act, 1951, Act No. 43 of 1951 (India).

³ Representation of the People Act, 1951, § 135A, Act No. 43 of 1951 (India).

⁴ Representation of the People Act, 1951, § 135A, Act No. 43 of 1951 (India).

⁵ Delhi Polls: Congress Candidate Alleges Liquor and Meat Distribution in Patparganj, Police Launch Probe, The Economic Times (Feb. 4, 2025), <https://economictimes.indiatimes.com/news/elections/assembly-elections/delhi/delhi-polls-congress-candidate-alleges-liquor-and-meat-distribution-in-patparganj-police-launch-probe/articleshow/117899733.cms> (last visited Oct. 31, 2025).

⁶ A Crisis of Trust on the Election Commission of India, The Hindu (Oct. 30, 2025), <https://www.thehindu.com/opinion/editorial/a-crisis-of-trust-on-the-election-commission-of-india/article69893682.ece> (last visited Oct. 31, 2025).

party making allegations of the elections having irregularities in the past,⁷ most of them were of a much less serious nature and with less extensive data to back them. Furthermore, the Chief Election Commissioner, in response to the allegations, came up with mostly unsubstantiated answers to them. Whether the allegations are true or not is a separate affair; the fact that a constitutional body, formed under Article 324 of the Constitution of India, which is the primary caretaker of the Indian electoral democracy, is coming under such serious scrutiny and failing to give proper responses raises serious concerns.

This is not the only issue. The Election Commission's order that video footages of the election have to be destroyed within 45 days of the election, without any elaboration or rationale being provided, adds to the problem.⁸

Moreover, the Special Intensive Revision (SIR) in the Bihar elections has led to allegations by the Opposition parties and critics that certain eligible voters had their names deleted in the electoral list, which may end up changing the outcome of the elections.⁹

All of this, along with the fact that the procedure of appointment of the current Election Commissioners itself had come under question in the Supreme Court,¹⁰ beseeches immediate judicial intervention to look into the state of things. This is certainly not to say that all of the allegations are credible and genuine, and the Commission certainly is failing to do its work properly or holds malicious intent. However, the Commission cannot remain oblivious to the series of allegations put forward against it and must come clear with concrete clarifications.

In the absence of such a response, there could be far-fetched consequences for the country, which include but are not limited to the Election Commission having its reputation tarnished, the masses losing trust in the electoral process, India moving towards authoritarianism and instability, as well as losing credibility as a mature democracy on the international stage.

⁷ Still Fuming After Maharashtra Loss, Maha Aghadi To Launch Anti-EVM Protest, NDTV (Aug. 9, 2025), <https://www.ndtv.com/india-news/maharashtra-assembly-election-result-evms-hacked-maha-vikas-aghadi-still-fuming-after-maharashtra-loss-maha-aghadi-to-launch-anti-evm-protest-7116231> (last visited Oct. 31, 2025).

⁸ Poll Body Refuses to Reveal Reasons Behind Its 45-Day CCTV Footage Retention Rule, Rahul Gandhi Attacks, India Today (Aug. 8, 2025), <https://www.indiatoday.in/india/story/election-commission-rti-query-cctv-footage-retention-45-day-rule-rahul-gandhi-2768225-2025-08-08> (last visited Oct. 31, 2025).

⁹ The SIR Shadow, Frontline - The Hindu (Oct. 18, 2025), <https://frontline.thehindu.com/politics/sir-bihar-electoral-rolls-disenfranchisement-fears/article70159889.ece> (last visited Oct. 31, 2025).

¹⁰ *Jaya Thakur v. Union of India*, 2024 INSC 246

RECOMMENDATIONS AND WAY FORWARD

A number of steps have already been taken to ensure the integrity of the electoral process. They include making the Election Commission a three-member body from a single-member one, the introduction of the Model Code of Conduct before elections, the introduction of the Electronic Voting Machines (EVMs) and sundries. However, it is imperative that the elephant in the room, i.e., the core issue of the allegations of partiality of the Commission, is addressed.

Certain measures may be considered, such as reducing the role of lawmakers, including both the government and opposition parliamentarians, in the appointment of the Election Commissioners (ECs). How exactly such a plan would materialise is still up for debate among the stakeholders of the electoral process. However, a reduced role of the executive and the legislature and a more proactive role of the judiciary is the need of the hour. Certain steps of the judiciary, such as those in the case of *Anoop Baranwal v. Union of India*,¹¹ might be considered a step in the correct direction. However, it further has to be ensured that there is even less influence of politicians on the working of the Commission. The Commission stands as a guardian of democracy in India. Unaddressed allegations of such nature can put the larger interests of the country under threat. Thus, urgent steps are warranted for the survival of the democracy in the country and the larger country as a whole.

¹¹ *Anoop Baranwal v. Union of India*, 2023 INSC 190