

Exploring the viability of electoral reforms :

Criminalization of Politics:

Politics as a system is closely tied with the nexus of criminalization especially in India. The Association for Democratic Reforms (ADR) in its 2019 report stated the number for elected representatives to have criminal affiliations to be 43 percent. ¹ In India this system mainly works in two ways: the elected representative grants the criminals the protection they need while the criminals in turn grant them the regional voter base as well as the black money needed in elections. This however disturbs the greater sacrosanctity of the electoral process. Thus pragmatic and viable solutions to this problems are needed:

1. DISQUALIFICATION OF CANDIDATES:

The Second Administrative Reforms Commission (2 ARC) committee recommendations in its fourth report on ethics and governance recommends disbarring the candidates accused of a serious/grave/heinous crime provided that there is also a prima facie case accrued from the court of law or a competent tribunal body from competing in the electoral process. ² This can be done by amending section 8 of the Representation of the People Act, 1951. Such a change won't transcend the separation of powers principle but will simply impose a reasonable restriction on it by letting the courts decide if there exist a prima facie case or not further an amendment to this can be brought by article 102(1) of the Constitution of India which grants this power to the legislature.

2. DISCLOSURE OF INFORMATION :

Though disclosure of information regarding one's credentials related to candidate's property, education, criminal records is a necessity as reiterated by various supreme court judgments however in 2018 the Supreme Court of India issued specific directives for disclosure of information especially in case of a criminal proceeding against a candidate:

1. Candidates must fill up forms containing all particulars.
2. In said forms, criminal antecedents to be stated in bold.
3. Candidates must inform the concerned political party of pending criminal cases against them.
4. Concerned political party to put up such criminal antecedents of candidates on party website.
5. Wide publicity by both candidates and parties in press and media of the criminal antecedents. Wide publication meaning at least thrice after filing of nominations.

Alongside this political parties must be made liable for fielding candidates affiliated with having criminal links and criminal support. It must be the duty of the party to actively discourage any such phenomenon. ³

3. Provision for special courts and Strengthening the Election Commission of India (ECI):

The recommendation for fast-tracking cases associated with MPs and MLAs is not a nascent one, It was first kept by the Goswami Committee report in 1990. Recently in 2014 and 2017 the Supreme Court has held repeatedly for the creation of such courts to fast-track the criminal proceedings linked to these MPs and MLAs however the problem that arises here is that this entire policy is based on the “offender-approach” instead of “offence approach” which makes it difficult for the courts to deal with a wide array of criminal cases thus there is a need to further narrow down this approach. Another major change is to wield the Election Commission of India with a wide range of powers which can allow it to monitor transactions, transparency and internal polity within the political parties. Countries such as Brazil, Germany and Nigeria have entrusted wide ranging powers with the body responsible for organizing elections. ⁴

Administrative reforms :

1. MIXED MEMBER PROPORTIONAL REPRESENTATION :

India currently follows first past the post system for conducting its elections which mandate the candidate securing highest number of seats in a constituency to be declared elected. However, another kind of electoral system is recommended from time to time even by the Law Commission of India 170th law commission report of 1999. Under this PR system the principles of both FPTP and Proportional representation applies. The basic idea is that voters must be allowed to exercise two choices one at the district level other at the national level by directly electing the parties. The system at the district level must be based on FPTP thus electing regional leaders and making the system efficient while for the remaining seats a party-wise poll must be conducted where seats would then be allocated by following the PR system. This ensures that there exists a balance between proportional representation and the leaders elected at the local level. The recommendations of law commission report suggests that 25 percent of the total seats can be filled by Proportional representation in the beginning by increasing the strength of Lok Sabha seats. However while doing the delimitation exercise the districts and regions with lower populations must also be given fair representation else the entire purpose of creating a representation based system would go into vain. ⁵

2. One nation one election : The idea of this entire concept is to synchronize national level and state level and local body elections at or around the same time to save massive disruptions in working of governments, election expenditure (amount of around 45 billion dollars according to some estimates) and misuse of government services. The concept of One nation one election is not new the election process during 20 consecutive years after independence followed the concept of one nation one election, it was only due to early dissolution and defections that elections were abstained midway. Some problems associated with this concept of ONOE which have also been discussed in reports of law commission (2018) and NITI Aayog (2017) are:

1) In order to provide synchronization to entire election schedule article 82 and article 173 of the constitution needs to be dissolved which mandates a compulsory 5 year tenure to each elected body , since all the state assemblies would be needed to be in synchronization with the schedule of Lok-Sabha elections and local body elections. ⁶

2) Another major issue is that article 85(1) and 174(1) also stipulates that the intervening situation between the first session and the last session of a parliament assembly or etc. must not exceed 6 months. This raises questions as to what will happen in case of early dissolution of assembly or a no-confidence vote in this respect two solutions hold greater value:

- a) If the remaining term of the legislative house is short i.e less than 1 year then president's rule under article 356 could be applied however this will also necessitate making amends to article 356 since it only appropriates declaration of president's rule on pretext of failure of constitutional machinery.
 - b) For those assemblies where the term is longer than 1 year fresh elections can be conducted however only for the remaining term in a particular constituency.
3. Further an important recommendation of 79th report of feasibility of ONOE also becomes important where the parliamentary standing committee suggests by-elections at a singular time frame for all those seats that are vacant in a particular year and their results to be clubbed together. ⁷

Thus, electoral process in India remains a tangled and a system which has some inherent problems in it however it is only when we realise that the solutions to these problems must be pragmatically implemented and should be dealt with utmost level of concern given the consequential nature these solutions will have on the masses. It also becomes important to draw a framework where common public is actively involved to seek opinions and deliberations on these issues and their opinions since it is the citizens to which the democracy and its related constituents are concerned at its core.

Bibliography (Authorities & Reports)

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² Second Administrative Reforms Commission, *Ethics in Governance (4th Report)* (2005). [Capacity Building Commission+1](#)

³ I Ampandeyashu, "Criminalization of Politics in India: Can India Clean Up Its Politics?" (LegalServiceIndia, Feb. 27, 2025). [ADR+1](#)

⁴ Jnaneswara D. Koripella, "Criminalization of Politics: A Threat to India's Policy-Making Process", KSP (2024). [Kautilya School of Public Policy](#)

⁵ Law Commission of India, *Report No. 170: Reform of the Electoral Laws* (1999). [AdvocateKhoj+1](#)

⁶ Law Commission of India, *Draft Report on Simultaneous Elections* (2018); also see Government of India, Press Release, "One Nation One Election" (Dec. 17, 2024). [Department of Legal Affairs+1](#)

⁷ Ibid.