

# Letter from the Executive Board

Greetings Members!

It gives us immense pleasure to welcome you to the simulation of All India Political Parties' Meet at IIT Indore MUN 2018. The agenda for the session being 'Electoral Reforms with emphasis on General Elections 2019'.

This study guide is by no means the end of research, we would very much appreciate if the members are able to find new realms in the agenda and bring them forth in the committee. During the session, the executive board will encourage you to speak as much as possible, owing to the fact that fluency, diction or oratory skills have very little importance in contrast to the content you deliver. Just make sure you understand what you're speaking and present it with confidence. Also, we must remind you that as respected citizens of the country, etiquette and decorum in the meeting is a sheer necessity. Quality research combined with good argumentation and a solid representation of facts is what constitutes an excellent performance.

This sitting in the committee is not going to be an easy one, of this we assure you. The pressure of accusations and defence has never been easy to deal with. But, it is also not the sole purpose of the debate.

Thankfully for all of us, with the above comes another assurance, that of a productive session.

We are certain that the conference will prove to be a learning experience for both sides of the dais. In case of any queries feel free to contact us. We will try our best to answer your questions to the best of our abilities.

All the Best!

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## **Introduction**

2019 is the year which all of the political parties in India are waiting for. The 17<sup>th</sup> Lok Sabha Elections are scheduled to take place in either April or May. The 2014 General Elections had the BJP winning 282 of the 543 seats and hence Narendra Modi was elected as the Prime Minister. Given the recent events which have taken place, and the policies which have been brought forward by the current NDA Government, the opposition parties are more or less coming together to contest against the NDA.

India's government is based on Federalism. Elected officials are appointed at federal, state and local levels. In India, there is universal suffrage. Results of elections are determined by first-past-the-post electoral system. Elections are conducted by the Election Commission of India.

The Prime Minister of India is elected by members of the Lok Sabha, the lower house of parliament. The Constitution of India allows for up to 552 members in the Lok Sabha, with up to 530 members representing the States. Up to 20 members represent the Union Territories. In practice, 543 members of the Lok Sabha are elected every five years. Two members are elected by the President of India to represent the Anglo-Indian community.

Now since another tenure of the government is coming to an end, there are various issues which need to be addressed before the General Elections of 2019 arrive. Conduct of free and fair elections is the need of the hour and hence, political and electoral reforms are necessary. All of the citizens should have a say in the required reforms and hence this forum is apt for the discussion.

The Election Commission has been at the forefront of initiating efforts to strengthen the electoral system. But its own mandate can sometimes be a limiting factor. In this context it would be necessary to examine the issue with regard to the legislative and other changes that will be required to make the electoral system work better for all our citizens. In recent years a number of committees have examined several aspects of our electoral process and have recommended important changes to the system. Some of these recommendations have been implemented and yet there is much more to be done. This background guide will cover most of the important sub-topics that are expected to be discussed in the committee.

## **1. One Election Policy**

It was raised first by former Deputy Prime Minister and senior leader of the Bhartiya Janata Party LK Advani. In a blog post in May 2010, he advocated a fixed term for elected bodies and a need for simultaneous elections. Political leaders of several parties have also raised the issue, leading to a Parliamentary committee examining it.

*Problems associated with frequent elections:*

- Frequent elections affect policymaking and governance as the government is trapped in short-term thinking.
- It also destabilises duly-elected governments and imposes a heavy burden on the exchequer.
- It also puts pressure on political parties, especially smaller ones, as elections are becoming increasingly expensive.
- The Model Code of Conduct (MCC) which comes into force with the announcement of poll dates, prevents government from announcing any new schemes, make any new appointments, transfers and postings without the approval of election commission. This brings normal work of the government to a standstill.
- It also increases the cost of management to the election commission.

*Frequent elections have some benefits too:*

- One, politicians, who tend to forget voters after the elections for five years have to return to them. This enhances accountability, keeps them on their toes.
- Two, elections give a boost to the economy at the grassroots level, creating work opportunities for lakhs of people.
- Three, there are some environmental benefits also that flow out of the rigorous enforcement of public discipline like non-defacement of private and public property, noise and air pollution, ban on plastics, etc.
- Four, local and national issues do not get mixed up to distort priorities. In voters' minds, local issues overtake wider state and national issues.
- Besides, a staggered electoral cycle also acts as a check against demagoguery, fascism and oligarchy, in that order.
- It also ensures that the mood of the nation at a particular moment does not hand over political power across a three-tiered democratic structure to one dispensation or

individual. It gives people a chance to distinguish between the national, state and local interests, rather than being swept away in a “wave”, often manufactured by corporate media and the economic muscle of commercial carpetbaggers.

*Why holding simultaneous elections is a good idea?*

- This will help save public money.
- It will be a big relief for political parties that are always in campaign mode.
- It will allow political parties to focus more on policy and governance.

*Concerns:*

Lok Sabha and assembly elections were held simultaneously until the mid-1960s, but the premature dissolution of state assemblies in subsequent years disturbed the cycle. In several instances, the Lok Sabha also suffered the same fate. Therefore, some stakeholders fear that even if elections are brought in sync, the cycle might once again get interrupted. There is also the possibility of dismissal of state governments and premature dissolution of assemblies.

*Why it is difficult to go for simultaneous elections?*

- The biggest challenge is achieving political consensus, which seems to be “chimerical”.
- Regional parties will be more opposed to the idea than national parties because there is always a tendency for voters to vote the same party in power in the state and at the Centre in case the Lok Sabha polls and the state elections are held together.
- Also, according to IDFC, there is a 77% chance that the Indian voter will vote for the same party for both the state and Centre when elections are held simultaneously

## **2. State-funding of Elections**

A major concern associated with the high cost of elections is that it prevents parties and candidates with modest financial resources from being competitive in elections. It is also feared that if candidates need to raise funds from a variety of sources, then their policy decisions after being elected as policy makers may be somewhat biased in favour of groups that fund them. State funding of elections (in various forms) has been proposed as a potential solution to this problem.

The Indrajit Gupta Committee on State Funding of Elections, 1998, backed the idea of state funding of elections on principle, stating that “The Committee see full justification

constitutional, legal as well as on ground of public interest, for grant of State subvention to political parties, so as to establish such conditions where even the parties with modest financial resources may be able to compete with those who have superior financial resources.” It added two limitations, namely (i) such funds could not be doled out to independent candidates, and only to national and state parties having granted a symbol and proven their popularity among the electorate, and (ii) in the short-term, State funding may be given only in kind, in the form of certain facilities to the recognised political parties and their candidates. However, despite strongly backing full State funding of elections principle, it stated that only partial State funding would be possible in the short-term given the prevailing economic condition of the country.

The Election Commission is not in favour of state funding as it will not be possible to prohibit or check candidate’s own expenditure or expenditure by others over and above that which is provided by the State. The Election Commission’s view is that for addressing the real issues, there have to be radical changes in the provisions regarding receipts of funds by political parties and the manner in which such funds are spent by them so as to provide for complete transparency in the matter.

### **3. Criminalisation of Politics**

Most recent Committee reports on electoral reforms have almost universally acknowledged the criminalisation of our political system at both national and state levels and across party lines. The criminalisation of our political system has been observed almost unanimously by all recent committees on politics and electoral reform. Criminalisation of politics has many forms, but perhaps the most alarming among them is the significant number of elected representatives with criminal charges pending against them. Two measures recommended by previous committees are discussed in this paper: enforcement of the disclosure of criminal antecedents of candidates, and eligibility restrictions for candidates with criminal cases pending against them. The Vohra Committee Report on Criminalisation of Politics was constituted to identify the extent of the politician-criminal nexus and recommend ways in which the menace can be combated.

### **4. Disclosure of criminal antecedents of candidates**

Currently, Rule 4A of the Conduct of Election Rules, 1961, prescribes that each candidate must file an affidavit (Form 26 appended to Conduct of Election Rules, 1961) regarding (i) cases, if any, in which the candidate has been accused of any offence punishable with

imprisonment for two years or more in a pending case in which charges have been framed by the court, and (ii) cases of conviction for an offence other than any of the offences mentioned in Section 8 of Representation of the People Act, 1951, and sentenced to imprisonment for one year or more. In addition to this, pursuant to the order of the Supreme Court the Election Commission on March 27, 2003, has issued an order that candidates must file an additional affidavit stating (i) information relating to all pending cases in which cognizance has been taken by a Court, (ii) assets and liabilities, and (iii) educational qualifications. The affidavit is given in a form prescribed by the Election Commission of India.

## **5. ECI independent staff appointment**

Appointment & Tenure of Commissioners: The President appoints Chief Election Commissioner and Election Commissioners. They have tenure of six years, or up to the age of 65 years, whichever is earlier. They enjoy the same status and receive salary and perks as available to Judges of the Supreme Court of India. The Chief Election Commissioner can be removed from office only through impeachment by Parliament.

The Setup: The Commission has a separate Secretariat at New Delhi, consisting of about 300 officials, in a hierarchical set up.

Two or three Deputy Election Commissioners and Director Generals who are the senior most officers in the Secretariat assist the Commission. They are generally appointed from the national civil service of the country and are selected and appointed by the Commission with tenure. Directors, Principal Secretaries, and Secretaries, Under Secretaries and Deputy Directors support the Deputy Election Commissioners and Director Generals in turn. There is functional and territorial distribution of work in the Commission. The work is organised in Divisions, Branches and sections; each of the last mentioned units is in charge of a Section Officer. The main functional divisions are Planning, Judicial, Administration, Systematic Voters' Education and Electoral Participation, SVEEP, Information Systems, Media and Secretariat Co-ordination. The territorial work is distributed among separate units responsible for different Zones into which the 35 constituent States and Union Territories of the country are grouped for convenience of management.

## **AUDITING OF FINANCES OF POLITICAL PARTIES**

As mentioned previously in this report, the high cost of elections provides a logic for corruption in the public arena. This affects not only candidates, but parties as well. In an order dated March 27, 2003, the Election Commission of India issued an order, in pursuance of the Supreme Court judgment dated March 13, 2003 in *the Peoples Union for Civil Liberties & Another Vs. Union of India* case, that candidates for electoral office must submit an affidavit disclosing his assets and liabilities. This order, however, does not apply to political parties.

## **RECOMMENDATIONS**

The 2004 report of the Election Commission declared that political parties should be required to publish their accounts (or at least an abridged version) annually for information and scrutiny of the general public and all concerned, for which purpose the maintenance of such accounts and their auditing to ensure their accuracy is a pre-requisite. The auditing may be done by any firm of auditors approved by the Comptroller and Auditor General. The audited accounts should then be made public. The Election and Other Related Laws (Amendment) Bill, 2002 (introduced in Lok Sabha on 19th March, 2002) sought to introduce section 29D in the Representation of the People Act, 1951 in this regard.

## **6. Political Parties under the ambit of RTI**

*The issue of political parties coming under the ambit of Right to Information Act was in the news again, after the Supreme Court issued notices to the six national parties to explain their stand. The issue dates back to 2013 when the Central Information Commission made a historic order bringing the six national parties under RTI. Since then, the parties refused to comply with the order and the matter has now reached the Supreme Court.*

Association for Democratic Reforms (ADR) filed a Writ Petition in the Supreme Court against the Government of India and the six National Parties that failed to comply with the Central Information Commission order bringing these parties under the ambit of the Right to Information (RTI). The Supreme Court admitted this petition and issued notices to the six National parties as well as the Government of India.

The transparency in the functioning of Political Parties was also recommended by the Law Commission of India in their 170th Report on ‘Reform of Electoral Laws (1999)’. It said, “On the parity of the above reasoning, it must be said that if democracy and accountability

*constitute the core of our constitutional system, the same concepts must also apply to and bind the Political Parties which are integral to parliamentary democracy. It is the Political Parties that form the Government, man the Parliament and run the governance of the country. It is therefore, necessary to introduce internal democracy, financial transparency and accountability in the working of the Political Parties. A political party which does not respect democratic principles in its internal working cannot be expected to respect those principles in the governance of the country. It cannot be dictatorship internally and democratic in its functioning outside.”*

Even the 255th report of the Law Commission of India on ‘Electoral Reforms’ made certain recommendations on contributions, reporting, Disclosure etc.

## **7. Anti-defection Law**

In the report “Ethics in Governance” of the Second Administrative Reforms Commission, it is noted that “Defection has long been a malaise of Indian political life. It represents manipulation of the political system for furthering private interests, and has been a potent source of political corruption.” The report further notes that “there is no doubt that permitting defection in any form or context is a travesty of ethics in politics.” The Anti-Defection provisions of the Tenth Schedule of the Constitution, enacted in 1985, fixed a certain number above which group defections were permitted. The National Committee to Review the Working of the Constitution noted that although individual defections became rare after this, group defection were “permitted, promoted and amply rewarded.”

The 91st Amendment to the Constitution, 2003, changed this by making it mandatory for defectors to resign their positions regardless of whether they defected as an individual or as part of a group. Currently the issue of disqualification of members of Parliament or a State Legislature is decided by the Speaker or Chairman of the concerned House. Aside from those concerning the Tenth Schedule all other matters of post-election disqualification are decided by the President/Governor, on the advice of the Election Commission.

The Election Commission, in its 2004 report, noted that “all political parties are aware of some of the decisions of the Hon’ble Speakers, leading to controversies and further litigation in courts of law.” The National Committee to Review the Working of the Constitution noted that “some of the Speakers have tended to act in a partisan manner and without a proper appreciation – deliberate or otherwise – of the provisions of the Tenth Schedule.”



## **8. Restrictions on government sponsored advertisements**

It has been noted by the Election Commission that on the eve of election, the Central and various State Governments are able to advertise for the purpose of influencing elections, justifying it by providing information to the public. The expenditure on such advertisements is likely incurred from the public exchequer. The Election Commission feels this practice allows the misuse of public funds and provides the ruling party an undue advantage over other parties and candidates.

## **9. Misuse of religion for electoral gain by political parties**

The Liberhan Ayodhya Commission of Inquiry recommended, inter alia, that complaints of misuse of religion for electoral gain should be speedily investigated into by the Election Commission. The Election Commission informed the government (Letter dated January 29, 2010) that such investigations should be carried out by the investigating agencies of the state. However, the Election Commission invited the attention of the government to the Representation of the People (Second Amendment) Bill, 1994, whereby an amendment was proposed providing for provision to question acts of misuse of religion by political parties before a High Court. Similar recommendations made by the Goswami Committee were included in a Bill introduced in the Rajya Sabha in May 1990. The Government withdrew this Bill in 1993, stating that a revised Bill would be introduced. However, these provisions have never been considered since then.

## **POSSIBLE SUB AGENDAS IN BRIEF**

- Voting systems, such as proportional representation, a two-round system (runoff voting), instant-runoff voting, Instant Round Robin Voting called Condorcet Voting, voting, citizen initiatives and referendums and recall elections.
- Vote-counting procedures
- Rules about political parties, characteristically changes to election laws
- Eligibility to vote
- How candidates and political parties are able to stand (nomination rules) and how they are able to get their names onto ballots (ballot access)
- Electoral constituencies and election district borders
- Ballot design and voting equipment
- Scrutineering/ scrutinizing (election monitoring by candidates, political parties, etc.)
- Safety of voters and election workers

- Measures against bribery, coercion, and conflicts of interest
- Financing of candidates' and referendum campaigns
- Factors which affect the rate of voter participation

**Important commissions:**

- Jaya Prakash Narayan Committee
- Dinesh Goswami Committee
- Jeevan Reddy Committee
- Indrajit Gupta Committee
- Vohra Committee
- Election Commission Reports