

**REGIONAL CONSULTATION FOR ELECTORAL
REFORMS
AT
CHANDIGARH**

5th February, 2011

(Covering Jammu & Kashmir, Himachal Pradesh,
Punjab, Haryana & Union Territory of Chandigarh)

Proceedings and Summary

TOPIC I

CONDUCT AND BETTER MANAGEMENT OF ELECTIONS

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| <i>Moderator</i> | Sh. S.N. Mendiratta, Legal Counsel, Election Commission of India |
| <i>Chairperson</i> | Hon'ble Mr. Justice K. Kannan, Judge, Punjab and Haryana High Court |
| <i>Coordinator</i> | Sh. Hawa Singh Hooda, Advocate General, Haryana |
| <i>Panelists</i> | |
| a) | Prof B.S. Ghuman, Dean Faculty of Arts, Panjab University, Chandigarh. |
| b) | Sh. R.S. Mittal, Senior Advocate, Punjab and Haryana High Court |
| c) | Sh. Kanwar Sandhu, Managing Editor, Day & Night News Channel |
| d) | Dr. Balram K. Gupta, Senior Advocate, Punjab and Haryana High Court Former Chairman Department of Laws, Panjab University, Chandigarh |
| e) | Sh. R.S. Chaudhary, [I.A.S (Rtd.) Former Vice Chancellor Kurukshetra University] Indian National Lok Dal |
| f) | Sh. Om Prakash Bakshi, Nationalist Congress Party |
| g) | Sh. Gyan Chand Gupta, Bhartiya Janta Party |

SUMMARY OF PANEL DISCUSSION

Prof. B. S. Ghuman, Dean, Faculty of Arts, Panjab University, Chandigarh

1. General voters should also be involved in the discussions on Electoral Reforms.

2. All proposals for Electoral Reforms should be prioritize and expeditious action should be taken on those recommendations.
3. There should be common electoral roll for all elections at all levels and all electoral rolls should be computerized.
4. A bar coded unique number should be allotted to every voter.
5. All Election Commissioners should be provided equal safeguards in the matter of their service conditions.
6. Civil Society Organizations (CSOs) should also be involved to act as observers during elections.
7. Effective steps should be taken to check frivolous candidates.
8. Electoral Reforms should be taken up on regular basis and not at election times.

Sh. R. S. Mittal, Senior Advocate, Punjab & Haryana High Court

1. In order to curb role of illegal money in State Elections, there should be State funding.
2. State funding should be duly controlled so that it does not become additional funds in the hands of candidates.
3. Violation of Section 77(1) and 77(2) of the Representation of People Act, 1951 should be made an electoral offence and corrupt practice.
4. No expenditure should be allowed to be incurred by any friends, supporters or associations.

Dr. Balram K. Gupta, Senior Advocate, Punjab & Haryana High Court

1. Every elector should be allotted a permanent ID Number in the electoral roll.
2. Ballot paper should contain the photographs of candidates.
3. A candidate to be declared elected should secure $50\% + 1$ of the votes polled. In case of failure there should be a run-off election between the first two candidates.
4. A candidate failing to secure a prescribed minimum percentage should be disqualified for future elections for a given period.
5. Election petitions should be filed even against defeated candidates.
6. Booth capturing should be strictly prevented.

Sh. R.S. Choudhary, [IAS (retd.) Former Vice Chancellor, Kurukshetra University], Indian National Lok Dal

1. Electoral rolls should be defect free and strict penal action should be taken against the erring official which is not being taken at present.
2. There should be common electoral rolls for all elections- no outside agency should be utilized for revision of electoral rolls.
3. It is difficult to determine who is a frivolous candidate and no restriction should be imposed on any person to contest elections.
4. No discrimination should be made between a political party candidate and an independent candidate in the matter of security deposit, nor should independent candidates be debarred from contesting elections.
5. A candidate even getting the highest number of votes should not be declared elected, if his votes are less than the minimum votes to save

forfeiture of security deposit (i.e., less than 1/6th of the total votes polled).

6. EC's proposal to prohibit publication of Government Ads 6 months before the expiration of the term of the Legislative Assembly should be accepted.

7. The number of seats from which a candidate may contest may remain as two, as at present.

8. Election petition should not be allowed to be filed against defeated candidates as that would result in gross misuse by the opponents.

9. There should be no change in the present period of 30 days for filing accounts of election expenses.

10. Period for filing election petitions may, however, be increased from 45 days to 60 days.

11. There should be no ban on canvassing during the 48 hours period before poll.

12. Opinion polls should be banned at all times.

13. Print media should also be covered under the same restrictions which are imposed on electronic media.

14. There should be no ban on transfer within 6 months before the expiry of the term of the Legislative Assembly.

15. False reports, etc. should call for severe punishment.

16. No remission of sentence of convicts for parole should be permitted within a period of 6 months before the expiry of the term of the Legislative Assembly.

Sh. Om Prakash Bakshi, Nationalist Congress Party

1. Local persons should be involved in the verification of voters to ensure accuracy of electoral rolls.
2. On the day of poll no candidate camps should be allowed to be erected outside polling stations.
3. Strict security measures should be taken to ensure free and fair elections and allow voters to come out without fear.
4. Credentials of candidates should be duly verified so that criminal elements are kept out of election fray.

Shri Gyan Chand Gupta, former Mayor Chandigarh, Bharatiya Janta Party

1. Criminal elements should not be allowed to contest elections at any cost.
2. Anti defection law should be made stringent so that no defection can take place. If a member of a House desires to leave a political party he should first resign from the membership of the house and then join any other political party.

Topic II – Shaping Public Opinion; Role & Responsibility of the Media; Advertising; Exit Polls; Opinion Polls etc.

Moderator – Kusumjit Sidhu, Chief Electoral Officer, Punjab

Chairperson – Hon'ble Mr. Justice V.K. Ahuja, Judge, Himachal Pradesh High Court

Coordinator – Prof. B.S. Brar, Department of Political Science, Panjab University, Chandigarh.

Panelists –

- a) Dr. Shruti Bedi, Asstt. Prof. University Institute of Legal Studies, Chandigarh

- b) Sh. K.K. Khandelwal, IAS, Additional Principal Secretary to Chief Minister, Haryana,
- c) Sh. Mandeep Randhawa, Special Correspondent, Hindustan Times
- d) Sh. Ashok Malik, Sub Editor Haryana Samvad
- e) Sh. Eshwar Anand, Asst. Editor, Tribune

Summary of Panel Discussion

Dr. Shruti Bedi, Asstt. Prof. University Institute of Legal Studies, Chandigarh.

- 1) It was suggested by her that exit polls and opinion polls should be banned. In order to substantiate her claim she relied upon sixteen other jurisdictions whether the same practice is prevalent.

Shri Mandeep Randhawa, Special Correspondent, Hindustan Times.

- 1) He raised the question of granting voting rights to the NRI's, since they were not aware of the ground realities existing in India.
- 2) Media should maintain its credibility by expressing an unbiased opinion polls and exit polls.

Shri Ashok Malik, Sub Editor Haryana Samvad

- 1) He suggested that there should be self regulations by the media itself and Press Council should be given more power to deal with those who indulge in paid news.
- 2) He further suggested that media men should disclose their assets in the same way as it is being done by politicians, bureaucrats and judges.
- 3) He also opined that there should be a regulation on the cable operators and the role played by them, and normally they give wide coverage which is rather helpful in propaganda of one party. For

that, Election Commission can set up a committee of eminent citizens to monitor the role of the cable operators.

Shri Eshwar Chand, Asst. Editor, Tribune

- 1) He suggested that press persons should be brought within the ambit of Right to Information Act.
- 2) He was of the view that the persons connected with the exit polls and opinion polls should give the details of the persons associated, the number of persons surveyed, whether they were urban or rural and the possibility of error in their assessments.

Topic III – Criminalisation and Money Power in Politics

Moderator Sh. K.F. Wilfred, Secretary, Election Commission of India

Chairperson Mr. Atul Lakhpal, Senior Advocate, Punjab and Haryana High Court, Chandigarh (Former President, Punjab and Haryana High Court Bar Association)

Coordinator Prof. Rajesh Gill, Department of Sociology, Panjab University, Chandigarh.

Panelists –

- a) Ms. Rupam Jagota, Asstt. Prof., Guru Nanak Dev University, Amritsar.
- b) Sh. S. S. Virk, IPS, former Director General of Police, Punjab and Maharashtra.
- c) Sh. Daljit Singh, Principal Khalsa College, Amritsar
- d) Ms. Shama Dogra, Member (Judicial), CAT, Chandigarh
- e) Mr. M.J.S. Sethi, Senior Advocate, Punjab and Haryana High Court
- f) Sh. S.S. Badshami, Indian National Lok Dal

Summary of Panel Discussion

Sh. Satya Pal Jain, Senior Advocate, Former M.P., Bhartiya Janta Party suggested the following steps:-

1. Public Opinion should be created so that no person with criminal background is elected.

2. Disqualification for election should be for the officers which involve moral turpitude and the offences of political nature i.e. breach of peace, dharma etc. be ignored.
3. The person desirous of contesting election, having a criminal case of cases pending against him should obtain a NOC from the court.
4. The paid news should be included in the election expenses of a candidate.
5. Election return should be scrutinized minutely.
6. Conviction for offences punishable for less than 2 years should not be the ground for disqualification of M.Ps and M.L.As.
7. Regarding anti defection law Mr. Jain canvassed that the power should be given to Chief Election Commissioner or Governor to decide the anti defection and there should be bar for 6 years for defection.

Dr.RupamJagota, Assistant Professor, Guru Nanak Dev University,Amritsar:

1. The political parties should have code of conduct and they should be responsible for not fielding candidates with criminal background. There should be special election courts and the hearing should be on day to day basis. Candidates securing more than 50% votes should be eligible to be declared elected.

Sh. S.S. Virk IPS (Rtd.), former DGP, Punjab and Maharashtra:

1. There should be Presidential form of Govt. to end all the criminalization in politics.
2. There should be a consensus that criminals will not be allowed to contest elections.

3. Elections should be held at one and the same time to Panchayats, Local Bodies, Assemblies and Parliament.

Sh. Daljit Singh, Principal, Khalsa College, Amritsar.

The main accused in a criminal case should be disqualified from contesting elections.

Sh.M.J.S. Sethi, Senior Advocate, Punjab and Haryana High Court

1. Criminalization of politics is an Indian phenomenon.
2. Category of offences should be separated.
3. Mafia backed by the politicians is the main problem regarding the money power in India.

Sh. S.S. Badshami M.L.A. Haryana, Indian National Lok Dal

1. Only after the conviction by the trial court the person who is charged with criminalization should be disqualified from contesting elections.
2. Presiding Officer of Legislative Bodies should not be given the full authority.
3. Exemption given to the Speaker and Deputy Speaker under Anti Defection should not be given.
4. 7th Paragraph of Anti deflection Law should be cancelled.

Chairperson's Remarks:

Taking into consideration the right of a citizen to contest election and also the fact that a false FIR/charge can be leveled against any person to non suit him

for election it is desirable that a person who is desirous of contesting election but is also facing a criminal trial should request the court for disposal of his case before election. A provision for special courts/speedy trial of such cases can be made. Conviction by a Trial Court or by Appellate Court should be treated as disqualification for contesting elections. Pendency of appeal or Revision in higher court against conviction should not be a ground to overcome the bar of disqualification on bar of contesting election on the basis of conviction. On conviction by a court the MLA, MP should be deemed to have been unseated.

Research Papers

Besides the fruitful deliberations in panel discussions, research papers were invited from the students of Army Institute of Law, Mohali, Department of Laws, Panjab University, Chandigarh, Rajiv Gandhi National University of Law, Patiala, and University Institute of Legal Studies, Chandigarh. The themes of the paper were on Criminalization of Politics, Exit Polls and Role of Media and Conduct and Better Management of Elections. A compilation of all the papers was presented to Union Minister for Law and Justice and Chief Election Commissioner.