

Electoral Reforms for India

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It gives me immense pleasure to address this elite gathering on a subject of vital importance to the nation, namely 'Electoral Reforms for India'. Pune had given to the nation an eminent statesman, Gopal Krishna Gokhale, a lion hearted patriot, Bal Gangadhar Tilak, an erudite scholar, Maharishi Bhandarkar, besides innumerable stalwarts in arts and music. Pune is rightly regarded as the cultural capital of Maharashtra.

True Democracy is a government in consonance with Public Opinion or as Mill put it the "General will". There is no instrument to measure public opinion. A successful statesman is one who is able to gauge the public opinion on controversial vital issues. Debates by informed institutions, news and views in the print and electronic media, debates in parliament and other statutory bodies help the administrator to divine the elusive public opinion. Momentary passions may distort public opinion but wisdom rests in discerning the wheat from the chaff. I am therefore placing my views on Electoral Reforms before you and the country more as thoughts for debate than as conclusions for acceptance.

It is an axiom of Political Science that the State comes into being for life i.e. the protection of the life and liberty of the citizen but it exists for good life i.e. for the welfare of the people. The transition of modern democracies from merely providing security from external aggression and internal disorders to a welfare state, providing the citizen maternity benefit, children's allowance, health care, unemployment relief, old age pensions and even funeral cover – in short cover from womb to the tomb is a familiar phenomenon of the 20th century. India has always regarded that peace and security are mere empty slogans in a system where social, political and economic justice is denied to the people.

India on becoming independent deliberately chose the Westminster type of parliamentary democracy. Most of the leaders of the struggle for freedom were from the legal profession with skills to match the foreign government in knowledge and debate. Many among them have had their education, general and legal, in England and had imbibed the liberal traditions of Mill and Laski. Besides, Britain in their days was a super power spread over the entire globe and it used to be said that the sun never set in the British Empire. Authors and pundits extolled the British Parliamentary system so profusely that it appealed to many intellectuals in the world as an unerring model for other to follow. Ivor Jennings described the British Constitution as one of the strongest if not the strongest in the World.

During the first decade, when the stalwarts of the freedom movement brewed in selfless dedication, service and sacrifice held sway of the country, India functioned as a mature democracy and elicited the admiration of the entire world including that of the skeptics who doubted the chances of adult franchise working satisfactorily among unlettered people. In International fora like the United Nations and others, we were heard with respect and attention. Our felicity of expression in the international language namely English gave us an added advantage over the others. That decade provided stability and growth to the Central and State government.

In the decade 1989-99, India had seven governments at the Centre. These minority governments have not been able to provide a stable government and stable policies. I have the dubious distinction of appointing three Prime Ministers and working with four of them in five years. Governments, depending on the whims and fancies of small parties supporting from inside or outside, were all the time trying to survive in Office and had no time to serve the country or the people. Coalition partners demand the pound of flesh and disrupt the governments, if denied. In short, the tail wags the head.

Parallel to the situation in India was the Fourth Republic of France with multi-party Parliamentary Democracy. During the post war 12 years between 1946 and 1958, there were 22 governments until De Gaulle introduced the New Constitution, which is a fusion of the Presidential and Parliamentary Form of Democracy. Since then, France has had stable governments and phenomenal progress all round

My view is that the Country should not shy away from necessary changes, be it basic or normal legislation. The Laws are changed when people fail to observe them in letter and spirit. When defection became rampant, the Constitution was amended to prevent the abuse. Now when criminals get into the Legislatures, it is necessary to disqualify them from seeking election by changes in the Law. Likewise when the Constitution enables a candidate with minority of votes to get elected to the Parliament and State Legislatures or when the Parliament represents only a minority of votes cast, and again when the Constitution is unable to prevent constant disruption of governments and instability in administration, there is a clear case for review of its provisions.

The Westminster type of Parliamentary Democracy on which our Constitution has been modeled has many attractive features. The Prime Minister being the Leader of the majority party in Parliament is able, unlike the American President, to carry out his policies and programmes without any hindrance. Besides, the chances of conflict between the Legislature and the Executive are minimal. Furthermore, executive's accountability to Parliament is total and the continuance of the government itself depends on the support of the majority in Parliament. However, if the major parties, say, Conservatives and Labour, split into two each, all tangles which plague Indian Parliament will be re-enacted in Britain also. Ivor Jennings dealing with prerogative of the Crown to decline the Prime Minister's advice for dissolution of the House in limited cases in his book "Cabinet Government" (3rd Edition pp.427 and 428) has said that while the Queen's personal prerogative to dissolve the House is maintained in theory, there are hardly any circumstances in which it could be exercised in practice. He added that this assumed a continuance of the two party system. "If major parties break up, the whole balance of the Constitution alters and then possibly the Queen's prerogative becomes important." (vide Hood Philips' "Constitutional and Administrative Law" - 7th Edition page 154 & 155). Ivor Jennings himself concedes that the British model is based on a two-party system and the whole balance of the British Constitution will change if the major parties in Britain break up like ours. Therefore, if the present Constitution should function satisfactorily, two reforms (a) change in the electoral system and (b) de-recognition of more than two political parties are indispensable.

In early times, there were city-states in Greece and Rome where the citizens directly participated in decision-making. They approve or negate the administrative proposals. With the advent of larger states, direct democracy became neither feasible nor practicable and

governance through the representatives chosen by the people came into vogue. Thus elections became the bedrock of democracy. A representative elected by nefarious methods like booth-capturing, violence, intimidation, bribery, or corruption, can hardly be called a true representative of the people, notwithstanding his polling, striking a majority of the votes.

Dictators have always been returned with overwhelming majority of fake votes until they were thrown out by popular agitation. Likewise an electoral system which enables a person getting a minority of the votes cast to be elected as a representative of the constituency cannot be accepted as a democratic process. Nor can a House constituted by minority of votes polled in the general election be called representative of the country.

For instance, in a direct election through territorial constituencies, if there are four candidates polling 35%, 30%, 20% and 15% of the votes cast, the candidate with 35% votes is declared elected even though 65% had not voted for him. Nor does a Parliament constituted in the above manner can be called truly democratic.

As analysis of the elections to the Lok Sabha from 1952 shows that at no time did our Lok Sabha or the Union Government represent the majority of votes cast at a general election. In the election to the First Lok Sabha, the Congress Party secured 364 seats with 44.99% of the votes cast. When Rajiv Gandhi secured massive 415 seats in the Lok Sabha in 1984, the Congress polled 48.1% of the votes cast. When the Janata Party won 297 seats in the Lok Sabha in 1974, it polled 43% of the votes cast. Thus the Nation has been ruled during the entire period of 50 years since the inauguration of the Republic by a government which secured a minority of votes cast. The Parliament itself represented only a minority of votes cast at the general election.

The Law Commission in its erudite and comprehensive report on electoral reform, has fully taken note of the weakness in direct election through territorial constituencies in a multi-party system. But not having the experience of conducting elections like the Election Commission nor of the practical problems of facing elections like elder statesmen, the Law Commission has in part opted for theoretically sound solutions.

To remedy the hiatus between votes polled and seats secured, the Commission has suggested adoption/adaptation of the German electoral system which provides for 50 percent seats to be filled by territorial constituencies and the other half by proportional representation according to the votes polled in the general election to the Lower House. The Commission has suggested that the Lok Sabha be enlarged by 25% of its present strength and that that 25% be filled by proportional representation according to votes polled by the parties. Apart from the scheme being too complicated for our electorate, I am not sure that 25% of seats filled by proportional representation will correct the distortion caused by 75% of seats elected on the principle of First Past the Post. Secondly, a person chosen from the list by proportional representation may be undesirable, criminal or corrupt. The citizen has no right or opportunity to vote him down. The Lok Sabha is the custodian of the national finances and it is the House that has power to appoint or dismiss a government. Lok Sabha members are answerable to the electorate. To induct into the Lower House member who has no constituency to face and no direct obligation to the people is to dilute the primacy of the Lower House recognized in all democracies of the World. I am not sure whether this rule in Germany is part of the Constitution drafted by the occupying powers or a later amendment. I wonder if there is any other democracy which has indirectly elected Members of the Lower House.

As part of the reform, the Law Commission has suggested the adoption of the rule in the German Constitution that if a party secures less than 5% of the votes cast or does not win 3 seats in the territorial constituency in a general election, the said votes shall be transferred to other parties which are qualified and distributed in proportion to the votes secured by them. I paused and tried to imagine the situation and consequences. I am a radical and got elected to a seat from a constituency. My party did not secure 5% of the votes cast. So my vote was pooled with others and distributed to the conservative party in accordance with the proportion of votes it got. Result. A vote cast in favour of radical manifesto goes to strengthen an opponent in political ideology! How can a radical's vote go to strengthen the conservative party?

A vote is the symbol of the political affinity of the citizen. It is not a chattel to be transferred with or without its consent. In a single transferable vote, the voter expresses his next preference. Whereas in the scheme envisaged, the votes of one party are transferred to other parties without its knowledge or consent.

Another suggestion of the Law Commission is that if a party does not score 5% of the votes polled or win three seats in territorial constituency, then the member elected in a territorial constituency will forfeit his seat and his seat will be taken over by the candidate who polled the next largest number of votes. This provision appears neither theoretically sound nor practically wise. To deprive an elected member of his seat except on a judicial finding of Commission on Election Offences is an affront to the constituency and the electorate. As one who had faced the electorate several times, I feel that the suggestion would receive no support.

Another suggestion of the Law Commission, that the non-party candidates should be debarred from contesting elections, I am afraid, will be a violation of the Fundamental Rights of the citizens. In any event, it will have absolutely no support from any political party or the people. I am not unaware of frivolous candidates cluttering up the ballot paper and causing confusion to the voters. I had earlier suggested that in order to meet the situation, it may be provided that the minimum votes for saving deposit be raised to 20% of the votes polled and the candidate who forfeits deposit in an election to the Legislature of the Centre and the State be debarred from seeking election to any statutory body from the Panchayat to the President for a period of six years.

The elaborate recommendation of the Law Commission based on the German model, though well intended for the purpose of reducing the smaller parties and frivolous number of candidates, appear to me to be unnecessary. For over a decade, I have been suggesting that in order to ensure that the member represents the majority in a constituency, we may adopt the system of a second vote. In France, a candidate to the National Assembly who secures 50+ per cent of votes polled in the constituency will be declared elected immediately. If no candidate gets a majority of vote casts, there is a "run off" (re-poll) within a week between the top two candidates and the winner is declared elected member. This system ensures that in all constituencies to the National Assembly, the member secures a majority and thereby the National Assembly represents the majority of votes polled. But in India as I had explained earlier, the Lok Sabha has been constituted by a minority of the votes cast for the last fifty years.

Objections have been raised to the proposal for a second vote on the grounds:

- (a) that the second vote will delay the constitution of the National Parliament
- (b) that it will be almost like a second general election as none of the candidates will be elected on the first count; **and**

(c) that it will involve enormous expenditure.

I am of the view that as the second vote is like a re-poll in certain constituencies in the same polling booths with the same original set up with no revision of electoral roles, and no fresh nominations, it should not cause a delay of more than a week. Secondly though initially i.e. till the candidates understand the system, there may be large number of constituencies where there may be a second vote, this will correct itself as the candidates will soon realize that they can no longer get elected with a minority votes. And if, as I had suggested elsewhere, severe penalties like debarring those who forfeit deposits from contesting for any statutory office for six years are adopted, frivolous candidates will gradually disappear from the scene. Thirdly, I agree that the second vote will cause extra expenditure but it is worth spending in order to ensure that the Parliament and the Government represent the majority of the votes cast in the election. After all, there can be no bargain between democracy and cheaper form of government. Dictatorship is the cheapest form of Government with no Parliament and no independent Judiciary! Is it acceptable on that count?

TWO PARTY SYSTEM

The Westminster type of Parliamentary Democracy which has worked so splendidly in Australia, Canada, New Zealand and Britain had steadfastly maintained a bipolar parliament for centuries. No splits had occurred in their parties as in India. Every dissident or group of dissidents in India invariably splits the party and political parties mushroom almost every day. If for instance, the Conservative Party and Labour Party each splits into two, Britain will enact the same political drama that India is displaying for the amusement of the World. As I had stated earlier, Ivor Jennings, the expert on Constitutional Law, had hinted at such a contingency in his book, *Cabinet Government*.

The foregoing analysis leads to the conclusion that if the present Constitution has to function satisfactorily, then the condition precedent namely, two party system has to be adopted by either statute or by the amendment of the Constitution. I shall proceed to unfold the modus operandi for achieving a bipolar parliament for India. It may be prescribed statutorily that all political parties which secure less than 10% of the votes cast in the next general election to Lok Sabha shall be derecognised by the Election Commission. Thereafter, the Party which gets the lowest number of votes in every succeeding General Election shall be derecognized until the number of recognized parties is reduced to two.

Thus a two party system can be achieved in the course of two or three general elections. This scheme is not in violation of the Fundamental Freedom of Association, as the right to formation of political parties or groups is not taken away from the citizen. Only the right of parties to be recognized as a political party for electoral purposes is regulated. Recognized political parties have certain privileges, the most important one being the right to a common symbol for the candidates contesting elections. This common symbol will be denied to unrecognized political parties under the scheme. I do not think that an amendment to the Constitution is necessary for implementing the Scheme. However, to prevent parties changing this system at their whims and fancies, constitutional provision may be incorporated.

Even if a two party system is ushered in our country, I am not sure that it will ensure stability of government. It is still possible for a chunk of ruling party members to defeat the government by defecting to the opposition. It is a routine feature of our polity. This

may be deterred by a more stringent anti - defection law disqualifying the defector whether one or one - third of the party from contesting for any statutory body from Panchayat, Cooperative or others upto the President of India for a period of six years.

COMPULSORY VOTING

One other suggestion, I would like to offer is to make voting compulsory for the State and Union Lower Houses. At first sight, it may look a formidable and forbidding task. But if we look at the issue from the grass root level, it will prove that the scheme is eminently feasible. For instance most of the Panchayats are small ones with less than a population of 1000 and the number of voters excluding minors, may be around five hundred. Is it such a formidable task for the local authority to ensure that this five hundred people attend the polls? This takes care of 70 % of our rural population. Instead of candidates distributing slips containing the name and number of the voters and the polling booth, the Panchayat itself may undertake the task and also ensures that the voter exercises his franchise. The advantage of compulsory voting is that the voter realizes that he is not conferring a favour to the candidate but exercises his duty as a citizen. I advocated compulsory voting during the general debate on the Peoples Representation Bill in the Provisional Parliament in 1951. Dr. Ambedkar who was piloting the Bill while expressing sympathy for the idea felt it might be a great burden. True, it might have been difficult in 1952 when we were introducing adult franchise for the first time but it should be no problem after fifty years of Independence. Compulsory voting has been in vogue in Australia for several years.

CONSTRUCTIVE VOTE

One immediate measure to reduce Kaleidoscopic changes in government, which does not require any constitutional amendment or other elaborate changes is to provide in the Rules of Procedure of the Lok Sabha that a Motion of No - confidence against the Ministry should in the same motion name the Prime Minister to succeed the present incumbent if the Motion was carried. This system, the constructive vote, prevails in Germany where there is a multi party system. The motion for the removal of the Chancellor should name the successor in the motion itself so that if the motion was carried, there would be another Chancellor already chosen by the House. The Constitution of India prescribes that the Council of Ministers shall be collectively responsible to the House of People. It is the Rules of Procedure which define the mode of removal of the Ministry.

FREE AND FAIR ELECTION

Democracy is a form of government by the people themselves through their chosen representatives. The choice is made periodically by holding elections. Unless the elections are free, fair and equitable, the democratic system will collapse. This was fully realized by the country and the Representation of the People Act of 1950 and 1951 sought to provide for a free and fair elections. During the last fifty years, however, despicable developments have taken roots in the Nation which have rendered elections almost a farce. Illegal and immoral methods are resorted to for winning elections. Money, power, muscle-power, corrupt and unfair

practices are increasingly resorted to with impunity. Several other malpractice and improprieties of Political Parties in the collection and use of funds, bribery and misuse of authority plague our system. The cry for comprehensive electoral reforms has already reached crescendo against forces threatening to disrupt our already anemic democratic structure. I shall briefly put forth other major electoral reforms that need to be adopted without delay if we want to salvage the Parliamentary Form of Government for our Nation.

PARTY SYSTEM

Representative government presupposes the existence of political parties. One of the conventions of the British Constitution is that the Crown must call the leader of the majority party to form the government. Yet there was no law in United Kingdom recognizing the political party until the passing of the Ministers of the Cabinet Act 1937 which defined the Leader of Opposition and granted him a salary. The Constitution of India recognised political parties in the Anti - defection amendment to the Constitution. On the other hand, Art . 21 of the Basic Law of Federal Republic of Germany (1949) which became the Constitution of Germany on reunification of the Federal Republic and the German Democratic Republic, provided as follows:

"Political parties shall participate in the formation of the political will of the people. They may be freely established. Their internal organization must conform to democratic principles: They must publicly account for their assets and for the sources and use of their funds. Details shall be regulated by Federal Laws."

On the same lines, legislation called Political Parties Registration and Regulation Act may be passed. The Act, inter-alia, must provide:

- that every political party shall be open to all citizens of India without distinction of caste, creed, race, religion or gender.
- that the constitution shall be democratic in form and structure
- that the executive of the party shall be elected at least once in two years,
- that disciplinary action against any member shall be taken in accordance with the rules approved by the General Body of the Party; that there shall be a right of appeal to an internal body against any such decision; that there shall be at least one General Body meeting every year of the members or delegates elected according to prescribed procedure;
- that true and accurate accounts of receipts and disbursement shall be maintained and the same shall be audited every year by a Chartered Accountant, and filed with the Election Commission within the date to be prescribed. Such audited statements shall be public documents and be open for inspection and for obtaining copies on payment of prescribed costs;
- that political parties shall enforce discipline and decorum in the legislature and the misbehaving members shall be placed outside the whip (expelled from the party).

A political party which fails to do so may be derecognised by the Presiding Officer of the House apart from any other action taken against the member himself; and

- that political parties shall ensure that their members observe highest probity and integrity in the discharge of their duties as members of the legislature. Members guilty of misconduct shall be debarred from being a member of any political party apart from any other action or actions taken according to law.

In 1978, the Income Tax Act was amended by inserting section 13A which provided that any income of a political party, inter-alia, by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party provided that

- a) such political party keeps and maintains such books of account and their documents as would enable the Assessing Officer to properly deduce its income therefrom;
- b) in respect of such voluntary contributions in excess of ten thousand rupees, such political party keeps and maintains a record of such contributions and the name and address of the person who made such contribution; and
- c) the accounts of such political party are audited by an Accountant as defined in the Explanation below sub-section (2) of Section 288".

It is surprising that this section has remained a dead letter and the Income Tax Department of successive governments have been remiss in enforcing this revenue measure.

That even the Controller & Auditor General of India has not commented on the lapse of the Income Tax Department is surprising beyond measure.

In a Public Interest Litigation filed by Common Cause (A Registered Society) against the Union of India reported in (1996) 2 Supreme Court cases Page 752, the Supreme Court held at page 757

- 1) "That the political parties are under a statutory obligation to file a return of income in respect of each assessment year in accordance with the provisions of the Income Tax Act. The political parties reported to by us in the Judgment – who have not been filing returns of income for several years, have prima facie violated the statutory provisions of the Income Tax Act as indicated by us in the Judgment.
- 2) That the Income Tax Authorities have been wholly remiss in the performance of their statutory duties under law. The said authorities have for a long period failed to take appropriate action against defaulter political parties",

Of what use is Law, if it is not enforced.

ELECTION EXPENSES

It is notorious that the ceilings on election expenditure fixed by law to the state and central legislatures are more honoured in breach than in observance. Today election expenses for a Parliamentary Constituency soar above a crore of rupees and the State Assembly half that amount. This is clearly a nefarious method of depriving an honest and desirable candidate from entering the legislature. With an economy which is financed predominantly by money circulating outside the banking system (Black money), the statutory controls over ceilings on election expenditures have become a mockery. Lavish expenditure on cut outs, decorations, attractive posters, processions with music and drum entertainment like dance or other shows preceding or following election meetings, supply of eatables and drinks directly and indirectly through friends and relatives, bribery of voters with money or things in kind are but a few of the items of extravagant election expenditure.

In a Parliamentary Democracy, the electorate has to choose a party whose policy and programme it approves. Therefore, any expenditure by a candidate on anything other than

propaganda for its policies and programmes may be declared corrupt practice and the election of a candidate who engages in any thing else except those permitted activities shall be set aside.

The valid expenditure for an election shall be the following:

- 1) Holding meetings;
- 2) Printing manifestoes or brochures;
- 3) Meeting people collectively or individually;
- 4) Employing volunteers and workers for distribution of literature, voting slips containing the name, number and the polling booth etc. and
- 5) Employing polling agents in polling booths.

If these conditions are strictly enforced, the astronomical expenditure can be cut down drastically and an honest candidate may have a chance.

Seeking votes with false promises of free food, free clothing etc. or by fabulous advertisements, music, dance and shows really amounts to cheating the electorate and stealing their precious rights.

At present, the expenditure by a political party is not included in the total election expenditure of the candidate. The Supreme Court in the case of Gupta Vs. Chawla held that expenses incurred by the political party in favour of a candidate should be treated as expenses authorised by the candidate and be subject to the ceiling laws.

This decision sought to ensure that candidates and parties are placed on an equal footing and also sought to prevent big money having an advantage in elections. But the Parliament promptly amended the Representation of People Act and excluded expenditure by political parties from the expenditure ceiling of the candidates. In order to ensure a measure of equity, among contesting candidates and also prevent extravagant expenditure on election, the amendment to Representation of People Act needs to be repealed.

Corporate funding of political parties shall be regulated by Company Law. Such funding shall be separately approved by the shareholders at the Annual General Meeting. Besides, no funds shall be provided to any political party, which has been de-recognized by the Election Commission or the Presiding Officer of the House.

STATE FUNDING OF CANDIDATES/PARTIES

For a long time there has been a clamour for state funding of elections and several committees have gone into it. That a poor and deserving candidate should be enabled to win a seat is undoubtedly a laudable objective. But the ground reality in our country is that such funding will only serve to augment the resources of the affluent candidates. Besides, benefit to deserving candidates will not be commensurate with heavy burden on the Exchequer. Providing assistance like free postal facility or providing accessories like paper for posters or for voting slips etc. are too small to make a dent on the colossal election expenditure and will serve no purpose. Only it will add to administrative costs and to the already proliferating functions of the Government.

CRIMINALISATION OF POLITICS:

With a view to prevent criminals and bad characters from entering the legislatures, the Law Commission had recommended that those against whom charges have been framed may be

debarred from contesting. Instead, statutory provision may be made for filing an affidavit along with the nomination disclosing earlier convictions and the current cases in which charges have been filed so that the voters may know the antecedents of the candidate.

It may also be made obligatory for every candidate to disclose his and his dependents assets and liabilities in the affidavit. These statements may help in proving possession of assets disproportionate to their known sources of income.

In order to prevent frivolous candidates, the Law Commission has advised banning of Independent Candidates altogether. I am afraid the remedy is worse than the disease. Besides, it is a contravention of the Fundamental Right of a citizen, unless otherwise disqualified, to stand for election to the legislature. On the other hand, I would suggest that the minimum votes that a candidate should poll to save his deposit should be raised to 20 % of the votes polled and that a candidate who forfeits deposit shall be debarred from standing for a election to any statutory body from the Panchayat to the President of India for a period of six years.

MUSCLE POWER:

Another matter of grave concern to a healthy democracy is use of muscle power to distort the elections. Booth capturing, ballot box seizing, intimidation of voters, prevention of voters going to polling booths etc. should not be treated as ordinary offences but as offences against society and deterrent penalties should be imposed on such offenders. Preventive arrests of such elements should be liberally resorted to prevent such abuse and a close watch should be kept on such elements right from the start of the election process and not merely on the polling day.

DEFECTION:

Defection from a party is an affront to the electorate that had returned him. Whether one member or one - third of the members deserts the party, it is defection. Defection law shall therefore, be amended to make every defection from the party punishable with deprivation of the membership of the House. It should be further provided that a person who has been found guilty of defection shall not be eligible for admission to any political party including the original party to which he belonged. Similarly, action shall be taken for other acts like refusal to abide by the Whip and the directions of the Party.

VOTING METHOD:

In order to facilitate the polling, electronic voting system and the issue of multi - purpose identity cards may be expedited. The present use of the ballot papers is costly and cumbersome.

CONDUCT CONTROL, SUPERVISION AND DIRECTION OF ELECTIONS AND POLITICAL PARTIES:

All the above functions and those ancillaries to them should vest in the Election Commission.

The Election Commission shall be an independent body with Constitutional status and authority and means to implement its decision. In order to ensure the independence of the Election Commission, it should be appointed by the President on the recommendations of a panel nominated by the Union Government of three Members consisting of the Chief Justice of India, a Senior Retired Civil Servant and a retired non party Statesman with experience of facing elections. The unanimous decision of the Panel shall be accepted by the President. In other cases, the President without the advice of the Council of Ministers shall have the power to appoint the Election Commission. The Election Commission shall have fixed term and shall not be removable except by the same process as that applicable to removal of Judges of the Supreme Court.

The Election Commission shall have exclusive jurisdiction over the Registration, Regulation, Recognition - disciplinary action, and such other matters entrusted to it in respect of all political parties and the conduct of all stages of elections.

The decisions of the Election Commission shall be subject to revision by the High Court or the Supreme Court on the grounds only, that the Commission

- had failed to exercise jurisdiction vested in it or
- had exercised jurisdiction not vested in it or
- that there was a fundamental error of procedure which had occasioned a failure of justice.

Finally a mature electorate is the only guarantee for a real democracy. If voters will shun the criminal, the corrupt, the political grasshopper, or, will not be deceived by false promises of free food, clothing, free electricity and so on, but realize that they are electing a government for themselves and not exercising a patronage in favour of their kith and kin, their neighbour or members of their caste or religious fraternity. Many of the suggestions contained in this paper may be unnecessary. We have not taught in our schools, the responsibilities of the citizens to the State nor promoted the concept of the Indian Nation.

We have vain gloriously boasted about our unity in diversity which is an illusion. When the American Constitution was framed, there was no American Nation. There were settlers from all parts of the Globe. But they welded themselves into a Nation. There must be a national endeavor to build an Indian Nation based on equality and fraternity.