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E.MBA, LL.M, PH.D, PGDSAPM

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BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

FREE AND FAIR ELECTIONS AS THE BASIC STRUCTURE OF INDIAN POLITY: EMERGING JURISPRUDENCE OF THE ELECTION COMMISSION OF INDIA

AUTHORED BY - SAHARSHRARCHI UMA PANDEY¹
& SAHASHRICHA PANDEY²

ABSTRACT

This paper examines the structure, significance and contemporary challenges of India's electoral system, with a particular focus on the role and institutional autonomy of the Election Commission of India (ECI). Drawing on doctrinal and empirical sources, the study maps the three-tier election framework (general, state and local governments), describes the ECI's constitutional powers and administrative functions, and analyses major determinants of voting behaviour—such as caste, religion, language, money power and media influences. Using a mixed-methods approach (textual analysis of secondary sources, case-law review and policy documents), the paper highlights recurring threats to electoral integrity — electoral illiteracy, criminalisation of politics, biased bureaucracy, paid media and misinformation on digital platforms — and evaluates reforms (Model Code of Conduct, candidate disclosures, expenditure limits, VVPAT/EVM safeguards) introduced to mitigate them. The paper also synthesises recent Supreme Court jurisprudence that has shaped appointment procedures, transparency requirements and audit measures for the ECI, underscoring a continuing constitutional dialogue between judiciary, legislature and the commission. The study concludes that while India's electoral machinery remains resilient, preserving democratic legitimacy requires: (i) statutory consolidation of appointment safeguards for the ECI, (ii) strengthened, transparent audit protocols for electronic voting, and (iii) sustained civic and electoral literacy programmes to counter money- and identity-based distortions.

Keywords: Election Commission of India, electoral integrity, voting behaviour, EVM/VVPAT, judicial review.

¹ Saharshrarchi Uma Pandey, Shri Ram Jethmalani Scholar & Legal Counsel; Cited by Hon'ble Delhi High Court; Gold Medallist, B.A.LLB (Hons.), LLM (Criminal Laws), PGDADR, UGC NET, CCPDPL, Email-sahapa71@gmail.com.

² Sahashricha Pandey, B.A. (Hons.), M.A., LLB, Published Author at the UGC CARE Listed Contemporary Law Review (CLR, NLU-N), Email-sahasricha.20@gmail.com

INTRODUCTION

“A country does not become fit for democracy; it becomes fit through democracy.”³

A thriving, vibrant and energetic electoral democracy has been India’s distinct and durable identity, long before it affirmed itself as an economic, nuclear or IT major. Founded by a great Constitution, it has been nurtured by parliament, judiciary, political parties, and media but above all by the people of India, with some distinct contribution from the Election Commission of India as well. ⁴

Thus, elections are the fundamental principles of any operative representative democracy. It provides a way to the people to assert their voice, opinion, desires and will and thus, ultimately; choose the person whose priorities, ideologies and ideas matches with them the most. Therefore, it is a system of governance that depends entirely upon the pretence of “General Will” or the “Consent of the Governed” and can be termed as a democratic highway to a representative government.

In India, the concept as well as the practice of elections is not a new notion and it did prevail before independence in the dark British era as well. But before independence the franchise was quite limited and very few had the right to participate and vote. However, after independence, there was a breakthrough innovative transformation in the sense that India adopted Universal Adult Suffrage and each adult Indian got the right to vote and a right to represent his interest at a stage where it would be considered and further work could be carried on.

Moreover, Jeane Kirkpatrick, scholar and former U.S. ambassador to the United Nations has rightly said that Democratic elections are not merely symbolic; they are competitive, periodic, inclusive and are definitive in which the chief decision-makers in a government are selected by citizens who enjoy broad freedom to criticize government, to publish their criticism and to present alternatives.”⁵

Thus, the elections are of paramount importance because it keeps the voters at the zenith and then builds further. Keeping this point in his mind the researcher, tries to describe and analyze

³ Amartya Sen, Nobel Laureate in Economics.

⁴ S.Y. Quraishi, “Conducting Elections in the World’s Largest Democracy”; https://www.mea.gov.in/Portal/.../779_Election_in_India_article_-_S.Y.Quraishi__1 (visited on 24.03.2024)

⁵ <https://usa.usembassy.de/etexts/gov/democracy-elections.htm> (visited on 24.03.2024)

some of the very crucial associated issues revolving around the topic which includes the role of Election Commission, the three tier election system which includes the General, State and the Local Governments; along with the prevalent challenges faced by the election system in India and even highlights briefly the determinants of the voting behavior. The research paper is an elaborative description on the various election related matters and will be highly effective if applied.

THE SIGNIFICANCE OF ELECTIONS IN A DEMOCRACY

*Elections can be seen 'as a way of government firmly rooted in the belief that people in any society should be free to determine their own political, economic, social, and cultural systems.'*⁶

Elections are of utmost importance in any Democratic country. As we all know, democracy is defined as a government of the people, for the people and by the people.⁷ Such governments, as in the ancient city states of Greece, can be formed with the people directly participating in them. But in countries like India, China, the U.S.A., in the U.S.S.R. or in any modern state with several million people, cannot have direct democracy.

It is not only because too many cooks are sure to spoil the broth, but it is simply not possible for any government to function with all these people clamoring to be head. This is why at regular intervals the representative governments are elected on the basis of **Adult Franchise** which consists of the right to vote of all adult citizens.⁸

Elections enable voters to select leaders and to hold them **Accountable** for their performance in office. Accountability can be undermined when elected leaders do not care whether they are reelected or when; for historical or other reasons, one party or coalition is so dominant that there is effectively no choice for voters among alternative candidates, parties, or policies.⁹ Nevertheless, the possibility of controlling leaders by requiring them to submit to regular and

⁶ Anne Semamba Makinda, The first female Speaker of the National Assembly of Tanzania.

⁷ Richard A. Epstein, "Direct Democracy", *University of Chicago Law School Chicago Unbound* https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2260&context=journal_articles (visited on 05.03.24)

⁸ Victor Michael, *Why are elections important in a democracy?*, *Quora* <https://www.quora.com/Why-are-elections-important-in-a-democracy> (visited on 05.03.24)

⁹ Azeem Kiani, et al., "Functions of Election in a Democratic System", *International Research Journal of Interdisciplinary & Multidisciplinary Studies*, <http://oaji.net/articles/2016/1707-1477985433.pdf> (visited on 05.03.2024)

periodic elections helps to solve the problem of succession in leadership and thus contributes to the continuation of democracy.

Moreover, where the electoral process is competitive and forces candidates or parties to expose their records and future intentions to popular scrutiny, elections serve as forums for the discussion of public issues and facilitate the **Expression of public opinion**. Elections thus provide political education for citizens and ensure the responsiveness of democratic governments to the will of the people by setting common agendas, defining the issues, articulating alternatives and options, and engaging in competition with others on the best way forward.¹⁰ The concept of 'voice' is essential to electoral processes, together with the aggregation of each citizen's views into a common social or public choice. They also serve to Legitimize the acts of those who wield power; a public responsive government working for the well-being of people, a function that is performed to some extent even by elections that are noncompetitive.¹¹

Furthermore, elections help us generate community and feel connected to people who are like us. There is nothing more natural in human instinct and behavior than to establish ourselves as a part of some group. We endlessly identify ourselves as parts of groups we value or see as like us. We publicly signal our gender, our team loyalty, our occupation, our income status, and even our political party, to those seeking to figure out how to categorize us;

By participating in elections, we can be a part of a Community. We can participate in an event that our neighbors are participating in.¹² We can identify ourselves as part of a group that we value. Elections give us a way to be a part of something, and this is an essential part of being human.

Likewise, elections help us participate in civic culture which includes any activity that goes on in the place where you live that affects how you live. Whether you are skeptical of the civics around you and seek to change them, or you value the civics around you and want to encourage them, the institutions that make up your community are a part of your civics.

¹⁰http://themimu.info/sites/themimu.info/files/documents/Ref_Doc_The_Importance_of_Process_in_Electoral_System_Reform_IDEA_Dec2014.pdf

¹¹ <https://www.usaid.gov/what-we-do/democracy-human-rights-and-governance/supporting-free-and-fair-elections> (visited on 06.03.2024)

¹² <https://www.vox.com/mischiefs-of-faction/2018/10/30/18032808/what-good-are-elections> (visited on 06.03.2024)

Elections also hence, reinforce the stability and legitimacy of the political community. Like national holidays commemorating common experiences, elections link citizens to each other and thereby confirm the viability of the polity. As a result, elections help to facilitate Social and Political integration.¹³

Finally, elections serve a Self-Actualizing purpose by confirming the worth and dignity of individual citizens as human beings. Whatever other needs voters may have, participation in an election serves to reinforce their self-esteem and self-respect. Voting gives people an opportunity to have their say and, through expressing partisanship, to satisfy their need to feel a sense of belonging.¹⁴ Even nonvoting satisfies the need of some people to express their alienation from the political community. For precisely these reasons, the long battle for the right to vote and the demand for equality in electoral participation can be viewed as the manifestation of a profound human craving for personal fulfillment.¹⁵

Whether held under authoritarian or democratic regimes, elections have a Ritualistic aspect as well. Elections and the campaigns preceding them are dramatic events that are accompanied by rallies, banners, posters, buttons, headlines, and television coverage, all of which call attention to the importance of participation in the event.¹⁶

Candidates, political parties, and interest groups representing Diverse objectives invoke the symbols of nationalism or patriotism, reform or revolution, past glory or future promise. Whatever the peculiar national, regional, or local variations, elections are events that, by arousing emotions and channeling them toward collective symbols,¹⁷ break the monotony of daily life and emphasis their attention on the collective fate which is mutual.

ELECTION COMMISSION

Election Commission of India (ECI), a constitutionally mandated body, established in 1950 to foster the democratic process in India which “supervises, directs and controls” the election mechanism in India. Headquartered in New Delhi, It consists of three members—a

¹³ https://www.americamagazine.org/sites/default/files/main_image/thus.jpg (visited on 06.03.2024)

¹⁴ <https://www.britannica.com/topic/election-political-science/Functions-of-elections> (visited on 06.03.2024)

¹⁵ University of Minnesota, Human rights Library, <http://hrlibrary.umn.edu/gencomm/hrcom25.htm> (visited on 06.3.24)

¹⁶ Supra note 9

¹⁷ <https://www.encyclopedia.com/social-sciences-and-law/political-science-and-government/political-science-terms-and-concepts/nationalism> (visited on 06.03.2024)

chief election commissioner and two other commissioners—who are appointed by the Indian president for six-year terms and who cannot be dismissed from office except by parliamentary impeachment. The ECI, thus nearly invulnerable to political influences and scrupulously nonpartisan, is charged with conducting fair and orderly elections.¹⁸

POWERS AND FUNCTIONS OF THE ELECTION COMMISSION

There are numerous problems and issues when it comes to conducting an election in such a vast and diverse country like India. India has a diverse population of 1.252 billion which speaks 22 major languages, written in 13 different scripts, with over 720 dialects. What is even more complex to gauge is the thought process and the preference of this vast population. Conducting an election in presence of such a diverse and vast population is not a cakewalk and there are a lot of issues which pose a challenge to the peaceful political process.¹⁹ Hence, here comes in the need of having a regulator who will act as a watchdog to ensure the smooth process.

The ECI supervises, directs, and controls the entire electoral process for elections to the national parliament, state legislatures, and the offices of the national president and vice president.²⁰ It prepares, maintains, and updates the electoral roll; supervises the nomination of candidates; registers political parties and classifies them on national and state levels; and monitors election campaigns, including political fund-raising. It also facilitates media coverage, organizes polling booths, and oversees vote counting and the declaration of results.²¹

Some of the important Electoral reforms that deserve a mentioning are as follows-

MODEL CODE OF CONDUCT: EC first issued a Model Code of Conduct for political parties at the time of the fifth general elections, held in 1971. Since then, the Code has been revised from time to time and lays down guidelines as to how political parties and candidates should conduct themselves during elections.²²

A provision was made under the Code that from the time the elections are announced by the

¹⁸ <https://eci.gov.in/about/about-eci/the-functions-electoral-system-of-india-r2/> (visited on 07.3.24)

¹⁹ Tanya Sarkar, “*ROLE OF ELECTION COMMISSION OF INDIA: A CRITICAL ANALYSIS*”, INTERNATIONAL JOURNAL OF LEGAL INSIGHT, <http://www.ijli.in/assets/docs/TanyaSarkar1.pdf> (visited on 07.03.2024)

²⁰ <http://www.elections.in/election-commission/> (Visited on 07.03.2024)

²¹ <https://www.reuters.com/article/us-india-election-factbox/factbox-votes-boats-and-elephants-indias-colossal-election-by-the-numbers-idUSKCN1QP0VS> (visited on 07.3.24)

²² <https://indianexpress.com/article/explained/lok-sabha-election-dates-model-code-of-conduct-5624141/> (visited on 08.3.24)

Commission, Ministers and other authorities cannot announce any financial grant, make promises of construction of roads, and carry out any appointments in government and public undertakings which may have the effect of influencing the voters in favor of the ruling party.²³ Despite the acceptance of the Code of Conduct by political parties, cases of its violation have been on the rise. It is a general complaint that the party in power at the time of elections misuses the official machinery to further the electoral prospects of its candidates.²⁴

DISCLOSURE OF ANTECEDENTS BY CANDIDATES: In June 2002, the EC on the direction of the Supreme Court, issued an order under Article 324 that each candidate must submit an affidavit regarding the information of his/her criminal antecedents; assets (both movable and immovable) of self and those of spouses and dependents as well; and qualifications at the time of filing his/her nomination papers.

The Supreme Court made it clear that failing to furnish the relevant affidavit shall be considered as a violation of the Supreme Court's order and as such the nomination papers shall be liable to be rejected by the Returning Officer.²⁵

REGISTRATION OF POLITICAL PARTIES: The party system is an essential feature of the Parliamentary democracy. Law regarding to this registration process enacted in 1989 and number of parties got registered with Commission. It helps to avoid confusion and headache of the administrative machinery as well as confusion of the electorate. It ensures that political parties can practice democracy only by their registration.²⁶

The Commission now registers a party which has at least 100 registered electors as its members and is also charging a nominal processing fee of Rs 10,000 to cover the administrative expenses which it will have to incur on correspondence with the parties after their registration;

In order to ensure that the registered political parties practice democracy in their internal functioning, the Commission requires them to hold their organizational elections regularly in

²³<https://www.prsindia.org/hi/theprsblog/model-code-conduct-and-2014-general-elections?page=5> (visited on 08.3.2024)

²⁴ <https://www.insightsonindia.com/wp-content/uploads/2017/01/Role-of-Election-Commission.pdf> (visited on 08.3.2024)

²⁵ V.R. Jayadevan, "DISCLOSURE OF ANTECEDENTS FOR FREE AND FAIR ELECTION", Indian Law Institute

http://14.139.60.114:8080/jspui/bitstream/123456789/12649/1/027_Disclosure%20of%20Antecedents%20for%20Free%20and%20Fair%20Election_The%20Need%20to%20Widen%20the%20Basic%20Structure%20Do.pdf

²⁶ Harish Sharma, "Role of Election Commission in India", Academia

http://www.academia.edu/24047105/Role_of_Election_Commission_in_India_An_overview_of_Constitution_Philosophy (visited on 08.03.2024)

accordance with their constitutions.²⁷

CHECKING CRIMINALIZATION OF POLITICS: The Commission has urged all political parties to reach a consensus that no person with a criminal background will be given the party ticket, the candidates to an election are also obliged to submit an affidavit in a prescribed form declaring their criminal records, including convictions, charges pending and cases initiated against them, the information so furnished by the candidates is disseminated to the public, and to the print and electronic media.²⁸

LIMITS ON POLL EXPENSES: To get rid of the growing influence and vulgar show of money during elections, the EC has fixed legal limits on the amount of money which a candidate can spend during the election campaign. These limits are revised from time to time. The EC, by appointing expenditure observers keeps an eye on the individual accounts of election expenditure made by a candidate during election campaign. The contestants are also required to give details of expenditure within 30 days of the declaration of the election results. Along with this, the campaigning period is also reduced to 14 days from the earlier 21 days to facilitate the same.²⁹

ADMINISTRATIVE POWERS: The powers vested in the election commission includes- To decide the territorial areas of the electoral constituencies throughout the country on the basis of the Delimitation Commission Act of Parliament, to organize and periodically amend electoral rolls and to register all qualified voters, to inform the dates & schedules of election and to scrutinize the nomination papers, to grant recognition to political parties & allot election symbols to them, to act as a court for settling disputes related to granting of recognition to political parties and allotment of election symbol to them.³⁰

Over the years, the Election Commission has carried out a number of laudable electoral reforms to strengthen democracy and enhance the justness and fairness of elections. These reforms are quite adequate, admirable and are worth some serious appraisal. Undoubtedly, the election machinery, under the aegis of the EC, thus, deserves credit for conducting elections in a free

²⁷ Sec. 29A of the Representation of the People Act, 2451

²⁸ Report by Department of Legal Affairs, MoL&J, GoI on “*ELECTORAL PROCESSES AND POLITICAL PARTIES*”,
<http://legalaffairs.gov.in/sites/default/files/chapter%204.pdf>.

²⁹ Report No.225, Electoral Reforms, Law Commission of India,
<http://lawcommissionofindia.nic.in/reports/report255.pdf>

³⁰ Ibid, 24

and a smooth and fluent manner.

THREE-TIER ELECTION SYSTEM

India is an amalgamation of 29 states and 7 union territories which is augmented by the islands like Andaman and Nicobar and the Lakshadweep; characterized by megadiverse cultural, regional, linguistic and geographical diversities. Thus, quite evidently, such a diverse and vast country cannot be administered and ruled from a single centre. This was realised by the Britishers as well as the Indians through the experiences of The Simon Commission and The Government of The India Act in the year 1935; thus the concept of a federal system emerged that refers to a system of government based on democratic rules and institutions in which power to govern is shared between the central (or national) government and provincial government.³¹

In other words, it is a system of government where there is a division of powers among different levels of government, to ensure better governance and management over the people and the territory; and exactly how these are powers are shared are clearly demarcated in our written Constitution.

Furthermore, elections give the right to every eligible voter in the country to participate in the government formation and one ought to know how the electoral processes in the country one lives in, works.

As far as the Indian State is considered, power has been divided between the Central, State and the Provincial governments based on the concept of the division of powers and that ultimately gives arise to the concept of three tier government which is as follows-

GENERAL ELECTION

The elections for the *Loksabha* or The Lower House of the Parliament are held to elect the central government to govern the country and to look after the development, progress and welfare of the society. The elected members are popularly known as the MP's and this election is held every five years.

³¹ <https://plato.stanford.edu/entries/federalism/> (visited on 08.03.24)

Below mentioned are the various aspects of elections to the Lok Sabha:

DIRECT ELECTION: The members of Lok Sabha are elected through direct election by the people. Every citizen of the country, who is more than 18 years of age, can vote in the election irrespective of his/her social status, religion, caste, race etc. **The maximum strength** of the House envisaged by the Constitution is 552. This may include up to 530 members from the states, up to 20 members from the Union Territories. The president can nominate two members from Anglo-Indian community.³²

TERRITORIAL CONSTITUENCY: Each state is divided into territorial constituencies for the purpose of elections. One member of Lok Sabha is elected from each constituency. That means, the number of seats for the election are equal to the number of constituencies;

READJUSTMENT OF CONSTITUENCIES AFTER EACH CENSUS: After every census, there may be a need to readjust the constituencies; as the delimitation is based on population and not on area.³³

RESERVATION OF SEATS: The constitution provides for reservation of seats for Scheduled Castes (SCs) and Scheduled Tribes (STs) in the Lok Sabha. The 95th Amendment Act, 2009 extended the period of reservation for further ten years till 2020.³⁴

Indian constitution has not provided for separate electorate, which means that general electorate can also vote in a constituency reserved for SCs or STs. In addition, a member of Scheduled Castes or Scheduled Tribes can contest from general constituency.

STATE ELECTIONS

Elections to the Legislative Assembly (Vidhan Sabha) are conducted in the same way the Lok Sabha elections are carried out. The state government elections are held on the principle of the Universal Adult Suffrage to elect members of legislative assembly or the Vidhan Sabha of each state. These members are also called the MLAs and this election is organized after every five years.

³² Jayshree Bajoria, "India's Electoral Politics", Council For Foreign Relations
<https://www.cfr.org/backgrounder/indias-electoral-politics> (visited on 07.03.2024)

³³ <https://eci.gov.in/about/about-eci/the-functions-electoral-system-of-india-r2/> (visited on 07.3.24)

³⁴ <https://socialsciencegdg.files.wordpress.com/2018/08/election-and-representation.doc>

LOCAL GOVERNMENT ELECTIONS

Local government can be defined as “a sub-national level of government which has jurisdiction over a limited range of state functions, within a defined geographical area which is part of a larger territory”. Some persons prefer however, to define it as “**Decentralized** administration, democratically controlled by local communities”. The term Local Government refers to the institution, or structures, which exercises authority or carry out governmental functions at the local level. Local governance on the other hand, refers to the processes through which public choice is determined, policies formulated and decisions are made and executed at the local level, and to the roles and relationships between the various stakeholders which make up the society. It can be defined as “the exercise of political, economic and administrative authority to manage local affairs”³⁵

India has long been an advocate of “democracy at the grassroots level”, thus, elections to the rural and urban local bodies carry a great significance. The country believes in the principle of a pyramid that focusses exhaustively on its base just like the Maslow’s hierarchy of needs. The process involves developing the lower strata of our society by equipping them with proper governing tactics. Like Parliamentary and Assembly polls, the elections to Municipal Corporations, Municipalities, District Panchayats, Gram Panchayats and other local bodies follow a distinct process.

Focusing more on the **Village Panchayat** elections, it is worth mentioning here that it’s mandatory for a village having a population of 500 to have a Gram Panchayat. Its members are elected by the villagers for a period of five years. The number of members of a Gram Panchayat depends on the size of population. It generally varies from 7 to 17;

The elections of the Gram Panchayat are conducted by state election commission in alliance with the District Collector and Tehsildar. It is the Tehsildar who announces the date of election. One-third of seats in Gram Panchayat are reserved for female candidates. The day when the elected members of the panchayat meet for the first time is considered as a date of starting of the functioning of that Gram Panchayat.³⁶

³⁵ Keith L. Miller, “ADVANTAGES & DISADVANTAGES OF LOCAL GOVERNMENT DECENTRALIZATION-CARIBBEAN CONFERENCE ON LOCAL GOVERNMENT & DECENTRALIZATION”, <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.134.5990&rep=rep1&type=pdf> (visited on 09.3.24)

³⁶ Report on “Decentralization & Panchayati Raj Institutions (PRIs)” by The Planning Commission of India, <http://planningcommission.nic.in/plans/mta/mta-9702/mta-ch10.pdf>

ZILA PARISHAD ELECTIONS- The District Council or Zila Parishad is an elected body whose members are elected on the basis of adult franchise for a term of five years. It needs to have a minimum of 50 members with a maximum limit being 75. Besides the elected councillors from electoral divisions in the district, the members of the state legislature and the members of the Parliament are also the members of the Zila Parishad. Seats are also reserved for scheduled castes, scheduled tribes, backward classes and women.³⁷

Thus, Panchayats are local self-governing institutions that ensure people's participation and inculcate a sense of community planning amongst them. It provides for effective participation of people at the grass root level and makes democracy more inclusive in nature.

CHALLENGES TO ELECTIONS IN INDIA

In a democracy, elections are the process by which representatives of people are elected to power. Once elected, these representatives decide the course of development and formulate policies for same. It is therefore imperative that elections are unbiased and impartial in nature. But there are various challenges involved-

MONEY AND MUSCLE POWER - Fighting election is a costly affair as candidates spend money on promotion by organizing big political rallies, advertisements in print and electronic media etc. The limit on this expenditure is around Rs 70 lacs and Rs 28 lacs for Lok Sabha and State Legislative Assemblies respectively. It is an established fact that the expenditure on ground is way more and thus, results in creating a barrier for those who lack resources. Political parties find it preferable to give tickets to those who can fund themselves and the more deserving is robbed of opportunity.

A study by Centre for media studies estimated that in 2014 Lok Sabha elections around 30,000 cr were spent. Use of unaccounted money is prevalent in elections and this opens opportunities for vested interests to support candidates who once elected can return the favor thus, criminalization of politics. Steps are being taken by Election Commission in this regard like mandatory filing of election expenditure, flying squads etc.³⁸

³⁷ The Monthly Journal, Kurukshetra, MINISTRY OF RURAL DEVELOPMENT Vol. 62 No. 3 Pages 52 January 2014,

http://yojana.gov.in/Recent_archive_english/January-14.pdf (visited on 09.03.2024)

³⁸ Dr. Bimal Prasad Singh, "Electoral Reforms in India – Issues and Challenges", *International Journal of Humanities and Social Science Invention*, [http://www.ijhssi.org/papers/v2\(3\)/version-2/A230105.pdf](http://www.ijhssi.org/papers/v2(3)/version-2/A230105.pdf) (visited on 0.03.2024)

BIASED BUREAUCRACY - Favorable postings, post retirement job security, promotions etc. are some of the reasons which has made bureaucrats susceptible to biasness towards political ideology.³⁹ This nexus hampers the conduct of free and fair elections as their acts favor those political parties who they want to see in power. The implementation of the Model code of conduct reduces this problem to some degree but still it prevails.

CASTE, RELIGION AND CLASS DISPARITY - Although there is hardly any instance in India of a political party being totally identified with any particular caste group, yet there are cases of certain castes lending strong support to particular political parties. Thus, while political parties struggle among themselves, to win different caste groups in their favour by making offers to them, caste groups too try to pressurize parties to choose its members for candidature in elections, If the caste group is dominant and the political party ,is an important one, this interaction is all the more prominent. Promoting interests of one's own community is not wrong and may help in balancing the disparities in social structure. But when candidates canvass for votes by channeling hatred towards the other, this makes the election unfair as some social groupings own disproportionate amount of wealth to back their candidates⁴⁰

FAKE NEWS AND PAID MEDIA - With advent of social media everyone has a social presence and can be the consumer and producer of content at the same time by reading and sharing. Unauthenticated content on these channels may influence public opinion and can pose a challenge to fair elections;

Paying media houses which show political advertisements as genuine news items is also an issue having potential to tip the scale of balance in elections. ECI needs to be more vigilant to prevent this.⁴¹

ELECTORAL ILLITERACY - Illiteracy among voters hinders their ability to properly research about the candidates they are voting for. Other side to this is the lack of interest among

³⁹ Anchal Kumar, "What are the challenges to free and fair elections?", *Quora*
<https://www.quora.com/What-are-the-challenges-to-free-and-fair-elections> (visited on 05.3.24)

⁴⁰ Report by R.K. Trivedi on " *Electoral Reforms; Standards in Political Life*", *Department of Legal Affairs, MoL&J, GoI*
(visited on 09.03.24)
<http://legalaffairs.gov.in/sites/default/files/%28VI%29Review%20of%20the%20Working%20of%20Political%20Parties%20specially%20in%20relation%20to%20Elections%20and%20Reform%20Options.pdf>

⁴¹ Ankita Rai, "Digital media: Social media and fake news", *Financial Express*
<https://www.financialexpress.com/industry/technology/digital-media-social-media-and-fake-news/1300402/>
(visited on 05.03.24)

educated voters who do not take their right seriously.

The poor villagers in India who constitute the majority of the electorate are often found quite apathetic towards the sophisticated election process and they do not have the education to distinguish one from the other. Hence, the representatives, once elected, work only for self-aggrandizement and are contented only to enjoy the fruits of power for five years, doing nothing for the poor electors. When they are back again at the hustling they cajole and coax the voters with new sets of promises, or simply buy their votes with enormous money-power at their disposal.⁴² The voters, in the process, lose all their interest in the elections and they either abstain from voting or cast their votes only as a matter of ritual. Such elections are not in the finest traditions of democracy, nor does the power of such democracies emanate from the people. The people cannot always help participating in these elections, but their votes do not quite represent their choice.⁴³ So the elected governments, instead of conforming to the democratic norms and values, are often found to become authoritarian and autocratic, developing a sort of cynical disregard for people's aspirations.

Election commission has taken steps towards correcting electoral rolls and promoting electoral practices.

To conclude, there are challenges towards free and fair elections but still we have a vibrant democracy where transition of power is peaceful. Election Commission of India needs to be applauded for their efforts in conducting this mammoth exercise with zeal and continuous improvement.

DETERMINANTS OF VOTING BEHAVIOUR

Voting' is one of the most commonly used terms in contemporary age of democratic politics. The ever increasing popularity of democratic theory and practice has even made this term a household name.

In democratic system, each adult citizen uses 'voting' as a means of expressing his approval or disapproval of government decisions, policies and programmes, the policies and programmes of various political parties and qualities of candidate who are engaged in struggle to get the status of being the representatives of people.⁴⁴

⁴² <https://www.importantindia.com/10594/what-is-the-importance-of-elections-in-democracy/> (visited on 05.03.24)

⁴³ Anil Padmanabhan, "The urban voter apathy myth", *Livemint* <https://www.livemint.com/Opinion/ZlzF0JXpnrGRRyd5c4XrGM/The-urban-voter-apathy-myth.html/> (visited on 05.03.24)

⁴⁴ <https://www.government.nl/topics/democracy/the-purpose-of-political-parties> (visited on 06.03.24)

The behaviour of the same voter is influenced by several factors such as religion, caste, community, language, money, policy or ideology, purpose of the polls, extent of franchise, political wave etc. The political parties and groups make use of these variables for the sake of winning the battle of the ballot box. Despite making their professions for enlightened secularism, politicians can be found making appeals to the religious and communal sentiments of the people; they can also be found involved in exploiting the factors of language or money to achieve the purpose of emerging successful in the war of votes. Appeals are issued and canvassing campaigns conducted in the name of a particular policy or ideology for the same purpose. The interest of the voters and accordingly their behaviour at the time of voting is also influenced by the nature or purpose of the elections or the extent of the suffrage. The force of **Charisma** has its own part to play whereby the voters are influenced by a slogan like “Garibi Hatao”, or A vote for a pair of bullocks is vote for “Panditji and progress”, or “Indira means India, India means Indira”, or “Indira means Dictatorship”, “My heart beats for India” versus “Rajiv means Bofors” and the like.⁴⁵The role of all these factors can be examined in the study of Indian electoral behaviour. There are several factors responsible for voting Behaviour in India that ultimately reflects the voter’s choices, preferences, ideologies, concerns, alternatives etc. and this paper high lightens some determinants of Indian voters. In India following main political and socio-economic factors which act as determinates of voting behaviours in our Democratic system-

CASTE

Caste has deep roots in the Indian society. Caste occupies distinct position in moulding the voting behaviour in India and this happens in spite of the adoption of several provisions which prohibits discrimination on the basis of caste. The political parties in India formulate their policies and election strategies always keeping in mind the caste factor. Even the candidates are selected keeping the caste factor in mind. Election campaigns are made in such a way that it makes the voters to feel their respective caste identities. For instance, the slogans like Jat Ka Vot Jat Ko etc. are made to please the voters on to vote for the candidates belonging to their caste. The recent Jat stir and agitation of Patel community of Gujarat⁴⁶ testifies how deep seated

⁴⁵ Biraj Hazarika,” *Voting Behaviour in India and Its Determinants*”, IOSR Journal Of Humanities And Social Science,

<http://www.iosrjournals.org/iosr-jhss/papers/Vol20-issue10/Version-4/E0201042225.pdf> (visited on 06.03.24)

⁴⁶ Zahida Akhter and Younis Ah. Sheikh, “*Determinants of Voting Behaviour in India: Theoretical Perspective*”, *Public Policy and Administration Research*, <https://pdfs.semanticscholar.org/e55e/ed94591dc53075fcc8ba0f2c05efb4014af4.pdf>

are the feelings of people towards their caste and their groupings on the basis of caste. However, it must be stated that the role of caste as determinant of the voting behaviour has been undergoing a change, at least in the urban areas. Issue –based- political struggle is gradually taking its shape in the Indian polity. But the situation continues to be contradictory.

RELIGION

The establishment of a secular state in India by guaranteeing the right to freedom of religion to everyone, treating every religion as equal and non-recognition of any religion as a state religion has not been successful in preventing the role of the religion as a determinant of political behaviour in general and voting behaviour in particular. The existence of such political parties and non-political groups as stand linked with a particular religion, for example, the Muslim League, the Akali Dal, the Hindu Maha Sabha, the Shiv Sena etc. has been one of the reasons behind the continued role of religion as a determinant of voting behaviour.⁴⁷

Religious pluralism of the Indian society is a major characteristic of the environment of the Indian political system and it greatly influences the struggle for power among political parties. The selection of candidates is done with an eye upon the presence of a religious majority in a particular constituency.

LANGUAGE

India is a multi-lingual state. Linguism also serves as a factor in voting behaviour. The organization of states on linguistic basis fully reflects the importance of language as a factor of politics in India. There have been problems in states like that of status of one particular language in that state, or relating to the quality of the status of a language of a state.⁴⁸ Since people have emotional attachment with their languages, they easily get influenced whenever there comes up any issue relating to language. Linguistic interests always influence voting behaviour.

MONEY POWER

Voters are sometimes lured by political parties by offering cash for vote and providing services like digging wells, constructing tanks, roads, libraries etc. So, the people tend to vote to the

⁴⁷ K. Saravana Rajasena and A. Thanikodi, “Key Determinant of Voting Behaviour in Tamil Nadu Electoral Politics, Asian Review of Social Sciences, <http://www.trp.org.in/wp-content/uploads/2016/12/ARSS-Vol.5-No.2-July-Dec-2016-pp.38-43.pdf> (visited on 07.03.24)

⁴⁸ Supra Note 37

political party which offers cash or service. Poor people also expect money from the candidates at the time of elections. They lack the wisdom of analysing the outcomes of their action and vote if their immediate problems are addressed.⁴⁹

The heavy expenditure that is incurred by the political parties in their campaigning and advertisement put a very mammoth burden on the Exchequer and persuades the poor and the illiterate citizens of our country as well.

Money power in elections is rampant in South India especially in the states of Andhra Pradesh and Tamil Nadu.

IDEOLOGY OF THE POLITICAL PARTIES

The ideology and political agenda of political parties are kept in mind by the voters. People tend to vote to political parties which pledge to solve their issues and have agenda which falls in line with their own expectations and ideologies. People even decide to vote for a particular party without analysing the ability of the candidate. The enthusiasm and competition among candidates to get party tickets for contesting shows the prominence of political parties in determining the voting behaviour in India.⁵⁰

PERSONALITY OF THE CANDIDATES AND THEIR ORIENTATION

In addition to the party, the strong and charismatic personality of the candidates and their orientation towards various issues and ideologies are also taken in to account by the voters. It is a well-known fact that many independent candidates also win the elections by defeating candidates belonging to the major parties by their ability to gather people's support by displaying maturity and clarity of political views.⁵¹

AGE AND GENDER OF THE CANDIDATES

The voters tend to vote for comparatively mature candidates rather than very old and young candidates. The very old candidates are considered to be weak and inefficient and the young

⁴⁹ Meena Rathaur, "ELECTIONS AND VOTING BEHAVIOUR: CHANGING DIMENSIONS IN INDIA", 5th International Conference on Education, Social Sciences and Humanities, 2-4 July 2018- Dubai, U.A.E., http://www.ocrints.org/socioint18_e-publication/abstracts/papers/111.pdf (visited on 07.3.24)

⁵⁰ <https://www.gktoday.in/gk/determinants-of-voting-behavior-in-india/> (visited on 07.03.2024)

⁵¹ Gian Vittorio Caprara, et al. "Personality and Politics: Values, Traits, and Political Choice", Political Psychology, Vol. 27, No. 1, 2006, <https://pdfs.semanticscholar.org/ae62/fd705d022e52cad486b00284f389cbd07299.pdf>

candidates are perceived to be immature.⁵² Voters also tend to have bias and often prefer to vote for men than women candidates. Many still hold the view that politics are not suitable for women.⁵³

ELECTION CAMPAIGNS

Political parties work vigorously in campaigning as this is their base for influencing the voters. All political parties thrive hard to gain the votes and win maximum seats for forming the government.⁵⁴ They organize all sorts of meetings - either addressing a very big mass or going to street by street. Hand bills distribution and processions also takes place simultaneously. They also try to gain the support of film actors to give a speech in their favour and to influence the actor's fans to vote them. Bigger parties also give advertisements in TV/Radio/Newspaper for propaganda.⁵⁵ Election manifesto plays an important role in election campaigning. Election manifestos bear the information which tries to influence the voters that this political party and the candidate are the right solution for the citizens and nations development⁵⁶

RECENT CHANGES IN THE DETERMINANTS OF VOTING BEHAVIOUR

Even though, the above traditional determinants continue to shape the voting behaviour of voters, there are some more determinants of contemporary relevance which plays a crucial role in determining the voting behaviour.

Today, the news and information which are available through traditional and social media also plays a critical role in influencing our voting decisions.⁵⁷ News channels are full of heated debates that arouse emotions and throw more insight in to the issues, which in turn changes the perceptions of the voters.⁵⁸ Also, social media plays a very important role in disseminating

⁵² <https://www.aarp.org/politics-society/government-elections/info-2018/power-role-older-voters.html> (visited on 08.03.24)

⁵³ Supra note 42

⁵⁴ Tom Jacobs, "*POLITICAL CAMPAIGNS PERSUADE FEW—IF ANY—VOTERS*", Pacific Standard <https://psmag.com/news/political-campaigns-persuade-few-voters> (visited on 07.03.2024)

⁵⁵ Meena Rathaur, "*ELECTIONS AND VOTING BEHAVIOUR: CHANGING DIMENSIONS IN INDIA*", 5th International Conference on Education, Social Sciences and Humanities, 2-4 July 2018- Dubai, U.A.E., http://www.ocerints.org/socioint18_e-publication/abstracts/papers/111.pdf (visited on 07.3.24)

⁵⁶ Prakhar Misra and Kadambari Shah, "*A new vision for election manifestos*", *Livemint* <https://www.livemint.com/Opinion/Xh9PUziIwC77ctV8qnpeeK/Opinion--A-new-vision-for-election-manifestos.html> (visited on 09.3.24)

⁵⁷ Rajeev Sharma, "*New Election tools in New Age India*", Ministry of External Affairs, GOI <https://www.mea.gov.in/in-focus-article.htm?23225/New+Election+tools+in+New+Age+India>

⁵⁸ Rishi Rais, "*Indian Elections And The Impact Of Social Media*", Dignitas Digital

information among the masses. All the political parties already have started their full-fledged campaigns through social media platform especially to woo the youth and urban voters as opposed to the traditional way of election campaigning.⁵⁹ This era belongs to the social media, but the main problem is that when masses are swayed by the sheer power of rhetoric and biased media reports which are indiscriminately circulated in social media, it sometimes has the potential to determine the fortunes of the electoral candidates.

Thus, elections occupy a prominent place in the democratic government and are a means through which people express and enforce their political opinion and regulate political organization of the society.

However the behaviour of a voter is influenced by several factors such as religion, caste, community, language, money, policy or ideology, purpose of the polls, extent of franchise and the like. Political parties and groups make use of these variables for the sake of winning the 'battle of the votes'.

It is here forth, imperative that the use of these determinants should be avoided and elections should be conducted in a very free and fair manner.

It also depends upon whether the system allows freedom of thought, expression and association to the people. Mere presence of an electoral system does not make a political system democratic. The will of people is expressed through voting in elections and therefore, all undemocratic and unfair means must be avoided.

CONTEMPORARY DEVELOPMENTS: SUPREME COURT JURISPRUDENCE

1. ANOOP BARANWAL V. UNION OF INDIA, (2023) 6 SCC 1⁶⁰

In this landmark Constitution Bench decision, the Supreme Court addressed the procedure for appointing the Chief Election Commissioner (CEC) and other Election Commissioners under Article 324 of the Constitution. Until this judgment, appointments were made by the President on the advice of the Union Council of Ministers, which raised serious concerns regarding executive dominance over the Election Commission of India (ECI).

The Court held that, in the absence of a parliamentary law, appointments to the ECI must be made by the President on the recommendation of a selection committee consisting of the Prime

<https://www.dignitasdigital.com/blog/indian-elections-and-the-impact-of-social-media/> (visited on 06.3.24)

⁵⁹ <https://economictimes.indiatimes.com/news/politics-and-nation/parties-bet-big-on-social-media-data-analytics-for-2024-poll-campaign/articleshow/65827832.cms> (visited on 07.03.24)

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Minister, the Leader of Opposition (or the leader of the largest opposition party in the Lok Sabha), and the Chief Justice of India. This interim mechanism would operate until Parliament enacted legislation.

The reasoning of the Court rested on the constitutional mandate that free and fair elections are part of the “basic structure” of the Constitution, and therefore the independence of the ECI is non-negotiable. The Bench emphasized that leaving the appointments entirely to the executive creates a structural vulnerability, undermining both institutional autonomy and public trust in electoral processes.

The judgment has far-reaching implications: it established a transparent and collegial process for appointments, reaffirmed judicial commitment to insulating democratic institutions, and placed the onus on Parliament to enact a law consistent with constitutional principles.

Opinion: The Court acted prudently by filling a constitutional vacuum with a stop-gap mechanism. While some critics argue that the judiciary ventured into legislative terrain, the Bench balanced necessity with restraint. The durability of this reform now depends on Parliament’s willingness to codify a genuinely independent statutory mechanism.

2. DR. JAYA THAKUR V. UNION OF INDIA, W.P. (C) NO. 14 OF 2024 (PENDING)⁶¹

Following Anoop Baranwal, Parliament enacted the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023. This law replaced the Chief Justice of India in the selection committee with a Union Minister, thereby restoring executive dominance in appointments.

Petitioner Dr. Jaya Thakur challenged the Act before the Supreme Court, arguing that it diluted the independence of the ECI and contravened the principles laid down in Anoop Baranwal. Interim orders were passed in March 2024, where the Court declined to stay the functioning of the law but recorded that the issues raised touch upon the very independence of the ECI. The petitions remain pending as of 2025, with the Court expected to decide on the constitutional validity of the 2023 Act.

The case highlights the tension between parliamentary supremacy in law-making and the judiciary’s responsibility to safeguard constitutional guarantees of institutional independence. The eventual ruling will determine whether Parliament’s legislative response can override the judicially-crafted safeguards established in Anoop Baranwal.

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Opinion: This case is a constitutional stress-test. While Parliament's prerogative to legislate is unquestionable, legislation must not undermine free and fair elections, which are part of the Constitution's basic structure. Replacing the Chief Justice with a Union Minister risks real or perceived capture of the ECI. The Court's forthcoming decision will shape the contours of institutional independence for decades.

3. ASSOCIATION FOR DEMOCRATIC REFORMS V. ELECTION COMMISSION OF INDIA, W.P. (C) NO. 434 OF 2023 (JUDGMENT DATED 26 APRIL 2024)⁶²

In this public-interest litigation, petitioners sought the return to ballot papers or 100% verification of Voter Verifiable Paper Audit Trail (VVPAT) slips, citing distrust in Electronic Voting Machines (EVMs). The Supreme Court rejected the demand to revert to ballot papers, affirming that EVMs were constitutionally permissible and administratively efficient. However, the Court ordered an increase in VVPAT verification: instead of one machine per Assembly segment, now five machines per Assembly constituency/segment must be randomly verified.

The Court emphasized that while the ECI retains domain expertise, it must implement processes that enhance public confidence. The judgment represents a calibrated approach — retaining the benefits of technology while mandating greater transparency and auditability.

For the ECI, the ruling necessitated procedural changes: expanded verification protocols, documentation of VVPAT audits, and clearer standard operating procedures. The Court stopped short of ordering radical change but placed responsibility on the Commission to build confidence through openness.

Opinion: The Court struck the right balance between practicality and integrity. Mandating wider VVPAT verification is a sensible middle path that safeguards confidence without paralysing the electoral process. Going forward, the ECI must institutionalize transparent audits and publish compliance reports, ensuring the remedy becomes an operational reality rather than a symbolic assurance.

4. SUBRAMANIAN SWAMY V. ELECTION COMMISSION OF INDIA, (2023) 9 SCC 678⁶³

Although arising from narrower issues of disclosure and audit, this judgment reaffirmed that free and fair elections form part of the basic structure of the Constitution. The Court reiterated

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the ECI's duty to guarantee transparency and to protect the voter's right to information.

The decision stressed that electoral legitimacy depends not only on actual fairness but also on the perception of fairness. The Court underscored that both institutional independence and procedural openness are essential to ensure that democratic processes inspire confidence among citizens.

Opinion: The ruling is less radical than Anoop Baranwal or the ADR case, but its emphasis on the perception of fairness is critical in an age of electoral distrust. Transparency is not merely a procedural ideal; it is a constitutional necessity. The judgment rightly re-centered the ECI's duty as a guardian of trust, not just as an administrator of technical processes.

Together, these judgments represent a significant constitutional dialogue between the judiciary, the legislature, and the Election Commission. Anoop Baranwal filled a constitutional vacuum; Dr. Jaya Thakur challenges Parliament's legislative response; ADR v. ECI rebalanced technology and trust; and Subramanian Swamy reaffirmed the principles of transparency. Collectively, they underline that the independence of the Election Commission is central to preserving India's democratic fabric.

CONCLUSION

“Seeing an electoral process as a process and not an event can help to prevent fraud, manipulation and violence”⁶⁴

In a mature democracy, elections are contested on issues of national importance and challenges that people face on a daily basis, underpinned by the requirements to ensure the economic stability and prosperity of the nation.

In Indian context, both these factors are only of peripheral interest and the elections are almost always contested on narrow and sectarian issues. Although political awareness is improving in India, the middle class remains strangely apathetic to the electoral process, not considering voting as a priority civic duty. There is a visible trend towards cynicism regarding the political process, with a thought that nothing will change. Since the middle class also form the most educated segment of society, this attitude can completely distort the election results and create far-reaching impact on the political process. But on the positive side of the equation various studies show that the voting behaviour of the people has undergone a tremendous change.⁶⁵ It

⁶⁴ Timothy D. Sisk is Professor of International and Comparative Politics at the Josef Korbel School of International Studies at the University of Denver.

⁶⁵ Sanu Kainikara, "Changing Face Of Democracy In India – Analysis", *Developmentnews*

is observed: Given the level of literacy in India, political consciousness is remarkably high. Since independence, levels of political awareness and participation have risen among all segments of the population. Political awareness is increasing even among the rural poor and illiterate populations.

Though majority of Indian voters are found to be illiterate and ignorant, they are politically more alert than the educated persons. They play an active role in voting. It has also been observed that during the preceding decade the political participation of young people and women has increased by a remarkable figure. As a result a clear difference could be seen between the past elections and the 2014 Lok Sabha Election where there was a societal behaviour shift. The graph took a deep shift from traditional community boundaries like religion and caste, to the more transparent factors such as economic status and geolocation.⁶⁶ It is therefore imperative that the use of such determinants like, caste, religion, community, money etc. should be avoided and elections should be conducted in a very free and fair manner.

Though the Election Commission of India is working hard over the years and has conducted a number of laudable electoral reforms to strengthen democracy and improve the fairness of elections. But it is not such easy task as sincere and genuine efforts are required by all side, especially the political parties.

Henceforth, India needs to establish an egalitarian democracy. This can only be achieved if the socio-economic challenges to the nation can be addressed and ameliorated—a tall order in an internally divided nation that does not as yet subscribe to the notion of a national identity. The journey is bound to be long and hard.⁶⁷

Concluding with a fact that it is because of the citizen's faith in the democratic processes, interest in elections and active participation in voting, India continues to be the largest democracy in the world with 70 years of glorious history.

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⁶⁶ MILAN VAISHNAV," *Understanding the Indian Voter*", <https://carnegieendowment.org/2015/06/23/understanding-indian-voter-pub-60416> (visited on 10.03.24)

⁶⁷ <https://www.eurasiareview.com/30052017-changing-face-of-democracy-in-india-analysis/> (visited on 10.03.2024)

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