Electoral Justice in India: Institutional Challenges and the Quest for Free and Fair Elections

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ARTICLE DETAILS	ABSTRACT
Research Paper **Accepted:** 23-08-2025 **Published:** 10-09-2025 **Keywords:**	Free and fair elections are the backbone of any representative democracy, ensuring not only the formal mechanism for political change but also the substantive realization of political justice. In India, where elections involve over 950 million voters across vast and diverse social contexts, the complexity of administering clean elections is formidable. While the Constitution and institutions such as the Election Commission of India (ECI) provide the framework for democratic conduct, this framework is frequently undermined by electoral malpractice, identity politics, misinformation, money and muscle power, and institutional limitations. This paper explores the evolution and contemporary challenges to electoral democracy in India, evaluates the performance of the ECI and judiciary, and recommends reforms to uphold political justice and deepen democratic legitimacy. In examining both the historical and the contemporary, the paper argues for the urgent need to re-imagine institutional integrity and citizen participation in safeguarding Indian democracy.

Introduction

Political justice, as one of the core ideals in the Preamble to the Constitution of India, represents the right of every citizen to participate equally and effectively in the political process. Free and fair elections are the primary mechanism through which this ideal is operationalized. They provide a non- violent avenue

for political competition and the peaceful transfer of power. In India's postcolonial democratic experiment, elections have functioned as a vital instrument of political expression and legitimacy. However, the complexity and scale of the Indian electorate also present inherent vulnerabilities. Over the past seven decades, the country has witnessed several phases of electoral transition—from the hegemonic rule of the Congress Party to the rise of regionalism and coalition politics, and more recently, the emergence of strong central leadership and the digitization of campaigns.

In each of these phases, the nature and quality of elections have been subjected to varying forms of manipulation and malpractice. Electoral integrity is routinely threatened by the criminalization of politics, disproportionate campaign financing, misuse of state machinery, disinformation, and targeted voter suppression. The gap between constitutional principles and electoral reality often results in disillusionment and democratic fatigue. Therefore, this paper seeks to examine the multidimensional nature of electoral justice in India by addressing structural, legal, and institutional challenges and by recommending pathways for reform grounded in democratic norms and constitutional values.

Constitutional and Legal Framework for Elections

The legal foundation for India's electoral democracy is robust and multifaceted. Article 324 of the Constitution empowers the Election Commission of India to conduct elections to the Parliament, State Legislatures, and offices of the President and Vice-President. Complementary laws, including the Representation of the People Act (1950 and 1951), outline procedures for electoral rolls, the qualification and disqualification of candidates, the conduct of elections, and the resolution of disputes.

The legislative framework is supplemented by statutory rules such as the Conduct of Election Rules (1961), the Registration of Electors Rules (1960), and more recent reforms like the introduction of Voter Verified Paper Audit Trail (VVPAT) systems alongside Electronic Voting Machines (EVMs). Constitutional amendments, such as the 61st Amendment which lowered the voting age from 21 to 18, have expanded political participation. However, even a strong legal structure cannot, by itself, guarantee the fairness of elections unless institutions enforce these provisions with independence and integrity.

The judiciary has historically played a critical role in interpreting and strengthening electoral law. In the landmark case of *Indira Nehru Gandhi v. Raj Narain* (1975), the Supreme Court held that free and fair elections were part of the "basic structure" of the Constitution, thereby making electoral integrity a non-negotiable democratic principle. In subsequent rulings like *Union of India v. ADR* (2002) and *PUCL v. Union of India* (2003), the Court mandated the disclosure of criminal and financial records by candidates.

These rulings were crucial in reinforcing the voter's right to information as a prerequisite for meaningful democratic choice.

Historical Evolution of Electoral Democracy in India

India's first general election in 1951–52 marked a historic achievement in the global history of democracy. Conducted under the leadership of Sukumar Sen, the Chief Election Commissioner, the election involved over 170 million voters, most of whom were illiterate, and required massive logistical innovation. The electoral process was marked by fairness, credibility, and citizen enthusiasm, setting a global precedent.

However, the decades that followed were not devoid of challenges. The 1960s and 1970s saw a rise in electoral violence, booth capturing, and state- sponsored coercion. The imposition of Emergency from 1975 to 1977 marked a sharp deviation from democratic norms, with elections suspended and opposition leaders arrested. It was during this period that the public began to demand greater accountability and institutional integrity in electoral administration.

The post-Emergency phase saw the reassertion of the Election Commission, especially under T.N. Seshan's leadership in the 1990s. Seshan's tenure marked a pivotal transformation: strict enforcement of the Model Code of Conduct, restrictions on government publicity during elections, mandatory voter ID cards, and regulation of campaign expenditure brought the electoral process under greater scrutiny. While many of these reforms were met with resistance from political parties, they laid the groundwork for modern electoral governance in India.

Contemporary Challenges to Electoral Justice

Despite significant institutional development, the Indian electoral process remains fraught with enduring and emerging challenges. Among the most significant is the criminalization of politics. According to the Association for Democratic Reforms, in the 2019 Lok Sabha elections, 43% of elected MPs had declared criminal cases, with nearly 29% involving serious offences. The selection of such candidates by political parties reflects a dangerous nexus between electoral viability and criminal networks.

Financial opacity is another major issue. Although India has imposed legal limits on election spending by individual candidates, political parties remain largely unregulated in terms of fundraising and expenditure. The introduction of electoral bonds in 2017 was framed as a transparency-enhancing reform,

but in practice, it has enabled anonymous and disproportionate donations to ruling parties, creating asymmetry in political competition and weakening public trust.

The rise of digital technologies has introduced new dimensions of electoral manipulation. Social media platforms are used for micro-targeted political advertisements, spread of fake news, and organized disinformation campaigns. Deepfakes, AI-generated propaganda, and WhatsApp forwards have become new tools of political warfare, often amplifying communal narratives and polarizing electorates. Regulatory mechanisms have not kept pace with these developments, leaving voters vulnerable to manipulation.

Voter suppression, especially among vulnerable groups like internal migrants, transgender individuals, and the homeless, remains a persistent issue. Complex bureaucratic procedures for registration, lack of awareness, and logistical barriers lead to disenfranchisement. The idea of "one person, one vote" is thus undermined by systemic exclusion. While the Election Commission has piloted options like remote voting for migrants, these are yet to be institutionalized on a national scale.

Furthermore, identity-based electoral politics continues to erode democratic discourse. Elections in many states are fought along lines of caste, religion, and ethnicity. Political actors frequently use hate speech and majoritarian rhetoric to galvanize support. Although the Supreme Court has condemned such practices under Section 123 of the Representation of the People Act, implementation remains selective and weak.

Institutional Performance: The Election Commission of India

The Election Commission of India remains the primary institution tasked with ensuring free and fair elections. It has evolved into a multi-member body and has institutionalized mechanisms for voter education, campaign regulation, and grievance redressal. The use of EVMs and VVPATs, real-time monitoring tools like the cVigil app, and a nationwide network of electoral observers testify to its operational sophistication.

However, questions about the ECI's autonomy and impartiality have increased in recent years. Critics argue that the executive's unilateral power to appoint Election Commissioners compromises institutional neutrality. This concern was heightened during the 2019 and 2024 general elections, where the ECI was accused of selective application of the Model Code of Conduct and delayed action against ruling party leaders for communal or inflammatory speech.

Several policy experts and former Chief Election Commissioners have recommended a collegium-style system for appointments, involving the Chief Justice of India and the Leader of the Opposition. This would align the ECI with other constitutional bodies like the Election Tribunals and ensure non-partisanship. Additionally, the ECI's enforcement capabilities must be legally bolstered, including the authority to disqualify candidates for repeated violations of electoral laws and MCC.

Judiciary and Electoral Oversight

The Indian judiciary has consistently contributed to the safeguarding of electoral democracy. Beyond the ADR and PUCL rulings, the Court has tackled issues such as criminal antecedents, candidate disqualification, and electoral ethics. In *Public Interest Foundation v. Union of India* (2019), the Court required political parties to publish reasons for fielding candidates with criminal records, thereby increasing accountability. Another key intervention was the upholding of the NOTA option in *People's Union for Civil Liberties v. Union of India*, which gave citizens a right to reject all candidates. However, this reform remains symbolic as NOTA votes do not affect the electoral outcome. Judicial delays also remain a critical issue. Election-related petitions often remain unresolved for years, allowing those involved to complete their tenures without consequence.

In light of these challenges, there is a strong case for establishing fast-track courts or special benches to adjudicate electoral disputes swiftly. Courts must also take a more proactive stance in interpreting electoral laws to enhance voter empowerment and reduce candidate impunity.

Comparative Perspectives

A brief comparison with other democracies offers insight into alternative approaches. In **South Africa**, the Independent Electoral Commission operates with full financial and operational autonomy, backed by strong anti- discrimination laws. **The United States**, despite lacking a central electoral body, relies on a robust civil society and judicial intervention to challenge gerrymandering and voter suppression.

In both cases, **voter education and legal safeguards** play a key role. India could benefit from adopting best practices such as permanent multi-stakeholder electoral audit bodies, civic education in schools, and stronger regulation of campaign finance.

Recommendations for Reform

To strengthen electoral democracy and deliver political justice, India must adopt an integrated reform strategy. Firstly, the appointment of Election Commissioners should be made through a transparent and bipartisan process involving the Chief Justice, the Prime Minister, and the Leader of Opposition. The MCC must be given statutory backing to ensure enforceable sanctions.

Secondly, campaign finance needs urgent overhaul. Political parties must disclose all contributions above a defined threshold, and electoral bonds should be phased out or restructured to ensure transparency. State funding of recognized political parties may be considered to reduce dependence on corporate donations.

Thirdly, reforms must focus on voter inclusion. The ECI must implement nationwide voter registration drives with the help of grassroots organizations, adopt simplified ID verification systems, and institutionalize mechanisms for remote voting. Special efforts must be made to enfranchise internal migrants, the disabled, and marginalized communities.

Fourthly, the use of technology must be regulated. A legal framework for the regulation of political content on digital platforms is necessary to combat disinformation and hate speech. Collaboration between the ECI, social media companies, and independent fact-checking agencies can help preserve the integrity of the electoral discourse.

Lastly, public funding for civic education programs should be expanded. Schools, universities, and media outlets must engage citizens in understanding the significance of voting, political ethics, and electoral rights. Only through an informed electorate can electoral justice become a lived democratic experience.

Conclusion

The future of India's democracy hinges on the credibility of its electoral process. While the constitutional and institutional framework is broadly sound, persistent challenges related to criminalization, disinformation, exclusion, and institutional bias threaten the legitimacy of elections. Political justice cannot be achieved solely through laws and institutions; it requires an active citizenry, responsible political leadership, and vigilant civil society.

As India marches forward, it must deepen its democratic roots not just in terms of electoral frequency but in terms of fairness, equality, and inclusiveness. Strengthening the Election Commission, reforming

electoral finance, enhancing judicial oversight, and empowering voters through education are essential to realizing the vision of a participatory, just, and accountable democracy. The promise of political justice, embedded in India's constitutional ethos, must be translated from principle into practice—every election, every vote, every time.

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