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ELECTORAL DEVIANCES IN INDIA: A STUDY.

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ABSTRACT:

Deviance in Indian elections encompasses a wide array of challenges, including voter fraud, electoral violence, vote-buying, and the manipulation of electoral boundaries. Additionally, the use of divisive identity politics, misinformation campaigns, and the influence of money in politics further exacerbate these issues. The consequences of election-related deviance in India are profound. It erodes public trust in the electoral system, perpetuates corruption, and undermines the credibility of elected representatives. This paper will discuss the potential for social and communal tensions that can arise from deviant practices, threatening the harmony of a diverse nation like India. To address deviance in the Indian election process, this paper will highlight the importance of electoral reforms, including electoral finance transparency, stricter enforcement of election laws, and improvements in voter education. Furthermore, it emphasizes the role of civil society organizations, independent media, and the Election Commission of India in safeguarding the electoral process. This abstract shed light on the various facets of deviance in the Indian election process, exploring the factors contributing to these issues and potential solutions.

Keywords: - Election, deviance, corruption & Election Commission.

I. Introduction

India, as the world's largest democracy, grapples with a range of deviant practices in its election process that pose significant challenges to the integrity of its democratic institutions. Election is one of the important prospects for democracy as through elections representation is being

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chosen by the people. These representatives become people's representatives in the House of People and in State Legislative assembly. Deviance within the election process represents a critical concern in contemporary democracies worldwide.

Electoral deviance encompasses a wide spectrum of irregularities and misconduct that can erode the foundations of democratic governance. These deviations can range from traditional acts of voter suppression, electoral fraud, and gerrymandering, to more contemporary challenges like misinformation campaigns, cyberattacks on voting infrastructure, and the influence of dark money in politics. There are factors that drive such deviant behaviors, including political polarization, the pursuit of power, and technological advancements. The consequences of electoral deviance are far-reaching. It undermines public trust in the electoral process, threatens the legitimacy of elected representatives, and weakens the social fabric of society. The impact of electoral deviance is on the integrity of democratic institutions, as well as its implications for political stability and social cohesion.³ To address deviance in the election process, the importance of comprehensive reform efforts, including enhanced cybersecurity measures, campaign finance transparency, and electoral system redesign. Moreover, it underscores the role of civic education and media literacy in empowering citizens to discern and counteract deviant tactics.

II. Types of Deviance in Electoral Process

1. Electoral Rolls and Voter ID

When there is a talk of election the beginning of election done through the preparation of electoral rolls. It is also a well-known establish reality that electoral rolls in India have large scale errors in them. The Goswami Committee acknowledges it and also stated rather tactfully that there were acts of "*omissions and commission*" on the part of the officials in addition to the flaws in the system itself.⁴

Regular updation of electoral roll is very important not only at the time of the election but otherwise also. The information related to the electoral roll should also be posted on the website of the election commission and CD ROM should be available to all the political parties or anyone interested at a reasonable price. I have to the election these rules should be printed and publicly dispatched at the post office in each constituency as well as at the

³ J A Plucker, H. Long *et al*, "*Deviance*", Encyclopedia of Creativity (2nd ed., 2011) 379-382.

⁴ Ministry of Law & Justice, Government of India "*Report of Committee on Electoral Reforms, 1990*" (May, 1990) available at <https://adrindia.org/sites/default/files/Dinesh%20Goswami%20Report%20on%20Electoral%20Reforms.pdf>

panchayat or relevant constituency headquarters so that this we do also improve the public access to this information which will eventually be helpful in checking out any flaws in the electoral rolls.

There should also be a proper check and balance which can avoid the making of fake voter IDS at the time of election. The voter ID card which is if we designed with the help of technology then in future it is possible to have a handheld device at each pooling station beginning with the sensitive constituency straightaway, which will eliminate any fake or invalid card automatically. This will also include any and all fraudulent duplicate voter ID cards which has never been matched.⁵

And these elections deviances can be removed by having proper electoral roll, voter id together with the help of electronic voting machines at local level first and then state level and the national elections. This will also create a seriousness among the people that they will not do fake voter ID or incorporating the name of one person in two or more constituencies.

2. Booth Capturing & Rigging

Booth capturing is a type of electoral fraud in which one political party captures a polling booth and violates the right of the voters by making them to vote for their candidate so that they can win the elections. This is clearly the suppression of votes and unlike rigging this fraud or deviance is commonly practiced in India. This mainly happens in villages. Booth capturing can be understood as a process in which the political parties take control of the booth and use their power to get votes.⁶

Booth Capturing in a punishable offence under The Representation of People's Act, 1951. Section 135 A of The Representation of People's Act, 1951 "*Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which (shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable*

⁵ Advisory Panel on Electoral Reforms; Standards in Political Life "Review of Election Law, Processes and Reform Options" (January, 2001) available at [https://legalaffairs.gov.in/sites/default/files/\(VII\)Review%20of%20Election%20Law,%20Processes%20and%20Reform%20Options.pdf](https://legalaffairs.gov.in/sites/default/files/(VII)Review%20of%20Election%20Law,%20Processes%20and%20Reform%20Options.pdf)

⁶ Bhanukesh B, 'Privileged Class Deviance and its Impact on Electoral Process', *Journal of Legal Studies & Research* Vol.6 issue 5 , 90.

with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.”⁷

Booth capturing create chaos during the election process. In the past years it has been observed that when there are general elections or state elections, incident of booth capturing is one of the offences which happens during election time. After taking all due precautions by the election commission of India the incident of both capturing has not been reduced in recent years. Booth capturing not only is an election deviance but it also a threat to the life of the common people. In West Bengal 13 people killed several injured in a web of violence in Panchayat Poll across West Bengal.⁸

Election rigging is an act of dishonestly organizing or conducting the election to get a particular result. It is an electoral fraud or electoral crime and an interference with the election process. In India it is called Ballot Rigging. Ballot rigging is increasing the votes in favour of the selected candidates or decreasing the votes of the rival candidates.⁹

This is an issue which need high attention and there shall also be stringent punishment for the offence of booth capturing. Election Commission of India shall make strict rules & regulations to avoid booth capturing and rigging.

3. Communal and Caste Hatred

Campaigns are designed in such a way to create tension between the community and also to entice feeling of hatred on the basis of caste, community, religion, race, language to attract the votes of the people. Section 123 (2) of Representative of Peoples Act, 1951 prohibits the candidates from using race, caste, community or language for the purpose of seeking votes.

Even after it is prohibited but it is practiced in reality. This deserve the highest degree of attention and in addition to these offences should be punishable with mandatory imprisonment for 3 years instead of discrepancy as currently provided under Section 125 of representation of peoples act 1951.

4. Use of Muscle Power

⁷ The Representation of People's Act, 1951 (Act 43 of 1951) S.135A.

⁸ Santanu Chowdhury & Sweety Kumari, '13 killed in Bengal as violence, booth capturing mark Panchayat Elections', The Indian Express, 9th July 2023, <https://indianexpress.com/article/india/13-killed-in-bengal-as-violence-booth-capturing-mark-panchayat-elections-8819098/>

⁹ Bhanukesh B, "Privileged Class Deviance and its Impact on Electoral Process", *JLSR* Vol.6 issue 5, 93.

The use of muscle power during election is always on rise. Politician use muscle power to take vote by the help of armed men or the person having criminal background. To curbed the menes of muscle power use during election it is very important that fire arms are not allowed to be carried on polling days anywhere in the vicinity of the following polling stations. The election commission should also increase the number of observers in sensitive constituencies and also take repeated actions on the request under section 20B of Representation of People Act, 1951 as amended in 1996.¹⁰

5. Criminalization of the Electoral Process

The criminalization of politics is when criminals participate in politics, including running for office and getting elected to Parliament and state legislatures. This can happen when there is a connection between politicians and criminals. The criminalization of politics in India is a serious issue and that can undermine the principals of democracy and can break the trust of people in electoral process.

The Vohra Committee Report, 1993 also studied the problem of the criminalization of politics in India. They highlighted it has been found that the crime syndicates/ mafias, smuggling of arms, ammunition, explosives, physopatrics substance, prostitution dealing is done under the shield provided by politicians. The main source of income of the crime syndicates and mafia is relating to real estate, forcibly occupying lands and building. The Nexus between the criminal gangs, police and politicians which was essentially designed to deal with the individual offences /crime is unable to deal with the activities of mafia during election and even after elections.¹¹

6. Electronic Voting Machine

The use of electronic voting machines (EVMs) has been a subject of controversy and concern in the electoral process, often viewed as a deviance. These devices have raised questions about their reliability, security, and potential for manipulation. EVMs may be susceptible to tampering, hacking, or other forms of electoral fraud, which could undermine the integrity of the voting process. There shall be introduction and use of EVMs as a potential deviant element in the electoral process, warranting careful scrutiny and safeguards to ensure the legitimacy of election results.

¹⁰ *Ibid.*

¹¹ Ministry of Home Affairs, "Vohra Committee Report" (1993)

"https://adrindia.org/sites/default/files/VOHRA%20COMMITTEE%20REPORT_0.pdf

III. Role of different organization / Constitutional bodies in safeguarding the electoral process

1. Election Commission of India

The Election Commission¹² is an independent and permanent body which is established by the Constitution of India to ensure free and fair elections in the entire nation. The Election Commission of India (ECI) plays a critical role in safeguarding the electoral process in India. Its primary responsibility is to ensure that elections in the country are conducted in a free, fair, and transparent manner. Here are some of the ways in which the ECI safeguards the electoral process: -

- i. **Electoral Planning and Management:** The ECI is responsible for planning and managing all aspects of elections, from setting election dates to creating voter lists, polling station arrangements, and the deployment of election officials. This meticulous planning helps ensure the smooth conduct of elections.
- ii. **Voter Registration:** The ECI oversees the process of voter registration and updates the voter rolls regularly to include eligible voters and remove deceased or ineligible voters. This helps maintain the integrity of the electoral process by ensuring that only eligible individuals can vote.
- iii. **Voter Education:** The ECI conducts voter education and awareness campaigns to inform citizens about the importance of voting, the electoral process, and their rights and responsibilities as voters. Recently Actor Rajkumar Rao is appointed as Election Commission's national icon. The development comes ahead of assembly elections in five states and the general elections due next year.¹³
- iv. **Enforcement of the Model Code of Conduct:** During the election period, the ECI enforces the Model Code of Conduct (MCC) to ensure that political parties and candidates adhere to ethical and fair campaign practices. This includes

¹² The Constitution of India, 1950, Article 324.

¹³ Aishwarya Paliwal, "Actor Rajkumar Rao appointed Election Commission's national icon", The India Today 27th October, 2023.

guidelines on campaign finance, hate speech, and other aspects of the election process.¹⁴

The Election Commission of India is a robust institution dedicated to safeguarding the electoral process in the country. It ensures that elections are conducted fairly, transparently, and in accordance with the principles of democracy, making it one of the world's largest and most respected election management bodies.

2. Media

The media plays a crucial role in safeguarding the electoral process in any democratic society. Its role is multifaceted and encompasses several key responsibilities that contribute to the fairness, transparency, and accountability of elections. Here are the various ways in which the media safeguards the electoral process: -

- i. **Informing the Public:** -The media serves as a primary source of information about elections, candidates, and political parties. It informs the public about the electoral schedule, voter registration, and the positions and qualifications of candidates. This information empowers voters to make informed choices.
- ii. **Monitoring and Reporting:** - The media closely monitors and reports on all aspects of the electoral process, including campaign activities, candidate speeches, debates, and election-related events. This scrutiny helps identify and expose irregularities, misconduct, and unethical behavior.
- iii. **Reporting Irregularities:** - When irregularities or violations occur during the electoral process, the media is often the first to report them. This can include incidents of voter intimidation, fraud, or other misconduct. Such reporting helps bring such issues to the attention of election authorities for swift action.
- iv. **Publicizing Election Laws and Rules:** - The media plays a role in educating the public about election laws and rules, including the code of conduct for

¹⁴ “Model Code of Conduct for The Guidance of Political Parties and Candidates”, Election Commission of India, <https://eci.gov.in/mcc/> Last Accessed on 26th October 2023.

candidates and political parties. This helps ensure that all stakeholders are aware of the rules governing elections.

- v. **Engaging in Civic Discourse:** - Media platforms offer a space for public discourse and discussion about election-related issues, fostering a healthy democratic dialogue and promoting the exchange of ideas.

The media acts as a watchdog and an essential component of the electoral process, contributing to the transparency, accountability, and fairness of elections by providing information, analysis, and oversight. A free and responsible media is a fundamental pillar of a vibrant democracy.

3. Civil Society Organizations (CSOs)

- i. **Voter Education and Awareness:** CSOs engage in voter education campaigns to inform citizens about their rights and responsibilities, the electoral process, and the importance of participating in elections. They help ensure that voters are well-informed and can make educated choices.
- ii. **Monitoring and Observation:** Many CSOs actively monitor elections and serve as election observers. They work to detect irregularities, voter suppression, and instances of electoral violence. Their presence helps deter misconduct and promotes transparency.
- iii. **Advocacy and Policy Reform:** CSOs often advocate for electoral reforms and improvements in election laws and procedures. They can use their influence to push for changes that enhance the fairness and credibility of the electoral process.

IV. Importance of Election Reforms

There is a need of election reforms in India.

- i. **There is a great demand to make the Election Commission more transparent, impartial and independent.**

Regarding the powers and duties of the E C I, Chief Election Commissioner- Mr. B.B Tandon- made some suggestions in the year 2001. In a letter to the President, Mr. Tandon appears to have suggested that the selection of persons to man the posts of the Chief

Election Commissioner and Election Commissioners should be done by a broad-based Committee. This is not first time that someone has suggested that a credible transparent procedure be instituted to select the Chief Election Commissioner and the Election in Commissioners. This was first proposed by Mr. V. M Tarkunde over four decades ago and firmly reiterated by the Dinesh Goswami Committee that examined electoral reforms in 1990. But it has not been worked out. Mr. Tandon proposed that a committee would select the Chief election Commissioner and the election Commissioners to be headed by the Prime Minister. The Committee should Comprise of Lok Sabha Speaker, The Law Minister, the Leader of opposition in the Lok Sabha, the Rajya Sabha Deputy Chairperson and a Judge of the Supreme Court nominated by the Chief Justice of India. Mr Tandon has said that the selection process should be akin to the manner in which the Central Vigilance Commissioner or the Chairman of the National Human Rights Commission is Chosen. The former Chief Election Commissioner has said that much changes in the process of selection and appointment of Election Commissioners would further enhance the image of Commission as a free and independent Commission. Mr. Tandon is of the opinion “a broad-based selection Committee will further strengthen the faith and confidence in the public mind. The Election Commission of India submitted its” views and proposals for Consideration on Electoral reforms” are as under (In Item No.21 on “mode of appointment of Chief Election Commissioner and other Election Commissioners)

“The commission feels that Article 324 of the Constitution should be amended to provide as under

(a) There should be a maximum of 2 Election Commissioners along with Chief Election Commissioner;

(b) The method of appointment and Constitutional Protection, after appointment should be the same for the Chief Election Commission and other Election Commissioners. In item No 22 on “*The Chief Election Commissioner and other Election Commissioners to be made ineligible for further appointment under the government.*”¹⁵

ii. **Criminalization of Politics**

Criminalisation of politics means criminal entering into the field of politics and contesting election as a candidate and most importantly becoming MLA and MPs. All this happen

¹⁵ Dr. Mohana Rao Pedada, Election Commission of India and Its Independence—A Critical Study, 2 *IJLMH*, Issue 5

because politicians have a healthy relationship with criminals just, they want a healthy Nexus with the local goons so that they can help them to win elections. Booth Capturing in one such example of this, then in return political parties give tickets to the criminals to become minister.

It is open to all that in every political party there must be at least one candidate who are having criminal background and this act has been sophisticated by simply saying that it is a political deviance. A recent analysis conducted by the Association for Democratic Reforms (ADR) has claimed that an approximate 44 per cent of MLAs in State Assemblies across India have declared criminal cases against themselves.¹⁶

This needs to give a special attention that the person having criminal background shall not be allowed to contest elections.

Conclusion & Suggestions

Electoral violations pose a significant threat to India's democratic system. Despite having robust laws and recent progress, India still faces challenges in addressing these offenses. To preserve the integrity of elections, it is crucial to enforce strict measures, streamline legal processes, and initiate comprehensive reforms. By addressing these issues and fostering a culture of ethical conduct, India can strengthen its democratic principles and ensure fair and impartial elections for its people. Media, Civil Society organization and Election Commission of India plays an important role in safeguarding the electoral process. Media is used to create awareness amongst the people about various social, political and economic activities of the nation. Media is considered as a watch dog of democracy as freedom of news media particularly plays a key role in maintaining transparency in the functioning of the government.

A special provision for election deviance shall be constituted to see the matters related to deviance in election process.

16 Abhinav Chakraborty, "Nearly half of MLAs in India have criminal cases: ADR analysis", *The Frontline*, 20 July, 2023.