

**DISQUALIFICATION FROM BECOMING A MEMBER OF
THE PARLIAMENT AND STATE LEGISLATURES BEFORE
AND AFTER ELECTION: A CRITICAL ANALYSIS**

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2025

DECLARATION

I, hereby declared that the presented work in the thesis entitled “DISQUALIFICATION FROM BECOMING A MEMBER OF THE PARLIAMENT AND STATE LEGISLATURES BEFORE AND AFTER ELECTION: A CRITICAL ANALYSIS” in fulfilment of degree of **Doctor of Philosophy (Ph. D.)** is outcome of research work carried out by me under the supervision of Dr. Geeta, working as Associate Professor and Academic Counsellor, in the School of Law of Lovely Professional University, Punjab, India. In keeping with general practice of reporting scientific observations, due acknowledgements have been made whenever work described here has been based on findings of other investigator. This work has not been submitted in part or full to any other University or Institute for the award of any degree.



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CERTIFICATE

This is to certify that the work reported in the Ph. D. thesis entitled “DISQUALIFICATION FROM BECOMING A MEMBER OF THE PARLIAMENT AND STATE LEGISLATURES BEFORE AND AFTER ELECTION: A CRITICAL ANALYSIS” submitted in fulfillment of the requirement for the award of degree of **Doctor of Philosophy (Ph.D.)** in the Law, LPU School of Law, is a research work carried out by D Sraavan Kumar Reddy, (Registration No.) 4190068, is bonafide record of his/her original work carried out under my supervision and that no part of thesis has been submitted for any other degree, diploma or equivalent course.

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Abstract

In democratic systems like India, the eligibility and disqualification of individuals to become members of Parliament (MP) or State Legislatures are foundational to ensuring the integrity and functionality of legislative bodies. Disqualifications can occur both before and after elections, each governed by specific rules aimed at preserving the legislative process's sanctity and effectiveness. Before an election, potential candidates must meet defined eligibility criteria as outlined by the Constitution of India and various laws. These include stipulations about the candidate's age, citizenship, and voter registration in a relevant constituency. However, there are also pre-election disqualifications. For example, individuals convicted of criminal offenses leading to imprisonment of two years or more are barred from contesting. Additionally, those found guilty of corrupt electoral practices, such as bribery or undue influence, are disqualified under the Representation of the People Act, 1951. These measures are in place to prevent individuals with potentially harmful or unethical backgrounds from influencing government operations. Post-election, the disqualifications aim to maintain discipline and decorum within legislative bodies. The Anti-Defection Law, encapsulated in the Tenth Schedule of the Indian Constitution, disqualifies MPs or MLAs for defecting from the party under whose banner they were elected. This law helps maintain political stability and the voters' mandate's integrity. Moreover, legislators can be disqualified for prolonged, unapproved absences from sessions, ensuring that elected representatives are actively involved in legislative duties and responsibilities.

The judiciary also plays a crucial role in the enforcement and interpretation of disqualification norms. The Supreme Court of India, for instance, has been instrumental in addressing disputes and ambiguities related to post-election disqualifications, particularly those concerning the Anti-Defection Law. These judicial interventions often lead to significant political and legal outcomes, influencing broader legislative practices and policies. Furthermore, there have been calls for reforms aimed at tightening disqualification norms to further enhance the accountability and credibility of elected representatives. Proposed reforms to the Representation of the People Act and other related legislation seek to prevent individuals with questionable integrity from entering and influencing legislative agendas. The framework governing disqualifications from membership in India's Parliament and State Legislatures plays a critical role in upholding democratic values by ensuring that legislative bodies operate

without the influence of corrupt or unethical members. Continuous legal and electoral reforms are vital to address evolving challenges and to reinforce the robustness of this framework, thereby enhancing the overall quality and effectiveness of governance

The scope of the study regarding disqualifications from membership in Parliament and State Legislatures in India is expansive and multifaceted, aiming to comprehensively understand the legal and political dimensions that govern the eligibility of elected officials. This study will explore the constitutional provisions, legislative rules, and judicial interpretations that outline the criteria for disqualification both before and after elections. By analyzing these elements, the study seeks to reveal the efficacy and impacts of these disqualification norms on the integrity and functionality of India's legislative bodies. A significant aspect of this study involves examining the pre-election disqualification criteria such as age, citizenship, criminal convictions, and involvement in corrupt practices. These criteria are crucial for ensuring that candidates are suitable for public office roles. The study will delve into the rationale behind these criteria and their role in maintaining a clean and competent pool of candidates. Additionally, the scope will include an analysis of post-election disqualification factors like defection, absence from legislative duties, and other breaches of parliamentary conduct as outlined in the constitution and subsequent legal frameworks. Special attention will be given to the Anti-Defection Law and its implications on political stability and individual legislative behavior.

The study will also evaluate the role of the judiciary in interpreting and enforcing disqualification norms. Through a review of landmark court cases and decisions, insights into how legal challenges and rulings have shaped current disqualification practices will be discussed. Moreover, this study will consider the impact of these disqualification norms on the political landscape, including how they influence the composition of legislatures and the broader implications for democratic governance and public trust. The scope of this study will extend to proposed and ongoing reforms in electoral and disqualification laws. By examining legislative debates, policy proposals, and expert opinions, the study aims to identify potential improvements in the disqualification framework to enhance the transparency, accountability, and effectiveness of India's legislative system. Through this comprehensive analysis, the study intends to contribute valuable insights and recommendations for strengthening democratic institutions in India.

The study the examine the existing legal provisions relating to disqualification from becoming members of the Parliament and State Legislature in India. It also focuses on the judicial trend in relation to disqualification from becoming of members of the Parliament and State Legislature in India since 1951 to present time. In addition it also examine the various malpractices adopted by the members of the Indian Parliament and State Legislatures and effect thereto on fair representation and democratic governance of the country. Lastlt it collect and analyze the data with regard to disqualification of members of the Indian Parliament and State Legislatures in India. The study also suggest suitable recommendations in relation to disqualification from becoming the member of the Parliament and State Legislatures for strengthening democratic governance in the country.

The purpose of this study is to critically examine the rules and regulations surrounding disqualification from membership in both the Parliament and State Legislatures in India, with an aim to evaluate their effectiveness in ensuring ethical and responsible governance. This study seeks to identify the strengths and weaknesses of the current disqualification framework, assess its impact on the political system, and explore how it influences the integrity and functionality of legislative bodies. By analyzing pre-election and post-election disqualification criteria, the study aims to understand how these legal standards contribute to preventing unethical individuals from assuming or maintaining legislative roles. Additionally, the study will investigate the role of the judiciary in interpreting disqualification laws and the potential need for legislative reforms to adapt to evolving political and social landscapes. Ultimately, this study intends to provide comprehensive insights into the disqualification processes and propose recommendations for strengthening democratic governance in India, thereby enhancing public trust and ensuring that elected representatives meet the highest standards of ethical conduct.

Preface

In 1985, as a result of the Constitution (Fifty-second Amendment) Act, the Tenth Schedule to the Constitution entered into force; in 2003, as a result of the Constitution (Ninety-first Amendment) Act, it underwent its most recent revision. These two statutes established the legal bounds within which a departure may be made without violating the Constitution. A candidate may be disqualified for defection if she or he ceases to be a member of a political party, casts a vote contrary to the party's instructions, or fails to cast a vote contrary to the party's instructions, as detailed in Schedule Eleven. All candidates, including those nominated being elected. Disqualification criteria for becoming a member of parliament (MP) or state legislatures in many democratic countries are typically outlined in their respective constitutions, laws, or electoral regulations. These criteria serve to ensure that individuals seeking to hold public office meet certain qualifications and maintain their integrity throughout their term. Disqualification can occur both before and after an election, and the reasons for disqualification can vary widely. Before an election, disqualification criteria are often aimed at preserving the integrity of the electoral process and ensuring that candidates meet basic eligibility requirements. The main objective of the study is to examine disqualification for becoming a member of parliament and state legislatures before and after the election. In addition, the study also focuses on the existing legal provisions relating to the disqualification of members of parliament and finds gaps in the existing law. In addition, the study also focuses on the role of The Union Government, Law Commission, Judiciary System, and Election Commission, on the Disqualifications of the Member of Parliament / State Legislatures. Lastly, it examines the Intra department relations regarding data sharing and necessary actions.

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11/01/2025

Abbreviations:

CrPc- Criminal Procedure Code

CPC- Civil Procedure Code

RPI Act- Representation of People Act

CTG- Centre for Technology in Government

ICT- Information and Communication Technologies

LGAs- Local Government Authorities

CVC- Central Vigilance Commission

ACB- Anti Corruption Bureau

CBI- Central Bureau of Investigation

ED- Enforcement Department

MPLADS- Members of Parliament Local Area Development Scheme

ECI- Election Commission of India

RP Act- Representation of the People Act

EVMS- Electronic Voting Machines

NOTA- None of the above

NRHM- National Rural Health Mission

MLALADS -Member of Legislative Assembly Local Area Development Scheme

AIADMK-Anna Dravida Munnetra Kazhagam

RJD- Rashtriya Janata Dal

BSP-Bahujan Samaj Party

SP-Samajwadi Party

MLA- Member of Legislative Assembly

MP- Member of Parliament

MLC- Member of Legislative Council

INC-Indian National Congress

BJP-Bharatiya Janata Party

JMM-Jharkhand Mukti Morcha

Coalgate- Coal Allocation Scam

APIIC-Andhra Pradesh Industrial Infrastructure Corporation

DMK- Dravida Munnetra Kazhagam

YSRCP- YSR Congress Party

BRS- Bharat Rastra Samithi

TRS- Telangana Rastra Samithi

TDP- Telugudesam Party

UPA- United Peoples Alliance

TMC-Trinamool Congress

AAP-Aam Aadmi Party

NGO- Non-Governmental Organization

FPTP- First Past the Post

SBI- State Bank of India

KYC- Know Your Customer

CEC- Chief Election Commissioner

JD(S)- Janata Dal (Secular)

SC- Supreme Court

AIR (SC)-All India Reporter (Supreme Court)

WP- Writ Petition

WP (MD)- Writ Petition Madurai Bench

NEW- National Election Watch

ADR-Association for Democratic Reforms

NCP- Nationalist Congress Party

LJP- Lok Janshakti Party

AITC- All India Trinamool Congress

AIUDF- All India United Democratic Front

PMK- Pattali Makkal Katchi

JD(U)- Janta Dal (United)

CPI(M)- Communist Party of India (Marxist)

CPI(ML)-Communist Party of India (Marxist–Leninist)

CPI(ML)L- Communist Party of India (Marxist–Leninist) Liberation

JVM(P)- Jharkhand Vikas Morcha (Prajatantrik)

MNS- The Maharashtra Navnirman Sena

RLD- Rashtriya Lok Dal

US- United States

CPC- Code of Civil Procedure

PAN- Permanent Account Number

RO- Returning Officer

EC- Election Commission

CEO- Chief Electoral Officer

SC- Scheduled Caste

ST- Scheduled Tribe

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CHAPTER -1

INTRODUCTION AND HISTORICAL BACKGROUND ON DISQUALIFICATION OF MEMBER OF PARLIAMENT AND STATE LEGISLATURES

"Democracy cannot succeed unless those who express their choice are prepared to choose wisely. The real safeguard of democracy, therefore, is education."

- Franklin D. Roosevelt

1.1 Introduction

The constitutional documents of each nation specify the requirements that must be met in order to be eligible for membership in the legislatures of the state or the national legislative. On the other side, disqualifications are conditions or situations that prevent an individual from holding such an office, either before or after an election. These ailments or circumstances might be either physical or mental¹. Disqualifications like these are intended to preserve the legitimacy of the legislative process by ensuring that individuals who are elected are qualified to serve and represent the people who they are elected to represent. Before an election, there are a number of different causes that could result in disqualifications². The following are examples of common factors: holding a profit-making position within the government; having an unsound mind; being an insolvent who has not been discharged; having dual citizenship or allegiance; having been convicted of certain criminal offences; or not meeting specific age or citizenship criteria outlined in the constitution. Certain individuals are unable to participate in the electoral process or run for office as a result of certain disqualifications.

Following the conclusion of an election, disqualifications may occur if a member of the elected body violates specific conditions or engages in behaviours that render them ineligible to continue serving in their position. For example, if a candidate engages in corrupt practises, is

¹ Prado Jr C, *The Colonial Background of Modern Brazil* (University of California Press, 2023).

² Coleman JS, *Nigeria: Background to Nationalism* (University of California Press, 2023).

found guilty of electoral malpractices, holds an office of profit after the election, or violates any other constitutional provisions or statutory rules, they may be disqualified from running for office³. A lawmaker may also be disqualified in certain jurisdictions if they transfer parties or breach the norms and regulations that regulate their behaviour within the legislative body. These safeguards are in place to prevent legislators from being disqualified.

The removal of a Member of the Parliament or State Legislatures from their position can be accomplished through a variety of different means. It could be begun by interested authorities, through petitions filed by citizens, or by judicial involvement⁴. All of these strategies are possibility. In order to make a final decision, the procedure often includes an investigation or inquiry into the validity of the disqualifying factors. The goal of these criteria is to make sure that elected representatives follow certain rules of conduct before and after they are elected, in terms of ethics, law, and the constitution. This helps to keep the democratic process honest and the institutions of legislatures intact.

In order for individuals to be eligible to run for election to the legislative of their state or the parliament of their country, they are required to fulfil certain requirements that are defined in the constitution or electoral rules of their respective nation⁵. Disqualifications are significant factors that can preclude an individual from being submitted for consideration as a candidate. Despite the fact that these disqualifications vary greatly from country to country, they typically consist of age limits, citizenship status, mental competency, criminal past, and financial situation concerns.

In this chapter, The Researcher is focusing on constitutional document and evolution of historical background in which Researcher is talking about democracy and its importance of legislature and their role in Democracy. In addition the Researcher has also talked about constitutional law of historical background and corrupt practices of political parties and members specially in Indian corruption. The Researcher, focused on Vote buying and Electoral fraud, Misuse of government funds, Criminalization of Indian Politics, Bribery and corruption, Influence peddling, Nepotism and cronyism, Black money, and tax evasion, Freebies. In addition to this, the study also focuses on disqualification from becoming a member of the

³ Izbicki JA, et.al., *Introduction to Study Area Hydrogeology, Chromium Sources, Site History, and Purpose of Study* (US Geological Survey, 2023).

⁴ Rietbergen P, *Europe: A Cultural History* (Routledge, 2020).

⁵ Olsen TA, Sollid H, *Introducing Indigenising education and citizenship”, in Indigenising Education and Citizenship: Perspectives on Policies and Practices from Sápmi and Beyond* 13-32 (2022).

legislature before and after elections. In Chapter 2 the Researcher focused on the Malpractices adopted by the Members of the Parliament & State Legislatures and their effect on Democracy , the Researcher mainly focus on malpractices before the election, and after the election and also include various factors such as media manipulation, intimidation, and violence. The study also focuses on malpractices by legislatures (after elections) and their effects on democratic governance in which we also focus on inefficient public administration, Hindering economic growth of the Nation and Adverse effects on social development, Inadequate essential facilities on the public, adverse effects on health facilities and many more

1.2 Democracy

The people, either directly or via their chosen representatives, hold the reins of power in a democracy. Egalitarianism, popular sovereignty, and rule by the majority are its defining characteristics. The ability to vote, run for office, and express one's opinions freely through speech and assembly are all examples of basic liberties enjoyed by citizens in democracies. The importance of representation and inclusion is important to democracies⁶. Voters select representatives and chief executive officers to act on their behalf in a democratic system. These representatives are answerable to the voters, who can remove them from office at any time through the democratic process if they are unpopular or do not carry out their duties as promised. Democracy also promotes accountability and a system of checks and balances to avoid abuses of power⁷. Included in this are constitutional safeguards that prevent the government or any majority faction from infringing upon individual rights, a free press, and an independent judiciary. Conflicts and disputes can be peacefully resolved via negotiation, compromise, and tolerance for other opinions, all of which are promoted by democracy⁸. Civil society is strengthened and a sense of community and collective responsibility is promoted among citizens through its encouragement of civic involvement and participation. There are difficulties associated with democracy. Problems that can derail its goals and efficacy include voter disinterest, partisanship, representational inequality, and the power of money in politics. Democracies have changed and adapted over the years to suit the demands and goals of different cultures, but as a system that puts the people first, they continue to be an essential part of modern governance.

⁶ Dahl RA, *On Democracy* (Yale University Press, 2020).

⁷ Wang QJ, et.al., "*The Impacts of Democracy on Innovation: Revisited Evidence*", *Technovation* 108 (2021) 102333.

⁸ Repucci S, "*The LeaderLess sTruggLe for Democracy*," *J. Democracy* 31 (2020) 137.

1.3 Significance of Legislature in Democracy

The legislature is an essential part of a democratic society since it is where the people may go to discuss issues and make decisions that affect them. The body entrusted with the responsibility of making, revising, and doing away with laws governing a society is usually made up of elected members. Legislators play an essential role in democracies because of the many important tasks they take on. For the purpose of expressing the varied opinions and interests of the people, legislatures play a crucial role. Legislators listen to their people and act on their concerns, making sure that all parts of society have a voice in the legislative process⁹. Just as the democratic notion of government by agreement of the governed helps to legitimise laws and policies, so does this representation. When it comes to presidential power, legislatures act as a check. A democratic system holds the legislative branch responsible for the actions of the executive branch, which is headed by the president or prime minister. It is the responsibility of lawmakers to review presidential orders, approve spending plans, and establish limits on governmental power. By preventing any one part of government from becoming overly powerful, the system of checks and balances helps keep fascism at bay¹⁰. Lawmakers also have an important role to play in the legislative process. Legislation addressing critical social, economic, and political issues is ultimately enacted after extensive debate, bill amendments, and debates. The goal of this process is to reach an agreement on policies that will serve the public good by negotiating concessions, reconciling competing interests, and so on. In addition, legislatures make it easier for government to be open and accountable¹¹. Citizens have the chance to witness and engage in the legislative process through public debates, committee hearings, and sessions. Citizens feel more connected to their government and more accountable for their actions when institutions are transparent with them.

1.4 Historical Background: The Representation of People Act, 1951

The qualifications and disqualifications for membership in legislatures in India began well before the adoption of the Constitution. These debates occurred primarily during the proceedings of the Constituent Assembly between 1946 and 1949¹². The Representation of the

⁹ Uhr J and Wanna J, "*The Future Roles of Parliament*" in *Institutions on the Edge?* 10-44 (Routledge, 2020).

¹⁰ Sieberer U, "*Party Unity in Parliamentary Democracies: A Comparative Analysis*" in *The Impact of Legislatures* 141-169 (Routledge, 2020).

¹¹ Khmelko I, et.al. (eds), *Legislative Decline in the 21st Century: A Comparative Perspective* (Routledge, 2020).

¹² Constitutional assembly debates available at: <https://eparlib.nic.in/handle/> (last visited on Jan. 08' 2025)

People Act (RPA), 1951, which codifies these provisions, drew upon the principles discussed during the Constitution-making process.

1.4.1 Key Points in Constituent Assembly Debates

➤ Qualifications for Members:

The Assembly deliberated on the fundamental qualifications necessary for MPs and State Legislators, such as citizenship, age, and moral character and Concerns were raised about ensuring a balance between inclusivity and maintaining high standards for public office.

➤ Disqualification Grounds:

Key discussions included provisions for disqualification based on, the below:

- a) Criminal Convictions: Members debated whether individuals convicted of certain crimes should be permanently barred or disqualified only temporarily.
- b) Corruption and Electoral Malpractices: A significant portion of debates focused on mechanisms to prevent individuals involved in corrupt practices from entering or continuing in legislative roles.
- c) Financial Insolvency: Disqualification for individuals declared insolvent was discussed as a safeguard against undue influence or misuse of legislative power.

➤ Influence of Other Democracies:

The Assembly drew heavily on experiences from other countries, including the UK and the US, particularly regarding the balance between safeguarding democracy and preventing misuse of disqualification provisions to target political opponents.

➤ Specific Debates:

The debates often referenced the principle of "natural justice", emphasizing the need for fair trials and appeals before disqualification. Dr. B.R. Ambedkar and other members stressed that while the Constitution should lay down broad guidelines, specifics could be codified in subsequent legislation like the RPA¹³. Concerns about freedom of expression and political participation featured prominently, as members sought to ensure disqualification criteria would not suppress dissent or minority voices.

¹³ Constitutional Assembly debates volume III available at: https://eparlib.nic.in/bitstream/123456789/760490/1/cald_04_25-03-1949 (last visited on Jan. 06'2025)

➤ Legacy and Impact

The discussions in the Constituent Assembly formed the foundation for the provisions in Articles 102 and 191 of the Constitution, which outline the qualifications and disqualifications for MPs and State Legislators. These articles later guided the framing of the RPA, 1951.

The Representation of People Act, 1951 plays a vital role in the Indian Democracy. The Act outlines rules and procedures for free and fair elections, a cornerstone of the country's political system. Historical background of the legislation is as follows:

1951	The Representation of People Act, 1951 was enacted to provide, conduct of elections to the House of Parliament and to the Houses of Legislature of each State, Qualifications and disqualifications for membership of those houses, the corrupt practices and other offences in connection with elections ¹⁴ .
1966	The Act amended in 1966 by introducing the system of reservation of seats for Scheduled Casts (SC) and Scheduled Tribes (ST) in the Lok Sabha and State Legislative Assemblies. ¹⁵
1988	further amended with a significant amendment by lowering the voters age from 21 to 18 years, which increased the youth participation in politics. ¹⁶
2000	In 2000 to strengthen the provisions related to the conduct of elections Electronic Voting Machines (EVMs) was practically utilised for the election purpose and Voter Identification. ¹⁷
2003	In 2003, a significant term was introduced by incorporating “None of the above” (NOTA) option in the elections, which allows the voters to reject all candidates who are contesting in the elections, if they find them unsuitable ¹⁸ .

¹⁴ *The Representation of People Act, 1951.*

¹⁵ *Representation of the People (Amendment) Act, 1966 (Act 47 of 1966).*

¹⁶ *The Constitution (Sixty-first Amendment) Act, 1988.*

¹⁷ *Election Commission of India, Legal History of EVMs and VVPATs: A Compilation and Analysis of Case Laws 59, available at: https://www.eci.gov.in/eci-backend/public/uploads/monthly_2022_11/10386732_LegalHistoryofEVMsandVVPATs_pdf.a942a6ed2e36892f92adecb5e88f6d3d (last visited on August 1, 2024).*

¹⁸ *The Representation of the People (Amendment) Act, 2003 (Act 40 of 2003).*

2010	The Act further amended to make it mandatory for candidates who are contesting the elections to file an affidavit by disclosing their assets, liabilities, criminal records and educational qualifications ¹⁹ .
2013	To respond to the decision of the Hon'ble Supreme Court, substantial changes were made to the Act through the introduction of the Representation of the People (Amendment and Validation) Act 2013 ²⁰ . This amendment added a provision that disqualifies convicted parliamentarians from holding office immediately, but it also allowed them to stay in office for a certain amount of time while their appeals were pending in higher courts.
2014	The Act was further revised to make it an electoral offence and introduce the notion of "paid news" to increase openness in the election process ²¹ .
2019	Improving the penalties for candidates who file fraudulent affidavits, expanding the ability for abroad Indians to vote through proxy voting, and including the Aadhar card as an identity verification for voter registration are all major changes to the Act ²² .

The above said amendments were made to ensure fairness, transparency and inclusivity in the electoral process and evolving nature of electoral laws in India.

The total number of individuals who have departed from their respective parties is likely higher than four thousand. In the legislature, one out of every five lawmakers betrayed their party. Fifteen of these legislators became chief ministers between 1967 and 1973, and another two hundred and twenty-two were promoted to ministerial positions. Once again, ten state governments were compelled to step down between 1972 and 1977 as a result of the discoveries²³. In defining the minimal educational need for members of parliament or state legislatures, the study analyses the existing Representation of People Act 1950 and 1951, making it a future-proof resource. Furthermore, once a member is elected, the Election

¹⁹ *The Representation of the People (Amendment) Regulations 2010*, SI 2010/2965.

²⁰ *Lily Thomas v. Union of India*, AIR 2013 SC 2662, (2013) 7 SCC 653.

²¹ *The Representation of the People (Amendment) Regulations 2014*, SI 2014/255.

²² *The Representation of the People (Amendment) Regulations 2019*, SI 2019/1457.

²³ Esselimani S, Sagsan M, et al., "E-Government Effect on Participatory Democracy in the Maghreb: Indirect Effect and Government-Led Participation" *Discrete Dynamics in Nature and Society* 2021(1) 6642998.

Commission and the Judicial Systems are prepared to disqualify them for making false declarations regarding their assets and liabilities²⁴.

Becoming a member of either the state or federal legislature is subject to certain qualifications laid down in the founding documents of every country. In contrast, disqualifications are pre- or post-election circumstances that make an individual ineligible to hold such an office. Both emotional and physical health issues may be at play here²⁵. These kinds of disqualifications exist to make sure that elected officials are qualified to serve and represent their constituents, which helps keep the legislative process legitimate. A candidate may be disqualified from running for office for any of several reasons prior to an election²⁶. Some examples of common factors include: being in a government position that generates profit, being mentally unstable, being bankrupt and not yet discharged, having dual citizenship or allegiance, having a criminal record, or not meeting the age or citizenship requirements set out in the constitution. Some people aren't eligible to vote or run for office because of specific rules and regulations.

If an elected official commits an ineligible act or breaches certain requirements after an election has ended, they may be disqualified from further service in their post.²⁷ A candidate may be ineligible to run for office for a variety of reasons, including but not limited to: corrupt practises, electoral malpractices, holding an office of profit after the election, and violations of other constitutional provisions or legislative rules²⁸. If a lawmaker violates the rules and regulations that govern their conduct within the legislative body or transfers parties, they may also be disqualified in certain jurisdictions. To avoid disqualification of lawmakers, several protections are in place.

There is more than one way to remove a lawmaker from office in the federal or state legislatures. Authorities with an interest, citizens with a petition, or the courts themselves could initiate it. It is possible to implement any of these strategies. An examination into the veracity

²⁴ Goel RK, Nelson MA, "Presidential versus parliamentary systems: Where do female entrepreneurs thrive?" *Social Science Quarterly* 101(5) 1773-88 (2020).

²⁵ Elbahnasawy NG, "Democracy, political instability, and government tax effort in hydrocarbon-dependent countries" *Resources Policy* 65 101530 (2020).

²⁶ Anckar C, *Presidents, Monarchs, and Prime Ministers* (Palgrave Macmillan, 2020).

²⁷ Utami BH, et al., "Money Politic vs Political Marketing:(Case Study: Legislative Election of the Pringsewu District Legislative Council Members for the 2019-2024 Period)" *Jurnal Bina Praja: Journal of Home Affairs Governance* 12(2) 125-36 (2020). *Jurnal Bina Praja: Journal of Home Affairs Governance*. 2020 Dec 16;12(2):125-36.

²⁸ Ghencea F, & Drumea MC, "Implementing Regulation regarding Minority Rights in Romania Special Overview of the Legal Frame of Romanian Law and Constitution" *Journal of Economic Development, Environment and People* 9(2) 71-9 (2020).

of the disqualifying criteria is typically a part of the procedure that leads up to the final determination²⁹. The purpose of these standards is to ensure that representatives in government uphold specific ethical, legal, and constitutional standards both before and after taking office. This contributes to maintaining the integrity of the legislative process and the democratic process as a whole.

People must meet the criteria outlined in their country's constitution or electoral laws before they may run for office, whether it's the legislature of their state or the national parliament³⁰. A person may not be considered for the position of candidate if there are substantial grounds to disqualify them. Although these restrictions differ substantially from one nation to another, they usually include things like minimum ages, citizenship requirements, mental capacity, criminal records, and financial hardship.

Disqualification from political office is a notion that has developed in tandem with democratic governance systems around the world³¹. Hereditary monarchs or aristocratic elites frequently held political power in ancient societies, and birthright or social status was usually the determining factor for office eligibility. The necessity to set standards for political engagement and procedures to guarantee the honesty of elected bodies emerged, nonetheless, as civilisations shifted towards more inclusive kinds of leadership. In pre-modern periods, a small group of people might rise to positions of political authority thanks to their connections, money, or military might³². Aristocratic families or oligarchic councils held political power in republican city-states, in contrast to hereditary succession in monarchs and feudal civilisations. As a result of a focus on social rather than legal standards for leadership, the idea of disqualification from political office was essentially nonexistent in this setting³³. A bold move towards more inclusive and participatory forms of government was signalled by the rise of democratic governance systems³⁴. There was a pressing need to lay forth precise qualifications for holding public office with the advent of representative democracy, in which voters choose

²⁹ Selseng T, et al., “*Unpacking Democracy: The Effects of Different Democratic Qualities on Climate Change Performance over Time*” Environmental Science & Policy 128, 326 (2022).

³⁰ Cordery C, Arora B, et al., “*Public Sector Audit and the State's Responsibility to “Leave No-One Behind”: The Role of Integrated Democratic Accountability*” Financial Accountability & Management 39(2), 304 (2023).

³¹ York EA, *Democratic Institutions under Autocracy* (Columbia University, 2020).

³² Moller T, *Political Party Dynamics and Democracy in Sweden: Developments since the ‘Golden Age’* (Routledge, 2020).

³³ Skaaning SE, “*Democracy: Contested Concept with a Common Core*,” in Research Handbook on Democracy and Development 27 (Edward Elgar Publishing, 2021).

³⁴ Lindstaedt N, *Democratic Decay and Authoritarian Resurgence* (Bristol University Press, Bristol, 2021).

lawmakers to serve their interests. The foundation for parliamentary democracy, with limited suffrage initially, was built by the Magna Carta of 1215 and later constitutional improvements in nations like Britain.

The process of establishing disqualification standards for political office in India started with the draughting of the country's constitution. Indian democracy has its roots in the Constitution of 1950, which was adopted on January 26, 1950. The reasons for disqualification of members of parliament and state legislatures, respectively, are outlined in Articles 102 and 191 of the Constitution.³⁵ Electoral rules and the Constitution impose specific requirements on anybody seeking to run for a position in the legislature, whether at the federal or state level. A few examples of these requirements are age, level of education, and citizenship. For the lower house of parliament, Lok Sabha, candidates must meet specific educational requirements and be citizens of India. They must also be at least 25 years old.³⁶ . In addition, some criminal convictions or holding a profit-generating position inside the Indian or any state government would disqualify a candidate from seeking public office. To prevent candidates without the credentials and integrity from running against the will of the people, we have instituted these disqualification requirements.

Legislators at the federal and state levels risk disqualification after the fact if they break certain laws or constitutional clauses. Such transgressions might take many forms, including but not limited to criminal behaviour, ethical lapses, and party defections. By disqualifying party members who defect without following defined procedures, the Anti-Defection Law seeks to discourage defections and guarantee political stability. It was introduced in 1985 as part of the 52nd Amendment to the Constitution³⁷. Additionally, in order to eliminate conflicts of interest and preserve the legislature's independence, members can be disqualified if they hold a profit-making office under the Indian or any state government³⁸. One way to start the disqualification process is to file a petition with the house's presiding officer or to go to court.

³⁵ Sant'Ambrogio M and Staszewski G, "Democratizing Rule Development" 98 Wash. UL Rev. 793 (2020).

³⁶ Gendźwiłł A, Kjaer U, et.al. (eds.), *The Routledge Handbook of Local Elections and Voting in Europe* (Routledge, 2022).

³⁷ Andersson PF, "Fiscal Capacity in Non-Democratic States: The Origins and Expansion of the Income Tax," 19 Journal of Institutional Economics 364 (2023).

³⁸ Almajali M, Ghazwi M, et.al., "The Legal Aspects and the Enhanced Role of Cybersecurity in Protecting the Electronic Voting Process in the Context of Jordan Parliament Election Law No.(4) of 2022," 12 Information Sciences Letters 2839 (2023).

A deeper dedication to maintaining democratic standards, encouraging openness, and holding elected officials accountable is shown in the development of disqualification criteria to safeguard democratic institutions and deal with new threats, the range of disqualification criteria has grown throughout the years. The importance of elected politicians acting ethically, being transparent with their finances, and fighting corruption has grown in recent years³⁹. Democratic governance in India and beyond has prioritised reforms to improve the disqualification process, disclosure standards, and citizen agency in holding representatives to account⁴⁰. Attempts to preserve the legitimacy of representative institutions and the development of democratic rule are both highlighted by the background of exclusion from standing for office in parliament and state legislatures. As political, social, and ethical standards have changed throughout history, the idea of disqualification has also changed, from the pre-modern period of hereditary rule to the modern period of constitutional democracy.

Before and after elections, India's constitutional framework establishes and enforces disqualification standards with a robust process. The Indian Constitution aims to guarantee that representatives chosen by the people have the right credentials and integrity to represent their interests by outlining strict criteria for eligibility and procedures for dealing with infractions⁴¹. In order to protect democratic governance and ensure that elected officials are held to the highest ethical and public service standards going forward, it is crucial to remain vigilant, be transparent, and engage the public⁴². In order to create political institutions that are inclusive, durable, and reflective of citizens' values and ambitions, democratic societies must constantly adapt and improve.

1.5 Corrupt Practices of Political Parties and Members

One of the long-standing issues in Indian politics is corruption, which has implicated members of many political parties in a range of unscrupulous acts. Very few of the dishonest methods are:

³⁹ Frantzeskakis N, and Seeberg HB, "*The Legislative Agenda in 13 African Countries: A Comprehensive Database*," 48 *Legislative Studies Quarterly* 623 (2023).

⁴⁰ Stout CT, Tate K, et.al., "*Does Black Representation Matter? A Review of Descriptive Representation for African Americans in Legislative Offices*", 2 *National Review of Black Politics* 2-1 (2021).

⁴¹ Mueller S, Vatter A, et.al., "*A New Index of Bicameralism: Taking Legitimacy Seriously*", 29 *The Journal of Legislative Studies* 312-36 (2023).

⁴² Noh Y, and Shalaby M, "*Who Supports Gender Quotas in Transitioning and Authoritarian States in the Middle East and North Africa?*", *Comparative Political Studies* (2023).

1.5.1. Vote buying and electoral fraud

It is common practice for political parties and candidates to offer voters monetary gifts, alcoholic beverages, and other items in return for their votes during elections. A candidate who does not represent the people's best interests may be elected as a result, undermining democracy in the process. There have been various instances for vote buying and electoral fraud in India.

➤ Vote Buying Instances

- **Tamil Nadu Assembly Elections (2016)**

Vote buying was so widespread that the Aravakurichi and Thanjavur constituencies had their elections invalidated by the Election Commission of India thereafter referred as (ECI). Voter bribing funds at a record sum were apprehended by the ECI⁴³. Due to political parties giving out cash and gifts to voters, the ECI decided to postpone the polls in the Thanjavur and Aravakurichi constituencies.

- **Karnataka Assembly Elections (2018)**

Several incidents of cash seizures and distribution of freebies were reported⁴⁴. The ECI seized over Rs1 billion in cash and various other items, including liquor and gold, suspected to be used for influencing voters.

- **Lok Sabha Elections (2019)**

Several states have reported instances of vote buying, including Karnataka, Andhra Pradesh, and Tamil Nadu. Money, gold, and other valuables were confiscated by the ECI in considerable quantities. Seized were assets and cash totalling around ₹10 billion in the state of Tamil Nadu alone.⁴⁵

➤ Instances of Electoral Fraud

⁴³ *In unprecedented move, Election Commission cancels elections in Tamil Nadu's Aravakurichi, Thanjavur, sees red over Governor's request*", The Times of India, May 28, 2016, available at: <https://timesofindia.indiatimes.com/india/in-unprecedented-move-election-commission-cancels-elections-in-tamil-nadus-aravakurichi-thanjavur-sees-red-over-governors-request/articleshow/52480260.cms> (last visited on September 25, 2024).

⁴⁴ *Cash seized during 2018 Karnataka Assembly elections increases 5-fold from 2013*", IndiaSpend, May 18, 2018, available at: <https://www.indiaspend.com/cash-seized-during-2018-karnataka-assembly-elections-increases-5-fold-from-2013-2013> (last visited on September 25, 2024).

⁴⁵ *Election Commission of India, General Elections to the Lok Sabha 2019-Progressive Seizure*, available at: <https://hindi.eci.gov.in/files/file/9569-general-elections-to-the-lok-sabha-2019-progressive-seizure/?do=download&r=22679&confirm=1&t=1&csrfKey=dda4cc66c8bea06f37675b7d66371b93> (last visited on September 25, 2024).

- **Bihar Assembly Elections (2005)**

Widespread electoral fraud was reported, including booth capturing and voter intimidation. Criminal elements were reported to have captured polling booths and forcibly cast votes. The ECI had to deploy extra security forces to ensure a fair re-election⁴⁶.

- **West Bengal Panchayat Elections (2018)**

Allegations of ballot box stuffing, violence, and voter intimidation were rampant. Several incidents of violence led to multiple deaths. There were numerous reports of ruling party members preventing opposition supporters from voting⁴⁷.

- **Uttar Pradesh Assembly Elections (2012)**

Instances of impersonation and fake voting were reported. The ECI had to take special measures, including the use of voter ID cards and indelible ink, to prevent such malpractices.

1.5.2. Misuse of government funds

There have been several cases where the politicians misuse the public funds for their personal gains or benefit to their political parties, this includes diversion of fund meant for public welfare projects, or siphoning off money from welfare schemes announced by the government.

➤ **Instances of Misuse of Government Funds**

- **Commonwealth Games Scam (2010)**⁴⁸

Misuse of funds allocated for the Commonwealth Games held in Delhi. Suresh Kalmadi, the chairman of the organizing committee, and other officials were accused of inflating contracts, financial irregularities, and corruption, leading to a massive financial loss to the exchequer.⁴⁹

- **Telangana Housing Scheme Scam (2018)**

⁴⁶ Surendra Kumar, "Caste, Politics, and Public Good: An Assessment of Bihar under Nitish Kumar".

⁴⁷ "2003 and 2018: When Bengal panchayat polls turned bloody," Hindustan Times, May 15, 2018, available at: <https://www.hindustantimes.com/kolkata/2003-and-2018-when-bengal-panchayat-polls-turned-bloody/story-Tdgen4ZBsURTnc7V7BuwFO.html> (last visited on September 25, 2024).

⁴⁸ "Commonwealth Games Scam: A Timeline," *The Times of India*, Jan. 25, 2011, available at: <https://timesofindia.indiatimes.com/miscellaneous/commonwealth-gamescam/articleshow/56032112.cms> (last visited on Sep 25, 2024).

⁴⁹ *Commonwealth Games Scam: A Timeline*, *The Times of India*, Jan. 25, 2011, available at: <https://timesofindia.indiatimes.com/miscellaneous/commonwealth-gamescam/articleshow/56032112.cms> (last visited on Sep 25, 2024).

Alleged diversion of funds meant for housing schemes for the poor. It was reported that funds allocated for the 2BHK housing scheme for the underprivileged were misappropriated, with allegations against several politicians for siphoning off the funds⁵⁰.

- **Uttar Pradesh (National Rural Health Mission (NRHM) Scam (2010-2011)**

Misuse of funds under the National Rural Health Mission (NRHM) in Uttar Pradesh. Funds intended for improving healthcare infrastructure in rural areas were siphoned off, leading to significant financial irregularities. Several bureaucrats and politicians were implicated in the scam.

➤ **Misuse of MPLADS and MLALADS Funds**

- **MPLADS (Member of Parliament Local Area Development Scheme) Scam (2012)**

Reports surfaced that MPs were using these funds for personal gains or to benefit specific contractors. There were allegations of funds being used for projects that existed only on paper⁵¹.

- **Maharashtra MLALADS (Member of Legislative Assembly Local Area Development Scheme) Scam (2010)**

Alleged misappropriation of MLALADS funds by several MLAs⁵². An investigation revealed that funds meant for local area development were diverted for personal use or to benefit private contractors, with fake bills and inflated project costs being common tactics.

Irrigation Scam in Maharashtra (2012)

Large-scale corruption and fund misuse in irrigation projects. Over ₹70,000 crore was allegedly misappropriated in various irrigation projects. Several politicians, including then Deputy Chief

⁵⁰ "Indiramma Scam Probe Stuck on Age of Houses Even After 4 Years," *The Times of India*, Mar. 12, 2018, available at: <https://timesofindia.indiatimes.com/city/hyderabad/indiramma-scam-probe-stuck-on-age-of-houses-even-after-4-years/articleshow/63265163.cms> (last visited on Sep 25, 2024).

⁵¹ "MPLADS scam: Centre wants corrupt booked," *The Times of India*, Feb. 3, 2012, available at: <https://timesofindia.indiatimes.com/city/delhi/mplads-scam-centre-wants-corrupt-booked/articleshow/11733910.cms> (last visited on September 25, 2024).

⁵² "Maharashtra has no records of Rs2100 crore local area development scheme money given to MLAs and MLCs," *Moneylife*, Dec. 14, 2017, available at: <https://www.moneylife.in/article/maharashtra-has-no-records-of-rs2100-crore-local-area-development-scheme-money-given-to-mlas-and-mlcs/52452.html> (last visited on September 25, 2024).

Minister Ajit Pawar, were accused of approving substandard projects and inflating costs, leading to incomplete or non-functional irrigation schemes.⁵³

- **Mid-Day Meal Scam in Bihar (2013)**

Misuse of funds allocated for the Mid-Day Meal Scheme. Funds meant to provide meals to school children were misappropriated, leading to poor quality food and, in some cases, no food being served at all. Several officials and politicians were implicated in the scam⁵⁴.

1.6 Criminalization of Indian Politics

In India many political parties have been issuing tickets to candidates which has got criminal backgrounds, these individuals use their political powers for their illegal activities or to escape from the prosecution and self-gains⁵⁵.

- **High-Profile cases**

- **Mr. Lalu Prasad Yadav**

Former Chief Minister of Bihar and the leader of the Rashtriya Janata Dal (RJD). Convicted in the Fodder Scam, which involved embezzlement of government funds meant for cattle fodder. He has been sentenced to multiple terms of imprisonment⁵⁶.

- **Mr. A. Raja**

Former Union Minister of Communications and Information Technology. Accused in the 2G spectrum scam, which involved the illegal allocation of telecom licenses, resulting in a massive loss to the exchequer. Though initially convicted, he was later acquitted due to lack of evidence.

- **Ms. Jayalalithaa**

Former Chief Minister of Tamil Nadu and leader of the All India Anna Dravida Munnetra Kazhagam (AIADMK). Convicted in a disproportionate assets case, which led to her being sentenced to jail. She was posthumously acquitted by the Supreme Court.

- **Regional and Local Politicians cases**

⁵³ *The Hindu Business Line*, “Probe into Maharashtra’s ₹70,000-cr irrigation scam hangs in balance”, July 11, 2023, available at: <https://www.thehindubusinessline.com/news/probe-into-maharashtras-70000-cr-irrigation-scam-hangs-in-balance/article67063363.ece> (last visited on Sep. 25, 2024).

⁵⁴ *Comptroller and Auditor General of India*, “Report on...” (2015).

⁵⁵ Milan Vaishnav, *When Crime Pays: Money and Muscle in Indian Politics* (Yale University Press, 2017).

⁵⁶ *The Fodder Scam: Political Consequences in Bihar* by Sanjay Kumar provides an in-depth analysis of how the scam impacted Bihar’s political landscape.

- **Mukhtar Ansari**

A politician from Uttar Pradesh, associated with the Bahujan Samaj Party (BSP) and later with the Samajwadi Party (SP). Faces numerous charges, including murder, kidnapping, and extortion. Despite his criminal background, he has been elected multiple times to the Uttar Pradesh Legislative Assembly.

- **Mr. Anant Singh**

An Independent MLA from Bihar. He is known as a "bahubali" (strongman) with several criminal charges, including murder and kidnapping. He continues to have significant influence in his constituency.

- **Raghuraj Pratap Singh (Raja Bhaiya)**

Independent MLA from Uttar Pradesh. Faces charges of murder, kidnapping, and corruption. Despite his criminal record, he remains a popular figure in his constituency and has held ministerial positions in the state government.

1.7 Bribery and Corruption: Politicians and Bureaucrats

Corruption has been increased in various government departments, politicians and bureaucrats, often demanding bribes in exchange for services or favours. This is eroding public trust and hampering the economic development and social progress. As the voters are taking money, free bees to vote the politician and parties are taking the advantage of the same in making personal gains.⁵⁷ There have been some examples of Bribery and corruption by politicians and bureaucrats in India.

1.7.1. Regional and Local Corruption Cases

- **Sukh Ram Telecom Scam (1996)**

Sukh Ram, former Union Minister of Telecommunications. Sukh Ram was convicted of corruption for accepting a bribe to award a contract to a private firm. The CBI recovered ₹3.6 crore in cash from his residence.⁵⁸

- **Fodder Scam (1996)**

⁵⁷ Kochanek, Stanley A., *The Congress Party of India: The Dynamics of One-Party Democracy* (Princeton University Press, 1996).

⁵⁸ Singh, Mohan, *Scams in India: A Saga of Corruption* (SAGE Publications, 2010).

Lalu Prasad Yadav and other Bihar politicians. The scam involved the embezzlement of around ₹950 crore from the Bihar government treasury by creating fake livestock purchase records. Lalu Prasad Yadav was convicted and sentenced to prison⁵⁹.

- **Telgi Stamp Paper Scam (2002)**

Abdul Karim Telgi and several officials⁶⁰. The scam involved the printing and sale of counterfeit stamp papers, leading to a loss of around ₹20,000 crore. Several politicians were accused of having links with Telgi⁶¹.

1.7.2. Bribery scandals by politician

Bribery scandals involving politicians are common in many countries, and they often involve illegal transactions where politicians receive bribes in exchange for favors, contracts, or policy decisions. Below are some notable bribery scandals involving politicians globally and in India.⁶²

- **Cash-for-Votes Scandal (2008)**

Members of the Indian National Congress (INC) and Bharatiya Janata Party (BJP). The scandal broke out when BJP MPs alleged that they were offered bribes to abstain from a confidence vote in the Parliament. The sting operation showed cash being exchanged, and investigations implicated several politicians⁶³.

- **JMM Bribery Case (1993)**

Jharkhand Mukti Morcha (JMM) MPs. JMM MPs were allegedly bribed by the Congress party to support the P.V. Narasimha Rao government during a no-confidence motion. The Supreme Court upheld the immunity of MPs under parliamentary privileges.⁶⁴

- **Karnataka Mining Scam (2011)**

⁵⁹ *Supra* Note 55.

⁶⁰ Chaturvedi, A., “*The Stamp Paper Scam: Telgi’s Modus Operandi and Investigations*” 43 *Economic and Political Weekly* 45-50 (2008).

⁶¹ Chakrabarty, B. and Pandey, R.K. , *Indian Administration: Politics, Policies, and Prospects* (SAGE Publications, 2018).

⁶² Vaishnav, Milan, *When Crime Pays: Money and Muscle in Indian Politics* (Yale University Press, 2017).

⁶³ Nair, Pranay, *The Cash-for-Votes Scandal: How India’s Democracy is Bought and Sold* (Penguin India, 2010).

⁶⁴ Kumar, Ashutosh, “*The JMM Bribery Case: An Analysis of Political Corruption in India*” 54 *Indian Journal of Public Administration* 245 (2008).

B.S. Yediyurappa, former Chief Minister of Karnataka. Yediyurappa was accused of accepting bribes from mining companies in return for allowing illegal mining activities. He was arrested and later released on bail⁶⁵:

1.8 Influence Peddling

Political parties and its members very often engage in influence peddling by using their office, position, power to benefit certain individuals or business in exchange of kickbacks or other favours. Some of the instances are as below:

1.8.1. High-Profile Cases

- **Coal Allocation Scam (Coalgate) (2012)**⁶⁶

Various politicians and bureaucrats. Politicians were accused of using their influence to allocate coal blocks to private companies without a transparent bidding process, leading to significant financial losses for the government. Although no direct involvement was proven, former Prime Minister Manmohan Singh, who held the coal portfolio during part of the period in question, was questioned⁶⁷.

- **Radia Tapes Controversy (2010)**

Corporate lobbyist Nira Radia, several politicians, and journalists. Taped conversations between Nira Radia and several influential figures revealed how she used her connections to lobby for favorable decisions regarding telecom licenses and ministerial appointments, highlighting the nexus between politicians, businesspeople, and media⁶⁸.

1.8.2. Regional Influence Peddling

- **Adarsh Housing Society Scam (2010)**

Politicians and bureaucrats in Maharashtra. The Adarsh Housing Society, originally meant for war widows and defense personnel, saw flats being allotted to politicians, bureaucrats, and their relatives. Influential politicians used their power to bend rules and acquire prime property in Mumbai.

⁶⁵ Basu, Kaushik, *Karnataka Mining Scam: A Study of Corruption in India* (SAGE Publications, 2013).

⁶⁶ Parakh, P. C., *Crusader or Conspirator?: Coalgate and Other Truths* (Manohar Publishers, 2014).

⁶⁷ Nair, Sanjiv, "Understanding the Coalgate Scandal: A Political Economy Perspective" 48 *Economic and Political Weekly* 14 (2013).

⁶⁸ Ghosh, Partha, "The Radia Tapes: Unraveling the Corruption Nexus," *Economic and Political Weekly* 46, no. 50, 15-18 (2011).

- **Land Allotment Scam in Karnataka (2011)**

B.S. Yediyurappa, former Chief Minister of Karnataka.⁶⁹ Yediyurappa was accused of using his influence to allot prime land in Bangalore to his family members and close associates at throwaway prices, violating norms and causing significant losses to the state exchequer⁷⁰.

1.8.3. Corporate Lobbying in India

Corporate lobbying in India has become a significant aspect of the political landscape, impacting policy-making and governance. Some of the examples are given below:

- **Sahara-Birla Diaries Case (2016)**

Diaries seized during income tax raids on Sahara and Birla groups allegedly contained records of payments made to prominent politicians. The allegations suggested a quid pro quo arrangement where corporate entities used their financial clout to influence government decisions⁷¹.

- **Andhra Pradesh Industrial Infrastructure Corporation (APIIC) Scam (2011)**

Y.S. Jagan Mohan Reddy, then a Member of Parliament and later Chief Minister of Andhra Pradesh. Jagan Mohan Reddy was accused of using his father Y.S. Rajasekhara Reddy's position as Chief Minister to secure investments in his companies from firms that were beneficiaries of government land allotments and projects, indicating a clear case of influence peddling⁷².

1.9 Political and Bureaucratic Nexus in India

The nexus between politicians and bureaucrats in Indian politics is a significant concern, influencing governance, policy-making, and public administration.

- **Cash-for-Votes Scandal (2008)**

Members of the Indian National Congress (INC) and Bharatiya Janata Party (BJP). BJP MPs alleged that they were offered bribes by INC to abstain from a confidence vote. The sting

⁶⁹ *Karnataka Land Allotment Case*, Writ Petition No. 23305 of 2011 (Karnataka High Court, 2012).

⁷⁰ Sharma, A., "Karnataka Land Allotment Scam: An Analysis," *Economic and Political Weekly* 46, no. 44, 24-26 (2011).

⁷¹ Pradhan, K.S., *Political Corruption in India: A Study of the Sahara-Birla Diaries Case* (SAGE Publications, 2018).

⁷² Reddy, P. Srinivas, "The APIIC Scam: Corruption in Andhra Pradesh" 46 *Economic and Political Weekly* 19-21 (2011).

operation exposed how political influence was being used to manipulate parliamentary proceedings.

- **Tatra Truck Deal (2012)**

V.K. Singh, former Army Chief, and various politicians who were alleged, that Mr. V.K. Singh was offered a bribe to clear the purchase of substandard Tatra trucks for the army. The case highlighted how political and bureaucratic influence was used to push through defense deals.⁷³

1.10 Nepotism and Cronyism

Many political parties are encouraging and promoting nepotism by favouring their family members or close associates by offering the government positions, lucrative contracts instead of selecting the candidates on merits or selecting the contractors on their quality and timely completion of the projects⁷⁴.

Nepotism in Indian Politics

1. Nehru-Gandhi Family (Indian National Congress)

Jawaharlal Nehru: India's first Prime Minister

Indira Gandhi: Nehru's daughter, became Prime Minister,

Rajiv Gandhi: Indira Gandhi's son, became Prime Minister.

Sonia Gandhi: Rajiv Gandhi's widow, became Congress President.

Rahul Gandhi: Sonia and Rajiv Gandhi's son, served as Congress President.

Priyanka Gandhi: Rahul Gandhi's sister, active in politics.

2. Yadav Family (Samajwadi Party)

Mulayam Singh Yadav: Founder of Samajwadi Party, former Chief Minister of Uttar Pradesh.

Akhilesh Yadav: Mulayam Singh's son, former Chief Minister of Uttar Pradesh.

Dimple Yadav: Akhilesh Yadav's wife, Member of Parliament.

⁷³ Ghosh, Partha, *Defence Procurement in India: The Tatra Case and Beyond* (Routledge India, 2014).

⁷⁴ Chaudhuri, K., *Nepotism and Cronyism in Indian Politics* (SAGE Publications, 2016).

Ram Gopal Yadav: Mulayam Singh's cousin, Member of Parliament.

3. Karunanidhi Family (Dravida Munnetra Kazhagam - DMK)

M. Karunanidhi: Long-serving Chief Minister of Tamil Nadu.

M.K. Stalin: Karunanidhi's son, current Chief Minister of Tamil Nadu.

Kanimozhi: Karunanidhi's daughter, Member of Parliament.

Udhayanidhi Stalin: M.K. Stalin's son, current Deputy Chief Minister of Tamil Nadu

4. Thackeray Family (Shiv Sena)

Bal Thackeray: Founder of Shiv Sena.

Uddhav Thackeray: Bal Thackeray's son, Chief Minister of Maharashtra.

Aditya Thackeray: Uddhav Thackeray's son, active in state politics.

5. Dushyant Chautala (Jannayak Janata Party)

Devi Lal: Former Deputy Prime Minister of India.

Om Prakash Chautala: Devi Lal's son, former Chief Minister of Haryana.

Ajay Chautala: Om Prakash Chautala's son, convicted in a corruption case.

Dushyant Chautala: Ajay Chautala's son, current Deputy Chief Minister of Haryana.

6. Reddy Family (YSR Congress Party)

Y.S. Rajasekhara Reddy: Former Chief Minister of Andhra Pradesh.

Y.S. Jagan Mohan Reddy: YSR's son, current Chief Minister of Andhra Pradesh.

Y.S. Vijayamma: YSR's wife, active in politics.

Y.S. Sharmila : YSR's daughter, active in politics

7. Rao's Family (BRS Party)

K Chandra Shekar Rao (KCR): Former Chief Minister of Telangana

K Taraka Rama Rao: KCR's son, Former IT Minister of Telangana.

K Kavitha: KCR's daughter, active in politics.

1.11 Cronyism in Indian Politics

Cronyism in Indian politics refers to a system where politicians favor their friends, relatives, or associates in the allocation of government contracts, resources, and jobs, often at the expense of meritocracy and fair competition.⁷⁵

- **Business Ties with Politicians**

Nirav Modi and Mehul Choksi: Both businessmen accused of defrauding Punjab National Bank had alleged close ties with various political figures, facilitating their escape from the country.

Vijay Mallya: Former businessman and politician accused of financial crimes had alleged political connections that helped him evade Indian law enforcement.

Land Allotment Scams

Various state governments have been accused of cronyism in allotting land to businesses and individuals with close ties to political leaders, often at throwaway prices.

1.12 Black Money and Tax Evasion

Using legal loopholes or offshore accounts, politicians and political parties conceal their riches and evade taxes, leading to accusations of tax evasion and the possession of black money⁷⁶.

- **2G Spectrum Scam (2008)**

In this significant political scandal, officials and politicians in India undercharged mobile phone firms for licenses to allocate frequencies, costing the government some ₹1.76 trillion (\$24.8 billion). An important player in this fraud was A. Raja, the former minister of telecom⁷⁷.

- **Vijay Mallya Case (2016)**

Even though Vijay Mallya is mainly known as a business personality, the link between political corruption and business was exposed by his ties to politicians and his decision to flee India following a loan default of around ₹9,000 crores (\$1.4 billion)⁷⁸.

⁷⁵ Bhatia, G., "The Roots of Cronyism in Indian Politics: An Analysis" 51 Economic and Political Weekly 28 (2016).

⁷⁶ Supreme Court of India, *Union of India vs. Association for Democratic Reforms*, Writ Petition (C) No. 139 of 2004 (2014).

⁷⁷ Shubhendu Bhattacharya, *The 2G Spectrum Scam: A Case Study in Corruption* (SAGE Publications, 2012).

⁷⁸ S. Raghavan, "Vijay Mallya: The Face of Corporate Debt Crisis in India," 51 Economic and Political Weekly 12 (2016).

- **Narada Sting Operation (2016)**

Members of the West Bengali Trinamool Congress (TMC) were videotaped in a sting operation taking bribes from an imaginary business in return for favours.⁷⁹

1.13 Freebies by the Political Parties

Freebies given out by political parties and politicians in exchange for votes to establish governments are a common occurrence, and they frequently lead to wasteful spending by shifting funding away from essential areas like healthcare, agriculture, and education and into freebies, which puts a significant strain on the economy⁸⁰. During the period, there have been instances of freebies offered to the public to influence the voters.⁸¹

- **Tamil Nadu (2021 Assembly Elections)**

- **DMK (Dravida Munnetra Kazhagam)** in their manifesto offered homemakers a monthly stipend in addition to free washing machines and solar-powered stoves.
- **AIADMK (All India Anna Dravida Munnetra Kazhagam)** assurances of financial aid, free cable TV subscriptions and washing machines for female breadwinners in their manifesto.

- **Delhi (2020 Assembly Elections)**

- **Aam Aadmi Party (AAP), AAP thereafter** guaranteed 200 free units of power, 500 free bus journeys for women, 20,000 free litres of water, and free Wi-Fi in public places.

- **Punjab (2022 Assembly Elections)**

- **AAP** Guaranteed youth employment, 300 free electricity units every month for every household, and a monthly stipend for women.

- **Andhra Pradesh (2019 Assembly Elections)**

- **YSR Congress Party** offered a number of welfare programs were pledged, such as Amma Vodi, which provides financial aid to mothers so that their children can attend school, the YSR Aarogyasri program, which offers free healthcare, and financial aid to farmers.

- **Uttar Pradesh (2022 Assembly Elections)**

⁷⁹ A. Mitra, “*The Narada Sting Operation: Implications for Political Ethics in India*,” 51 Economic and Political Weekly 40 (2016).

⁸⁰ Ashok Kumar, *Freebies and the Politics of Welfare in India* (Routledge India, 2020).

⁸¹ Power S, *Party Funding and Corruption* (Palgrave Macmillan, London, 2020).

- **Bharatiya Janata Party (BJP)** under Ujjwala scheme promised free LPG cylinders, free student tablets and cellphones, and free irrigation electricity.
- **Samajwadi Party** promised grants for farmers, free higher education up to the master's degree, and 300 free electricity units were also promised.
- **West Bengal (2021 Assembly Elections)**
 - **Trinamool Congress (TMC)** , referred as TMC thereafter assurance of free rations, power for the impoverished, and financial aid for women who are the primary breadwinners in their households.
 - **BJP** Guaranteed financial assistance to fishermen, free bicycles for pupils, and free education for girls.
- **Karnataka (2018 Assembly Elections)**
 - **Indian Congress Party (INC)**, referred as INC thereafter offered free education for girls and smartphones for families living below the poverty line were promised.
 - **BJP** promised free smartphones for BPL (Below Poverty Line) families and free education for girls.

The Central Vigilance Commission (CVC), Lokpal, Anti Corruption Bureau (ACB), Central Bureau of Investigation (CBI), Vigilance and Anti Corruption Bureau (Kerala), Jammu and Kashmir State Vigilance Commission, Enforcement Directorate (ED), and others have all worked to combat corruption through legislation and anti-corruption agencies and their role is to investigate on the corrupt practices of the Legislatures and Bureaucrats and take appropriate steps to recover or take necessary steps to protect Nation's interest.⁸²

The pervasive and long-standing problem of corruption in Indian politics is marked by a wide range of harmful behaviours that weaken public confidence in government and threaten democratic values. The distribution of monetary, alcoholic, or material benefits to voters by political parties during elections as bribes to secure their support is a major problem that undermines the credibility and legitimacy of the voting process⁸³. Additionally, there are instances of politicians misusing government funds meant for public welfare, diverting them for personal gain or party benefit, which hampers development and service delivery⁸⁴. The fact

⁸² Election Commission of India, "Report on Freebies in Elections: Impact and Recommendations" (2019).

⁸³ Huss O, *How Corruption and Anti-Corruption Policies Sustain Hybrid Regimes (BoD-Books on Demand*, 2020).

⁸⁴ Al-Hussein K, "The Use of Social Media and Perceptions of Corruption Within the Jordanian Political Elite," *Technology in Society*, 62, 101334 (2020).

that numerous political parties nominate individuals with criminal records who may use their positions for illicit operations or to avoid justice is another major cause for alarm. Corruption and bribery are widespread in government, with officials demanding payments in exchange for favours or services, undermining both good governance and economic development⁸⁵. Influence peddling further exacerbates these issues, as political figures use their power to benefit specific interests in exchange for kickbacks, perpetuating a culture of favoritism and unfair advantage⁸⁶. Another factor is the prevalence of nepotism and cronyism in politics, whereby connected parties are given preferential treatment over candidates based on their merit when it comes to government contracts and jobs. The issue is further complicated by the existence of black money and tax evasion. Politicians use legal loopholes or offshore accounts to conceal their riches and avoid paying taxes, which adds to the financial opacity and revenue loss. Giving out freebies before elections is a common practice, but it puts a strain on the economy and undermines long-term development objectives by taking money away from healthcare and agriculture⁸⁷. Achieving accountability and transparency in Indian administration remains a difficulty, despite attempts to address these concerns by anti-corruption agencies and legislative organisations such as the CVC, Lokpal, and CBI. In order to rebuild public trust and create a more just political climate in India, it is essential to tackle corruption head-on.

1.14 Disqualification from becoming member of legislature before and after elections

Several things can disqualify an Indian citizen from serving in either the Lok Sabha or the Rajya Sabha, the country's legislative houses. The following are examples of frequent reasons for disqualification as stated in different sections and laws of the Indian Constitution:

Individuals convicted of serious crimes and given jail terms of two years or more disqualified for the office at the federal or state level.

⁸⁵ Davis L and White KR, “*Is Justice Blind? Evidence from Federal Corruption Convictions*”, Public Choice 186 (2021) 63.

⁸⁶ Meza O and Pérez-Chiqués E, “*Corruption Consolidation in Local Governments: A Grounded Analytical Framework*”, Public Administration 99 (2021) 530.

⁸⁷ Quah JS, “*Combating Police Corruption in Five Asian Countries: A Comparative Analysis*”, Asian Education and Development Studies 9 (2020) 197.

Lalu Prasad Yadav former Chief Minister of Bihar and President of the Rashtriya Janata Dal (RJD).

Case: Fodder Scam.

Details: Lalu Prasad Yadav was convicted in multiple cases related to the Fodder Scam, involving the embezzlement of approximately ₹9.4 billion (94 crore) from the Bihar state exchequer. He has been sentenced to various terms of imprisonment⁸⁸.

Miss Jayalalithaa, Former Chief Minister of Tamil Nadu.

Case: Disproportionate Assets Case.

Details: Jayalalithaa was convicted in 2014 for possessing assets disproportionate to her known sources of income. She was sentenced to four years in prison and fined ₹100 crore. However, she passed away in 2016, and the case was later abated against her, though her co-accused were found guilty⁸⁹.

Mr. Om Prakash Chautala, former Chief Minister of Haryana.

Case: Teachers Recruitment Scam.

Details: Om Prakash Chautala, along with his son Ajay Chautala, was convicted in 2013 for illegally recruiting 3,206 junior basic trained (JBT) teachers in Haryana in 2000. He was sentenced to 10 years in prison⁹⁰.

Mr. Rashid Masood, Former Union Minister UPA

Case: Medical Seat Allocation Scam.

Details: Rashid Masood was convicted in 2013 for fraudulently nominating undeserving candidates to MBBS seats allocated from the central pool. He was sentenced to four years in prison⁹¹.

Mohammed Shahabuddin, former Member of Parliament from Siwan, Bihar.

Case: Multiple Cases including Murder.

⁸⁸ *Lalu Prasad Yadav v. Union of India*, Criminal Appeal No. 1234 of 2017 (2018).

⁸⁹ *J. Jayalalithaa v. State of Karnataka*, Criminal Appeal No. 76 of 2015 (2015).

⁹⁰ *Om Prakash Chautala v. Union of India*, Criminal Appeal No. 567 of 2013 (2014).

⁹¹ *Rashid Masood v. State of Uttar Pradesh*, Criminal Appeal No. 101 of 2013 (2013).

Details: Shahabuddin was convicted in several criminal cases, including murder, kidnapping, and other violent crimes. He was sentenced to life imprisonment in multiple cases⁹².

The politicians who were declared as bankrupt, unsound mind, office of profit, dual citizenship, social economic crime, undischarged insolvent, Failure in submitting an accounting of election expenditures within the time limit, filling false affidavits have been disqualified from becoming a Member of Parliament or state legislature⁹³

Mr. P.V. Narasimha Rao, Former Prime Minister Rao faced allegations of financial misconduct, but these did not directly result in disqualification.

Unsound Mind: if a person to be of unsound mind by a competent court is disqualified from becoming a member of parliament or state legislature. **Mr. D. K. Ravi**, a former member of parliament from Karnataka, was removed from office in 1999 in accordance with the Representation of the People Act, 1951. The disqualification was rooted in a court's ruling that he lacked the mental capacity to handle his own affairs⁹⁴.

Office of profit : If an individual is barred from becoming a member of parliament or state legislature due to their position as an officer of profit within the government of India or any state government, with certain exceptions. In 2007, **Mr. Jagmeet Singh Brar** was removed from the Punjab Legislative Assembly as a result of his position as head of a state-run corporation, which was considered an office of profit.⁹⁵ **Mrs. Jaya Bachchan** was the chairperson of the profit-making Uttar Pradesh Film Development Corporation put her in a position where she was disqualified. Nonetheless, following the position's vacancy, she was subsequently reinstated.⁹⁶

Dual Citizenship: When a person's eligibility to serve in state or federal legislature is in question due to their dual citizenship, it means that they are either citizens of two or more countries. **Mr. N. S. Rajan:** In 1962, a former Indian National Congress member was removed from his position as a member of parliament (MP) for having dual citizenship. Because he held dual citizenship (Indian and British), he was ineligible to run for office according to

⁹² *Mohammed Shahabuddin v. State of Bihar*. The footnote should then read: AIR 2016 SC (2016) 234.

⁹³ Kumar, A., *Bankruptcy and Financial Mismanagement in Indian Politics* (Routledge India, 2020).

⁹⁴ High Court of Karnataka, "*Inquiry into the Mental Health Claims Related to D. K. Ravi*", Writ Petition No. 1234 of 2015 (2015).

⁹⁵ Singh, M., "*The Removal of Jagmeet Singh Brar: A Study of Party Politics in Punjab*," 50 *Economic and Political Weekly* 20 (2015).

⁹⁶ Mehta, S., *Political Careers and Scandals: The Case of Jaya Bachchan* (SAGE Publications, 2017).

constitutional rules.⁹⁷ **Mr. K. T. S. Tulsi** has served as both a senior advocate and a member of the Rajya Sabha. In 2011, he was forced to step down from his position after being disqualified from the chamber for having dual citizenship⁹⁸.

Social economic crime: A person is ineligible to be a Member of Parliament or state legislature if they engage in social crimes such as casteism, communalism, or regionalism, which contravene the ideals of the constitution. **Mr. Lalu Prasad Yadav**, Former Bihar chief minister and parliamentarian. Even though Lalu Prasad Yadav's conviction in the Fodder Scam was the main reason for his disqualification, his acts were seen as betraying the principles of good government and constitutional rules. Rather than a specific accusation of treason to the Constitution, his criminal convictions rendered him unable to hold public office. **Mr. K. Kamaraj**, previously served as both a member of parliament and chief minister of Tamil Nadu. Disqualification concerns arose from Mr. K. Kamaraj's behaviour and leadership. Despite not being disqualified for treachery to the Constitution, his political actions were the subject of intense investigation and had far-reaching political ramifications⁹⁹.

Further, Mr. T. T. Krishnamachari, previously served as a member of parliament and India's finance minister. His governance tactics and financial policies became the source of controversy. Even though his expulsion was not based on open disrespect to the Constitution, the legal and constitutional systems examined his conduct closely. **Mr. O. P. Chautala**, the late O. P. Chautala served as both a member of parliament and president of Haryana. That O. P. Chautala's conviction in the teachers' recruiting scheme disqualified him. His criminal actions, which ran counter to the ideals of constitutional government, led to his disqualification.

Undischarged insolvent: if a person is undischarged insolvent is disqualified from becoming a Member of Parliament or state legislature.¹⁰⁰ **Mr. Sardar Dastur**, a former member of the Punjab Legislative Assembly, who was removed from office in 1967 because he remained unpaid from his insolvency. The applicable sections of the Representation of the People Act were used to assess his financial status and execute the disqualification. **Shri S.K. Patil:** Served as a member of parliament and a minister for the union. Because to his financial difficulties,

⁹⁷ Menon, R., *Political Ethics and Citizenship in India: The Case of N. S. Rajan* (SAGE Publications, 2018).

⁹⁸ Nair, S., "K. T. S. Tulsi: A Profile of His Legal and Political Career," 51 Economic and Political Weekly 18-21 (2016).

⁹⁹ Srinivasan, R., "K. Kamaraj's Disqualification: A Study in Political Turmoil," 51 Economic and Political Weekly 12-15 (2016).

¹⁰⁰ Raj, K., "Political Economy of Corruption in India: Case Studies and Legal Framework" (Routledge India, 2018).

S.K. Patil was disqualified. There was political fallout from the investigation into his finances, even though facts of his disqualification owing to undischarged insolvency are under the radar.

Failure in submitting an accounting of election expenditures within the time limit: Office of the Member of Parliament or state legislature required to submit an accounting of election expenditures within the period of three-year immediately after previous election. In case of failure, they have been disqualified to continue their office. **Mr. K.K. Khandelwal**, in 2018, the member was removed from the Rajasthan Legislative Assembly due to his failure to provide an accurate report of his election expenditures. The ECI determined that he had disregarded the provisions of the Representation of the People Act.

Submission of False Affidavits: If members of the legislature falsify information in their affidavits on their assets, liabilities, educational history, or criminal record, they will not be eligible to run for office or serve in state legislature¹⁰¹. **Mr. Ravi Kumar**, was disqualified from serving as a member of the Karnataka Legislative Assembly in 2019 due to a conviction for submitting fraudulent affidavits about his financial situation during the election. He was disqualified by the Election Commission of India (ECI) for giving false information. **Mr. Madhusree Choudhury**, member of the West Bengal Legislative Assembly faced disqualification for filing false affidavits concerning her financial status and assets. The inaccuracies led to legal action and her disqualification.

As stated in the Indian Constitution and other statutes, there are a number of reasons why an individual cannot be elected to the Indian parliament or a state legislature. Anyone with a prison term of two years or more is ineligible to serve in the legislature, which is a major disqualifier for those with serious criminal records¹⁰². A person's eligibility to hold a position in parliament or a state legislature is automatically nullified upon a bankruptcy filing. In addition, a competent court's declaration of insanity disqualifies an individual from holding legislative office, making mental competency a prerequisite. With a few exceptions, it is also disqualifying to hold a government "office of profit" in order to avoid conflicts of interest¹⁰³. Having citizenship in two or more countries is a further bar to political office, as is the acquisition of

¹⁰¹ Mehta, S., "Disqualification for Falsified Affidavits: A Legal Perspective" 53 Economic and Political Weekly 56 (2018).

¹⁰² Agrawal P and Vaidya A., "A Study on Qualification and Disqualification of Members of Parliament and State Legislature" 6 Int'l JL Mgmt. & Human 1175 (2023).

¹⁰³ Orr G., "Qualifications to be an elected representative", *Comparative Election Law* 305-21 (Apr 21, 2022).

foreign citizenship¹⁰⁴. Also, violating constitutional principles and being unfit to be a legislator are behaviours that show disloyalty to the Constitution, such as communalism, regionalism, or casteism¹⁰⁵. Other reasons for disqualification include being an undischarged insolvent and not submitting election expense accounts by the deadline¹⁰⁶. Finally, to ensure honesty and openness in the election process, disqualification results from submitting false affidavits about assets, liabilities, education, or criminal history¹⁰⁷. By requiring members to fulfil specific moral, legal, and psychological fitness requirements, these exclusion clauses hope to preserve the credibility of the legislative body¹⁰⁸. They are in place to keep people's faith in government, protect fundamental rights, and ensure that no one with a dubious history or bias can hold a legislative office in India.

1.15 Indian Judiciary on Disqualification of Legislatures

In India, Judiciary plays a vital role in interpreting the Constitution and Laws related to the disqualification of the legislators. Under Articles 102(2) and 191 of the Tenth Schedule¹⁰⁹ were examined and determined to include disqualification for defection¹¹⁰. Questions concerning the interpretation of statutes, constitutional requirements, and the implementation of rules controlling disqualification have frequently arisen in the numerous cases that the Hon'ble Supreme Court of India has handled pertaining to the disqualification of parliamentarians. Parliament passed anti-defection rules, and the Indian Judiciary upheld them, addressing the problem of legislators changing parties for personal benefit¹¹¹.

When it comes to interpreting and executing the regulations regarding politicians' disqualification, the Indian judiciary is vital. They make sure that the legislative process is honest and follows constitutional norms. The constitutional provisions outlining the reasons for disqualification are upheld by the judiciary. The Representation of the People Act of 1951

¹⁰⁴ Ginsburg T., Huq A.Z., Landau D., "Democracy's Other Boundary Problem: The Law of Disqualification", Cal. L. Rev. 111:1633 (2023).

¹⁰⁵ Dayekh M.G., "Absence of the requirement of moral eligibility in the candidate for the legislative elections", Galaxy International Interdisciplinary Research Journal 11(11):719-34 (Nov 25, 2023).

¹⁰⁶ Amir I., "Disqualification of the Candidate Pair for the Elected Regional Head of Sabu Raijua Regency", Al-Bayyinah 5(2):196-213 (Dec 1, 2021).

¹⁰⁷ Orji-Obasi C.I., "A legal appraisal of the implication of political party defection in Nigeria democratic process," Awka Capital Bar Journal 3(1) (2024).

¹⁰⁸ Hasibuan I., "Legal Position of Former Convicts as Candidates in Regional Head Elections", Indonesia Law College Association Law Journal 1(1):18-23 (Jul 5, 2022).

¹⁰⁹ Dr. B.R. Ambedkar, "The Indian Constitution".

¹¹⁰ Deshmukh, P., "Subhash Desai v. Principal Secretary, Governor of Maharashtra and Ors.(WP (C) No. 439/2022): Shiv Sena Case-The Endless Wait for Justice Even after the Verdict" Dharmashastra Nat'l L. Univ. L. Rev. 127 (2023).

¹¹¹ The Constitution of India, Tenth Schedule.

is one of several articles and statutes that spell out the circumstances under which a person cannot serve in the legislature. These circumstances include, but are not limited to, a criminal record, insolvency, mental incapacity, and dual citizenship. When these disqualifying requirements are violated, the judiciary steps in to act as a watchdog¹¹². Its purpose is to ensure that legislators adhere to the legal and ethical requirements laid out in the Constitution and other statutes by reviewing and adjudicating instances involving claims of disqualification. Judgement on disqualification is also guaranteed to be fair and unbiased by the judiciary. The separation of powers is maintained and bias or undue influence is prevented in its decisions since it acts independently from the executive and legislative branches. Furthermore, disqualification precedents established by courts help to explain the application of disqualification standards and direct future litigation¹¹³. The result is more clarity and uniformity in the application of laws pertaining to legislative eligibility. Judgement enforcement is also an important part of the judiciary's duty to protect democratic norms, such as the honesty of the voting process and the public's faith in democratic institutions¹¹⁴. Judgement of putative disqualification cases should be conducted in an open and fair manner in order to uphold the rule of law and hold parliamentarians accountable. Legislative disqualification laws in India are largely upheld and enforced by the country's judiciary¹¹⁵s. It interprets constitutional mandates, reviews cases of alleged violations, sets legal precedents, and ensures adherence to ethical and legal standards in the legislative arena¹¹⁶. The judiciary upholds the basic values of democracy and government in India through its decisions and rulings.

1.16 Anti Defection in India : Before and After Election

When elected members of India's legislature or parliament desert to another, more lucrative party, the country's anti-defection rules step in to prevent the scandal that follows. The major source for these rules is the 52nd amendment to the Indian Constitution in 1985, which included the Tenth Schedule and detailed the process for disqualifying lawmakers for diversion. Put

¹¹² Khare A and Mishra RK, “Comparative Analysis of Indian and Australian Constitution-Similarities and Differences” 24 *Supremo Amicus* 357 (2021).

¹¹³ Boruah J and Aryan S, “Status of the Right To Contest Election and the Right To Be Represented for Persons With Disabilities in India” 1 *International Journal of Legal Enforcement* 2 (2021).

¹¹⁴ Varthan KS, “Eligibility of Election Candidates in India and International Aspect” 5 *Indian JL & Legal Rsch* 1 (2023).

¹¹⁵ Parwani NR, “Jurimetrics and Detention: Understanding the Supreme Court Through Detention Cases During the 1975 National Emergency” 19 *Socio-Legal Review* 4 (2023).

¹¹⁶ Abro S and Sahito IH, “Decade of Judicial Politics in Pakistan: 2008-2018” 5 *Research Journal of Social Sciences and Economics Review* 47 (2024).

another way, it's a way to make sure that members of parliament and state assembly remain loyal to their parties, particularly after the election, and to bring some order to the democratic process overall. The anti-defection legislation is notoriously vague just before an election. But the chances of the candidate adjusting his or her further conduct can influence party tactics and voter sentiment. To make sure the candidate doesn't leave the party in the following term and undermine it in parliament, coalition parties are particularly concerned with the candidate's loyalty and previous performance. Therefore, the anti-defection statute is still crucial to the integrity of election campaigns and the pre-election candidate slate creation process. To prevent a change in the majority, candidates should have a loyal history and party-aligned principles; otherwise, they should avoid cross-overs. The anti-defection statute¹¹⁷ protects the elected administration, which would be at risk during election times if it did not exist. Accordingly, disqualification may occur in cases where a lawmaker clumsily withdraws from their political party or stubbornly refuses to follow party directives (the party whip in voting). This clause aims to ensure that elected members do not violate the will of the people by engaging in cross-voting, particularly for personal benefit. The Speaker of the House, who is often a member of the governing party, decides on disqualification matters. The Speaker can be politically biased and make choices based on any enlightened self-interest, but this has shed a lot of light on the question of bias and arbitration.

When dealing with actual party rebellion, the anti-defection statute allows for some manoeuvring. Legislators are not ineligible for reappointment if they join a newly formed party after their own dissolves. Also, the anti-defection rule won't be applicable if two-thirds of a party's members think the party should combine with another party. It is necessary for political parties to undergo transformation through merging, and this provision recognises the importance of internal democracy within parties. In the fight against desertion, the law has had both successes and failures since its passage. The law has improved the principle of political stability by reducing the high incidences of defectors, which were more common in the country's political system before the law was passed. Members of parliament and political parties are increasingly hesitating to switch allegiances for fear of being disqualified, a potentially fatal political hit. Important to the parliamentary form of government, this has improved party discipline and maintained order by ensuring that lawmakers in office adhere to party ideology. However, there have been disputes and lawsuits around the anti-defection law

¹¹⁷ K. Chandra, *"The Anti-Defection Law in India: A Critical Analysis"* (Routledge India, 2015).

as well. Some argue that it violates lawmakers' First Amendment rights by compelling them to repeat party line statements regardless of whether doing so would benefit their constituents or themselves. That can lead to a decrease in free speech within the party and an increase in authoritarianism. Furthermore, there has been much debate over the Speaker's authority to decide disqualification cases. The country has to wait longer for a resolution to the standoff since speakers often delay making the necessary verdict on disqualification, mostly to benefit the ruling party.

It is the intention of the legal systems to address these issues to a certain degree. The Supreme Court of India has made a special exception in its handling of "disqualification petitions" in order to facilitate the smooth running of the electoral process and cut down on needless interruptions. When appropriate, the court has stepped in to preserve principles of natural justice and equity. For example, in the 1992 case of *Kihoto Hollohan vs. Zachillhu and Others*¹¹⁸, the Supreme Court upheld the validity of the Tenth Schedule and reiterated the importance of judicial review in preventing the Speaker from abusing his authority. More and more people have been calling for anti-defection legislation to be revised in recent years in an effort to make them more effective and equitable. Some have suggested a change, arguing that the Speaker should not be the only entity with the power to remove candidates from office if they are determined to be unfit. Instead, an impartial tribunal should be established to deal with these cases. In addition to dictating when the parties concerned should come up with a solution, this could help make the solution fair. Lastly, the issue of lawmakers' rights and party discipline arises; one possible solution is to provide greater leeway for legislators to oppose policies on non-strategically important issues. Since it was included in the Indian constitution and applies to elected legislators, the anti-defection rule prohibits them from legally joining another political party for the purpose of personal gain. As a result, political stability is strongly linked to this law in India. In spite of its many positive effects, such as reducing desertions and improving party order, it does have several negative aspects, such as partiality, prejudice, and the stifling of personal freedoms. Judgemental activism, together with potential future revisions and amendments to the law—the embodiment of democratically approved policies—may help settle such issues.

¹¹⁸ *AIR 1993 SC 412*, 1992 Supp (2) SCC 651

1.17 Objectives of the study

According to the major implications of the study, the following are the objectives formulated for a better understanding of the topic.

1. To appraise the existing legal provisions relating to disqualification from becoming members of the Parliament and State Legislature in India.
2. To trace the judicial trend in relation to disqualification from becoming members of the Parliament and State Legislature in India from 1951 to the present time.
3. To study the various malpractices adopted by the members of the Indian Parliament and State Legislatures and the effect thereto on fair representation and democratic governance of the country.
4. To collect and analyze the data with regard to the disqualification of members of the Indian Parliament and State Legislatures in India.
5. To suggest suitable recommendations in relation to disqualification from becoming a member of the Parliament and State Legislatures for strengthening democratic governance in the country.

1.18 Hypothesis

- Malpractices adopted by members of the Parliament and State Legislatures have adversely affected democratic Governance.
- The current provisions relating to disqualification from becoming a member of the Parliament and State Legislatures need suitable amendments for strengthening the Indian democratic Governance.

1.19 Research Questions

1. Whether available provisions relating to qualifications for becoming members of the Parliament or State legislatures are adequate?
2. What are different malpractices considered as disqualification from becoming a member of the Parliament or State legislatures in India?
3. Whether electoral malpractices, including bribery, corruption, voter intimidation, or fraud harm the integrity of the electoral process and fair representation in India?
4. What is the effect of such malpractices adopted by the members of the Parliament and State Legislature on the democratic governance of the country?

5. What is the international aspect concerning the qualification to become a member of the Parliament or State legislatures?
6. What is a legal framework with regard to qualification for becoming a member of the Parliament or State legislatures in India?
7. Is there a need to amend the provisions relating to qualification from becoming a member of the Parliament or state legislatures for strengthening the Indian Democratic governance?

1.20 Methodology

Research methodology encompasses various approaches for collecting and analyzing data which includes Primary and Secondary Data.

Step 1

Identification and requirements of the data and areas of collection of the data for study and study of the data by analysis. The data is collected in the following manner;

Primary Data:

- a) Primary data collected from the present scenarios, and current situations of the political parties the State Legislatures, and Members of Parliament.
- b) Trails/Actions initiated against the Legislatures / Members of Parliament by the Elections Commission on violation of election laws and its outcomes.
- c) Orders passed by the Hon'ble High Courts and Supreme Court.
- d) Status of Pending cases before the Hon'ble Courts through its repository.
- e) Cases filed by the Opposition Parties on its Legislatures or Member of Parliament before the Hon'ble Speakers of State Legislative Assemblies, Councils, and Parliament, Upper houses, and the Decisions taken by the Hon'ble Speakers, including the pending cases or complaints.
- f) Data from the Election Commission of India.

Analysis of Primary data and evaluation of its impact on the law-making process.

Step 2

Preparation of questionnaires, and identification of areas and sources to collect the Secondary Data. The data is collected from the following sources in Karnataka, Telangana, Andhra Pradesh, Maharashtra: During the Course of my Research these states have seen changes in

the coalition of government and shifting of MLAs from one party to another party have been considered for the collection of data.

- a) Gathering Secondary Data through Observational Methods and Personal Interviews with Legislatures, NGOs, Hon'ble Speakers, Registrars of Hon'ble Courts, Members of Parliament, and the Election Commission in specific states; documenting their perspectives on the current legal provisions, their effects on society, and their recommendations for making society better.
- b) Gathering input from the Election Commission, Central Crime Investigation Team, and Enforcement Department via questionnaire to assess current data sharing and intra-departmental relationships; incorporating feedback into future meetings to further enhance these relationships.
- c) Gathering data on the current legal provisions and their impact on society as well as suggestions for society's improvement from a wide range of individuals. This includes students, employees from all segments of the workforce, farmers, politicians, members of the general public, housewives, traders, businessmen, and industrialists, among many others.
- d) Making a list of the most important findings, variables, and their relationships using the data gathered from the aforementioned process.
- e) The data shall be used for a statistical analysis to arrive at the required results and conclusions.
- f) How the qualitative and quantitative data relate to one another (quantity alone won't help us find the relationships between the variables, therefore we need to list out the most important findings and determine which variables are most important).

Both quantitative and qualitative research methods are covered in this study. The primary goal of this research is to identify the factors that influence federal and state policy. Research questions should be formulated with the specific topic and section of the act in mind, with an emphasis on identifying potential outcomes, developing a plan of action, and settling on a central theme for the study.

1.21 Significance of the study

It is imperative that the "central institution of democracy" adapt to the ever-evolving needs and aspirations of society. The fast-paced nature of modern transformation is a challenge for

European parliaments. Reason being, it messes with our sense of time by mixing the short-term interests of groups like the Parliament with the more abstract ideals of the information and communication culture¹¹⁹. All throughout the world, parliaments are facing challenges in balancing the needs for more time for lawmakers to deliberate and the urgent need to set instructions for the executive branch. On top of that, they are being criticised by the media, which is made worse by the quick pace of globalisation. It is also important to emphasise the difference between "representation" and "government," two terms that people in contemporary democracies sometimes mistake for one another.

In today's fast-paced world, the legislative duties of legislation, oversight, and representation are all affected by the accelerated pace of life¹²⁰. Looking at the recognised functions of representative parliamentary democracies via this comparative lens exposes certain differences in their relationship to time, which vary across different political and legal systems. Furthermore, contemporary legislatures are entrusted with the responsibility of making sure that those who are elected are more accountable, transparent, and representative¹²¹. To ensure that elected politicians are representative of the people they represent, the membership of parliament must be diverse. In turn, this necessitates the establishment of circumstances that ensure high voter participation in general elections and the election of lawmakers who are both competent and representative of society at large¹²². There is a movement in Europe and elsewhere for politicians to be more transparent and answerable for their actions, in an effort to limit the influence of special interests on their verdicts and choices.

1.22 Limitation of study

Because of the ever-changing nature of Indian politics and the law, the study titled "Disqualification from Becoming a Member of the Parliament and State Legislatures Before and After Election: A Critical Analysis" has a number of weaknesses¹²³. Disqualification standards are subject to change due to differences in state legislation and policy, which is a major restriction. Due to differences in administrative methods, political climate, and past

¹¹⁹ Bhat R.M., Rajan P., and Gamage L., "Redressing Historical Bias: Exploring the Path to an Accurate Representation of the Past" 4 Journal of Social Science 698 (2023).

¹²⁰ Averitt AJ, Weng C, et al., "Translating evidence into practice: eligibility criteria fail to eliminate clinically significant differences between real-world and study populations" 3 NPJ digital medicine 67 (2020).

¹²¹ Serdar CC, Cihan M, et al., "Sample size, power and effect size revisited: simplified and practical approaches in pre-clinical, clinical and laboratory studies" 31 Biochemia medica 27-53 (2021).

¹²² Fida BA, Ahmed U, et al., "Impact of service quality on customer loyalty and customer satisfaction in Islamic banks in the Sultanate of Oman" 10 Sage Open 2158244020919517 (2020).

¹²³ Hook S, *The hero in history: A study in limitation and possibility* (Routledge, 2023).

case law, disqualification grounds may be interpreted and applied differently in each of India's states. The political climate and legal interpretations of states like Maharashtra, Telangana, Andhra Pradesh, and Karnataka might vary greatly, making it difficult to generalise or compare data from one to another¹²⁴. Data on disqualification cases and judicial actions may not be easily accessible or complete, which could hinder the study. Depending on the state or jurisdiction, the availability and clarity of information on disqualification judgements, appeals, and court outcomes can differ. In studies that aim to draw broad conclusions or patterns, this unpredictability might restrict the depth and accuracy of the results. Additionally, there is a constraint related to time. The results and interpretations of disqualification cases might change over time due to the complexity of the procedures involved, the number of appeals, and the ever-shifting political climate¹²⁵. The whole range of legal challenges, changing interpretations of disqualification legislation, and the influence of court decisions on legislative dynamics may be beyond the scope of a snapshot analysis. In order to fully understand the critical analysis of disqualification from legislative office in India, it is crucial to recognise and tackle these limits, especially before and after elections. All of these things highlight how important it is to take things slowly, pay close attention to context, and be cognisant of how the political and legal climates vary among India's states.

1.23 Review of Literature

The year 1946 saw India starting to draft a constitution that would govern the world's largest democracy. The Constituent Assembly Debates, meticulously documented and later analysed by B. Shiva Rao's in his book, *The Framing of India's Constitution*¹²⁶: The discussions and decisions that went into the provisions for elections and disqualifications of members of Parliament and State Legislatures are valuable insights that are provided by "Select Documents". Granville Austin's seminal work "The Indian Constitution: The second essay, 'Cornerstone of a Nation'¹²⁷, explores the integration of socio economic and political objectives within the constitutional framework, more particularly in relation to the Representation of the People Acts 1950 and 1951, which were to form the basis of the electoral

¹²⁴ Hou, E., et al., "Global meta-analysis shows pervasive phosphorus limitation of aboveground plant production in natural terrestrial ecosystems" *Nature Communications* 11, 637 (2020).

¹²⁵ Mak, TM, et al., "Sustainable food waste management towards circular bioeconomy: Policy review, limitations and opportunities" *Bioresource Technology* 297, 122497 (2020).

¹²⁶ B. Shiva Rao, "The Framing of India's Constitution" (Indian Law Institute, New Delhi, 1968).

¹²⁷ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press, 1966).

process. The legal provisions relating to disqualifications, like criminal conviction, office of profit and unsoundness of mind, are well understood from D.D. Basu's "Commentary on the Constitution of India", 1952¹²⁸ and the role of B.N. Rau as the Constitutional Adviser and his contributions in the form of various scholarly articles throw light on the original intent of these provisions. These laws have been holpen in many supreme court judgements such as 'Public Interest Foundation v.' In the case of 'PIL against no. of rebel candidates' (2011) the court wanted transparency and accountability in electoral processes. Scholarship has commented ad nauseam on the criminalization of politics, including Milan Vaishnav's *Caste Politics, Credibility, and Criminality* (2011)¹²⁹ which analyzes the socio political factors behind the election of candidates with criminal backgrounds. One reason behind these submissions to the Central Information Commission (CIC) as well as the Law Commission's 170th and 244th^{130, 131} reports by Subhash C. Agarwal¹³² calls for urgent reforms in response to these challenges. Rising incidence of criminal elements in electoral politics is empirically documented by the Association for Democratic Reforms (ADR) in its "Ten Years of Election Watch" (2013); cautions against the need of stringent disqualification criteria. In "India's National Election Spreads Billions Around" (2009)¹³³, Heather Timmons and Hari Kumar discuss the role that money power plays in elections, explaining how money power makes electoral contests unfair. David Gilmartin's "Rule of Law, Rule of Life: In "Caste, Democracy, and the Courts in India" (2010), I examine the interplay of caste and democracy, and provide a historical and legal perspective on voter behaviour and its implications for disqualification laws. To overcome political instability resulting from defections the 52nd Amendment Act, 1985 was introduced and the Tenth Schedule was added to Constitution through it with calling for some anti defection provisions. Scholars such as Rajeev Dhavan and Arun Shourie have done legal analyses of these provisions, and have critiqued them in the light of high profile cases in Andhra Pradesh and Telangana. Articles by B.L. Fadia on procedural delays and discretionary powers of Speakers in disqualification matters show that these laws are not being enforced well. To attain an elaborate electorate capable of taking representatives accountable

¹²⁸ D.D. Basu, *Commentary on the Constitution of India* (S.C. Sarkar & Sons, 1952).

¹²⁹ Milan Vaishnav, *Caste Politics, Credibility, and Criminality* (Cambridge University Press, 2011).

¹³⁰ *Law Commission of India*, "170th Report" (1999).

¹³¹ *Law Commission of India*, "244th Report" (2014).

¹³² Subhash C. Agarwal, *Submissions to the Central Information Commission (CIC)*, (Unpublished, Central Information Commission).

¹³³ Heather Timmons and Hari Kumar, "India's National Election Spreads Billions Around," *The New York Times*, May 14, 2009.

at the disposal of Election Commission reports, there is need for voter awareness campaigns and other educational initiatives. Several such articles about reforms required in enhancing integrity of electoral process have appeared in such Journals as 'Economic and Political Weekly'. A study of Rajni Kothari and Christophe Jaffrelot's¹³⁴ writings on sociological dimensions of disqualifications at elections shows how the caste and community identities of voters influences electoral choices and that consequently, disqualification laws will have a diminished effect on elections. The judicial role in preserving the core values of the Constitution has been discussed by Das G. in the article "Basic Structure Doctrine of Indian Constitution" (2023)¹³⁵ including democratic ethos of electoral laws. Along the same lines as the Constituent Assembly Debates, this fulfils the framers of the Constitution agenda of creating a legal framework to ensure free and fair elections and address the challenges of a growing, dynamic and diverse society.

The Representation of the People Acts of 1950 and 1951 have been instrumental in bringing about the present electoral processes in India because all General elections are conducted by the provisions of these Acts. Although amended several times over the decades, these Acts have failed to tackle all the inherent problems and weaknesses of the electoral system. The Election Commission of India (ECI), and a wide body of experts and stakeholders alike, have repeatedly stressed the pressing need for a review of the totality of these Acts to deal with the current-day issues of the electoral process and the need for strengthening the legal framework in the context of elections in India. Granville Austin's "The Indian Constitution: Cornerstone of a Nation" (1966) elaborates on the socio-political and legal foundations that influence electoral processes and the need for robust mechanisms.

Former Chief Election Commissioner of India, Dr. Nasim Zaidi, has repeatedly emphasized the need for a thorough and in-depth study of the Representation of the People Act, 1950 and 1951 (hereinafter referred to as the RP Act). In all forums and through formal submissions, Dr. Zaidi emphasized the need to review and revise the RP Act given the changing challenges being faced by ECI while conducting the elections. *"He added that the electoral issues in India are dynamic, and the ECI needs a robust and up-to-date legislative framework to enable it to discharge its constitutional mandate effectively"*. 'It is also being felt that EC should undertake a comprehensive review of the RP Act given issues and challenges that have

¹³⁴ Rajni Kothari and Christophe Jaffrelot, Articles in *Economic and Political Weekly*.

¹³⁵ Das G., *Basic Structure Doctrine of Indian Constitution* (Publisher, Place of Publication, 2023)

been thrown up before EC from time to time and come up with a Draft RP Bill which then goes through the motion of examination by competent authority in due course and comprehensive review of the RP Act is overdue for the past few decades,' Dr. Zaidi said. This signals the need to review the RP Act and come up with a new Act that fits the complexities in the Indian electoral thrust. Milan Vaishnav's "*Caste Politics, Credibility, and Criminality*" (2011) explores the recurring issues in electoral processes, including criminalization and money power.

The Election Commission had also submitted around 47 important proposals to the Union Government on electoral reforms to deal with the issues of decriminalization of politics, curbing the use of money power in elections, transparency in political party funding, and criminalization of the practices of paid news and voter bribery, Dr. Zaidi added. "*These proposals, reported and selected by the Law Commission of India, seek to reform the electoral system all around so that it becomes more transparent, accountable, and less vulnerable to malpractices*". Several key reforms proposed by the Election Commission of India (ECI) would indeed strengthen the electoral process and meet the Existing Challenges. One of the most important things that is pointed out is the decriminalization of politics, as more and more elected representatives are facing serious criminal charges. Under the leadership of Dr. Zaidi, ECI has also reiterated that stringent laws are required that disqualify the people involved in a grave case of crime from contesting elections. The step is considered vital to rebuild public faith in the democratic process. Second, we need transparency in political funding. Dr. Zaidi recommended to counter unaccounted money's pervasive influence in elections that political parties should be compelled to file accounts regarding donations received by them and perform exhaustive audits to know the source of such funding. The goal is to lessen financial opacity and to help make the political campaign more accountable. Subhash C. Agarwal's submissions to the Central Information Commission and reports such as the Law Commission's 170th and 244th provide critical insights into such proposals.

The ECI has also called for criminalizing paid news and bribery. Another problem is paid news — media coverage bought to influence public opinion, which undermines the integrity of elections. It recommends making it a cognizable offense under the Representation of the People (RP) Act. Moreover, a law is needed to criminalize all forms of voter bribery in a stricter fashion which means more fair and equal voting. The ECI tries to increase its authority by empowering measures. Dr. Zaidi also suggested that the commission be given more powers

to countermand elections in cases of voter bribery and electoral malpractice, as it already has for booth capturing. Taken together these reforms are intended to secure the deposit of India's democratic ethos, establish a level playing field, and buttress the integrity of our electoral system. Heather Timmons and Hari Kumar's article¹³⁶ highlights the influence of financial power in campaigns, further stressing the need for such reforms.

Once implemented, these could be extremely useful in reigning the credibility and integrity of the electoral process in India. Yet, as Dr. Zaidi noted, the Union Government has not taken significant steps to convert these recommendations into legislation, even though the Law Commission has recommended a number of them. Dr. Zaidi pointed out that the ECI was also unable to deal with new issues that surfaced during the elections as there were no provisions in the law. For example, the ECI has broad residuary powers contained within Article 324 of the Constitution of India, which can provide for its power to oversee and conduct elections, but it is not desirable to do so frequently. What is needed, is well-defined electoral laws that address particular issues comprehensively and systematically.

Lacking clear legal provisions, it is not always possible for the ECI to proceed on clear lines, but has to act on a case-by-case basis under its residuary powers under Article 324. Of course, these powers are vital to the sanctity of the electoral process, but they are powers that are supposed to be exercised sparingly. An overreliance on Article 324 only overwhelms existing gaps in the legal framework and necessitates a complete review and revision of the RP Act. Dr. Zaidi's observations ring true with the larger debate on electoral reforms in India. For years, experts and policymakers have argued that the RP Act, drafted in the early years of India's independence, needs to be overhauled completely to deal with challenges like digital campaigning, social media misinformation, and corporate money in elections. There is no provision for regulating rising technologies being used in the electoral process. David Gilmartin¹³⁷'s discusses these complexities, particularly the role of caste and digital platforms in shaping modern elections. The growing reliance on social media platforms to effectively run political campaigns has led to worries about the spread of fake news, malicious misinformation campaigns, and the absence of accountability in digital advertising. Presently, there are several issues for which the RP Act is not equipped to deal with, therefore the ECI is ill-equipped to tackle these issues as it stands at present. The ECI has spelled out proposals for electoral

¹³⁶ Heather Timmons and Hari Kumar "India's National Election Spreads Billions Around" (2009) available at: <https://www.nytimes.com/2009/05/15/business/global/15rupee.html>, last visited 10/01/2025

¹³⁷ David Gilmartin's "Rule of Law, Rule of Life: Caste, Democracy, and the Courts in India" (2010)

reforms on matters such as voter education, using technology for higher voter turnouts, and more deterrent penalties for election offenses. Electoral reforms must be addressed holistically, Dr. Zaidi said, with both legal and administrative measures to guarantee free and fair elections. Dr Zaidi has laid down a comprehensive review of the RP Act which is a legal as well as a moral purpose to uphold India's democratic values. Being the biggest democracy in the world the electoral process in India has to be an example of transparency, fairness, and inclusivity. Such a step in the direction is in the critical direction of updating the RP Act to account for these changing realities of Indian society and politics.

On December 16, 2013¹³⁸, the Hon'ble Supreme Court of India ordered the Law Commission of India to examine and report on two major issues relating to electoral disqualifications. They provided ways to resolve issues that were important to resolving some of the existing electoral process gaps that helped to create greater accountability and transparency in the political system.

Triggering of Disqualification: The Supreme Court wanted to know if disqualification should be triggered only after a candidate is convicted, as is the practice today, or after charges are framed by the Hon'ble Court, or even when a report is submitted by the investigating officer. The question was whether the current system, which delays disqualification until conviction, was sufficient to keep the electoral process clean.

False Affidavits: The disqualification of candidates found guilty of filing false affidavits in the course of the election process was another issue under review. What more had the matter opened up? Misuse of legal provisions to suppress transparency and mislead voters by deliberately omitting or misrepresenting information.

Prominent Central Information Commission (CIC) representative Mr. Subhash Chandra¹³⁹ Agarwal observed the role played by political parties in the law-making process.¹⁴⁰ He also cited the 170th Report of the Law Commission of India pointing out the need for laws on electoral disqualifications to be tougher.¹⁴¹ Existing loopholes in the

¹³⁸ *Public Interest Foundation and others v. Union of India and Another, Writ Petition (Civil) No. 536 of 2011.*

¹³⁹ Subhash Chandra Agarwal, *Central Information Commission (CIC)*, Law Commission of India 170th Report on Reform of Electoral Laws (May 1999).

¹⁴⁰ Law Commission of India, "170th Report on Reform of Electoral Laws" (May 1999).

¹⁴¹ Law Commission of India, "170th Report on Reform of Electoral Laws" (May 1999).

Representation of the People Act were explained by the CIC, how it allowed candidates with criminal backgrounds to participate in the election, often exposing the fabric of democracy to drug and stain.

To debate these issues the Law Commission of India undertook a consultative process. On its official website, it published a consultation paper and sought feedback from a wide range of stakeholders. The participants included national and state-level political parties, Houses of Parliament, State Legislatures, High Courts, Bar Associations, Election Commission of India, National Law Universities, and representatives from civil societies, media and associations interested in building a better society. In all, 157 responses were received, representing a wide range of views on the requirement for electoral reforms. During the process, key suggestions emerged, especially from the Public Interest Foundation and the Association of Democratic Reforms. These proposals were significant in influencing the recommendations of the Law Commission to deal with the basic problems of disqualification and electoral transparency.¹⁴²

The Public Interest Foundation also suggested amendments to the existing provisions of the Representation of the People Act for the first issue relating to the trigger point for disqualification. It suggested that disqualification should take place at the stage when a competent court frames charges in cases of grave or heinous offenses punishable with imprisonment for five years or more. Its purpose was to make sure that persons suspected of having committed serious offenses are barred early enough so that they do not contest elections until their cases are disposed of. The organization also recommended that a new subsection (5) be introduced to Section 8 of the RP Act, which would create special fast-track courts to expedite trials of elected representatives. These courts would be time-bound so that cases against politicians are disposed of quickly, as opposed to the protracted uncertainty that characterizes such cases today. It also suggested that candidates should be disqualified if they face charges in cases where the punishment is imprisonment for two years or more. The proposal aimed to lower the threshold by which candidates would be disqualified, which would encourage a better standard of accountability for candidates. Many of these views were supported by the Law Commission in its recommendations. Disqualifications should apply to offenses punishable with imprisonment for five years or more, it suggested. It proposed a critical safeguard: Charges filed one year before the date of scrutiny of nominations for an election would not lead to disqualification. Mainly, this is how the provision was meant to

¹⁴² Law Commission of India, “244th Report on Electoral Disqualifications” (February 2014).

squash the misuse of legal processes to pursue political opponents under frivolous or baseless charges. The Law Commission also suggested that the disqualification period should continue so long as the candidate is not acquitted by the trial court or for six years, whichever is shorter. It was suggested trials of elected representatives should be conducted day to day and concluded within one year to expedite justice. If a trial was not concluded within the period, the elected representative would be disqualified. During the period, the candidate would be entitled to vote in legislative bodies but would lose remuneration and other benefits of their office.

On the second issue relating to false affidavits, the Law Commission suggested stiffer measures to prevent candidates from submitting misleading or incomplete information. The Election Commission had suggested that filing a false affidavit during the election process should be punishable with imprisonment of a minimum of two years under Section 125A of the RP Act. It also called for extending the list of grounds under Section 8(1) of the RP Act to include convictions under Section 125A. Those who would include candidates convicted of filing false affidavits would be barred immediately to ensure that the process for selecting the nation's leaders is conducted openly and honestly. The Law Commission also suggested that filing false affidavits be considered a corrupt practice under Section 123 of the RP Act. Such offenses would then be classified in the same category as bribery and other malpractices as offenses whose presence is harmful to election integrity.

The recommendations of the Law Commission are an important step in dealing with the pressure from the criminalization of politics¹⁴³ and the lack of transparency in elections. The Commission proposed disqualification at the stage of charge-framing to strike a balance between the protection of the rights of candidates¹⁴⁴ and the protection of the democratic process from possible abuse by persons accused of serious crimes. They are also similar in recommending greater accountability for the disclosure of information. False information by candidates is more than a violation of voters' trust, it is also an undermining of the principles of fair competition. The proposal to set fast-track courts for elected representatives is a reflection of the need to dispose of cases of political candidates. But in cases where the trials have been delayed, which most often begets uncertainty, those with pending criminal cases can remain in public office or contest elections. The Law Commission also sought to encourage

¹⁴³ Das JK, *Human Rights Law and Practice* (PHI Learning Pvt. Ltd., 2022).

¹⁴⁴ Association for Democratic Reforms, "*Ten Years of Election Watch: Comprehensive Reports on Elections, Crime and Money*" (Press Release, July 29, 2013).

greater public confidence in the electoral process by ensuring that such cases are concluded within a year.

The recommendation of the Law Commission is a big step towards resolving the issue of criminalization of politics and transparency in elections. The Commission proposed disqualification at the stage of charge framing, to maintain a balance between the protection of the rights of candidates and the protection of the democratic process from possible abuse by persons accused of serious crimes. Recommendations made based on false affidavits stressed the requirement for accountability in revealing information. Not only does it betray voters' trust, but it also violates the principle of fair competition. The proposal to set up fast-track courts for elected representatives is a case of political candidates needing to dispose of cases. They keep trials in these unending delays permanently uncertain. The ones that have pending criminal cases can keep on holding public office or contest in elections. Making sure that such cases be concluded in a year or less was also sought by the Law Commission as a way to encourage greater public confidence in the electoral process.

The Association for Democratic Reforms (ADR) in its 2013¹⁴⁵ press release presented alarming statistics on the criminal backgrounds of candidates contesting elections. Out of the 62,847 candidates who contested in national and state elections between 2004 and 2013¹⁴⁶ — 10 years — 18% (11,063) were found to have criminal cases pending against them. What is even more worrying is that of these 11,063 candidates, 5,253 were accused of serious criminal offenses, including murder, attempted murder, rape, crimes against women, corruption, and organized crimes. These charges carried stiff penalties, and convictions carried terms of imprisonment of five years or more. A large number of candidates with criminal backgrounds won the elections. According to ADR, 1,187 of the 5,253 candidates accused of serious crimes were elected as members of Parliament or State Legislatures. And that raises troubling questions about the state of electoral politics and the voting patterns of the electorate.

Scholars from Warwick University and the National Institute of Public Finance and Policy, New Delhi, Bhaskar, Dutta, Poonam, and Gupta¹⁴⁷, studied the paradoxical electoral

¹⁴⁵ Data published and available at: www.adrindia.org and www.myneta.info (last visited on Dec. 20, 2024).

¹⁴⁶ Bhaskar Dutta and Poonam Gupta, "How Do Indian Voters Respond to Candidates with Criminal Charges: Evidence from the 2009 Lok Sabha Elections," *Economic and Political Weekly* 49, no. 4 (2014).

¹⁴⁷ Timmons, Heather and Hari Kumar, "India's National Election Spreads Billions Around," *The New York Times*, May 14, 2009.

success of candidates with criminal records. Their research revealed a surprising trend: candidates with criminal charges tend to do better in elections than those without. Having a criminal background can be an electoral advantage for some candidates, especially in constituencies where voters believe they are better suited to tackling their grievances or delivering results, the study suggested. Locally perceived as assertive, influential, or with the power to use that influence for local interests, the phenomenon has also been referred to as the 'Robin Hood effect', where candidates with criminal backgrounds enjoy popularity. In other cases, these candidates are supported by powerful local networks that increase their electoral chances. Certain constituencies may vote based on promises of immediate rewards or community-specific gains, rather than based on broader principles of integrity and governance, and in some constituencies, voters may be willing to trade off ethical considerations for tangible benefits.

A second vital factor impacting Indian elections is the grip of money in politics, which is probably a fact that voters are more aware of than studies like Panjekar's emphasize. On May 14, 2009¹⁴⁸, The New York Times ran an article by Heather Timmons and Hari Kumar titled India's National Election Spreads Billions Around that described the huge sums of money that have been spent on elections. Political parties and candidates spent collectively about \$3 billion in the 2009 general elections. The huge expenditure gives a hint at how much electoral politics is commercialized with spending more and more money ruling the campaign tactics and creating vital results in the voting community. The article stated that in many cases, candidates with a lot of money have a distinctly unfair advantage in elections because they simply have the money to pay for high-profile campaigning, advertising, and many other things that can manipulate opinion.

The article also looked at how money affects elections, as Timmons and Kumar did. They can finance high-profile campaigns, mount large rallies, and do one-on-one voter outreach. This has the effect of making them more visible but also means they earn a stake with the electorate, which is often the tipping point in their favor. The study also found that criminal charges, often seen as a stigma, don't necessarily deter voters. Criminal allegations have a negative effect, but that effect is lessened in constituencies where other candidates have similar charges or are otherwise viewed as equally unappealing. In such cases, voters may not have

¹⁴⁸ Das G., "Basic Structure Doctrine of Indian Constitution", available at: <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4377908> (last visited on March 3, 2023).

something else on which they can judge whether their candidate will win or lose, but other things like the candidate's ability to finance his/her campaigns or promise to develop the area. Candidates with criminal backgrounds compensate for the loss of voter trust with their wealth, which they use to create big campaign machinery. This is about distributing incentives, organizing events, and creating a place where voters are forced to support them. In constituencies with intense electoral competition, the ability to fund such large-scale campaigns is a key determinant of victory.

The fact that candidates with criminal records tend to win elections is a question that raises important questions about voter psychology and behaviour. Studies reveal that voters from certain regions tend to consider candidates with criminal track records as 'strong men' who can perform their own 'unconventional' brand of guerrilla politics to safeguard their interests. These concerns are often overpowered by the perception of people. In many cases, these candidates can present themselves as champions of their community, promising to deal with local grievances, get resources, and say 'no' to systemic inequities, which is why it's important. That's why these promises connect with voters — because voters themselves may be disillusioned with the everyday business of party politics or maybe just simply don't think the candidate with a purer record has enough local pull. The study by Dutta and Gupta also found that candidates with criminal records are often successful in elections because they can exploit the weaknesses of their opponents. When existing rivals in local constituencies boast limited grassroots organizations or are unable to highlight top local issues, candidates with criminal backgrounds can contend with substantial advantages, framing themselves as hardy and capable champions able to take decisive action.

1.23.1 The Need for Electoral Reforms

The expanding sway of money in politics and the criminalization of politics make India's electoral reforms acutely unimportant. Representation of the People Act lays down some guidelines for disqualification but many of these guidelines often prove inadequate to deal with the complex challenges arising out of the intersectionality of money power with criminality in politics. But the reforms needed must concentrate on increasing transparency in campaign financing, bolstering the legal framework against candidates with serious criminal charges contesting elections, and ensuring greater accountability of political parties. Some measures of the future could include fast-track courts for cases related to elected representatives, stricter

norms for disclosure of expediting campaign expenditure as well as participating g increased voter awareness campaigns.

It is axiomatic that in the matter of elections too, the Hon'ble Supreme Court of India has spoken unequivocally for the preservation of the secular ethos of the Indian Constitution.¹⁴⁹ In a landmark judgment, the Court said, 'The state will not identify itself with any religion, in particular, in secular matters such as electing popular representatives. To keep elections a secular exercise, the secular ethos of the Constitution had to be maintained. 'The relationship between man and God is an individual choice, and the state should know that.'"¹⁵⁰ The principle that elections in India should remain secular exercises, untainted by caste, race, community, and religion is underlined by the statement. A seven-judge bench of the Supreme Court in a judgment pronounced today held that seeking votes based on caste, class, community, religion or language is a corrupt practice under the Representation of the People Act and the candidates involved would be disqualified. Even in the face of such unequivocal legal prohibitions, The power of caste, religion, and community has continued to weigh on Indian politics and the electoral process and the door of secular democratic fragility still hangs in the air.

Caste mobilization has become a commanding presence in Indian electoral politics in recent decades. Caste assumed a special position with the 1989 implementation of the Mandal Commission recommendations for the preservation of government jobs for the Other Backward Classes (OBCs). Not only did the decision trigger sharp political debate across the country, but it also came to signify a moment in national politics when caste identities started to be directly mobilized for garnering political gains.¹⁵¹ The Mandal Commission issue showed how caste-based politics had become so deeply rooted in India. The power of the caste was uncovered and political parties started working on caste-based demographics to create vote banks and consolidate votes. Though purporting to address historical injustices and encourage social equality, reservation policies also led to increased caste awareness which has important consequences for electoral outcomes.

¹⁴⁹ *Civil Appeal No. 37 of 1992 and Other Connected Matters.*

¹⁵⁰ Pran Chopra, *The Indian Constitution: The Constituent Assembly Debates.*

¹⁵¹ David Gilmartin, "Rule of Law, Rule of Life: Caste, Democracy, and the Courts in India," *The American Historical Review* 115, no. 2, 406-27 (2010).

David Gilmartin¹⁵² studied how law, politics, caste, and religion interacted in Indian elections. Gilmartin's research showed how caste and religion factor into the making of electoral strategies and outcomes. He says political parties tend to go with 'winning candidates' in a particular constituency based on caste calculations. For instance, political parties tend to nominate candidates from the same caste, hoping that caste solidarity would work in such constituencies where all the voters belong to a single caste. The practice of people from a particular caste appealing to voters from the same caste to vote for their 'caste brother' in elections is what Gilmartin highlighted. The practice is indicative of the deep-rooted importance of caste as a political allegiance determinant. Gilmartin added that the Indian Constitution speaks for secularism, but often that is not the political reality. Despite the active role of the judiciary in ensuring electoral practices and outcomes, caste and religion play a very large role.

India's caste is not only a matter of society but also a political reality. A study conducted by Prof. (Dr.) G. S. Rajpurohit and Amandeep Kaur say that caste is the cornerstone of the Indian political system. At the regional level, many political parties are explicitly or implicitly organized based on caste, race, or religion. For example, caste or religionize is often the basis for political campaigns of regional parties to get support in certain areas. These strategies are based on an implicit recognition of caste as a determining factor in Indian elections. The study revealed that caste is important at every stage in the electoral process. Caste remains critical even in selecting candidates, planning campaigns, and driving out the vote. For instance, in caste-dominated areas, regional parties will design their campaign to appeal to a particular caste group to ensure that they get their loyalty at the ballot box. Often political parties indulge in rhetoric or promises that renew the propagation of caste differences which ultimately deepens the division among people.

A second cause of the persistence of caste-based voting is the relatively low education and political awareness among considerable sections of the electorate. The study found that a majority of voters in India, especially in rural areas, are illiterate or not well-informed about wider political issues. Because of the lack of awareness, they are more prone to caste-based appeals during election campaigns. The vulnerability is exploited by political parties to make narratives appealing to voters' caste identity, rather than serious aspects like development,

¹⁵² *Amichand v. Pratap Singh and Others*, 27 ELR 135 (Madhya Pradesh High Court, 1965).

governance, or economic reform. For example, election campaigns in some areas are based on promises to the caste groups, such as promising more representation, special benefits, or the protection of community-specific interests. These campaigns often succeed in generating a feeling of loyalty among voters towards candidates or parties of their caste.¹⁵³ Thus, the electoral process turns on a narrow discussion of what governance and policy must mean, rather than reinforcing caste loyalties.

Caste and religion have been noted as the means of securing electoral success for regional parties in particular. Parties in the regions are seen as different too from national parties in that they especially appeal to select groups while condensing the message to the languages of the people and being in tune with local manners. Through the application of the strategy, they can aggregate their support base and become kingpins in their own spaces. Prof. (Dr.) G. S. Rajpurohit and Kaur's¹⁵⁴ study also noted that many regional parties are formed based on caste or religion, explicitly. For instance, some parties get their support mainly from a single caste group and use their platform to speak to issues that are relevant to that community. Some may use caste and religion to run their campaigns without being out of the closet. Regardless of the approach, the underlying objective remains the same: were exploited politically to wage a struggle for caste and religious identity.¹⁵⁵

The Constitution of India¹⁵⁶ envisages a secular state and the political reality is not always according to the ideal. The Hon'ble Supreme Court has always reiterated that the Indian Constitution is secular and elections should be a secular exercise. The Court's decision that seeking votes based on caste, race, community, religion, or language is a corrupt practice is a big step forward in curbing divisive electoral strategies. Yet, the application of the principle is not easy as political parties keep finding new ways to woo caste and religious identities without violating legal provisions letters.

¹⁵³ Prof. (Dr.) G. S. Rajpurohit and Amandeep Kaur, "Inter-Caste Relationship and Politics in Northern India," 1 GRAMi 7 (2017).

¹⁵⁴ Milan Vaishnav, "Caste Politics, Credibility and Criminality: Political Selection in India," American Political Science Association Annual Meeting (2011).

¹⁵⁵ D. D. Basu, *Commentary on the Constitution of India* (S. C. Sarkar & Sons, Calcutta, 1952).

¹⁵⁶ Bill No. 22 of 1985, "The Evil of Political Defections has been a Matter of National Concern. If it is not Combated, it is Likely to Undermine the Very Foundations of our Democracy and the Principles which Sustain it." (1985).

The caste, religion, and community factors in Indian elections are persistent factors and need systemic reforms. Intent should be on promoting greater political awareness among voters to gauge candidates based on their policies, qualifications, and performance, instead of their caste and religion. In rural and semi-urban areas, educational campaigns can help shift voter focus from identity-based considerations to a wider consideration of issues of governance and development. And political parties too, must take responsibility for instigating a more inclusive and issue-based approach to conducting elections. That means getting away from caste-based strategies and focusing on policies that address the needs of society as a whole. More importantly, at the same time, laws banning campaigning on lines of caste and religion need to be more strictly enforced, to ensure that all candidates have equal opportunities.

As per the 97th amendment of the Indian Constitution, the 10th schedule, better known as Anti Defection Law, was passed through the 52nd Amendment Act, 1985¹⁵⁷,¹⁵⁸ to curb a political mile issue in the country called Political defection. In general terms, to abandon a position or association, often to join an opposing group, is called defection. Defection, as per Law Lexicon, means 'crossing the floor by a member of a legislature' i.e., when a legislator elected on the ticket of one political party switches allegiance to another party, usually for personal or political gain. The democratic mandate and the stability of elected governments are undermined by such acts; thus, constitutional measures with sufficient force to close off the escape for promoters of unconstitutional means have become necessary. To stop the unethical practice of legislators betraying their parties and the electorate's faith by joining another party without their resignation from the present position, The Anti – Defection Law was made.¹⁵⁹ The law gives the Speaker of the concerned legislative house power to decide on matters of disqualification but its implementation has been fraught with problems. Specifically, these challenges arise from delays in the decision-making process and procedural loopholes, with which legislators and political parties often take full advantage. Two instances in Andhra Pradesh and Telangana show the gaps in the law and its enforcement.

Defection was a common phenomenon in Andhra Pradesh between 2014 and 2019. In the period 23 legislators of the Andhra Pradesh state assembly, who were elected on the ticket of

¹⁵⁷ Forum IAS, *Anti-Defection Law in India*, available at: Forum IAS (last visited on October 26, 2023).

¹⁵⁸ Nikolenyi C and Shenhav SR, "The Constitutionalisation of Party Unity: The Origins of Anti-Defection Laws in India and Israel," *The Journal of Legislative Studies* 21, no. 3, 390-407 (2015).

¹⁵⁹ Das G., *Basic Structure Doctrine of Indian Constitution*, available at: SSRN 4377908 (last visited on October 26, 2023).

the YSR Congress Party (YSRCP), defected to the ruling Telugu Desam Party (TDP) without resigning from their legislative positions. The mass defection changed the political landscape of the state massively, giving the ruling party a boost. Of the 23 defectors, four legislators were made ministers in the Andhra Pradesh State Cabinet after they joined the TDP. The appointments generated serious ethical and legal questions about the legitimacy of such practices. The defectors were disqualified by the YSRCP, which filed appeals against them under the Anti-Defection Law. But these appeals were still pending before the Hon'ble Speaker of the Andhra Pradesh State Assembly, who did not act decisively on the same. The YSRCP moved writ petitions before the Hon'ble High Court of Andhra Pradesh alleging nonaction of the Speaker and praying for judicial direction to the Speaker to exercise his power to enforce the disqualification provisions under the 10th Schedule. While these efforts did not resolve those cases, they pointed out a glaring lacuna in the enforcement of the Anti-Defection Law. Due to procedural protections accorded the legislators by the Act as well as the powers of the Speaker, the defectors managed to keep their seats while in some instances the Speaker also "gifted" them with ministerial portfolios.

A similar pattern of defection was observed in Telangana between 2014 and 2018. During the period, 28 legislators from various opposition parties defected to the ruling Telangana Rashtra Samithi (TRS) without resigning from their positions in the Telangana State Assembly. The group of defectors included:

- 13 legislators from the Telugu Desam Party (TDP),
- 12 legislators from the Indian National Congress (Congress I), and
- 3 legislators from the YSR Congress Party (YSRCP).

Of these 28 defectors, 4 to 6 legislators were inducted into the Telangana State Cabinet as ministers, thereby extending the ruling party's dominance. The affected parties, TDP, Congress I, and YSRCP, filed appeals seeking disqualification of the defectors under the Anti-Defection Law, as in the case of Andhra Pradesh. The Hon'ble Speaker of the Telangana State Assembly was requested to accept these appeals. But the Speaker did not act in time and the defectors remained legislators and in some cases ministers. Consequently, parties approached the Hon'ble High Court by way of writ petitions challenging the inaction of the Speaker and seeking judicial direction. Nevertheless, these efforts were unable to resolve the cases because the Anti-Defection Law is essentially unenforceable.

Under the Anti-Defection Law, the Speaker of the House has discretionary powers in matters of disqualification. Nevertheless, the system has come under extensive critique for encouraging a conflict of interest as the speaker often belongs to the ruling party, and thereby could lead to partisan decisions. In Andhra Pradesh and Telangana in particular, the Speakers delayed ruling on such disqualification petitions, allowing defectors to continue in their seats in the legislature and some cases even getting ministerial berths. A major problem that has exacerbated the problem is the lack of a specific timeline within the law for the Speaker to determine disqualification cases. The lack of a clear timeframe means that indefinite delays are possible, as is the case in both states. These delays defeat the very object of the Anti-Defection Law which means that these people get away with defectors and without being punished immediately, they can enjoy the fruits of their action, and therefore they stand to undermine the sanctity of the very law. The judiciary can check the Speaker's decisions, but it is shy to intervene in what might seem legislative matters. In the cases of Andhra Pradesh and Telangana, writ petitions filed by affected persons before the High Courts did not yield a remedy in time, and as a result the cases could not be decided within the stipulated time. The erosion of accountability is the result of both judicial inaction and legislative delays. There are challenges with the loopholes within the Anti-Defection Law. Defections under certain conditions, e.g., party mergers or splits, which are often used by legislators and political parties to justify their defections and to avoid disqualification, are permitted by the law. Often these provisions are used to gain political advantage, a need for more unambiguous legal frameworks to avoid exploitation of the law and its inherent principles of political stability and good governance.

The defections in Andhra Pradesh and Telangana are ethically and politically very serious. Defectors do more than dishonor the trust of their voters when they switch parties without resigning from their posts; they erode the democratic mandate. Defectors have already been appointed ministers, which compounds the problem: It rewards unethical behavior and incentivizes defection. The inaction of the Speakers in both states is the mirror image of the lack of accountability and impartiality in the implementation of the defection Law. Without action, public faith in the system is eroded and the law needs systemic reform to correct its weaknesses.

A few good measures are suggested to rectify the Anti-Defamation Law and effectively enforce it. In the first place, the jurisdiction to decide disqualification matters must be handed

over to a body independent of the legislative house and, preferably, akin to the Election Commission of India for adjudication. This would remove the risk of partisan bias from decision-making making decision-making impartial. Second, the law should include a definite period during which disqualification petitions must be resolved. The time-bound decisions help avoid undue delays in which defectors can be punished, without delay, for what they have done, while preserving the integrity of the law. Cases of defection should be more actively overseen by the judiciary. Fast-track courts that can provide speedy resolution of such cases could become institutions that enforce the law. Essential is also the revision of some loopholes in the Anti Defection Law which allows defection on some preconceived conditions like merges or splits of a political party. These clauses that can be taken advantage of by legislators should be properly reviewed and redefined so that the law cannot be misused and its content can be kept intact. Addressing the roots of defection requires the support of political ethics. The exercise of party discipline in favor of a code of ethics should happen, it should be enforced on the behavior of the members of political parties as the internal code of conduct. Voter awareness campaigns can also be a powerful tool in pressuring defectors to be held accountable and to be rejected by citizens who demand accountability and won't vote for candidates of questionable loyalty. When combined, these reforms can strengthen the Anti-Defection Law, improve political stability, and bring about democratic ideals.

As mentioned by Mishra R on Introduction to Parliamentary Democracy and Universal Adult Franchise.¹⁶⁰ India Parliamentary democracy and the right to vote are both recognised in the Indian constitution, in line with the idea of universal adult franchise. One hallmark of parliamentary democracies is the regularity of their electoral processes. The public's confidence and faith are crucial to the functioning of a parliamentary democracy¹⁶¹. India has the largest democracy in the planet, with 900 million eligible voters. Thus, free and fair elections are essential for a strong democracy and a stable administration. Elections are an essential component of any democratic political system. At the national and state levels, the people of India hold the ultimate power to govern. Indian citizens have complete autonomy in selecting their government officials and changing policies as they consider appropriate. When it comes to their elected representatives, Indian citizens demand results¹⁶². However, representatives

¹⁶⁰ Mishra, R., *Parliamentary Democracy in India: A Critical Introduction* (Routledge India, 2017).

¹⁶¹ Sridharan, E., *Democracy and Governance in India: Challenges and Prospects* (Oxford University Press, 2019).

¹⁶² Agbevade A, "Ghana's 2020 electoral politics: an assessment of the electoral commission" 10(1) Cogent Social Sciences 2361533 (2024).

elected by Indian citizens to form governments cannot be removed or recalled if they are deemed unfit for their position¹⁶³. In this case, Indian citizens have the opportunity to reject MPs through periodic elections. One tangible manifestation of democracy is the electoral process. The Indian people show their support in parliamentary democracies through voting. So, the electoral process establishes the legitimacy of administrations. The "First Past the Post" (FPTP) voting method is a constitutional provision of India.

An extremely defective voting method is the "First Past the Post" (FPTP) system. But First Past the Post (FPTP) is the sole workable system in India's parliamentary democracy. Therefore, regular electoral changes are essential for free and fair elections, maintaining Indian voters' faith in the voting system, and ensuring a strong democracy. In order to improve the public's view of the election outcomes, electoral reform involves changing the systems of the election process¹⁶⁴. Electoral reforms are necessary due to several factors, including the criminalisation of politics, growing mistrust of the election commission, modifications to the voting procedure, campaign funding, and the criminalisation of politics. That is why election changes are essential for India's parliamentary democracy to work. The Election Commission, higher courts, the Supreme Court, the National Law Commission, parliamentary committees, and Parliament have all taken measures towards electoral changes in this area¹⁶⁵.

In a parliamentary democracy, the idea of representation is strongly linked to the regular election of representatives. Only via holding elections can the people be represented, a government be formed, the executive branch be controlled, and the parties in power be changed. So, in parliamentary democracies, elections play a crucial role as mentioned by Verma R in his study¹⁶⁶. Voting is a necessary but insufficient step towards realising people's aspirations. Free and fair elections are essential to the health of every democracy. "Free and fair election" and "democracy" are complementary terms. In this country, electoral reforms have made it feasible to have free and fair elections. A more accountable parliamentary democracy, "clean politics," "honest politicians," "true representation," "maintaining citizens' trust," etc. are all part of what we mean when we talk about "electoral reforms."¹⁶⁷. Doing

¹⁶³ Dash, Siddhartha, "Need for Electoral Reforms" 1 Journal of Odisha Review 1-14 (2006).

¹⁶⁴ Alam M., *Electoral Fairness and Courts: A Study of Corrupt Practices Under the Representation of the People Act 1951* (2024).

¹⁶⁵ S. Gehlot, "India is Overdue for an Electoral Reforms," 1 Journal of Current Science 1-12 (2019).

¹⁶⁶ R. Verma, "Public Confidence in Democratic Institutions: The Key to a Stable Parliamentary Democracy in India," 55 Economic and Political Weekly 30-34 (2020).

¹⁶⁷ Sanjeev Kumar H.M., *Contemporary Indian Politics: Internal Dynamics and External Compulsions* 1-50 (Pinnacle Learning: New Delhi, 2016).

nothing to restore a viable democracy will lead to the country's demise, thus we must act swiftly to change the voting process. Articles 324–329 of the Indian Constitution deal with elections and changes to the electoral process.

It is imperative that we implement electoral reforms if we are to fulfil the aspirations of the younger generation, stop the criminalisation of politics, limit the power of money and muscle, control the misuse of government machinery, boost public confidence, strengthen and empower the election commission, guarantee its autonomy, and integrate technology into democracy. In 2019, Indian citizens cast ballots to elect lawmakers. In the most massive democratic exercise ever, about 613 million people went to the polls¹⁶⁸. The long and controversial election campaign was over. This election has brought to light issues with electronic voting equipment and the objectivity of the electoral commission. Disappointments with the 2019 election have raised questions about the commission's effectiveness. The legitimacy of the electoral commission is now questioned by both voters and opposition parties. Almost like a corporation's board of directors, the election commission served its purpose. Unfortunately, the EVMs controversy has devastated people's trust in the voting process¹⁶⁹. Consequently, resolving these matters is of the utmost importance¹⁷⁰. Reforming political funding is an immediate priority. Some concerns have been voiced in response to new information on electoral bonds. The financing of elections in India has to be more openly discussed. Concerns over the execution of the electoral bonds scheme are significant. Some are worried that the election bonds are being issued by the government-owned State Bank of India rather than the Reserve Bank of India. This renders the electoral links impenetrable.

As stated by Chhibber, P., & Kollman, K.¹⁷¹ in his book, how electoral processes shape party systems and emphasizes the necessity of free and fair elections for effective governance. Diamond L has studied the processes and conditions necessary for democratic consolidation, highlighting the critical role of free and fair elections¹⁷². The electoral process is an integral part of parliamentary democracy. Elections control the whole electoral system. The Indian

¹⁶⁸ Monaghan C, Flinders M, et al., *Impeachment in a Global Context: Law, Politics, and Comparative Practice*. (Taylor & Francis, 2024).

¹⁶⁹ Ramkumar M and Singh A, "The Road Not Taken: India's Failure to Entrench the Rights of the Opposition" 6 CALJ 55 (2021).

¹⁷⁰ Kumar, B. Venkatesh, "Critical Issues in Electoral Reforms," 63 The Indian Journal of Political Science 73-88 (2002).

¹⁷¹ Chhibber, P. and Kollman, K. *The Formation of National Party Systems: Federalism and Party Competition in Canada, Great Britain, India, and the United States*. (Princeton University Press, 2004).

¹⁷² Diamond, L. *Developing Democracy: Toward Consolidation*. (Johns Hopkins University Press, 1999).

Constitution defines "election" under Section XV. The electoral process in India is backed by three primary pieces of legislation: The Representation of the People Act of 1950¹⁷³, Article 326 of the Constitution, and the Representation of the People Act, 1951¹⁷⁴. However, the elections aren't going well for a multitude of reasons, including, but not limited to, the following: the election commissioner's partiality, the misuse of government machinery, the excessive use of money and muscle, and many more¹⁷⁵. Democracy in India is confronting formidable obstacles at the present time. A major danger to democracy in India has been the complete breakdown of political principles.

A major threat to democracies is the criminalisation of political activity. The Democratic Reforms group asserts that about half of the 17th Lok Sabha's MPs are wanted for criminal charges. The number of elected members of the Lok Sabha facing criminal charges stands at 233 out of 543. A concerning number of members of the 17th Lok Sabha have a history of crimes committed against women, such as rape, attempted murder, or murder, according to the Association for Democratic Reforms. Since 2009, there has been a 110,000 percent increase in the number of lawmakers facing serious criminal accusations. In 2009, a whopping 162 Lok Sabha candidates have taken legal action by suing themselves. A whopping 185 of the 185 Lok Sabha election victors have taken legal action by suing themselves¹⁷⁶. A sanctuary for criminals has been established within political parties. There are now lawmakers with criminal backgrounds involved in the rule-making process. In the absence of election reforms, this poses a serious issue. There is now no legislation in place to prevent corrupt politicians from using the rule-making process. Physical force is often the root cause of victimisation, intimidation before to an election, and violence.

Bhattacharya, S has critically analysed the electoral bond scheme in India, exploring its implications for political financing and transparency and the Role of Electoral Bonds in Political Financing¹⁷⁷. The amount of money that various interests have donated to different political parties should be transparent in a parliamentary democracy. Large businesses and anonymous political donations threaten parliamentary democracy. Since 2009, big businesses have been pouring more money into political parties. The government is under tremendous

¹⁷³ Saha, A. *Electoral Laws in India: An Analytical Study*. (Eastern Book Company, 2018).

¹⁷⁴ Heilpern J and Worley MT, *Evidence that the President is an*. (2024) (Available at: SSRN).

¹⁷⁵ Kumar, Ravinder, "Electoral Reforms in India" 2 Journal of Global Research & Analysis 46 (2019).

¹⁷⁶ Kumar, Sanjay, "Reforming Indian Electoral Process" 37 Economic and Political Weekly 3489 (2002).

¹⁷⁷ Bhattacharya, S., *Electoral Bonds in India: A Critique* (SAGE Publications, 2020).

pressure from large corporations, who have become influential interest groups, to achieve their economic objectives. To promote transparency in government, the "Electoral Bonds" program was instituted in the 2017 Finance Bill¹⁷⁸. The election bonds are sold by the State Bank of India (SBI). Individuals and domestic businesses can buy these bonds as a way to fund political campaigns. "Know Your Customer" (KYC) information is required of all buyers of electoral bonds. Nevertheless, political parties that receive donations are not obligated to reveal the identities of those contributors¹⁷⁹. As a result, electoral bonds are not transparent. Due to the fact that SBI is owned by the government, the government can exploit other political parties¹⁸⁰. But now criminal monies can be recycled through electoral bonds. The electoral bonds are being used for political bribery. Corruption has been normalised because to the refusal to disclose contributor identities. The electoral bonds system led to the laundering of funds. Mumbai, New Delhi, and Kolkata were the three most popular cities for selling electoral bonds. This proves that politicians receive substantial funding from big businesses.

The abuse of government machinery is a major hurdle that must be overcome in order for election reforms to be successful. The apparatus of government becomes the propaganda machinery of the ruling party during election seasons. The governing coalition or party used official resources throughout the campaign for office and to spy on the opposition. People who cheat the system wind up spending more money on the state. Extremisms in religion, communalism, and caste politics pose serious threats to representative government¹⁸¹. Caste politics and communalism have impeded progress. Religious polarisation posed an existential threat to India's politically inclusive spirit. The employment of hate speech against religious communities is a recent development in electoral campaigns. A common tactic for gaining political support is to employ hate speech.

Public and government-funded advertisements boasting about their accomplishments, ministerial discretionary funds being distributed, government vehicles being used for canvassing, and so on are all examples of official machinery being misused. Paid news poses a serious threat to electoral reform efforts. The term "paid news" is used by the Press Council

¹⁷⁸ Gogoi M and Jha MK, *Indian Politics and Political Processes: Ideas, Institutions and Practices* 7 (2023).

¹⁷⁹ Squire P, *The Right of Instruction and Representation in American Legislatures, 1778 to 1900* (University of Michigan Press, 2021).

¹⁸⁰ Ramesh, R., "Historical Perspectives of the Electoral Reforms in India", 72 Indian History Congress 1325-1336 (2011).

¹⁸¹ Saroha, Jai Kumar, "Electoral Reforms in India: Issues and Challenges", 43 Research Journal of Philosophy and Social Sciences 270-276 (2017).

to describe "any news or analysis appearing in any media (print & electronic) for a cash or kind as consideration" in their assessment¹⁸². The 112th Lok Sabha election took place in 2019 and the Election Commission of India found 120 cases of financially influenced news outlets. Despite the prevalence of paid news, no laws have been enacted in India to curb it. Paid news undermines the integrity of elections because of the influence it has on voters. Paid news misleads voters when it is published as advertisements. One feature of sponsored news is the underreporting of campaign expenditure, which includes the use of dark money¹⁸³. A new obstacle to free and fair elections is opinion polls¹⁸⁴. Voters are confused by opinion polls. The freedom to free speech, as provided by Article 19 (1) (a) of the First Amendment, is violated by public opinion polls. Public or televised dissemination of opinion polls is inappropriate during an election. The biased opinion polls might cause people to alter their voting habits. The results of surveys tend to sway people's opinions in a biased manner.

For many other emerging democracies, India's parliamentary system is the gold standard. Free and fair elections are essential to a democratic society. Regular elections are the foundation of India's democratic system, and the country boasts the largest electorate in the world. Our democracy is certainly something of which we should be proud, but it is far from perfect and has much more work to do before it achieves its full potential. The voting process in India needs a complete and utter revamp right now. Free and fair elections cannot be held without fair electoral systems, which is the main objective of electoral reform. It also includes restoring and enhancing the existing systems to make them more efficient¹⁸⁵. The effectiveness of electoral changes depends on the level of coordination among the voters, political parties, candidates, and election machinery. Numerous electoral reforms have been put into place by the Election Commission of India, various government bodies, and the Supreme Court in an effort to strengthen democracy in India. In terms of election changes, India's legislative strategy is inadequate. It was in 1985 that Parliament passed the anti-defection act. The constitutionality of the anti-defection statute provision has been called into question in recent times¹⁸⁶. How well voters, parties, candidates, and election machinery work together determines how

¹⁸² Amao AI, *Electoral Integrity, Voters' Confidence and Good Governance in Nigeria: A Comparative Analysis of 2015 and 2019 Presidential Elections* (Unpublished Ph.D. thesis, Kwara State University (Nigeria), 2022).

¹⁸³ Trilochan Sastry, "Electoral Reforms and Citizens' Initiatives", 39 *Economic and Political Weekly* 1391 (2004).

¹⁸⁴ Opara ED, "Politics of impeachment: A critique of the Nigeria example", 4 *Nigerian Journal of Arts and Humanities* 1 (2024).

¹⁸⁵ Saini, S.P., "Politics of Defections in India: Lust for Power and Money", 9 *Editorial Board* (8) (2020).

¹⁸⁶ Sharma, Doli, "Role of Election Commission in Electoral Reforms", 9 *Pramana Research Journal* 48-54 (2019).

successful electoral reforms are. The Indian government, the highest court in the land, and the Election Commission of India have all worked to improve the country's democratic process through a slew of new electoral reforms. The legislative approach of India is insufficient with regard to changes in elections. Parliament passed the anti-defection statute in 1985. There have been recent challenges to the validity of the section in the Act that prohibits defection.

Saha, A has explored in his book on how government machinery can be misused during elections and its implications for electoral integrity, providing case studies from various contexts and Misuse of Government Machinery and Election Integrity¹⁸⁷. Involvement of the Election Commission of India (ECI) in electoral reform initiatives dates back to the 1990s. Democracy in India is growing in importance, and the Election Commission of India is playing a key role in ensuring free and fair elections. During his tenure as Chief Election Commissioner (CEC) T.N. Seshan's in the 1990s, he asserted responsibility for several electoral reforms that eliminated malpractices and increased openness¹⁸⁸. Elections in India will never be the same after the CEC Seshan's reforms. Up until 2014, the ECI's Model Code of Conduct was strictly enforced throughout the election process¹⁸⁹. However, the CEC's will has been crucial in the gradual implementation of the Model Code of Conduct during elections¹⁹⁰. To combat this issue of fraudulent voting, the ECI has implemented photo voter lists. Additionally, in an attempt to purge electoral rolls, the ECI has suggested connecting Aadhaar with voter ID cards¹⁹¹. According to the Election Commission of India (2016), pages 1-73, the practice of paid news and false affidavit filling would be considered corrupt practices and punished with a two-year prison sentence¹⁹². A request has been made by the ECI to the Ministry of Law and Justice to criminalize bribery during the election season¹⁹³. The ECI's goal is to elevate bribery to the level of "serious" crimes such as rape, dowry, murder, and death. At this time, a

¹⁸⁷ Saha, A., *Elections and the Use of State Power: A Comparative Study* (Routledge India, 2017).

¹⁸⁸ Khan YM, Election Commission, *Electoral Reforms and Democracy in India: Lessons for Pakistan* 95 (Editorial Board).

¹⁸⁹ Amaker J, Lyn DM, and Robertson M, "Mass Incarceration & The Minority Vote: The Case for a Federal Ban on Felon Disenfranchisement" 36 Notre Dame JL Ethics & Pub. Pol'y 731 (2022).

¹⁹⁰ Amaker J, Lyn DM, and Robertson M, "Mass Incarceration & The Minority Vote: The Case for a Federal Ban on Felon Disenfranchisement" 36 Notre Dame JL Ethics & Pub. Pol'y 731 (2022).

¹⁹¹ Singh, Bimal Prasad, "Electoral Reforms in India: Issues and Challenges", 2(3) International Journal of Humanities and Social Science Invention 1.5 (2013).

¹⁹² Bhat MM, "Governing democracy outside the law: India's Election Commission and the challenge of accountability" 16(S1) Asian Journal of Comparative Law S85-104 (2021).

¹⁹³ Chimgee U, *Efficiency of Quotas for Enhancing Women's Descriptive Representation in National Parliament and Intra-Party Factors Affect Female Candidacy in Mongolia* (Unpublished Doctoral dissertation, Central European University, 2022).

disqualifying factor is a conviction for an electoral offense¹⁹⁴. On the basis of poll violation rules, the ECI has requested the authority to de-register a party.

Both the Election Commission of India and the Supreme Court have noted that the Indian political system has become more criminalized¹⁹⁵. The Vohra Committee was set up by the Indian government to quantify the extent of the political-criminal nexus (1993). Ramesh (2011) cites the findings of the 1993 government-appointed Vohra Committee, which found evidence of a close relationship between criminal gangs and influential politicians in India. In this regard, the Supreme Court has mandated the disclosure of candidates' criminal backgrounds and the ineligibility of politicians with convictions to seek public office¹⁹⁶. A candidate was required to submit an additional affidavit in 2003 out of an order from the Supreme Court that detailed their educational credentials, assets and liabilities, and information about all pending cases that had been taken into consideration by a court (Ministry of Law and Justice 2019). The financing of elections is a major issue with contemporary elections. The increasing cost of running for office has outstripped the financial limitations imposed by the ECI. This leads to widespread corruption, the existence of so-called "black money," and a general lack of openness (Ministry of Law and Justice/2019). The Supreme Court issued rules in 2018 requiring candidates to reveal their income and the sources of such revenue. The highest court in the land has ruled that all candidates must reveal any and all assets in their nomination papers, including those of their families.

Periodic elections are the defining feature of a democratic state. The electoral process exemplifies parliamentary democracy in practice. The electoral process conveys the people's will in a parliamentary democracy. The electoral process establishes the legitimacy of governmental authority. Regular elections are necessary to maintain the trust of electors. As a result of the elections, a new political awakening is happening. India is now the largest democracy on the planet because to its well-established system of free and fair elections¹⁹⁷.

¹⁹⁴ Chimgee U, *Efficiency of Quotas for Enhancing Women's Descriptive Representation in National Parliament and Intra-Party Factors Affect Female Candidacy in Mongolia* (Unpublished Doctoral dissertation, Central European University, 2022).

¹⁹⁵ Lasús CD, *Dictatorship and the Electoral Vote: Francoism and the Portuguese New State Regime in Comparative Perspective, 1945-1975* (Liverpool University Press, 2020).

¹⁹⁶ Lasús CD, *Dictatorship and the Electoral Vote: Francoism and the Portuguese New State Regime in Comparative Perspective, 1945-1975* (Liverpool University Press, 2020).

¹⁹⁷ Amaker J, Lyn DM, et al., "Mass Incarceration & The Minority Vote: The Case for a Federal Ban on Felon" 36 Notre Dame JL Ethics & Pub. Pol'y 731 (2022).

However, democracies need more than just free and fair elections¹⁹⁸. To disinfect the system and eradicate malpractices associated with polls, immediate and massive electoral reforms are required. A great deal of trouble and difficulty has existed in India prior to the implementation of election reforms¹⁹⁹. Reforms to the electoral process are necessary for numerous reasons, such as strengthening democracies and creating more transparent and accountable governments. Changes to India's voting system are not a one-and-done event, but rather a continuing endeavour. As a result, many bodies within India's government are continually working to improve the country's voting process, including the Election Commission, the National Law Commission, the Parliamentary Committees on electoral reforms, acts of parliament, lower courts, and the highest court. Finding out how extensive and what kind of election reforms are needed requires more political consensus and dialogue²⁰⁰. This electoral reform can be made possible by the ECI and the Supreme Court. However, the Election Commission's operations must be open and autonomous.

The present study has been divided into six chapters as given below:

Chapter 1

Introduction and Historical Background of Disqualification of Member of the Parliament and State Legislatures

Chapter 2

Malpractices Relating to the Members of the Parliament & State Legislatures with impact on Democracy

Chapter 3

Constitutional and Legal Frame work with respect to the Disqualification from becoming members of the Parliament and State Legislatures in India

Chapter 4

¹⁹⁸ Sachs JA, "Judges, elections, and constitutional politics after the 2011 Revolution" In Routledge Handbook on Contemporary Egypt 272-283 (Routledge, 2021).

¹⁹⁹ Pragya Singh, "Electoral Reforms in India: Comparative Analysis with USA and UK", *I Socrates* 1-12 (2013).

²⁰⁰ M.M. Bhat, "Governing democracy outside the law: India's Election Commission and the challenge of accountability", 16 Asian Journal of Comparative Law S85-104 (2021).

Judicial Response concerning to the Disqualification from becoming members of the Parliament and State Legislature

Chapter 5

Empirical Work, Data Analysis & Findings

Chapter 6

Conclusion and Suggestions

CHAPTER 2

MALPRACTICES RELATING TO THE MEMBERS OF THE PARLIAMENT & STATE LEGISLATURES WITH IMPACT ON DEMOCRACY

“Corruption is the enemy of development, and of good governance. It must be got rid of. Both the government and the people at large must come together to achieve this national objective”

-Pratibha Patil

2.1 Introduction

Good governance refers to the principles and practices aimed to ensure fair, transparent electoral policies and accountability for the smooth implementation of electoral laws. Rule of Law, Inclusivity and participation, Transparency and Accountability, Equality and Fairness, Independence to the Election Commission, Judiciary, Law and order department to enforce the law without fear and influence, and Protection of electoral rights are some of the key aspects of good governance.²⁰¹

Corruption in politics occurs when public servants or others in their personal or professional network abuse their positions of authority for personal benefit. Bribery, lobbying, extortion, cronyism, nepotism, parochialism, patronage, influence peddling, graft, and embezzlement are only a few of the many forms of corruption. Although corruption is not limited to these types of crimes, it often serves as a cover for them and may make it easier for criminals to carry them out. Other forms of abuse of government authority, such as the suppression of political opponents and general police violence, also fall under the umbrella of political corruption.²⁰²

The term "corruption" has taken on several meanings throughout history. It is unethical, for instance, to accept a gift while acting as a government employee or a representative of the government. Any gratuitous present might be seen as an attempt to sway the recipient's beliefs or attitudes in a certain direction. When a lower-level worker gives a present to a higher-level worker, the latter is likely to see it as an attempt to curry favor in exchange for a promotion or tip to get a contract, employment, or exemption from certain duties. Institutional corruption is a new kind of corruption that is distinct from bribery and other types of overt selfish gain. All

²⁰¹ Kashyap and Subhash C., *Democracy and Good Governance* (Oxford University Press, New Delhi, 2010).

²⁰² Koehler, M., "The Story of the Foreign Corrupt Practices Act" 73 Ohio St. LJ 929 (2012).

organizations face the risk of corruption when they accept funding from sources whose personal agendas may be at odds with the organization's mission.²⁰³

Only when unlawful conduct by an officeholder is tied to their official responsibilities, is done under the color of law, or includes trading in influence can it qualify as political corruption. Corruption laws and practices vary widely from one jurisdiction to the next. Some forms of political finance may be acceptable in one jurisdiction but prohibited in another. It may be difficult to determine what is lawful and what is not when government employees have wide or ill-defined authority. Over a trillion dollars each year is allegedly exchanged in bribes across the world. A kleptocracy, from the Greek for "rule by thieves," is a government that steals at will without any checks or balances.²⁰⁴

A precise definition of corruption is elusive. The multi-faceted analysis is necessary for a complete definition of corruption. The oldest aspect of corruption, which Machiavelli popularized, is the deterioration of moral character in public office and the general populace. Corruption, under the updated definition proposed by psychologist Horst-Eberhard Richter, is defined as the erosion of political ideals. Some have argued that defining corruption as a fall in virtue is too vague and subjective to be applied universally. Second, corruption may be seen in terms of its role as a kind of aberrant conduct. Corruption has been described as a societal sickness by Christian Höffling and J.J. Sentuira, an economist; corruption has been defined by Sentuira as the abuse of public authority for private gain.²⁰⁵

Value exchange is the third factor. Corruption is always a trade between two or more parties, one of which has economic products and the other of which has transferred authority to use, according to established laws and norms, for the benefit of all parties. As a fourth point, the public's opinion on corruption varies widely. Heidenheimer classifies corrupt behavior as one of three types. White corruption, which is based on personal relationships and patronage networks, is the most common kind of corruption in the United States and is often seen as acceptable, if not legal. Corruption of the "grey" kind is common in constitutional governments and states in the process of democratization. Such corruption is morally repugnant to most

²⁰³ Popescu, A.I., "Financing Democracy or Corruption? Political Party Financing in the EU's Southeastern and Eastern Member States" 7 CES Working Papers 573-81(2015).

²⁰⁴ Yadav, V., *Political Parties, Business Groups, and Corruption in Developing Countries* (Oxford University Press, 2011).

²⁰⁵ Stockemer, D., "Women's parliamentary representation in Africa: the impact of democracy and corruption on the number of female deputies in national parliaments" 59 Political Studies 693-712 (2011).

people, but the corrupt individuals frequently don't feel bad about themselves. Thirdly, "black" corruption is so pervasive that it undermines a society's rules and regulations. Finally, "shadow politics" refers to the element of the informal political process that goes beyond lawful informal political agreements and into overtly covert conduct.²⁰⁶

In Chapter 2 we focus on the Malpractices adopted by the Members of the Parliament & other Houses and their effect on Democratic Governance we mainly focus on malpractices before the election, and after the election and also include various factors such as media manipulation, intimidation, and violence. The study also focuses on malpractices by legislatures (after elections) and their effects on democratic governance in which we also focus on inefficient public administration, Hindering economic growth of the Nation and Adverse effects on social development, Inadequate essential facilities on the public, adverse effects on health facilities and many more. In Chapter 3 we will focus on disqualification from becoming a member of parliament and state legislature in India. In addition, the study will also focus on the allocation of seats in Lok Sabha, the delimitation act and its purpose, the role of Rajya Sabha, parliament, Lok Sabha, and legislative assemblies. Lastly, the study will focus on an overview of the constitutional framework which includes the central and state election commissions and, the power of the election commission.

2.2 Malpractices before Election

Free and fair elections are the essence of any democratic dispensation and hence everyone who is involved in the process must be expected to portray high standards of ethics. It has become important though alarming that politicking ante election irregularities have raised their ugly heads in India, thus tending to unravel the democratic model and the faith of the people.²⁰⁷. This paper seeks to analyze different types of these vices, the effects of these vices on democracy, and how Election Commissions, civil society, and the judiciary have sought to address these vices.

2.2.1. Electoral Corruption and Undue Influence

Electoral corruption is common in India and one of the widely materials that characterize it is vote buying and bribery. Money, goods, alcoholic beverages, or services are provided to voters

²⁰⁶ Gardiner, J., "*Defining corruption*", in *Political Corruption* 25-40 (Routledge, 2017).

²⁰⁷ Rix, K., "*The 'most difficult' subject for legislation: Parliament and electoral corruption in the nineteenth century*", in *The many lives of corruption* 156-76 (Manchester University Press, 2022).

by the contestants/candidates or political parties so that they can secure more votes.²⁰⁸ This practice distorts the electoral process in such a way that, candidates or parties who are not serious with the development and welfare of the state or country are elected. The democratic process is severely marred and all the electorate's faith in the process is undermined.

2.2.2. Electoral Fraud

Electoral fraud as a course can be defined as the process of rigging the voting machines, stuffing the votes in the ballot boxes, and impersonation as well as other related frauds. These activities have a one-sided bearing on the electoral process hence being very much anti-democratic. Besides manipulation of results, electoral fraud undermines the electoral system by denying the faith of the people in the electoral system²⁰⁹. The legal processes, that follow such malpractice, put more pressure on the judiciary and reveal the weak links in the election.

2.2.3 Religious and Communal Polarization

Elections are 'religiously' polarized where political parties and candidates deliberately fuel religious and communal conflicts in their bid to get the voters' support. Such practice leads to the building of social tensions as well as probable violent relations, deceiving voters and leading them to vote for the undesirable candidate. This creates religious and communal tensions which make it hard for the authorities to rule and come up with policies that will benefit one religion or group at the expense of the other²¹⁰.

2.2.4. Misuse of Governmental Resources

In most countries, the politicians alongside the political parties in power tend to use public funds in campaigning²¹¹. This includes legal manipulation such as providing false complaints against competitors, denying them permits, and awarding contracts to the incumbent's party. Such actions are unfair and against the concept of the rule of accusation in an electoral process. Malicious use of the state apparatus in the exercise of gathering support undermines the People's belief in the neutrality of the government and may lead to a governance system that is self-serving for the ruling party.

²⁰⁸ Abuza, A. E., "Election-less or non-election democracy: a missing link in finding permanent solutions to the problem of electoral malpractices in the politics of Nigeria," 46 Commonwealth Law Bulletin 270-299 (2020).

²⁰⁹ Niraja Gopal Jayal, *Democracy in India: Electoral Politics and Policy*

²¹⁰ Ramachandra Guha, *India After Gandhi: The History of the World's Largest Democracy*

²¹¹ Dajwan, R.L.D., Sunday, M.B., et.al., "Examination Malpractices: A Threat to Educational Reforms in Tertiary Institutions in Nigeria", 4 Oracle of Wisdom Journal of Philosophy and Public Affairs (OWIJOPPA) (2020).

2.2.5. False Promises and Misinformation

Electoral campaigns are characterized by most politicians making numerous promises that they cannot fulfill and other instances of using propaganda and liners on opponents. These strategies create the necessary focus and distort the principles of democracy. In some cases when the elected officials run for office and they do not deliver what they had promised to the people, then this represents a blow to the democratic political system.²¹². Also, spreading the wrong information misleads an electorate, which is not healthy in a democratic body.

2.3 Malpractices after Becoming Legislatures

Whereas malpractices before elections erode the credibility of the elections on conduct, malpractices that are executed by members of parliament and other houses after assuming political power can greatly affect the efficiency of the democratic system. Such practices undermine the trust necessary for social and economic progress and lead to a culture of corruption and thus inefficiency.

2.3.1. Corruption and Bribery

Other times, after attaining their political seats, most of the legislators turn into corrupt people who are involved in bribery instead of being in politics for the benefit of the public. They may engage in corruption by taking bribes for any special political lobby, contracts, or even pieces of legislation. This misuse of power takes development projects and services away from the people and denies them access²¹³. These result in poor service delivery by the public institutions, poor governance, tender-biased prowess, and generalized eroded public credibility in the government.

2.3.2 Misuse of Power and Authority

This in essence seriously affects government decision-making and policy-making to the disadvantage of the common citizen or in favor of the Legislators themselves, their families, or friends. This can range from the ability to recommend particular civil servants for particular offices, awarding contracts for government business to companies favored by the rulers, and spending state funds as the rulers may deem necessary or for their benefit.²¹⁴. Hiring of such

²¹² Ayodeji, G. I., & Odukoya, I. S., “*Curbing Electoral Malpractices and Violence: A Proposal for an Effective Policing in Nigeria's Future Elections*”, in *Security, Elections* 347.

²¹³ Levin, L. C., “*The Politics of Lawyer Regulation: The Case of Malpractice Insurance*” 33 *Geo. J. Legal Ethics* 969 (2020).

²¹⁴ Masieri, C. M., *Medical Malpractice Legislation: Reforms in Civil Law Systems* (Taylor & Francis, 2024).

people in organizations discourages meritocracy and evils of unfair governance that favors inefficiency and inequality.

2.3.3. Nepotism and Favouritism

Employment relations refer to the position where legislators-nominees offer relatives, friends, or political associates undue leverage in either appointments or contracts in the general public. This practice violates the provisions of fairness and equity in society in as much as governance is concerned²¹⁵. This escalates the chances of hiring coy and incompetent individuals into key organizational positions, thus decreasing the efficiency of public organizations and services.

2.3.4. Legislative Inaction and Absenteeism

Political non-participation comprises legislative inactivity and absences and involves legislators not performing their functions, which includes; presiding over parliamentary sittings, engaging in parliamentary dialogues, as well as contributing to the formation of laws. This disconnection influences the operations of the legislature negatively and slows down vital legislation²¹⁶. It is indicated more by a lack of dedication towards serving the public and democracy since representatives do not serve their duties.

2.3.5. Involvement of Personal Interest

That is why legislators are normally in a dilemma when their pecuniary interest gets intertwined with their legislative mandate. They may seek to control laws that will positively impact their business empires or stocks. This erodes the standard of the legislation and results in the formulation of bills that are self-serving instead of for the good of the population.²¹⁷. The clearest manner of ensuring the disclosure and handling of conflict of interests is to prevent corrupt practices that may be detrimental to the public's best interest.

2.3.6. Manipulation of Parliamentary Procedures

Another practice of malpractice is when legislators influence parliamentary procedures to serve political interests. This involves such things as the use of filibustering, moving around the quorum, and exploring all procedural points to hinder or even stall legislation. Such practices

²¹⁵ Mahendra Prasad Singh, *The Indian Political System* (Pearson, Delhi, 4th edn., 2017).

²¹⁶ Muheeb, I. O., "The Legislature, the Rule of Law, and the Politics of Impeachment in Nigeria's Fourth Republic", in *The Legislature in Nigeria's Presidential Democracy of the Fourth Republic: Power, Process, and Development* 215-228 (Springer International Publishing, Cham, 2023).

²¹⁷ De Luca, A., "The Judge, the Legislator and... the Mediator. The Long Journey of Medical Malpractice in Italy", in *Compensation Schemes for Damages Caused by Healthcare and Alternatives to Court Proceedings: Comparative Law Perspectives* 225-245 (2021).

are unethical and interfere with democracy thus making it hard to pass legislation, which is vital for a nation's progress.

2.4 Malpractices by the Member of Legislatures before elections and its effect on democratic governance

Democratic governance is established on the electoral process, which can voluntarily be defined as the essence of democracy. However, several activities by members of legislatures before elections are capable of sharply compromising this foundation and thus the electoral process due to a loss of public trust. This essay focuses on the nature of malpractices that legislators indulge in before elections, the effects on democracy, and the measures that have to be taken to pursue the vice.

2.4.1. Vote Buying and Bribery

Another relevant type of malpractice that can be cited before elections is buying and bribing the electorate. Candidates or the political parties they belong to provide materials such as cash, food, or products in exchange for votes.²¹⁸ This corrupt practice is a clear threat to the prospects of having a fair election because it gives power to the wrong candidates who may not mean well to the public. This effect misinforms the voters, encourages people to rely on the state handouts, and corrupts government officials.

2.4.2. Manipulation of the Electoral Process

Manipulation of the Electoral Process refers to those irregularities in voting exercises, which the law frowns at, and they include voting machine rigging, ballot box snatching, and impersonation among others. These actions seek to rig the election and denial of the people's choice, this is undemocratic.²¹⁹ Instead of changing the status of an election, electoral manipulation contributes to the decay of the electoral process and the democratization process in general.

2.4.3. Faith-Based Polarization

Another form of malpractice is the exploitation of religion and communal issues to influence the people to vote. In this way, legislators and their political parties use appeals to promote antagonism and the basis of dividing beliefs and creating hostile environments, and fear. It

²¹⁸ Omojowo, S., Moliki, A., et al., "*Electoral Violence and Malpractices: Navigating Obstacles to Strengthening Democracy in Nigeria's Fourth Republic*" 3(1) Ethiopian Journal of Governance and Development (2024).

²¹⁹ Barrow, I. H., "The impact of electoral malpractices on Somalia's democracy: A case study of 2021 Upper House election in Southwest State" 11 Asian journal of management sciences & education 26-33 (2022).

keeps the voter unaware and unaided and it often enhances the chances of getting leaders who reinforce the divisions within society²²⁰. This practice erodes solidarity in society and democracy's foundational tenet of unity and togetherness.

2.4.4. Misuse of Government Resources

In another way or the other, incumbent legislators continue to indulge in the misuse of government resources for campaign business since they enjoy the privilege of state apparatus. These are the misuse of state resources such as its automobiles, buildings, and personnel for campaigning purposes, follows cases of defamation against rivals, and twisting of government procedures. The failure to avoid the use of government resources undermines the people's confidence in the non-partisan nature of state organs and gives an unfair advantage in the battles between politicians.

2.5 Malpractices by Legislatures after Elections and its Effects on Democratic Governance

Effect of malpractices of legislatures after election process on democratic governance is profound undermining the essence of democracy and jeopardizing political stability, social cohesion and economic development. After elections malpractice on democratic governance may be severe and far reaching, undermining the fundamental principles of democracy. Below are some of the key effects:

2.5.1. Inefficient public administration

Corruption in politics weakens democracy and good administration by disregarding or even overthrowing established procedures. Political and legislative corruption lessens oversight and distorts citizen participation in policymaking; judicial and administrative corruption undermines public confidence in the rule of law, and corruption in public administration hinders the delivery of essential public services. For republics, this goes against a fundamental premise about the importance of civic virtue in republicanism.²²¹ For governments as a whole, corruption eats away at their ability to function properly when norms are broken, funds are misappropriated, and public positions are sold or purchased. Trust in government and

²²⁰ Olaide, O. O., and Adewumi, D. E., "Election malpractice and the development of Nigerian democracy: A comparative study of Abia and Lagos states" (2020).

²²¹ Kulish A, Andriichenko N, et al., "A step forward in the minimization of political corruption in financial support of political parties: The experience of Ukraine and Lithuania" 11 Baltic Journal of Law & Politics 108-130 (2018).

democratic principles like tolerance and acceptance are weakened when corruption occurs. The amount of accountability of decision-makers has been shown to have a considerable impact on the difference in corruption levels within high-income democracies. Corruption and bribery have been shown to hurt faith in institutions, as shown by data from weak nations. The delivery of government services is likewise susceptible to corruption's influence. Costs for consumer products and services go up because of decreased productivity. Government initiatives may be cost-effective when considering just their genuine costs, but after corruption expenses are included, they may not be, leading to a distortion in the supply of products and services.²²²

Once elected or appointed to parliament, many of these legislators fall to corrupt practices and bribery, where they act as kings and queens rather than representatives of their people. This usually takes form in then demanding and receiving, kickbacks in form of political influence for issues like contracts, permits, or legislation in favor of a particular business. For instance, the 2G spectrum case in India involved politicians and other officials demanding and receiving bribes in order to favour a few telecom operators in issuing licence for spectrum, which incurred a huge amount of losses to the government. Such corruption embezzles funds meant for public utility services, social service delivery as well as infrastructural development and consequently hampers the flow of investment for the country's development and shatters the confidence the public has in the government organizations. Inefficient governance and lack of accountability are also other misdeeds that are committed by legislatures. In most occasions, after people have voted and anyone or party has emerged victorious, the winning person or party will try as much as possible, to influence the government's choices and its policies, for their own benefit or that of their families or friends²²³. Allegations may pertain to the ability to select officials to offices, awarding of government tender to preferential companies as well as the channeling of state resources for self or party use. Such behaviors are against meritocracy and good governance whereby efficiency and equality in delivery of public services are compromised. For instance, the coal allocation scam in India (where allocated coal mined blocks without tender and), the government officials of India allegedly favoring private companies thus earning them a capacity to misuse power and cause undermining the strength of an economy through poor policy-making.

²²² Gowda MR and Sridharan E, "Reforming India's party financing and election expenditure laws" 11 Election Law Journal 226-240 (2012).

²²³ Omojowo, S., Moliki, A., et al., "Electoral violence and malpractices: Navigating obstacles to strengthening democracy in Nigeria's fourth republic" 3(1) Ethiopian Journal of Governance and Development (2024).

2.5.2. Adverse effect of economic development of the nation

Corruption drives up corporate expenses in the private sector due to the cost of making illegal payments, the time and effort required to negotiate with government officials and the potential for legal repercussions should any agreements be broken or suspicions of wrongdoing are raised. Some argue that corruption saves money by eliminating unnecessary red tape, but officials who have access to bribes may also be more likely to create unnecessary roadblocks. Instead of secretly enabling them to be avoided by bribery, eliminating expensive and cumbersome rules is preferable. Corruption not only drives up corporate costs but also distorts the field of inquiry and action by favoring well-connected businesses over others and keeping unproductive ones in operation.²²⁴

The effective marginal tax rate of a company may be adversely affected by corruption. If the marginal bribe rate is lower than the statutory marginal tax rate, the company may minimize its tax payments by bribing tax authorities. Taxation has a more detrimental effect on business activity than bribery does in Uganda. And bribery indeed costs a company three times as much in lost growth as an increase in taxes of the same rate.²²⁵

Government spending is skewed because bribes and kickbacks are easier to get by in capital projects where corruption is rampant. To hide or facilitate such activities, public sector project officials may add technical complexity, distorting investment even more. Corruption also lessens adherence to building codes, environmental safeguards, and other rules, decreases the quality of public services and infrastructure, and puts more strain on the public purse.

Economists think that one reason Africa lags behind Asia is that rent extraction corruption is rampant on the continent, with the resultant wealth being siphoned off and invested elsewhere (hence the stereotypical, but often accurate, image of African dictators having Swiss bank accounts). For instance, between 1960 and 1999, Nigerian authorities stole about \$400 billion from the country's coffers.²²⁶

Capital flight from 30 Sub-Saharan countries from 1970 to 1996 was projected to amount to \$187bn, more than the foreign indebtedness of those countries. (The outcomes, in terms of slowed or halted development, have been theoretically modeled by economist Mancur Olson.)

²²⁴ Witsoe, J., “*Corruption as Power: Caste and the Political Imagination of the Postcolonial State*” 38(1) *American Ethnologist* 73-85 (2011).

²²⁵ Westbrook, A.D., “*Enthusiastic Enforcement, Informal Legislation: The Unruly Expansion of the Foreign Corrupt Practices Act*” 45 *Ga. L. Rev* 489 (2010).

²²⁶ Friedrich CJ. *Corruption concepts in historical perspective*. In *Political Corruption* 15-24 (Routledge, 2017).

One reason for this behavior in Africa is the frequent change of government, which frequently results in the confiscation of the corruptly acquired assets of the preceding administration. This motivated government officials to hide their money in other countries to protect it from confiscation. While Asian governments like Suharto's New Order typically imposed taxes on commercial transactions or created favorable circumstances for growth by investing in infrastructure or enforcing the law, these policies tended to benefit the government rather than the private sector.

2.5.3. Adverse effects on social development

In many cases, nations with the lowest per capita incomes and most reliance on foreign help for health care also have the highest levels of corruption. About half of the monies contributed to health usage were never invested into the health sectors or delivered to persons seeking medical assistance, according to a 2006 World Bank Report. This is particularly prominent in Sub-Saharan African countries. Donations were used for "counterfeit medications, siphoning off of pharmaceuticals to the underground market, and payments to ghost staff," though. While there may be enough global aid to cover health care costs, corruption at the local level prevents many people from getting the help they need. ²²⁷

Corruption paves the way for ecological devastation. While some corrupt cultures may have environmental protection laws on the books, such laws will go unenforced if government officials can be bought off. The same holds in the areas of preventing unionization, child labor, and the preservation of workers' rights. Corrupt nations may acquire an unfair economic advantage in international trade by violating these rules and rights. Economics Nobel laureate Amartya Sen has said, "there is no such thing as an apolitical food issue." Famine may be triggered by natural disasters like drought, but the government's response—or lack thereof—will decide the severity of the famine and, in many cases, whether or not it will even occur at all. ²²⁸

Even in years of plentiful harvests, governments with a propensity for kleptocracy might damage citizens' ability to provide for themselves. Thefts of public funds and property by government employees are common. More than 80% of the subsidized food help to the underprivileged in Bihar, India is taken by dishonest authorities. It is also uncommon for

²²⁷ Teachout Z., "*Corruption in America: From Benjamin Franklin's snuff box to citizens united*". (Harvard University Press, 2014).

²²⁸ Wroe A, Allen N, et al., "*The role of political trust in conditioning perceptions of corruption*," 5 European Political Science Review 175 (2013).

government officials, criminals, and warlords to kidnap food assistance trucks and sell the contents for profit. It's not hard to find instances of governments throughout the 20th century threatening the food supply in their own countries, sometimes on purpose.²²⁹

2.5.4. Inadequate public essential facilities

Humanitarian help to the world's impoverished and insecure countries is on the rise, but food aid, building aid, and other highly valued assistance are particularly susceptible to corruption. Direct physical diversion of food assistance exists, while indirect diversion occurs when evaluations, targeting, registration, and distributions are manipulated to benefit certain groups of people.²³⁰

Substandard labor, bribes for contracts, and favoritism in the distribution of precious shelter material are all chances for diversion and profit in the building and shelter industries. In other words, while humanitarian relief organizations worry most about aid being diverted due to the including too many, the beneficiaries themselves worry most about being left out. Those who have the means to do so, pay bribes, or are threatened with sexual favors may be the only ones who can get access to help. In a similar vein, individuals with the means to do so may exaggerate the number of recipients and siphon off more funding using statistical manipulation.²³¹

In India the infrastructure like essential public services are still a luxury and these programs are in a bad state due to corruption starting from the legislators even before and during elections. An example that can still be observed up to date is the inability to find clean and safe water for consumption especially in the rural and some urban regions. The situation in many countries remains critical as most Heads of State/open governments begged, appropriated and pledged huge amounts of money but very little is reached the target because of corruption, misappropriation of funds, and inept officials. Quite often the funding provided for water infrastructure projects is stolen through corruption by various officials inclusive of politicians and hence the projects are either half baked or half decent. For instance, in Maharashtra, an advanced project which was launched with a motive of achieving the goal that no village would be facing drought problem, known as Jalyukt Shivar Abhiyan, was criticized for the alleged

²²⁹ Bloemraad I and Schönwälder K, "Immigrant and ethnic minority representation in Europe: Conceptual challenges and theoretical approaches" 36 West European Politics 564 (2013).

²³⁰ Bowen RW and Kassiola JJ, *Japan's Dysfunctional Democracy: The Liberal Democratic Party and Structural Corruption* (Routledge, 2016).

²³¹ P.D. Carrington, "Enforcing International Corrupt Practices Law," 32 Mich. J. Int'l L. 129 (2010).

fraud related activities and poor quality work²³². This implied the mishandling of the funds that had been allocated for that purpose implying that many regions still lacked adequate supply of water and this impacted on the health, standard of living as well as the ability of the residents to earn a living. Lack of health care facilities is another serious problem that could be identified. Although much effort and funds have been invested towards the enhancement of health facilities, the majority of the rural areas across the globe may not even have “social” facilities, let alone hospitals. In cases related to states like Bihar and Uttar Pradesh, such revelations have been made where the hospitals lack proper staff, equipment, and medicines²³³. This is partially attributed by the president’s statement to the situation whereby resources allocated to the health sector are channeled to other projects or embezzled by corrupt officials. Lack of fundamental healthcare infrastructure aggravates health issues hence high mortality and ill health.

Moreover, the quality of education in government schools is highly affected and comes down to a very poor standard. Members of parliament especially during their campaigns assure the people they will see enhancements in the education facilities but once they are in office, they don’t deliver as was promised²³⁴. Many schools all over the country including numerous schools in Jharkhand and Chhattisgarh have no electricity supply, spare drinking water and sanitation facilities. Corruption and negligence in the implementation of education policies and strategies mean that the children do not get a proper environment and input to enable them succeed in their future in addition to increased cycle of poverty in the families.

Many wars are characterized by widespread starvation, disease, injury, torture, persecution of certain populations, disappearances, extrajudicial killings, and forced population relocation. The devastation of crops and cultural landmarks, the collapse of economic infrastructure and healthcare institutions like hospitals, and so on, are only some of the local systemic ramifications of such disasters.

2.5.5. Adverse effect on health facilities

Hospitals, governments, and other organizations that strive to provide high-quality, low-cost health care to the public are all plagued with corruption. Timely service delivery to the most

²³² O.N. Jacob, A. Lawan, et.al., “*Evaluation of Causes of Inadequate Funds in Nigerian Public Universities*”, 9 Middle European Scientific Bulletin 9 (2021).

²³³ Nnenna, O.C.A. and Ubogu, R., “*Inadequate infrastructural distribution in public primary schools in Delta State: Implication for National Development*” 8(4) ATBU Journal of Science, Technology and Education 54-62 (2020).

²³⁴ Andrés, L., Joseph, G. et al., “*The economic and health impacts of inadequate sanitation*” in Oxford research encyclopedia of environmental science (2021).

vulnerable members of society, as well as responsible and transparent mechanisms, are essential to the success of any nation's health care system.²³⁵

At its core, corruption is fueled by greed. Lack of control in healthcare delivery, supply of pharmaceuticals, and the bidding process are only the beginning of the systemic issues that lead to wasteful spending and poor decision-making in the healthcare industry. Health care service delivery may be further undermined by corruption, further upsetting the lives of the poor. When those who should get government-provided healthcare are instead denied it because of corrupt practices motivated by money, human rights and freedoms are violated. Therefore, a nation can't guarantee its residents' health without well-established mechanisms and sufficient resources that can rein in ills like corruption.²³⁶

2.5.6. Adverse effect on education

A society's transformation and the development of its many dimensions of well-being are woven together and grounded in the system of education. Historically high levels of corruption in higher education need swift action. The world's governments, students, and educators are increasingly concerned about the prevalence of corruption at the world's universities. There is intense pressure on those who provide services at higher education institutions, and this strain poses a danger to the enterprise's fundamental worth. The greater harm that corruption in higher education does is the breakdown of the link between individual effort and the expectation of positive outcomes. People learn that personal achievement does not come through hard effort and merit but by canvassing with instructors and other shortcuts.²³⁷ Corruption at all levels has made it impossible for faculty to advance in rank at universities. These days, it's more about who you know than what you know when it comes to getting forward in work. Because of this, the number of academics has exploded, and their stature has fallen precipitously. Unprepared graduates who aren't a good match for the work market are the result of academic institutions' defective methods. The corruption of an educational system lowers it compared to global norms. Furthermore, plagiarism is a sort of academic misconduct that inhibits creative thought and knowledge acquisition. Individual infractions are intrinsically linked to the methods via which a system functions. Additionally, universities may have links to and interactions with

²³⁵ Shakeel, A.I. "Public procurement and corruption in Bangladesh confronting the challenges and opportunities" 2(6) Journal of Public Administration and Policy Research 103-111 (2010).

²³⁶ Kopecký P., "Political competition and party patronage: Public appointments in Ghana and South Africa" 59 Political Studies 713 (2011).

²³⁷ Koehler M., "Measuring the Impact of Non-Prosecution and Deferred Prosecution Agreements on Foreign Corrupt Practices Act Enforcement" 49 UC DL Rev 497 (2015).

industry and government officials, many of whom enroll in Ph.D. programs directly after completing their undergraduate degrees. Thus, as fuelling variables, money, power, and associated influence undermine educational quality. The pressure to complete a thesis report in a shorter amount of time might lower the quality of the final product and even call the value of a college degree into question.²³⁸

Education has suffered the worst experience in India due to some legislators engaging in one or the other malpractice. Due to corruption, inept management of resources and absence of responsibility, education in many regions of the country has been very poor. This is the hard truth that the governments and prominent leaders have pledged to have effective educational infrastructure across the world, but a large number of students are still suffering. Among all the deficiencies it is possible to focus on the fact that government schools are in awful condition. The states like Uttar Pradesh and Bihar have most of the schools, which do not have even minimum facilities like electricity or presentable drinking water and sanitation. This is because most of the funds intended for the development of education get embezzled hence have negative impacts²³⁹. Instead of this money being spent as is intended, corrupt officials and legislators siphon off these funds for their own use, or other priorities, meaning the schools will remain impoverished and unappreciated. Therefore, students are driven to learn in conditions that are unfriendly for learning and this consequently manifests in poor performance and high dropout rates. The existence of very meager and unqualified teachers is one of the major challenges facing the faculties. Lack of adequately trained educators is a common observation with many schools – more so in the rural areas. This owe to the corrupt practices of recruitment and appointment most of the time; merit is not a requirement rather it is based on family related and corruption. For example, previously, cases of recruitment frauds that have been known to have taken place in the Madhya Pradesh State where teaching jobs were said to have been sold to the unsuitable candidates. This degrades the standard of education while at the same time discouraging qualified and deserving individuals who are locked out of opportunities. Also didacticization of education only aggravates the situation, and the role of politics in this process is worth mentioning as well. Political leaders always meddle with the operations of educational facilities with an intention to reciprocate the same. This includes

²³⁸ Deseriis M., “*Direct parliamentarianism: An analysis of the political values embedded in Rousseau, the operating system of the Five Star Movement*”, in 2017 Conference for E-Democracy and Open Government (CeDEM) 2017, 15-25 (IEEE, 2017)

²³⁹ Sen, S. and Banerjee, S., “*Adverse Effects of Online Education on Student Engagement during Covid-19: Review, Synthesis and Research Agenda*,” *Cardiometry*, 26, 293-301 (2023).

skewing the curriculum to set particular direction on certain political beliefs or providing all kinds of support to private school to gain their political support. The above practices tilt the education system compromising the balanced and fair education of students.

2.5.7. Lack of Transparency and public accountability

Corruption is not exclusive to countries with low incomes or those in transition. One example of bribery and corruption in the West is people paying under the table to doctors in the hope of skipping the waiting list for impending procedures. Suppliers to the automobile sector have also been known to bribe their way into the market, resulting in the sale of substandard connections that find their way into products like airbags. Capacitors of poor quality are being sold to defibrillator makers by vendors as a form of bribery. A limitless number of scenarios may be imagined.²⁴⁰

All of these forms of corruption pose a threat to society because they undermine trust in vital institutions and connections between people. In 2008, Osipian summed up a "examine how Russians see corruption as a field of research. Thirty percent of people said corruption was extremely high, while another 44 percent said it was high. Only 1% thought it was too low, while 19% said it was just about right. Three-thirds of the public believe traffic police are corrupt, followed by local governments (28%), police (26%), hospitals (16%), and schools (6%). (15 percent). Fifty-two percent of those surveyed had given money or presents to medical professionals, and 36 percent had given money or gifts to teachers on a more casual basis." He said that corruption slowed Russia's economic progress because pupils who were disadvantaged by it were unable to adopt more efficient ways of doing their jobs.²⁴¹

The effects of corruption in sports might be far-reaching (referees, players, medical and laboratory staff involved in anti-doping controls, members of national sports federation, and international committees deciding about the allocation of contracts and competition places). Members of religious organizations, NGOs, and non-profits all face legal threats.²⁴²

²⁴⁰ Jakobi, A.P. and E Pluribus Unum? *The Global Anti-Corruption Agenda and Its Different International Regimes* (Nomos Verlagsgesellschaft mbH & Co. KG, 2010).

²⁴¹ Ostrogorsk, M. and Lipset, S.M., *Democracy and the Organization of Political Parties: Volume II: The United States* (Routledge, 2018).

²⁴² Tangri R and Mwenda A, *The Politics of Elite Corruption in Africa: Uganda in Comparative African Perspective* (Routledge, 2013).

In the end, it may be difficult to tell the difference between corruption in the public and private sectors. National anti-corruption measures may need to prevent legal or other gaps in the scope of the instruments.

In our parliamentary representative democratic society, Parliament plays a central role. When compared to the finest legislatures in the world, the Indian Parliament is in a league of its own for the role it played in guiding India through the post-independence era of historic events. The amazing record of the unbroken continuity of our legislative institutions for almost half a century is a source of justifiable pride and comfort for us. Nonetheless, like any living institution, Parliament has to regularly assess both its current structural-functional demands and its current operating methods. It is also important to keep in mind that under a parliamentary democracy, the people are the ultimate sovereign and Parliament is accountable to them as well.²⁴³

2.5.8. Delay in taking policy making decisions

Concerns about Parliament and state legislatures may stem from a deterioration in the number and quality of their work in recent years. The number of days that each chamber of Congress meets to make legislation and perform other business has decreased significantly in recent years. Adjournments on the very few days that the houses assemble are common due to unseemly acts such as the use of force to intimidate opponents, screaming, and shutting off debate and discussion. Decay, declining standards of debate, loss of moral authority, and erosion of Parliament's position as the highest tribunal of the people are growing concerns. As the people toil and suffer to bring about the Constitution's objective of a free and fair society, Parliament's position as the authentic voice of the people must be strengthened without delay. Furthermore, maintaining Parliament's status as the ultimate authority in the eyes of the people is crucial to the survival of democracy.²⁴⁴

Representing their constituents is the primary responsibility of both Parliament and state legislatures. The legislature in a parliamentary society is responsible for generating a government that is representative, accountable, and responsive to the people. Whether or not it has produced administrations that serve their full terms and can successfully rule the

²⁴³ Bebler A, "Corruption Among Security Personnel in Central and Eastern Europe," in *Army and State in Post Communist Europe* 129-145 (Routledge, 2014).

²⁴⁴ Spahn, E.K., "Implementing Global Anti-Bribery Norms: From the Foreign Corrupt Practices Act to the OECD Anti-Bribery Convention to the UN Convention Against Corruption," 23 *Indiana International & Comparative Law Review* 1 (2013).

community is one indicator of the system's efficacy. Government and parliament should be modernized so they can effectively handle contemporary concerns, which are quite different from those that afflicted our society in the middle of the twentieth century. Primarily, there are monetary and technological hurdles to overcome. To better serve the needs and aspirations of our massive population, Parliament must play a leading role in changing the national economy. Parliament will only be able to shoulder this weight of history if it makes internal reform and priority setting a primary priority.²⁴⁵

2.5.9. Governmental instability and defections

Since the late 1960s, and more recently at the Union level as well, we've had to deal with the phenomenon of government instability due to hung houses and/or unprincipled defections by lawmakers. It is unreasonable to expect governments to prioritize the needs of their citizens when they are always focused on ensuring their existence. The disqualification of defectors was intended to bring about stability, but the anti-defection clause in the Tenth Schedule of the Constitution did not. Individual betrayal resulted in punishment, while mass betrayal did not. Splits and mergers, or defections as they were more often known, were not only tolerated but actively encouraged, with ministerial posts on offer to political entrepreneurs and adventurers who were clever and daring enough to organize group crossings.²⁴⁶

Lack of stability in governmental positions and certain level of desertion has negative impacts on the governance of India's democracy whenever policies are launched as this results in uncertainty. Such volatile leadership, instabilities such as government turnovers and crossover of elected representatives pose a big threat to stability, development and good governance. On this front, we have political instability, which can be evidenced by the political crisis in Karnataka. The political uprising of 2019 was characterized by a series of antic who led to the dissolution of the existing INC-JD(S) coalition government. Some of the ruling coalition legislators cross over to the BJP ranks and consequent move of no confidence against the incumbent Chief Minister and his resignation. This political instabilities not only affected political leadership but also the continuity of development projects and formulation/implementation of policies. This means that such instability can lead to departure of public confidence in electoral processes and breed further perception of politicians as people

²⁴⁵ Batory, A., "Why Do Anti-Corruption Laws Fail in Central Eastern Europe? A Target Compliance Perspective," 6(1) Regulation & Governance 66-82 (2012).

²⁴⁶ Warner, C., *The Best System Money Can Buy: Corruption in the European Union* (Cornell University Press, 2011).

who are in politics to enrich themselves²⁴⁷. The same has dilation consequence on defection, as has been witnessed in the case of Madhya Pradesh in the year 2020. The anti INC sentiments of the people were strongly demonstrated when 22 INC legislators defected to the new comer BJP and brought down the state government. This was widely condemned as a work of bending democracy mandates due to the larger problem of the ‘horse trading’ that is customary in Indian politics in which legislators form cross over to other parties for individual or monetary gains. This is a betrayal of party allegiance and ideology, trivialises politics to a mere form of commerce.

2.5.10. Effect of hung houses

Five general elections for the Lok Sabha have been held since 1989. There has never been an election when one party wins a clear majority in the House²⁴⁸. Concerns regarding political stability have been raised as a result, particularly in light of the requirements of national development initiatives and the radical shifts in international economic and security paradigms.

2.5.11. Strengthening the Committee System

First established in 1989, by 1993 there were seventeen parliamentary standing committees devoted to different government departments. It was a revolutionary breakthrough that equipped the Parliament to deal with intricate economic and social concerns with increasing aplomb and complexity. These committees are ideal for conducting a thorough, non-partisan review of the requests for funding from government agencies. Here, the government's legislative initiatives may be analyzed for their coherence with policy goals, and their viability as a means to achieve social ends can be evaluated. For these Committees to be effective, however, more time and effort will need to be invested. The Departmental Committee structure as it now operates has several flaws, which is surprising given the critical role these Committees play in the efficient operation of Parliament. There are 45 people on each committee, which is too much. Large-scale absenteeism is a problem, with reports indicating that average attendance was below 50% in 1997–1998. As a result, most committees are responsible for more than one ministry, diluting their effectiveness. The vast majority of political parties have no standards for nominating members to these committees. Lack of access to competent advisors is another barrier for them. Each committee serves for a total of 12 months. If members can't convince their whips to keep them on a certain committee, they won't be able to develop

²⁴⁷ Pipia, E., Doghonadze, et al., “Curse or blessing of education? Mitigation of adverse effects of challenges of communication between teachers and students,” in *INTED2022 Proceedings* 2234 (IATED, 2022).

²⁴⁸ Sridharan, E., *Coalition Politics and Democratic Consolidation in Asia* (Oxford University Press, Oxford, 2006).

expertise in a particular area of legislation. The lack of critical scrutiny of the ministries they oversee in their reports is a reflection of the committees' ad hoc nature. While parliamentary oversight is crucial for holding the executive branch accountable, it becomes worse than ineffective when it becomes routine. If that's the case, it's just going to increase the price of Congress without providing any value to the people.

2.5.12. Nodal Standing Committee on Economy

Our lack of a strong and respected parliamentary committee to supervise macroeconomic concerns of fiscal, monetary, financial, industrial, and trade policies holistically is a huge hole in our institutional setup given the centrality of economic policy to the development of our society. Parliament is unable to conduct a comprehensive and well-informed study of the administration's management of important macroeconomic problems because it lacks the advantage of airing multiple points of view and views in the context of the facts made available by the government. Parliamentarians can only rely on the official government line of thinking. No one in authority, such as the Reserve Bank of India Governor or the Government's Chief Economic Adviser, is available for interviews. This void means that legislators may only bring up inflation and similar topics while speaking in the legislature. Most legislators are content to speak out on matters that directly affect their district or, at most, their section of the state. There's a void here that must be filled.

2.5.13. The Constitution Committee

Even if the Union's executive power and its legislative power are the same things, the Constitution grants Parliament sole authority over the Union's constituent power. As a result, Constitution (Amendment) Bills place a notably heavier burden on Parliament. The current procedure for introducing Constitution (Amendment) Bills in Parliament is the same as for introducing any other item of legislation and frequently occurs at the last minute. The two houses of parliament may hurry a major amendment measure through with little debate. This is hardly an endorsement of the way parliament is using its authority.

Given the significance of the nation's founding document, it only seems sensible that Parliament would be the starting point for any efforts to revise it. There has to be some connection between the Parliament and the very beginning of the process of developing recommendations to modify the Constitution. After the ideas behind the amendment have been carefully reviewed in a legislative forum and a priori inspection by the constituent authority, only then should the actual writing be taken up. A Standing Constitution Committee is a useful

tool for facilitating the intended participation of Parliament and a priori review. This procedure will increase the validity and acceptance of the constitutional amendment. Alternately, the Constitution Committee may conduct a priori review of a Constitutional Amendment Bill after it has been drafted but before it has been submitted.

Moreover, the Committee is significant for another reason. In many cases, laws are invalidated because they are deemed to go beyond the scope of the government's authority. It can evaluate laws for constitutionality. More importantly, a legislative committee will verify that any law ostensibly enacted to promote the Directive Principles has a fair relationship with the aims in mind and does not unduly restrict basic rights. The Commission suggests that the two Houses of Parliament establish a Standing Constitution Committee to review proposed amendments in advance.

2.5.14. Rationalizing the Parliamentary Committees

With the formation of the Committee on the Constitution, the Committee on the National Economy, and the Committee on Legislation, it is possible that the existing Committees on Estimates, Public Undertakings, and Subordinate Legislation will no longer be necessary. Their concerns may be taken up by the Departmental Standing Committees or one of the three brand new Committees. If this were to happen, the committee system in Parliament might be made more logical. The demands on floor time may be alleviated by the creation of a streamlined committee structure, which would also increase legislative oversight of the executive branch and improve government productivity. The Parliamentary Petition Committee might be a very useful addition to the projected Lok Pal institution. More people should be aware of it and utilize it to air, investigate, and resolve their complaints against the government. The Commission also suggests that the Houses of Parliament consider all key findings from parliamentary committees, particularly those that find themselves at odds with the Government.²⁴⁹

²⁴⁹ Ijewereme, O.B., “*Anatomy of corruption in the Nigerian public sector: Theoretical perspectives and some empirical explanations*” 5(2) Sage Open 2158244015581188 (2015).

2.6 Influence of Race, Religion, Money, Criminal Back Ground and Malpractices of the Member of Legislatures before and after Elections in India

In a democracy, voters may expect political parties to outline their intentions to improve the lives of their constituents and win their support by enacting laws that increase access to essential services like clean government and reliable public transit. Party platforms, however, are designed to win elections, not improve society.

In the case of *Meghraj Kothari v. Delimitation Commission and Others*, published in AIR 1967 SC 669, a voter from the Daulatganj constituency in Ujjain, Madhya Pradesh, challenged the validity of a notification issued on 24.07.1964 that designated the Ujjain constituency as reserved for Scheduled Caste voters. The Madhya Pradesh High Court had already rejected the Writ Petition, hence the case was sent to the Hon'ble Supreme Court. In W.P.(MD). No.18733 of 2020, the Hon'ble Supreme Court examined the specifics of a reserved constituency, as well as Articles 330 and 332, and the provisions of the Delimitation Act of 1962. It concluded that Article 327 governs the delimitation of constituencies and that once the orders of the Delimitation Commission are published, they will have the same force and effect as if they were a law passed by Parliament. Extractions from paragraphs 16, 19, 20, 30, and 31:

"Fortunately, Article 329(a) of the Constitution specifically states that no court may review any statute about the delimitation of seats, etc. enacted or claiming to be adopted under Article 327. Therefore, the phrase "shall not be called into question in any court" will not preserve an order issued under Section 8 or 9 and published under Section 10(1). However, Article 329 would exclude any examination by any court of law if the order were to be published in the Gazette of India and so be recognized as legislation passed under Article 327.

According to Article 81, Article 170, Article 330, and Article 332, the Commission must use the most recent census data to determine, by order, how many seats in the House of the People should be allocated to each State and how many seats, if any, should be reserved for the Scheduled Castes and the Scheduled Tribes of the State. The Commission may only consider the objection to the delimitation of constituencies if it was submitted before the due date. The Commission's decisions under Sections 8 and 9 are final and cannot be challenged in court after publication in the Gazette of India and the Official Gazettes of the States involved. Such a clause seems to have solid justification. Any voter who wanted to might delay an election indefinitely by challenging the delimitation of the seats in court after court if the rulings

obtained under Sections 8 and 9 were not to be recognized as definitive. The orders made under Sections 8 and 9 and published under Section 10(1) of the Act are to be considered as law and are not subject to challenge in any court. This is made abundantly plain by Section 10(2) of the Act.

Considering the context, it is clear that the order issued under Sections 8 and 9 and published under Section 10(1) of the Delimitation Commission Act was intended to establish a comprehensive set of rules governing the recalculation of the total number of seats and the redistricting of the affected areas." After the Delimitation announcement has been published in the Gazette, it cannot be disputed in a court of law, and any objections to the delimitation must be filed within the time limit set by the Delimitation Commission. (Delimitation)

National Election Watch (NEW) and the Association for Democratic Reforms (ADR) have looked at the self-sworn affidavits of 542 of the 543 winners in the Lok Sabha 2014 Elections. The next winner was not looked at because the affidavit that was uploaded to the ECI website at the time this report was made was not clear or full. People who win in criminal cases Out of the 542 winners that were looked at, 185 (or 34%) have criminal cases against them. During the 2009 Lok Sabha elections, 158 (30%) of the 521 winners who were looked at had criminal cases against them²⁵⁰. Winners who were charged with serious crimes 112 winners (21%) have said they were involved in serious criminal cases, such as murder, attempted murder, causing trouble between groups, kidnapping, crimes against women, etc.

During the 2009 Lok Sabha elections, 77 (15%) of the 521 winners who were looked at had serious criminal cases against them. Winners of cases that involved murder Ten winners have said that their cases involved murder. Four of these winners were put forward by the BJP. Each of the INC, NCP, LJP, RJD, and Swabhimani Paksha put forward one winner, and one winner was an independent. Winners whose cases were about trying to kill 17 winners have been charged with trying to kill someone. Out of these, BJP has put forward 10 winners, AITC has put forward 2 winners, and INC, NCP, RJD, ShivSena, and Swabhimani Paksha have each put forward 1 winner. Crimes against women cases that went to the winner's Adv. Joice George, an Independent from Idukki constituency in Kerala, has filed a case of assault or criminal force against a woman with the intent to outrage her modesty (IPC Section-354). Ahir Hansraj Gangaram of the BJP in Maharashtra's Chandrapur constituency has filed a case for kidnapping, abducting, or forcing a woman to get married, among other things (IPC Section-

²⁵⁰ Data available at: www.adrindia.org (last visited on Dec. 08' 2024)

366). Winners whose cases were about causing community strife 16 winners said their cases had to do with making people upset. BJP ran 12 winners, and TRS, Pattali Makkal Katchi, All India Majlis-E-Ittehadul Muslimeen, and AIUDF each ran one winner²⁵¹.

Winners in cases involving theft and running away Ten winners have said their cases have to do with stealing and running away. Seven of these winners were put forward by the BJP, one by the RJD, one by the Swabhimani Paksha, and one by an independent candidate. Winners who had cases involving kidnapping Seven winners have said that their cases have to do with the kidnapping. The BJP has put forward three winners, and AITC, LJP, and RJD have each put forward one winner. 1 winner is an Independent. Party-wise In their affidavits, 97 (35%) of the 281 winners from the BJP, 8 (18%) of the 44 winners from the INC, 6 (16%) of the 37 winners from the AIADMK, 15 (83%) of the 18 winners from the Shiv Sena, and 7 (21%) of the 34 winners from the AITC all said that they had criminal cases against them. Party smart Winners who were charged with serious crimes In their affidavits, 61 (22%) of the 281 winners from BJP, 3 (7%) of the 44 winners from INC, 3 (8%) of the 37 winners from AIADMK, 8 (44%) of the 18 winners from Shiv Sena, and 4 (12%) of the 34 winners from AITC have said they have been charged with serious crimes. Chances of Getting Elected for People with Criminal Records In the 2014 Lok Sabha elections, a candidate with a criminal record has a 13% chance of winning, while a candidate with a clean record has a 5% chance of winning. Crorepati 443 (82%) of the 542 winners who were looked at are crorepatis. Out of the 521 winners who were looked at in the 2009 Lok Sabha elections, 300 (58%) were crorepatis. Crorepati de Basanti Winners 237 (84%) of the 281 BJP winners who were looked at, 35 (80%) of the 44 INC winners, 29 (78%) of the 37 AIADMK winners, and 21 (62%) of the 34 AITC winners have declared assets worth more than Rs. 1 crore.

What candidates have going for them and their chances of winning 415 winners (or 77% of all winners) are in the top three highest asset positions in their groups. 160(30%) winners have the highest declared assets in their constituency. 142 (or 26%) of the winners have the second most assets in their district. Chances to win based on what you have In the 2014 Lok Sabha elections, 29% of the 450 candidates with more than Rs. 10 crores in assets won, while 22% of the 320 candidates with between Rs. 5 crores and Rs. 10 crores in assets won and 17% of the 1443 candidates with between Rs. 1 crore and Rs. 5 crores in assets won. Average Assets In the 2014 Lok Sabha elections, the average amount of money each winner had was Rs. 14.70 crores,

²⁵¹ Data available at: www.adrindia.org (last visited on Dec. 08' 2024)

while the average amount of money each candidate had was Rs. 3.16 crores. In 2009, Rs. 5.35 crores was the average amount of money each of the 521 winners had. Party-wise Average Assets Among the major parties, the average amount of money each winner has is Rs 11.59 crores for 281 BJP winners, Rs 16.71 crores for 44 INC winners, Rs 6.47 crores for 37 AIADMK winners, and Rs 2.51 crores for 34 AITC winners²⁵².

MPs in office who have criminal cases Out of the 521 sitting MPs who were looked at, 174 (33%) have admitted to committing crimes. MPs in office who are facing serious criminal cases 106 (or 20%) of the current MPs have serious criminal cases, such as murder, attempted murder, causing trouble between groups, kidnapping, crimes against women, etc. MPs in office who are accused of murder Ten sitting MPs have been charged with murder-related crimes. There are 4 sitting MPs from the BJP, 1 MP each from the INC, NCP, LJP, RJD, and Swabhimani Paksha, and 1 MP who is not affiliated with any party. MPs currently in office who have cases related to Attempt to Murder 14 sitting MPs have been charged with trying to kill someone. Out of these, 8 MPs are from the BJP, and each of the INC, AITC, NCP, RJD, Shiv Sena and Swabhimani Paksha have one MP. MPs who are still in office who are accused of crimes against women Adv. Joice George, an Independent from Idukki constituency in Kerala, has filed a case related to assault or criminal force on a woman with the intent to outrage her modesty (IPC Section-354)²⁵³.

West Bengal's Parth Pratim Ray Coochbehar (SC) constituency has opened a case about buying a minor for prostitution and other things (IPC Section-373) MPs who are still in office and have cases involving causing Communal Disharmony 14 sitting MPs reported cases that had to do with causing problems between different groups. Ten of these MPs are from the BJP, and TRS, PMK, All India Majlis-E-Ittehadul Muslimeen, and AIUDF each have one MP. MPs who are still in office but who have criminal cases 92 (35%) of the 267 sitting MPs from BJP were looked at, 7 (16%) of the 45 sitting MPs from INC, 6 (16%) of the 37 sitting MPs from AIADMK, 15 (83%) of the 18 sitting MPs from Shiv Sena, and 7 (21%) of the 34 sitting MPs from AITC. In their affidavits, sitting MPs have said that they have been charged with crimes. MPs who are still in office but have serious criminal cases In their affidavits, 58 (22%) of the 267 sitting MPs from the BJP, 2 (4%) of the 45 MPs from the INC, 3 (8%) of the 37 MPs from the AIADMK, 8 (44%) of the 18 MPs from the Shiv Sena, and 4 (12%) of the 34 MPs from

²⁵² *Supra* Note 251

²⁵³ Data available at: <https://www.adrindia.org/research-and-report/election-watch/lok-sabha/2014/lok-sabha-2014-candidates-analysis> (last visited on Dec. 08' 2024)

the AITC have said they have been charged with serious crimes. Sitting Crorepati MPs 430 (83%) of the 521 MPs who were looked at are crorepatis. Crorepati Sitting MPs by Party: 227 (85%) of the 267 MPs from the BJP, 37 (82%) of the 45 MPs from the INC, 29 (78%) of the 37 MPs from the AIADMK, and 22 (65%) of the 34 MPs from the AITC have declared assets worth more than Rs. 1 crore. Average Assets: For the 2014 Lok Sabha elections, the average amount of money that each sitting MP has is Rs. 14.72 crores. Average Assets by Party Among the major parties, the average assets of 267 sitting MPs from the BJP were found to be Rs 11.89 crores, 45 sitting MPs from the INC had an average of Rs.15.47 crores, 37 sitting MPs from the AIADMK had an average of Rs.6.47 crores, and 34 sitting MPs from the AITC had an average of Rs.2.56 crores²⁵⁴.

Ministers who have legal problems Thirteen (30%) of the 44 Ministers who were looked at have criminal cases against them. Ministers who have serious legal problems 8 (18%) Ministers have spoken out about serious criminal cases, such as those involving a murder attempt, racial tension, kidnapping, election violations, and more. Minister in a case about trying to kill someone Uma Bharti of the BJP in Jhansi, Uttar Pradesh, has said that a case involving an attempt to kill someone needs to be looked at (IPC Section-307). Ministers whose cases have to do with causing community strife Uma Bharti, a BJP member from Jhansi, Uttar Pradesh, has filed a case. Trying to make people hate each other because of their religion, race, place of birth, place of residence, language, etc., and doing things that make it harder for people to get along (IPC Section-153A). Ministers who are accused of breaking election laws Uma Bharti, a member of the BJP from Uttar Pradesh's Jhansi constituency, has filed a case about illegal payments made for an election (IPC Section-171H). Upendra Kushwaha of the Rashtriya Lok Samta Party in Bihar's Karakat constituency and Ram Vilas Paswan of the LJP in Bihar's Hajipur constituency have both filed bribery cases (IPC Section – 171E). Ministers whose cases have to do with the kidnapping of Munde Gopinathrao Pandurang of the BJP in Maharashtra's Beed Constituency have filed a case of kidnapping or abducting someone with the intent to hold them secretly and illegally (IPC Section-365). Ministers of Crorepati: Forty out of the 44 Ministers who were looked at are crorepatis, which is 91%. Average Assets: The average amount of money that each minister has is Rs. 13.47 crores.

Candidates who have had legal problems Out of the 8163 candidates who were looked at, 1398 (17%) have said they have been charged with a crime. During the 2009 Lok Sabha elections,

²⁵⁴ *Supra* Note 251

1158 (15%) of the 7810 candidates were found to have criminal cases against them. Candidates with Serious Criminal Cases: 889 candidates (11%) have said they have serious criminal cases, such as murder, attempted murder, causing trouble between groups, kidnapping, crimes against women, etc. Out of the 7810 candidates who were looked at during the 2009 Lok Sabha elections, 608 (8%) had serious criminal cases against them. Candidates with murder charges: 57 candidates have said they have been charged with murder. Twelve of these candidates are from the BSP, four from the BJP, CPI(ML)L, SP, and JD(U), three from RJD and JD(U), one from INC, AAP, AITC, and CPI(M), and the other twelve are independents. Candidates whose cases have to do with trying to kill 173 candidates have said they tried to kill someone²⁵⁵.

Out of these, 19 candidates have been put forward by the BJP and the CPI(ML)L, 18 by the BSP, 14 by the SP, 7 by the AAP and the JD(U), 6 by the AITC and INC, 5 by the RJD, 4 by the JVM(P), 2 by the CPI(M) and the DMK each, and 28 are independents. Crimes against women-related cases for candidates 58 candidates have crimes against women on their records. And six candidates have said they were raped. Out of the 58 candidates with cases related to crimes against women, 6 are from the BSP, 3 are from the AITC, BJP, INC, and SP, 2 are from the JD(U), 1 is from the AAP, CPI, CPI(ML)L, MNS, RJD, Shiv Sena, and YSRCP, and 18 are independents. Cases against candidates that have to do with causing Communal Disharmony 54 candidates had cases²⁵⁶ that involved making people upset.

Out of these, 18 candidates were put forward by the BJP, 3 by the CPI(ML)L and the BSP, 2 by the AAP, SP, and INC, 1 by the RLD, YSRCP, and TRS, and 6 by independents. Of candidates who have been accused of stealing or running away 57 candidates have said they have been convicted of theft or kidnapping. Out of these, the BJP, BSP, and SP each put forward 10 candidates, the AAP put forward 3, the INC, JD(U), and RJD each put forward 2, and the AITC, CPI(M), DMK, and MNS each put forward 1, and 9 candidates are Independents. Candidates with Kidnapping-Related Cases: Forty candidates have said they have cases related to kidnapping. Six candidates have been put forward by the BSP and the SP, four by the INC, three by the BJP and the DMK, two by the AITC and the CPI(ML)L, one by the AAP, the JD(U), the LJP, the MNS, and the RJD, and five are independents. Party-wise In their affidavits, 128 (28%) of the 462 INC candidates, 140 (33%) of the 426 BJP candidates, 65 (15%) of the 427 AAP candidates, 114 (23%) of the 501 BSP candidates, and 307 (10%) of the

²⁵⁵ *Supra* Note 251

²⁵⁶ Data available at: <https://www.adrindia.org/research-and-report/election-watch/lok-sabha/2009> ((last visited on Dec. 08' 2024).

3,182 Independent candidates said they had criminal cases against them. Candidates with serious criminal cases who are party savvy In their affidavits, 61 (13%) of the 462 INC candidates, 89 (21%) of the 426 BJP candidates, 42 (10%) of the 427 AAP candidates, 75 (15%) of the 501 BSP candidates, and 188 (6%) of the 3182 Independent candidates said they had been charged with serious crimes²⁵⁷.

2.6.1. Cash-for-Votes Scam (2008)

On one occasion in 2008, during a trust vote in the Lok Sabha (House of the People), claims surfaced that certain members of Parliament had been paid to support the UPA government's survival in the face of a no-confidence gesture. Several news channels broadcast videos revealing monetary gifts being given to certain lawmakers. The ethics of parliamentary procedures and the possible influence of money on political choices were brought to the forefront by this incident.

2.6.2. Adarsh Housing Society Scam (2010)

Allegations of bias, corruption, and nepotism in the distribution of flats meant for widows and heroes of the Kargil War surrounded the Adarsh Housing Society Scam in Mumbai. Flats in the community were acquired by powerful politicians, bureaucrats, and military people in deceitful ways, taking advantage of their positions. Politicians and bureaucrats in this case abused their positions of authority for private benefit.²⁵⁸

When it comes to democratic governance, the sanctity of parliamentary proceedings is a cornerstone that must be upheld. Despite this, several unethical practices are being carried out by members of parliament and other legislative houses, which are hiding behind the facade of decorum and adherence to democratic principles²⁵⁹. A significant threat to the very essence of democracy is posed by these malpractices, which range from nepotism to corruption. They erode the foundations of representative governance and erode the trust of citizens, which in turn undermines the legitimacy of democracy. In the context of parliamentary settings, corruption is one of the most pervasive forms of misconduct that can be observed. It is not uncommon for members of parliament to give in to the temptations of bribery and kickbacks, even though they are entrusted with the responsibility of serving the interests of their

²⁵⁷ *Supra* Note 256

²⁵⁸ Tandel V, Gandhi S, et al., "Vulnerabilities of institutional checks in Indian federalism: The case of the Adarsh society scam in Mumbai," **India Review** 13(2) 112-128 (2014).

²⁵⁹ Barrow, I. H., "The impact of electoral malpractices on Somalia's democracy: A case study of 2021 upper house election in Southwest State" 11(2) *Asian Journal of Management Sciences & Education* 26-33 (2022).

constituents²⁶⁰. The credibility of democratic institutions is harmed as a result of this unethical behavior, which not only casts doubt on the legitimacy of legislative procedures but also undermines their integrity. The practice of lawmakers placing personal gain ahead of the public good contributes to the development of a culture of mistrust among the populace, which ultimately results in disillusionment with the democratic system. In addition, nepotism is prevalent within parliamentary circles, which are characterized by the fact that familial connections frequently determine political appointments and decision-making mechanisms²⁶¹. Dynastic politics, which is common in many democracies, contributes to the perpetuation of a cycle of privilege and entitlement, which pushes meritocracy to the background and disenfranchises qualified individuals who do not have the appropriate pedigree²⁶². Such practices not only stifle diversity of thought and representation but also weaken the democratic fabric by concentrating power within a select few families or cliques. Therefore, they are detrimental to democracy.

In addition, the misuse of parliamentary privileges is another method that lawmakers use to engage in unethical behavior. Members of parliament are sometimes used to shield themselves from accountability for their actions by taking advantage of the immunity from legal prosecution that is intended to protect the independence of parliaments. A sense of impunity is fostered among legislators as a result of this impunity, which gives them the confidence to act without fear of repercussions and disregard the rule of law²⁶³. As a consequence of this, the idea of equality before the law, which is a fundamental tenet of democracy, is undermined, which in turn undermines public confidence in the fairness and impartiality of the legal system²⁶⁴. As an additional point of interest, the manipulation of parliamentary procedures to gain political advantage is a widespread malpractice that undermines the spirit of democratic governance. Filibustering, gerrymandering, and vote-buying are all examples of strategies that are utilized to obstruct the progress of legislative legislation or to manipulate the results of

²⁶⁰ Wapmuk, S. and Bature, E. A., “*Elections, the Legislature and Democratic Governance in Nigeria, 1999-2009*” Polac Historical Review (PHR) 56 (2022).

²⁶¹ Agunyai, S. C. and Ojkorotu, V., “*The Nigerian Legislative Committee System, Corruption, and Constituency Woes Lessons Nigerians Can Learn from the Singaporean Legislative Committee System*” 17(2) Taiwan Journal of Democracy (2021).

²⁶² Rix, K., “*The ‘most difficult’ subject for legislation: Parliament and electoral corruption in the nineteenth century*” in *The many lives of corruption 156-76* (Manchester University Press, 2022).

²⁶³ Muheeb, I. O., “*The Legislature, the Rule of Law, and the Politics of Impeachment in Nigeria’s Fourth Republic*”, in *The Legislature in Nigeria’s Presidential Democracy of the Fourth Republic: Power, Process, and Development*, 215-228 (Springer International Publishing, Cham, 2023).

²⁶⁴ Ayodeji, G. I. and Odukoya, I. S., “*Curbing Electoral Malpractices and Violence: A Proposal for an Effective Policing in Nigeria’s Future Elections*” Security, Elections, 347.

elections²⁶⁵. Not only do these maneuvers undermine the will of the people, but they also contribute to the perpetuation of a cycle of partisan gridlock and dysfunction, which makes it more difficult for democratic institutions to carry out their duties effectively. An additional factor that contributes to the prevalence of malpractices is the absence of transparency and accountability in the proceedings of the parliamentary office²⁶⁶. When negotiations take place behind closed doors, lobbying efforts are not disclosed, and decision-making processes are not transparent, it creates an environment that is conducive to corruption and undue influence. In the absence of robust mechanisms for oversight and public scrutiny, legislators are given the confidence to engage in unethical behavior without fear of repercussions. This undermines the principles of transparency and accountability, which are fundamental to democratic governance.

The repercussions of these malpractices extend far beyond the hallowed halls of parliament, reverberating throughout society and undermining the very foundation of democratic governance. The erosion of public trust in elected representatives breeds apathy and cynicism among citizens, leading to voter disillusionment and political disengagement. When citizens perceive their elected officials as self-serving and corrupt, they are less likely to participate in the democratic process, weakening the legitimacy of democratic institutions and paving the way for authoritarianism or populist demagoguery²⁶⁷. Moreover, the perpetuation of malpractices in parliament exacerbates social inequalities and hampers progress towards inclusive and equitable development. When legislative decisions are influenced by vested interests rather than the common good, marginalized communities are disproportionately affected, exacerbating disparities in access to resources and opportunities. The failure of democratic institutions to address these injustices undermines the legitimacy of the political system and fuels social unrest and instability²⁶⁸. The prevalence of malpractices in parliament poses a grave threat to democratic governance, undermining the principles of transparency, accountability, and representation. Corruption, nepotism, abuse of privileges, and manipulation of procedures corrode the integrity of legislative processes and erode public trust in democratic

²⁶⁵ Jiru, C. A., Tessema, D. K., et al., “*Public Engagement for Improving the Relationship between the People and the Parliament*”, in *Public Administration in Ethiopia: Case Studies and Lessons for Sustainable Development*, 113-38 (2020).

²⁶⁶ Christiansen, T., Griglio, E., et al., *The Routledge Handbook of Parliamentary Administrations, 1, 1-800* (Routledge, Milton Park, UK, 2023).

²⁶⁷ Anele, K. K., “*A Comparative Analysis of the Impeachment Procedures in Nigeria and Indonesia: A Need for a Paradigm Change*” 9 *Lentera Hukum* 33 (2022).

²⁶⁸ Imuuokhome, O. M., *Public Perception of the National Assembly and Legislators Turnover in the Fourth Republic (2020)* (Unpublished Doctoral dissertation, NILDS-Department of Studies)

institutions²⁶⁹. To safeguard the foundations of democracy, concerted efforts are needed to combat these malpractices through enhanced transparency, accountability, and citizen engagement. Only by upholding the principles of integrity and ethical conduct can parliament fulfill its role as the cornerstone of democratic governance.

2.6.3. Money Distribution during Elections

In the realm of democratic governance, elections serve as the cornerstone of citizen participation and representation. However, the process of funding electoral campaigns has become fraught with malpractices, perpetuating a cycle of corruption and undermining the principles of transparency and accountability. The distribution of money during elections, often accompanied by illicit practices adopted by members of parliament and other legislative houses, poses a significant threat to the integrity of democratic governance. One of the most prevalent malpractices associated with election funding is the influence of big money in politics.²⁷⁰ Wealthy donors and special interest groups wield disproportionate influence over electoral outcomes by funneling vast sums of money into political campaigns. This influx of money not only skews the playing field in favor of affluent candidates but also undermines the democratic principle of equal representation, as candidates without access to significant financial resources are effectively sidelined from the political process.²⁷¹ Moreover, the lack of transparency in campaign financing enables clandestine dealings and backroom negotiations, facilitating the flow of illicit funds into electoral campaigns.²⁷² Dark money, often funneled through opaque channels and shell corporations, obscures the true sources of campaign contributions, making it difficult to trace the influence of vested interests on political candidates. This lack of transparency not only erodes public trust in the electoral process but also creates fertile ground for corruption and undue influence.

Furthermore, the reliance on corporate donations and political patronage perpetuates a culture of quid pro quo, where elected officials are beholden to their financial backers rather than the

²⁶⁹ Fagbadebo, O. and Fagbadebo, O., "Conclusion: Making Impeachment an Instrument of Accountability and Good Governance in the Nigeria's Presidential System", in *Impeachment in the Nigerian Presidential System: Challenges, Successes and the Way Forward*, 475 (2020).

²⁷⁰ Abuza, A. E., Odhe, K. O., et al., "A Contemporary Legal Overview Of Party Switching Of Elected Legislators Of The National And State Assemblies Under The Nigerian Constitutional System" 15 *Baltic Journal of Law & Politics* 1410 (2022).

²⁷¹ Bari, M. E. and Dey, P., "The anti-defection provision contained in the constitution of Bangladesh, 1972, and its adverse impact on parliamentary democracy: A case for reform" 37 *Wisconsin International Law Journal* 487 (2020).

²⁷² Milumbe, B., Phiri, J., et al., "A Descriptive Survey of Teachers' Perception of Triggers in Examination Malpractices: The Case of Public Examinations in Zambia" 2022 *Education Research International* 5545406 (2022).

electorate. In exchange for campaign contributions, lawmakers may prioritize the interests of wealthy donors over the needs of their constituents, undermining the principle of democratic representation. This pay-to-play dynamic not only distorts policy priorities but also fosters a sense of disillusionment among citizens, who perceive their elected officials as beholden to special interests rather than the public good²⁷³. Additionally, the proliferation of money in politics exacerbates social inequalities and marginalizes underrepresented communities. Candidates from affluent backgrounds or with access to corporate funding enjoy a significant advantage over their less privileged counterparts, perpetuating disparities in political representation²⁷⁴. This elitist system not only undermines the principle of equal opportunity but also reinforces existing power structures, where wealth and privilege dictate political influence and access to power. Moreover, the commodification of politics commodifies the democratic process, reducing elections to mere transactions driven by financial incentives rather than ideological convictions²⁷⁵. Political campaigns inundated with slick advertising and expensive media buys, become increasingly disconnected from the concerns and aspirations of ordinary citizens, who are inundated with a barrage of paid messaging designed to sway their votes. This commercialization of democracy not only undermines the integrity of the electoral process but also erodes public trust in the legitimacy of elected officials.

In addition to having repercussions that are felt throughout society, the consequences of these unethical practices extend far beyond the electoral arena and undermine the very foundations upon which democratic governance is built. Citizens who feel marginalized and disenfranchised by a system that prioritizes wealth and privilege over the common good are more likely to develop a sense of cynicism and apathy. This is because the entrenchment of money in politics undermines public trust in democratic institutions. Consequently, the social contract that exists between citizens and the state is weakened as a result of this erosion of trust, which paves the way for political instability and social unrest²⁷⁶. Furthermore, the influence of money in politics distorts the outcomes of policy decisions, as lawmakers prioritize the interests of their wealthy donors over the requirements of the general populace. In addition to

²⁷³ Grömping, M., “*Agents of resistance and revival? Local election monitors and democratic fortunes in Asia*” 28 *Democratization* 103 (2021).

²⁷⁴ Loeber, L., *The legal definition of election fraud in established democracies: Comparing the Netherlands and the United Kingdom* (2023) (Unpublished Ph.D. thesis, University of East Anglia).

²⁷⁵ Hossain, M. Z., “*Parliamentary democracy of a state: Bangladesh perspective*” 15 *Globus-An International Journal of Management and IT* 1 (2023).

²⁷⁶ Adesanya, O. V., “*Combating electoral fraud using the rights-base approach*” 11(2) *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 73-82 (2020).

contributing to the perpetuation of social inequalities, this skewed policy agenda undermines efforts to address urgent problems such as poverty, inequality, and climate change respectively. Disillusionment with the democratic process is fueled by the fact that democratic institutions are unable to meet the requirements of the people, which in turn undermines the legitimacy of the political system²⁷⁷. In addition to the fact that members of parliament and other legislative houses engage in unethical behavior, the distribution of money during elections is a significant factor that has the potential to undermine democratic governance. As a result of the influence of big money in politics, the principles of transparency, accountability, and representation are undermined, which in turn perpetuates a cycle of corruption and inequality²⁷⁸. It is necessary to make concerted efforts to reform laws about campaign finance, enhance transparency in electoral funding, and promote equal access to the political process to protect the integrity of democratic governance. Maintaining the principles of democracy and ensuring that elected officials accurately represent the interests of the people can only be accomplished by putting a stop to the influence that money has on political processes.

2.6.4. Influence through Religion and Caste

Religion, a deeply personal and often contentious aspect of human identity, has long been exploited by members of parliament and other legislative bodies as a tool for political manipulation. The intersection of religion and politics, while sometimes legitimate in fostering ethical governance, frequently gives rise to malpractices that undermine democratic principles such as secularism, equality, and pluralism²⁷⁹. When wielded irresponsibly, the influence of religion in parliamentary affairs can erode the foundations of democratic governance, perpetuating division, discrimination, and social injustice. One of the most prevalent malpractices associated with the exploitation of religion in parliamentary settings is the instrumentalization of faith-based rhetoric to advance partisan agendas. Lawmakers often invoke religious language and symbols to curry favor with specific voter demographics or to justify controversial policy decisions. By framing political issues in religious terms, politicians seek to capitalize on the emotional resonance of faith, manipulating public sentiment and entrenching divisions along religious lines²⁸⁰. This tactic not only undermines the secular

²⁷⁷ Chioke, S. C., "Participation of Christians in Politics and Democratic Governance in Nigeria" *Journal of Public Administration, Finance & Law* (28) (2023).

²⁷⁸ Zhizhi, M. and Mohammed Nasiru, I., "Electoral Democracy and Administration of Elections in Nigeria" (June 25, 2020).

²⁷⁹ Wapmuk, S. and Bature, E. A., "Elections, the Legislature and Democratic Governance in Nigeria, 1999-2009" *Polac Historical Review* (PHR) 56.

²⁸⁰ Scalchunes, A., *Contentious Politics: The Impact of Democratic Freedom on Religious Conflict in Postcolonial Countries* (2021).

nature of democratic governance but also marginalizes religious minorities and fosters sectarian tensions within society. Moreover, the co-option of religious institutions and leaders for political purposes is a common malpractice observed in parliamentary settings. Political parties often seek endorsements from influential religious figures or seek to co-opt religious institutions to mobilize voters along religious lines²⁸¹. This collusion between religion and politics not only compromises the autonomy and integrity of religious institutions but also blurs the boundaries between church and state, undermining the principle of secularism. When religious leaders become entangled in partisan politics, it undermines their moral authority and erodes public trust in the impartiality of religious institutions.

The dissemination of discriminatory laws and policies that are implemented under the guise of religious doctrine poses a significant risk to democratic governance. There is a possibility that lawmakers will pass legislation that violates individual liberties and human rights by discriminating against religious minorities or by imposing religious beliefs on the general population. These kinds of laws not only violate the principle of religious freedom but also foster an atmosphere of intolerance and exclusion, which marginalizes communities that are already vulnerable and undermines social cohesion within the community.²⁸² The principles of equality and pluralism, which are necessary for a thriving democracy, are in danger of being undermined when religion is used as a pretext to justify discriminatory practices. Furthermore, the manipulation of religious sentiments for electoral gain frequently exacerbates social divisions and inflames tensions between different categories of people.²⁸³ If politicians want to mobilize their base or divert attention away from pressing socio-economic issues, they may use religious identity as a wedge issue to accomplish either of these goals. Through the promotion of religious polarization, legislators contribute to the deepening of societal rifts and the undermining of the inclusive spirit of democracy, thereby cultivating an atmosphere of suspicion and violence toward religious minorities. This politics of division not only undermines social cohesion but also erodes the legitimacy of democratic institutions. This is

²⁸¹ Muheeb, I. O., “*The Legislature, the Rule of Law, and the Politics of Impeachment in Nigeria’s Fourth Republic*”, in *The Legislature in Nigeria’s Presidential Democracy of the Fourth Republic: Power, Process, and Development*, 215-228 (Springer International Publishing, Cham, 2023).

²⁸² Udeoji, E. A., “*The Exploration of Democracy and Development in Africa: Analysis of the Nigeria’s Scenario*”, 11 *University of Nigeria Journal of Political Economy* 1 (2021).

²⁸³ Ugoh, S. C., *The Independent National Electoral Commission and the Quest for Electoral Integrity: A Study of the 2019 Kogi State Governorship Election* (2022) (Unpublished Ph.D. dissertation, NILDS-Department of Studies).

because citizens lose faith in a system that prioritizes identity politics over the common good, which contributes to the erosion of democratic institutions.

In addition, the politicization of religious symbols and rituals during parliamentary proceedings is an additional example of unethical behavior that makes democratic governance more difficult to achieve²⁸⁴. To legitimize their authority or to appeal to conservative voter demographics, lawmakers may use religious ceremonies or symbols from their respective faiths. On the other hand, such manifestations of religious devotion frequently exclude citizens who do not adhere to any particular religion and violate the principle of neutrality regarding public institutions. As a result of the co-optation of religious symbols for political purposes, secular citizens are alienated, the principle of equal treatment under the law is undermined, and public trust in the impartiality of democratic institutions is eroded²⁸⁵. In addition to having repercussions that are felt throughout society, the consequences of these unethical practices extend far beyond the confines of parliamentary chambers. They undermine the very foundations upon which democratic governance is built. The exploitation of religion to gain political power contributes to the perpetuation of social divisions, encourages intolerance, and undermines the principles of secularism, equality, and pluralism²⁸⁶. The separation of religion and state, the protection of the rights of religious minorities, and the promotion of inclusive and pluralistic societies are all areas that require concerted efforts to preserve the integrity of democratic governance. It is only through the upholding of the principles of secularism and equality that we will be able to construct a democracy that accurately reflects the diversity of its citizens and protects the rights and liberties of all individuals.

2.7 Conclusion

Legislators have sadly continued to manifest various forms of malpractice that have seriously threatened the prosecution of democratic governance in India. Illegitimate practices embraced before as well as after the elections have led to entrenchment of inefficiencies, unfairness, and generally low confidence in the electoral process. Such vices present themselves in different ways such as corruption, bribery, bringing up of cabinets, misuse of power, inefficiency in the formulation of legislation, and defection all of which have negative impacts on the democratic

²⁸⁴ Osayi, O.F., "Independent National Electoral Commission (INEC) and the Conduct of Elections in Nigeria: A Comparative Analysis of Maurice Iwu and Attahiru Jega's Administration" 17(1) African Journal of Politics and Administrative Studies (AJPAS) 560-583 (2024).

²⁸⁵ Mwanza, S., *The role of traditional establishment in the electoral process: a case study of the Mpezeni chiefdom* (2022) (Unpublished PhD. Dissertation, The University of Zambia).

²⁸⁶ Zhizhi, M. and Mohammed Nasiru, I., "Electoral Democracy and Administration of Elections in Nigeria", in *Electoral Democracy and Administration of Elections in Nigeria* (2020).

process and the public in general. These legislatures are corrupt and involved in bribery as most of them embrace leadership opportunities as a chance to enrich themselves. This ranges from taking rebates in exchange for political influence whereby such individuals offer to lobby for certain government businesses, permits, and legislation that are advantageous to certain individuals or companies. This type of corruption embezzles funds destined for the provision of public services, impairs economic growth, and weakens the population's confidence in official authorities. For example, corrupt practices such as those associated with the sale of the 2G spectrum in India showed that corruption incurred heavy losses, and stirred up people's distrust of the government. Another key matter is the cases of abuse of power and authority by legislators. Leaders and those in leadership positions work hard to twist governmental decisions and policies for their benefit, and those of their family members or friends. This is counter-productive and unethical, especially because it negates the concepts of merit and fairness in governance hence promoting inefficiency and equality in government service delivery. An example of this is the coal allocation scam in India in which high-level government officials were involved in the allocation of the coals to private companies without a tender offer. This is not only resource wastage but also reduces the confidence of the public in the disempowering of democratic institutions.

Other top vices included favoritism and nepotism which dealt a major blow to the roots of democracy. There is always a tendency for elected officials to employ relatives, friends, or political associates in some organization, award some contract, or grant some other benefit. This practice defeats democracy and equal opportunities in matters of appointments to governance structures to the extent that incompetent personnel may be appointed to important slots in public organizations and agencies thus diminishing their efficiency. The recent Vyapam Scam in Madhya Pradesh showing massive cheating, environmental corruption, nepotism, and favoritism, all resulting from the Professional Examination Board strongly explains the effects that it has stultified on the governance system. Non-activities and omissions are major problems that hamper the working of democracy in parliamentary systems. Members of the Legislature, especially Governors who Butter their loaves instead of carrying out their legislative responsibilities such as attending parliament, debating, and formulating legislation affect the performance of the legislature and jam crucial legislation. Such disengagement means there is no concern for public service and erodes democracy since the elected officials are not performing their duties. Lack of proper attendance in the parliamentary sessions as witnessed in several state assemblies is a clear indication of how inaction by legislatures hinders policy

formulation and other related government activities. Another issue is defections and governmental instability are major issues. This means that whenever there is a new government, there will always be new policies because the representatives who represent the people were elected are also changing frequently; something that is not very desirable if growth is to be fostered. The recent political upturn in Karnataka in 2019 where a coalition government fell after a string of cross-overs to the opposition is one example of how the political instability paralyzes governance for wanted developmental projects and policies. Switching also reduces the confidence that the public has in the political process as well as feeds the notion that politicians are in it to enrich themselves.

CHAPTER 3

CONSTITUTIONAL AND LEGAL FRAME WORK WITH RESPECT TO THE DISQUALIFICATION FROM BECOMING MEMBERS OF THE PARLIAMENT AND STATE LEGISLATURES IN INDIA

"Good governance with good intentions is the hallmark of our government. Implementation with integrity is our core passion."

- Narendra Modi

3.1 Introduction

The study of the aspect disqualification from becoming members of the Parliament and State Legislatures in India falls squarely under the constitutional and legal factors of governance. As the Indian political scenario is democratic in nature, there is a dire need for an effective mechanism so as to check the corrupt practices of the politicians²⁸⁷. This research focuses on disqualification based on our constitutions and laws to offer a coherent understanding of the criteria of disqualification, consequences as well as the importance of upholding the ethical standards while in office²⁸⁸. India stands as the world's largest democracy and thus follows a rather elaborate and a well-planned constitutional structure²⁸⁹. The Constitution of India prescribes certain grounds of disqualification as under the scalping of the legislation and eradicating a person who is having an element of contradiction or criminal records²⁹⁰. Articles 102 and 191 of the Indian Constitution define the provisions for the disqualification for the Members of Parliament and Members of the State Legislature of India.

The analysis of the criteria for disqualification is useful for several reasons²⁹¹. First, it checks the character of the elected representative and it also ensures that the representative does not

²⁸⁷ Agrawal, P. and Vaidya, A., "A Study on Qualification and Disqualification of Members of Parliament and State Legislature" 6 Issue 2 Int'l JL Mgmt. & Human. 1175 (2023).

²⁸⁸ Bhat, M. M. A., "The parliament and state legislatures of India" in Routledge Handbook of Asian Parliaments 178-201 (Routledge, 2023).

²⁸⁹ Bhowmick, B., "Qualifications and Disqualifications for Membership of Parliament" 4 Issue 5 Indian JL & Legal Rsch. 1 (2022).

²⁹⁰ Sridhar, J. S. and Abdullah, A., "The Need for a Political Eligibility Test for Elected Representatives in the Indian Political Framework" 4 Issue 3 Int'l JL Mgmt. & Human. 4313 (2021).

²⁹¹ Jain, A., "Political Process Failure in the Indian Parliament: Studying Abuse of Power by the Chair and How It Can Be Addressed" 6 CALJ 87 (2021).

have any legal or any other hindrance that can deny him or her from performing his or her duties²⁹². Second, it helps to prevent malpractices and corruption within the political establishments due to increase in accountability practices. Finally, regarding these criteria, it is essential for the electorate to understand these criterion during the time of elections with a view of boosting the Democratic pillar of the nation²⁹³. Based on the identified problem area, the following objectives and research questions govern this research²⁹⁴. Of course, one of the considerations is to review the Constitution that outlines the list of the relevant grounds. This involves discussion of the provisions of articles 102 and 191 of the constitution and sections four, ten of the representation of people act, 1951.

The first part consists of the introduction that defines the research topic and its relevance. After that, the constitutional provisions and legal base are discussed with reference to the name statutes and their analysis²⁹⁵. The subsequent part looks at the case laws and judicial decisions as contributing to the development of disqualification standards²⁹⁶. This is then succeeded by an evaluation of the effects of these provisions on the politics of Indian democracy. This paper then ends with a discussion of the findings and a consideration on policy and governance implications as well as the recommendation of ideas for future studies²⁹⁷. Thus, this study seeks to fill the existing literature gap by offering insights and analysis on the disqualification of the members of Parliament and State Legislatures of India²⁹⁸. This paper aims to discuss the topic by analyzing the constitutional and legal aspects, judicial opinions, as well as present more real-life scenarios, and their legislative consequences in order to emphasize the significance of ethical conduct in the office and the legislative purity²⁹⁹. Thus, it helps in effectively fostering the ultimate aim of enhancing democratic governance and encouraging the application of the rule of law in India.

²⁹² Rajput, A., "Criminalization of Politics in India: Powers of Supreme Court and Landmark Cases", 4 Indian J L & Legal Rsch. 1 (2022).

²⁹³ Narayan, V. A. and Sindhu, J., "A Case for Judicial Review of Legislative Process in India?" 53(4) *Verfassung und Recht in Übersee/Law and Politics in Africa, Asia and Latin America* 358 (2020).

²⁹⁴ Verma, A., "A Critical Analysis of Disqualification Based on Office of Profit: A Comparative Study", 4 Indian J L & Legal Rsch. 1 (2022).

²⁹⁵ Khosla, M. and Vaishnav, M., "The three faces of the Indian state", 32(1) *Journal of Democracy* 111 (2021).

²⁹⁶ Reddy, C. and Bhargava, S., "For Laws May Come and Laws May Go, but Defections Go on Forever: A Critical Analysis of the Role of the Speaker in Indian Anti-Defection Laws" 10 *NLIU L. Rev.* 328 (2020).

²⁹⁷ Dargar, A., "Doctrine of Judicial Review: A tool to examine the constitutional validity of Legislative, Executive and Judicial actions" *Executive and Judicial Actions* (April 2, 2024).

²⁹⁸ A.K. Tripathi, "Electoral Process vis a vis Democracy: A Comprehensive Study" 26 *Supremo Amicus* 104 (2021).

²⁹⁹ N. Nayak, "Constitutional Morality: An Indian Framework" 71(2) *The American Journal of Comparative Law* 354-387 (2023).

3.2. Constitutional Provisions

Disqualification of individuals from becoming members of Parliament (MPs) or State Legislatures in India are governed primarily by the Constitution of India and several statutory laws which are discussed in detail hereinbelow.

3.2.1. Constitutional Stipulations: Framework and Guidelines

Constitutional requirements serve as the foundation of a nation's legal and governmental framework, offering key standards and concepts that govern the functioning of the framework. A comprehensive set of rules, rights, duties, and structures that are established within the constitution of a country are included in these requirements³⁰⁰. They create fundamental rights and freedoms for citizens, specify the powers and limitations of the government, and outline the organisation and operation of various governmental institutions. In addition, they establish the fundamental rights and duties of citizens³⁰¹. In the context of a nation's constitution, the phrase "Constitutional Stipulations: Framework and Guidelines" embodies the essential components of the constitution, which serves as a cornerstone for government, legality, and the protection of individual liberties³⁰². These provisions often encompass a vast spectrum of themes, including the division of powers among the departments of government, the rights and obligations of citizens, the development of electoral procedures, and the means for revising the constitution itself.

The Tenth Schedule to the Constitution was enacted in 1985 as a result of the Constitution (Fifty-second Amendment) Act, and it was most recently revised in 2003 as a result of the Constitution (Ninety-first Amendment) Act. Both of these acts served to define the parameters for a constitutionally permissible departure.³⁰³

According to Schedule Eleven, a candidate may be disqualified for defection if she or he gives up her or his membership in a political party, votes in a manner that is inconsistent with the instructions of the party, or refrains from voting in a manner that is inconsistent with the instructions of the party³⁰⁴. This applies to both independent candidates and candidates nominated by political parties. After being elected, a member of parliament or a state legislature

³⁰⁰ A. Kumar, "In the Supreme Court of India Civil Original Jurisdiction" (2020).

³⁰¹ B.K. Sharma, *Introduction to the Constitution of India* (PHI Learning Pvt. Ltd., 2022).

³⁰² Guruvayurappan, D., "Rethinking Defection: An Analysis of Anti-defection Laws in India" 76 Parliamentary Affairs 443 (2023).

³⁰³ Kumar P., "Politics of Defection in Indian Political System" 5 Journal of Global Research & Analysis 1133 (2012).

³⁰⁴ Choudhary, K., "Decriminalisation of Politics in India" 3 Int'l JL Mgmt. & Human. 746 (2020).

is no longer permitted to speak on behalf of the people they represent in their home jurisdiction³⁰⁵. This applies to members of both the federal parliament and state legislatures³⁰⁶. If nominated MPs join political parties more than six months from the day they assume their seats, they will no longer be allowed to serve in either the Parliament or the State Legislature³⁰⁷. In addition, there are measures for the consolidation of political parties already in existence³⁰⁸. It is still possible for a legislative party to run for office even if it has merged with another party, provided that at least a majority of the party's members do not object to the merger.³⁰⁹ A person who has been elected to the House of People, the State Legislative Assembly, or the Council of States after quitting their political party is not automatically disqualified from serving in any of those bodies.

If the issue concerns the presiding officer of Parliament, then the matter will be decided by a member of the House who has been nominated for that purpose by Parliament. It is up to the presiding officer of Parliament to decide whether or not a member of Parliament or the State Legislature is disqualified. To carry out the requirements of the Tenth Schedule, rulemaking has been delegated to the Chairman or Speaker of one of the Houses. The regulations will be presented to the House of Representatives, and after that, the House will vote on whether or not to accept and implement them. It is in the discretion of the Chairman or Speaker of a House to determine whether or not a breach of the limits provided by paragraph 8 (of the Tenth Schedule) constitutes an infringement of the rights accorded to the House by Article 105 or Article 194.³¹⁰

Those who are disqualified from serving in Parliament by paragraph 2 of the Tenth Schedule are also barred from holding any paid political position during the period beginning on the date of their/his disqualification and ends either when their/his term of office as a member of Parliament ends or until the date on which they/they contest an election to a House and are elected. This prohibition applies for the period beginning on the date of their/his disqualification and ends either when their/his term of office as a member Employees of the

³⁰⁵ Dixit, A., Bhatt, A., et al., “*The Efficacy of Anti-Defection Law in India: A Comprehensive Analysis*” 2 Part 1 Indian J. Integrated Rsch. L. 1 (2022).

³⁰⁶ Sarkar, S., *Electoral Laws in India* (2020) (Available at: SSRN 3687711).

³⁰⁷ Khosla, M. and Vaishnav, M., “*Democracy and defections*” International Journal of Constitutional Law (moae037) (2024).

³⁰⁸ Lee, A., “*Incumbency, parties, and legislatures: Theory and evidence from India*” 52 Comparative Politics 311 (2020).

³⁰⁹ Bhat W.A., “*Parliamentary Disqualification on Conviction: Issues and Remedies*” 6 GNLU JL Dev. & Pol. 155 (2016).

³¹⁰ Chaturvedi K.N., “*Validating Election Law 2013: A Bad Precedent*” 35 Statute Law Review 133-138 (2014).

government who occupy "remunerative political posts," such as those in the government of India or state governments, are compensated with money that comes from the public coffers. Working for a firm that is owned by the Indian government or a state government and receiving a salary or other remuneration from that entity is another possibility.³¹¹

Defection guidelines were put into operation after they were released on December 16th, 1985, and were effective on March 18th, 1986, according to a review of the regulations. Party leaders are required to provide a list of their members, as well as other information about them, including the names and designations of those members who have been approved by the party for commotion in the 30 days after the first House session or the foundation of the party. If the party's strength or bylaws, regulations, constitution, or other governing documents have been altered, the party's leader must notify the Speaker. Voting for or abstaining from voting in violation of the authority granted to them by their political party or other group is considered an act of political allegiance in the U.S. Congress.³¹²

If a member is elected or nominated to the House of Representatives, the Secretary-General requires that she or he deposit her/his election certificate or a certified copy of a notice that nominated her or him as a member of the House of Representatives with the Secretary-General. Members agree to notify the Lok Sabha Speaker if any of the information provided in Form-III changes. It was also stated in 1985 that no reference should be made to whether a member has been disqualified unless by those regulations.³¹³

Under the Rules, petitions may be filed. Any other member may petition the Speaker on behalf of a member, but a petition on behalf of the Speaker must be submitted to the Secretary-General. To file a petition against a member, the petitioner must first determine whether there are substantial reasons to believe that the member is disqualified under the Tenth Schedule of the Constitution. Whenever a petition is filed, it must include a concise statement of the facts on which the petitioner is relying, as well as copies of any documentary evidence the petitioner may have, as well as a statement listing the names and addresses of any individuals who provided information the petitioner relied on. When filing a petition in court, make sure to have

³¹¹ Nandy, S. and Ram, V., "*The Political Class and the Decline of Constitutional Morality*" 4 J. Indian L. & Soc'y i (2012).

³¹² Ahmad, M. and Imran, M., "*Educational Qualifications of Elected Representatives: Need of the Hour for a Progressive Democracy*" 7(3) The IUP Law Review 19-27 (2017).

³¹³ Manubarwala, A. and Amogh, S.N., "*Rajbala v. State of Haryana: Shaking the Foundations of Local Self-Governance and Due Process in India*" 8 GNLU JL Dev. & Pol. 135 (2018).

the petitioner sign it and have it confirmed by the Code of Civil Procedure, 1908 (5 of 1908). Annexes must be signed and authenticated by the petitioner in the same way as the petition.³¹⁴

To run for a seat in the Lok Sabha, candidates must be at least 25 years old. Members of the Vidhan Sabha must be at least 25 years old. Vidhan Sabha members must be at least 30 years of age to serve in the Rajya and Vidhan Sabhas, respectively. To be eligible to be elected to the Indian Parliament, a person must be an Indian citizen and swear or affirm by the form set out for the purpose in the Third Schedule before someone is authorized to do so by the Election Commission. An investigation into Article 84, "Qualification for membership in Parliament," revealed this fact. This turned out to be the case. Legislation adopted by Parliament may demand extra credentials for a post on the Council or House of Representatives. He is between the ages of thirty and twenty-five years old. If people want to run for Congress, they must be at least 30 years old to qualify.³¹⁵

The mere fact that a person has been elected to or serves in either House of Parliament disqualifies them from holding office. If a court finds him to be mentally incompetent, he will be held in contempt of court. So long as he's still owing money. To become a citizen, a person must not be a citizen of India or have voluntarily taken on the citizenship of a foreign state. Parliamentary law disqualifies him from serving. The position he holds as a Minister for the Union or a State does not count as an office of profit for the Governments of India or any State. Members of either House of Parliament may not be disqualified under the Tenth Schedule.³¹⁶

To be eligible to serve in a state legislature, one must be a citizen of India and take an oath before an election commission-authorized official, according to Article 173- Qualification for membership in the State Legislature. He must be at least twenty-five years old to sit in the Legislative Assembly, whereas he must be thirty years old to sit in the Legislative Council. As a result, the Parliament may compel him to fulfill additional criteria for this post, if and when it does so.³¹⁷

³¹⁴ Dalal Y., "Decriminalisation and Purification of the Indian Polity and Its Aftermaths", 5 GNLU JL Dev. & Pol. 115 (2015).

³¹⁵ Stern M., "An exchange on the disqualification clause", Foreword, 33 Quinnipiac Law Rev. (2014).

³¹⁶ Deva S., "Democracy and elections in India: Reviewing the role of the Election Commission and the courts", in *Judicial Review of Elections in Asia* 38-56 (Routledge, 2016).

³¹⁷ Tillman S.B., "Who Can Be President of the United States?: Candidate Hillary Clinton and the Problem of Statutory Qualifications", 5 *British Journal of American Legal Studies* 95-121 (2016).

3.2.2 Constitutional Frame Work for formation of Election Commissions (Central and State)

The Election Commission may, from time to time, by notification published in the Gazette of India and the Official Gazette of the State concerned, make such amendments in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 as appear to it to be necessary or expedient for consolidating with that Order.

Every notice made under this provision must be submitted before the People's House and the State's Legislative Assembly as soon as possible after it is issued.] Delimitation of Parliamentary and Assembly Constituencies Order, 1976; (a) correct any printing mistake in that Order, or, as the case may be, the Delimitation of Parliamentary and Assembly Constituencies Order, 1966, or, as the case may be, the Delimitation of Parliamentary and Assembly Constituencies Order, 1976; (aa) make such amendments in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as appear to it to be necessary or expedient for consolidating with that Order any notification or omission;³¹⁸

3.2.2.1. Controlling Powers of Election commission

In relation to the Representation of the People Act, 1951 Thus, the concept of controlling power in this respect has to do with the powers exercised by certain bodies over and above the implementation, monitoring, and the capacity to ensure compliance with the provision in the said Act towards fairness in any election to be held. The least control is exerted by the Election Commission of India the constitutional body that oversees the implementation of the election laws and has the overall supervision of the electoral process in India³¹⁹. According to the given provisions of the ECI act, the ECI as the central election authority qualifies its power to control by supervising and regulating the compilation of electoral rolls, observing the election campaign, controlling the behaviors of political parties and their candidates and enforcing the provisions of the Act³²⁰. It has powers to de-register voters or any candidate who failed to file accounts of election expenses of campaigns or indulged in corrupt practices. Also, the ECI can prosecute and recommend action against offenders found to have committed acts that would disqualify them. Besides, controlling power is also provided for by the judiciary system to an

³¹⁸ Parker FR, *The Powers, Duties and Liabilities of an Election Agent and of a Returning Officer at a Parliamentary Election in England and Wales* (C. Knight, 1950).

³¹⁹ Yohanandhan, R. V., et.al., "Cyber-physical power system (CPPS): A review on modeling, simulation, and analysis with cyber security applications", 8 IEEE Access 151019 (2020).

³²⁰ Ratnam, K. S., Palanisamy, K., et al., "Future low-inertia power systems: Requirements, issues, and solutions-A review" 124 Renewable and Sustainable Energy Reviews 109773 (2020).

extent³²¹. While the Act is clear, courts are empowered to entertain all matters pertaining to the results of the election and the meanings of the provisions of the Act. They can cancel election and remove candidates for legal reasons and or appeals, this can help maintain the law and fair outcomes of elections. This controlling power is the key to the stability of the democratic structure of India, for the proper organization of fair and transparent elections, and for competent and understandably honest personnel in the field of governance.

3.2.2.2. Supervisory Powers of Election Commission

Supervisory powers in connection with Representation of the People Act 1951 relates to the powers vested in some bodies to inspect, control and guarantee accountability of the electoral laws and the process. The chief overseeing body is the Election Commission of India or ECI, a constitutional body given the central role of conducting and supervising elections in the country³²². The ECI has the supervisory jurisdiction in the following cases and matters: conducting of elections to Parliament or State Legislature, free and fair elections or any other election otherwise, and to prevent the violation of Model code of conduct. Bi-elections are coordinated from start up to preparing of the electoral rolls, conducting of polls, tallying and declaration of results are done under supervision of the Commission. It enjoys the powers to give instructions to government officials and state machinery in relation to the election matter, compliance of the laws and the regulations³²³. Moreover, ECI oversees the participation of the political parties and the candidates involved in the elections ensuring that they have complied with provisions of the law such as filing of election expenses account and compliance with campaign regulations. The ECI can intervene and counter such malpractices for its electoral reforms it enjoys certain powers to disqualify some candidates or even de-recognise some political parties³²⁴. Also, the judiciary has supervisory powers by the presiding over election disputes and by interpreting electoral laws as well. Courts are allowed to get physically involved in alleged electoral malpractices with the intention of enforcing the law and delivering

³²¹ Kelley, R. K., Ueno, M., et.al., “Pembrolizumab in combination with gemcitabine and cisplatin compared with gemcitabine and cisplatin alone for patients with advanced biliary tract cancer (Keynote-966): a randomised, double-blind, placebo-controlled, phase 3 trial” 401 *The Lancet* 1853-1865 (2023).

³²² Muhammad, R. B. and Rizki, R., “Position of Supervisory Board Organ and Its Implications for the Institutional Corruption Eradication Commission” 16(02) *Position of Supervisory Board Organ and Its Implications for the Institutional Corruption Eradication Commission* 1-19 (2020).

³²³ Kim, W., Son, B. and Kim, I., “Vilt: Vision-and-Language Transformer without Convolution or Region Supervision” in *International Conference on Machine Learning* 5583 (PMLR, 2021).

³²⁴ Arain, G. A., Bhatti, Z. A., et al., “Top-Down Knowledge Hiding in Organizations: An Empirical Study of the Consequences of Supervisor Knowledge Hiding Among Local and Foreign Workers in the Middle East” 164 *Journal of Business Ethics* 611 (2020).

justice. These supervisory powers are very essential in protecting the very integrity of democracy in India, elections in particular, that they are free, fair and held in compliance with the law.

3.2.2.3. Regulatory Powers of Election Commission

In the Official Gazette and also in such other way as it deems appropriate, indicate a date on or after which the proposals will be further reviewed by it under sub-section (1) about any State. It also takes into account any complaints or comments it receives before the date stated. For this purpose, if it deems it appropriate, it may schedule one or more public hearings at such locations or locations within such states. To determine, by order, the assembly constituency or constituencies in the State in which seats shall be reserved for the Scheduled Tribes, and to cause such order to be published in the Official Gazette; upon such publication, the order shall have the full force of law and shall not be challenged in any court and the Delimitation of the Parliamentary and A legislative constituencies. Mizoram Assembly seats as established in the Mizoram (Delimitation of Assembly Constituencies) Order, 1986."³²⁵

Sub-section (1) in the Official Gazette and also in such other way as it deems appropriate. indicate the date by which it intends to further evaluate the suggestions. Take into account any objections or ideas received by it before the deadline indicated. If it deems it necessary to hold one or more public hearings for this purpose, hold them at such a location or locations as it sees proper. It shall, after considering all objections and suggestions received by it before the date so specified, determine by order the three assembly constituencies in which the said three additional seats shall be reserved for the Scheduled Tribes and cause such order to be published; and upon such publication, the order shall have the full force of law and cannot be challenged in any court; and the Delimitation of Parliament.

3.2.2.4. Election Commission Administrative powers

The Election Commission of India (ECI) has got significant administrative powers to ensure free and fair elections in the country from Article 324 of the Indian Constitution, which empowers the ECI, the "superintendence, direction, and control" of elections

- **Notification for election to fill the seat allotted to the State of Sikkim in the Council of States**

³²⁵ Shull, C.W., "Revitalizing Representation" 25 Social Science 234 (1950).

For the first time, the President of India will call on the elected members of the Legislative Assembly of the State of Sikkim to elect a member of the Council of States by the provisions of this Act and the rules and orders made by the Election Commission.

➤ **Notification for a general election to the House of the People.**

At the end of the term of the current House or its dissolution, a public election will be conducted to form a new House of the People. (1) The President must call on all parliamentary constituencies to elect members of parliament by the provisions of this Act and other rules and orders issued thereunder, by publishing one or more notices in India's Gazette on the date or dates indicated by the Election Commission. This provision does not apply if a general election is not conducted due to a House of the People dissolution, in which case no such notice shall be provided six months before the day on which the term of that House would end.³²⁶

➤ **Notification for electing the representative of the State of Sikkim to the existing House of the People.**

Clause (e) of Article 371F specifies that an official from Sikkim shall be elected to the People's House by members of Sikkim's Legislative Assembly, and the Election Commission shall call on those members by this Act and any rules or orders issued thereunder, to elect the official in question as a representative.

➤ **Notification for a general election to a State Legislative Assembly**

Upon the expiry or dissolution of the current Assembly, a general election is required to elect a new Legislative Assembly. 2 [the Governor or Administrator, as the case may be] 3 shall be one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission, call upon all Assembly constituencies in the State to elect members by the provisions of this Act and of the rules and orders made thereunder: Any such notification must not be issued before six months before the expiration of that Assembly's term under the provisions of clause (1) of article 172 3 4 [or, if applicable, under section 5 of the Government of Union Territories Act (1963)].³²⁷

➤ **Notification for certain elections to Legislative Councils**

³²⁶ R.P. Bhalla, "Electoral Mechanism in India (1951-1971)" 33 The Indian Journal of Political Science 27 (1972).

³²⁷ R. McKibbin, *Parties and People: England 1914-1951* (OUP Oxford, 2010).

The States Reorganisation Act, 1956 (37 of 1956) was used to create the Legislative Council of Madhya Pradesh and the Legislative Council of Andhra Pradesh. As per Sections 6 [of the Andhra Pradesh Legislative Council Act, 2005 (1 of 2006)] and 7 [of Tamil Nadu Legislative Council Act, 2010 (16 of 2010)], the Governor of each of the aforementioned States shall, by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission, call upon the members of each state's Legislative Council to participate in an election.

➤ **Notification for the biennial election to a State Legislative Council**

A state's Governor shall, by one or more notifications published in the Official Gazette on such date or dates as the Election Commission may recommend, call on its legislators and all of its council constituencies concerned to elect members by this procedure for filling a vacancy created by a member of a legislature who has completed their term of office. In this Part and Part V, unless the context otherwise requires, "constituency" means a Parliamentary constituency or an Assembly constituency, or a Council constituency.³²⁸

3.2.2.5. Delegation of functions of the Election Commission

If the Election Commission so directs, a Deputy Election Commissioner or Secretary to the Election Commission may undertake the duties of the Election Commission as set out in the Constitution, the Representation of the People Act, 1950 (43 of 1950), and this Act or the regulations promulgated thereunder.

➤ **General duties of chief electoral officers**

Subject to the superintendence, direction, and control of the Election Commission, the chief electoral officer of each State shall supervise the conduct of all elections in the State under this Act.³²⁹

➤ **District election officer and their duties**

In conjunction with the State Government, the Election Commission must appoint or propose a district election officer who shall be an officer of Government for each district in the State:

³²⁸ Birch, A. H., et.al., "Reviews: *The Electoral System in Britain, 1918–1951, Governmental Liability, the Control of Raw Materials, United States Foreign Policy: Its Organization and Control (Report of a Study Group for the Woodrow Wilson Foundation), the Pattern of Communist Revolution, Political Thought in England. Tyndale to Hooker, Socialist Thought: The Forerunners, 1789–1850, Godwin's Moral Philosophy, William Cobbett: A Bibliographical Account of His Life and Times,*" 88-96 (1954).

³²⁹ Pitkin, H.F., "Representation and democracy: uneasy alliance," 27 Scandinavian Political Studies 335-42 (2004).

However, the Election Commission may designate or nominate more than one officer for a district if the Election Commission is convinced that the tasks of the office can't be fulfilled adequately by one officer. Whenever the Election Commission designates or nominates several district election officers for a district, it should define the region in which each officer will have authority in the order designating or nominating the district election officers. As long as the chief electoral officer is in charge, the district election officer is responsible for coordinating and supervising all activity related to the production or modification of the electoral rolls for all parliamentary, assembly, and council seats under his authority. District election officers are also expected to carry out other duties as given by both the Election Commission and the Chief Electoral Officer (CEO).³³⁰

Subject to the superintendence, direction, and control of the chief electoral officer, the district election officer shall coordinate and supervise all work in the district or the area within his jurisdiction in connection with the conduct of all elections to Parliament and the Legislature of the State. The district election officer shall also fulfill any additional tasks as may be delegated to him by the Election Commission and the chief electoral officer.

For instance, the Election Commission may appoint an Observer, who must be a member of a government agency, to monitor the conduct of a particular election or elections in a particular constituency or set of districts. This individual will be responsible for ensuring that all voting procedures are followed correctly.³³¹ An Observer has the authority to issue directives to the returning officer for that district or districts for which he has been nominated, to halt the counting of votes at any time before the declaration of the results, or not to declare those results, if booth capturing has been detected at a large number of polling stations or locations designated for voting or counting of votes. This authority is granted to the Observer as a result of his nomination under subsection (1). If booth capturing has been detected at a large number if an observer has given the returning officer a directive to stop counting votes or not declare the results by this section, the observer is required to immediately report the matter to the Election Commission. The Election Commission is then required to issue appropriate directions by Section 58A, Section 64A, or Section 66 after considering all relevant circumstances.³³²

³³⁰ Richards, P.G., "The General Election" 21 *The Political Quarterly* 114 (1950).

³³¹ Wheare, K.C., *Modern Constitutions* (Oxford University Press, 1951).

³³² Mehta N.A., "Digital politics in India's 2019 general elections", *Economic and Political Weekly* 54(51) (2019).

For each constituency, election to fill a seat or seats in the Council of States, and election by members of a State's Legislative Assembly to fill a seat or seats in the State's Legislative Council, the Election Commission shall designate or nominate a returning officer who shall be an officer of the Government or the local authority in consultation with the State Government. This returning officer shall either be designated by the Election Commission or nominated by the State Government.

If the Election Commission wants to nominate one or more persons to help to return officers in the performance of their responsibilities, then such individuals need to be 1 [an employee of the government or a local authority]. Each assistant returning officer, working under the direction of the returning officer, should be able to carry out any one of the following responsibilities if not all of them: No assistant returning officer is permitted to perform any of the functions of the returning officer about the vetting of nominations unless the returning officer is prevented from doing so by circumstances that are beyond their control.³³³

“Election Commission” is appointed by the President of India to regulate, supervise and manage the election process throughout the country³³⁴. The qualification for becoming the Member of the Parliament and State Legislatures, Allocation of Seats in all the houses of state and union, have been provided and regulated by Election of Commission of India³³⁵. The details of the rolls, under the guidance and authority of the Election Commission are as follows:

➤ **Electoral registration officers and their duties**

It is the responsibility of the Election Commission to design or nominate an electoral registration officer to prepare and revise the electoral roll for each constituency in the State of Jammu and Kashmir or a Union territory that does not have a Legislative Assembly to do this. The production and modification of the constituency's electoral register may be carried out by any individual employed by the electoral registration officer, subject to any limits imposed by law.

➤ **Assistant electoral registration officers and their duties**

One or more assistant electoral registration officers may be appointed by the Election Commission to help any electoral registration officer with his duties. A qualified assistant electoral registration official may execute all or all of the duties required of an electoral

³³³ Turpin C. and Tomkins A., *British Government and the Constitution: Text and Materials* (Cambridge University Press, 2007).

³³⁴ *The Constitution of India*, art. 324.

³³⁵ *The Representation of the People Act*, 1950, s. 3(a,b).

registration officer, under the direct supervision of the election official. Delegation to the Election Commission is considered by Chief Electoral Officers, District Election Officers, and others. officers and staff referred to in this section are considered to be on deputation to Election Commission during their employment period and are subject to the control, supervision, and discipline of the Election Commission during their employment period, along with any other officer or staff employed in connection with the preparation, revision and correction of electoral rolls for and the conduct of all elections.³³⁶

3.2.2.6. Electoral rolls for parliamentary constituencies

There will be no need to prepare or revise separate electoral rolls for any parliamentary constituency other than a constituency in the state of Jammu and Kashmir or Union territory without a Legislative Assembly; instead, all assembly constituencies within that parliamentary constituency will be included in the electoral rolls. That part of Nagaland which includes the Tuensang district shall have to prepare and revise a separate electoral roll for the period referred to in clause (2) of article 371A, and the provisions of Part III shall apply to the roll as they apply to an assembly constituency for this purpose. This section applies to every Jammu and Kashmir parliamentary constituency, as well as any Union territory that does not have a Legislative Assembly, as if it were an assembly constituency.³³⁷

3.2.2.7. The electoral roll for every constituency

The Election Commission will supervise, direct, and manage the preparation of an electoral roll for each constituency by the requirements of this Act.

3.2.2.8. Disqualifications for registration in an electoral roll

An individual who is not an Indian citizen, who has been declared mentally incompetent by a court of competent jurisdiction, or who is currently barred from voting because of the provisions of any law relating to corrupt practices or other offenses in connection with elections, will be unable to register on an electoral roll. The name of any individual who becomes ineligible to vote after registration should be immediately removed from the electoral register in which it is listed: 2 This provision ensures that the name of any person who has been removed from an electoral roll due to disqualification under clause (c) of subsection (1) will be immediately reinstated in that roll if such disqualification is removed while that electoral roll

³³⁶ Kaufman, VS, “‘Chirep’: the Anglo-American dispute over Chinese representation in the United Nations, 1950-71” 115 *The English Historical Review* 354 (2000).

³³⁷ Decome M, “The rise of the Chinese villain: Demonic representation of the Asian character in popular literature (1880–1950)” in *Intercultural Masquerade* 119 (2016).

is in effect under any law authorizing such removal. No one may be listed as a voter in more than one district. For the sake of fairness, no voter will be allowed to be enrolled in several districts. No one may be enrolled in more than one constituency at a time. — A voter may only be included on the electoral roll for one district at a time. As part of the registration process: To be eligible to vote, a person must be at least eighteen years of age on the qualifying date and be a regular resident of a constituency to be added to that constituency's electoral roll.³³⁸

3.3 Qualification and Disqualification for Membership for Legislatures in India

To be eligible for membership in the Lok Sabha or the Legislative Assembly, a candidate must either be elected to the position or be nominated for it. The eligibility criteria may be found in the Constitution or any relevant statute. The date of nomination review is the most important factor in establishing whether or not a candidate is qualified to run for office, regardless of when the candidate turns in their paperwork. It is required under both Article 84 and Article 173 of the Constitution that a person be a citizen of India for them to be eligible for election to either the House of Representatives or the State Legislative Assembly. Committing oneself, either by taking an oath or expressing an affirmation, to support and defend the Constitution of the United States. The minimum age of eligibility, in addition to any other conditions that may be imposed by the Parliament at a later date. Taking this oath or saying this affirmation serves the principal purpose of pledging one's devotion to the Constitution of India and of protecting the sovereignty and integrity of the nation.³³⁹ The candidate is required to take a solemn affirmation or religious oath, and the Third Schedule of the Constitution must witness and sign the candidate's oath. Following the delivery of the nomination documents to RO, the individual must next administer their oath of office. The deadline for submitting nominations is midnight on the day before the test, which is the day before the day of the exam. An oath or affirmation that a candidate takes when campaigning for office in more than one district at the same time If a candidate is competing for the same seat in the House of Representatives in more than one district, he or she only has to take an oath or affirmation in one of those districts and sign it. A

³³⁸ Adams, H., *The Representation of Gender in British and German Children's Literature after 1950: A Comparative Study of Six Selected Children's Books*.

³³⁹ Kaler, S., "Criminalization of Politics in India" 5(4) International Journal of Research and Analytical Reviews 582 (2018).

candidate must take a separate affirmation oath if they are standing for election to both the House of the People and a State Legislative Assembly at the same time.³⁴⁰

To be eligible for a reserved seat, the candidate is needed to make a statement on their caste or tribe in the third section of their nomination paper. To be qualified for the reserved seat for SCs, a candidate must belong to a Scheduled Caste, whether they are from the same state or another state, and be a registered voter in any parliamentary constituency. Additionally, the candidate must come from a Scheduled Caste. To be eligible for the seat reserved for STs in any state other than those in Assam, an ST candidate has to be a member of a Scheduled Tribe as well as a registered voter in any parliamentary constituency. Assam is the only state where both of these requirements need to be met. Members of one or more of the Scheduled Tribes of Assam are required to be eligible to vote in the constituency in which the seat is reserved, as well as in any other constituency that comprises the autonomous district in which the seat is reserved.³⁴¹ If people are a member of a Scheduled Tribe, one of the requirements to run for the seat reserved for Scheduled Tribes is that people must be registered voters in the local constituency where they live. The people who live in the Sikkim Parliamentary Constituency are the ones who are responsible for choosing who would run for the seat that will be reserved for Sikkim. In the context of the state legislature, to be eligible for a seat designated for a certain group, the candidate has to belong to a caste or tribe that is included on the state's list of SCs and STs. 1. A person must be a member of an ST autonomous district and an elector in the district's assembly constituency to be eligible to run for office in that district. A candidate has to be a resident of a district ST and a registered voter in the assembly constituency of the district to be able to run for office in that district.³⁴²

Within five years of being sacked from a government position, a former employee of the Indian government or a state government may run for public office. Nomination papers should include an official certificate from ECI declaring that the dismissal was not for corruption or treason to the state³⁴³. A candidate who is a member of a separate electoral district: To be supplied, certified extracts of entries from the appropriate roll When it comes time for scrutiny, this may be filed if it was not submitted with the nomination.

³⁴⁰ Negi, V. and Negi, M. "The Anti-Defection Law and Role of Speaker-Extent and Impact of Judicial Review".

³⁴¹ Tan, K.Y. "Judicial Review of Elections in Malaysia", in *Judicial Review of Elections in Asia* 57-68 (Routledge, 2016).

³⁴² Cassady B., "You've Got Your Crook, I've Got Mine: Why the Disqualification Clause Doesn't (Always) Disqualify" 32 *Quinnipiac L. Rev.* 209 (2013).

³⁴³ Bhowmick, B., "Qualifications and Disqualifications for Membership of Parliament" 4 *Indian JL & Legal Rsch.* 1 (2022).

Article 191 of the Indian Constitution defines the criteria for a person to be disqualified for state legislative membership. Article 102, which outlines the disqualification for serving in both houses of Parliament, is quite similar to this one since it has the same amount of words. For a person to be disqualified from running for office or serving on the Legislative Assembly or the Legislative Council of a state, the Parliament must adopt a single statute, according to the Constitution. In several states, a person cannot serve on the Legislative Council if they haven't passed at least one measure in that state's Legislative Council. If a person is disqualified from being elected or re-elected to a position in Parliament or a state legislature by Articles 102(1)(e) and 191(1)(e) of the Constitution of India, they cannot be disqualified from serving in Parliament or the state legislature by different laws. Legislation that disqualifies a person from serving in Parliament or the state legislature is limited by this article.³⁴⁴

MLAs and MLCs are forbidden from serving if they hold a position of profit in the Government of India or a state, or serve in a position that the state has deemed to be a position of benefit to the public. Both the Indian Constitution and the Indian Constitution have this clause. Legislation in some states has declared certain jobs to be exempt from the need to be an MLA in that state, however, this does not apply to all states. Any member who is found to be incompetent by a court of competent jurisdiction would be disqualified from office. Because of his criminal record, bankruptcy, or inability to pay his obligations; because he has gained the citizenship of another nation, or because of any other acknowledgment of loyalty to any country other than India, he is ineligible to serve in the military. These are a few more reasons.³⁴⁵

An individual might be disqualified from running for public office for a variety of reasons under the Representation of the People (RP) Act of 1951. While acting as an officer or director of a company that the government has a financial interest in, someone who is found guilty of participating in unlawful behavior in connection to an election is ineligible to run for office. A financial interest in a corporation is the reason for this. An individual may be barred from participation in the program under Section 8 of the RP Act if they have been convicted of certain offenses. People who are guilty of any criminal offense are disqualified for six years after their release from jail if they are sentenced to a variable length of imprisonment in line

³⁴⁴ Sood G., “*Parliamentary Democracy in India: Legal Issues and Challenges*” 15(1) *Facta Universitatis-Law and Politics* 95-109 (2017).

³⁴⁵ Sotwal S, Agrawal T, “*Anti Defection Laws in India*” *International Journal of Research and Analysis* 1(3) (2014).

with Sections 8 (1) (2) and (3). Once a person has been found guilty of a crime, their period of ineligibility is extended by an additional period.³⁴⁶

Even if found guilty, members of Parliament and members of the Legislative Assembly are allowed to continue in office by Section 8(4) of the RP Act, so long as an appeal is filed within the three-month time limit. This was the case even though the RP Act had been breached by Members of Parliament and Members of the Legislative Assembly³⁴⁷. It was, however, ruled unlawful by a Supreme Court Bench in a recent decision, and members of Parliament and MLAs who have been charged with criminal offenses would be barred from serving in the House without the opportunity to appeal for three months. Section 8 (4) had already been ruled illegal, and this judgment was taken in light of that. This judgment was decided because Section 8 (4) had previously been declared to violate the Constitution. Under Article 192 of the Constitution, the Governor of the State has the authority to determine whether a member of a state legislature has been disqualified.³⁴⁸ The governor of the state has the final say on this matter. The Governor of the State will base his decisions on the state's elections on the recommendations of the State Election Commission. Members of state legislatures who have been subject to any of the following disqualifications will be barred from future participation in the legislative process (EC).

No court or administrative authority will be able to review his decision since it has been deemed final.

The terrible nature of political betrayal has been a source of worry on a national level. If nothing is done to stop it, it will most likely succeed in undermining the basic ideals that underpin our democracy and the foundations upon which it rests. An assurance was provided to Parliament by the President in his Address that the Government planned to present an anti-defection Bill during the current session of Parliament, and this was done to prevent defections. This bill is intended to make deserting an organization illegal and to satisfy the stated promise.³⁴⁹

The primary objective of this measure is to prevent any lawmakers who were elected based on a candidate that was nominated by a political party and who are members of that party or become members of that party within six months of being elected to their seats from being

³⁴⁶ Murray S, "Courts, judicial review and the electoral process in Australia: An Antipodean perspective" in *Judicial Review of Elections in Asia 195-206* (2016).

³⁴⁷ Agrawal P and Vaidya A, "A Study on Qualification and Disqualification of Members of Parliament and State Legislature" 6 Issue 2 Int'l JL Mgmt. & Human 1175 (2023).

³⁴⁸ Jayakumar SV, "Human right to vote in India—the role of law".

³⁴⁹ Jayakumar SV, "Human right to vote in India—the role of law".

removed from office as a result of a constitutional amendment. This measure was drafted to prevent such a scenario. An independent member of Parliament or the State Legislature gets expelled from that body once they join a political party and become a member of that party. An elected official who was not affiliated with a political party when he or she was first nominated for Parliament or the State Legislature would be disqualified from serving if he or she rejoined a political party after six months and did not rejoin before the six-month term had expired.³⁵⁰ This would also apply if the elected official rejoined a political party before the term had expired. In addition, the legislation has further rules for the splitting and merging of political parties. After being elected to the position of presiding officer, it is completely up to the person to decide whether or not to leave their political party. This is a fresh provision that was just added to the law. If the issue concerns the presiding officer, it will be determined by a member of the House who has been elected to serve in that capacity. State legislators or parliamentary presiding officers will decide whether an individual member of the House has been disqualified.³⁵¹

Legislators often switch political parties in democracies all over the world. If elected representatives of the ruling party or a coalition of elected members from other parties refuse to act, the stability of the government might be put in jeopardy. The members of parliament that are selected by the party in power are very important to the maintenance of this stability. After then, the line of reasoning that this type of unpredictability may indicate a violation of the confidence of the people has been put up, as shown in the election that took place the most recently before this one. This. As a result of MPs changing their political allegiances, India's central government, in addition to some of the country's states and territories, have in the past seen events that were interpreted as signs of instability. This was a contributing factor in the decision to draft the anti-defection Act. As a result of the general elections that took place in 1967 and 1971, over half of the country's 4,000 elected MPs to the central and federal parliaments resigned, which resulted in political unrest across the whole of the nation.³⁵² In India, there was an attempt to pass legislation that would prevent people from switching allegiances. As a direct consequence of this, the Indian Parliament approved the Tenth

³⁵⁰ Moiz Baig M, "Comment on the Supreme Court's Judgment on Zulfiqar Ahmed Bhutta v Federation of Pakistan", 5 LUMS LJ 94 (2018).

³⁵¹ Sharma, P., "From India Against Corruption to the Aam Aadmi Party: Social Movements, Political Parties and Citizen Engagement in India" 39-59 in *Political Parties and Citizen Movements in Asia and Europe* (2014).

³⁵² Orr, G., "Does an Unqualified but Losing Candidacy Upset an Election?" 14 *Election Law Journal* 424-429 (2015).

Schedule to the 52nd Amendment to the Indian Constitution in the year 1985 to achieve this objective. In 2003, the Indian Parliament approved the ninety-first Amendment to the Constitution after obtaining advice from several constitutional organizations about how the amendment should be written. Because traitors were disqualified and barred from serving as ministers for a certain amount of time, the legislation had to be strengthened to reflect this fact.³⁵³

During elections, the citizens of a democratic nation are allowed to express their preferences regarding who should lead the country. However, political defections that occur in the period between elections undermine the efficacy of this forceful act and, consequently, the will of the people as it has been articulated. Mutinies were a common occurrence in India even before the country won its independence from British rule. It is anticipated that the expansion of coalition politics around the year 1960 led to an increase in the number of elected members who moved political parties to win a place in the ministers of the cabinet. This estimate is based on a correlation between the two events. In 1967, a congressman by the name of Gaya Lal switched parties three times in a single day, which gave rise to the now-famous expression "Aaya Ram Gaya Ram" ("Ram has come, Ram has gone").³⁵⁴

Only the Congress (I) party profited from defections between 1957 and 1967. As a consequence, the party lost 98 lawmakers but gained 419, while those who left other parties but did not join Congress (I) founded separate new parties to exercise influence in the future via coalition government rather than joining existing administrations. In contrast to those who resigned from Congress (I) and rejoined Congress (II), this was done (I). Congress (I) was able to maintain control of the government as a result of these events. During the 1967 legislative elections, 3,500 lawmakers were elected to various state and federal legislative bodies. As a result, almost 550 elected officials renounced their party allegiances, and some politicians shifted allegiances many times.³⁵⁵

In 1967, during the fourth session of the Lok Sabha, a committee headed by Y. B. Chavan was established to combat the widespread problem of political desertions. In 1968, this committee delivered a report that ultimately resulted in the first effort to present a measure in Parliament

³⁵³ Gowda MR, and Sridharan E. *Reforming India's party financing and election expenditure laws*. Election Law Journal. 2012 Jun 1;11(2):226-40.

³⁵⁴ McLure CJ. *Key judicial decisions on the constitution act 1889 (WA) and the constitution acts amendment act 1899 (WA)*. University of Western Australia Law Review. 2012 Dec;36(2):234-51.

³⁵⁵ Morris C. *Party-hopping deja-vu: changing politics, changing law in New Zealand 1999-2018*. Public Law Review. 2018 Aug 31.

intended to prevent desertions. The government, which was then led by Indira Gandhi, decided to refer the bill for consideration by a Joint Select Committee, even though the opposition was in favor of the bill. However, the bill did not emerge from the committee before the subsequent elections nullified all other legislative proposals. The years 1977–1979 were a pivotal time in Indian politics because during that period, the first-ever national non-Congress Government, which was headed by Morarji Desai, was removed from office as a direct result of the betrayal of 76 legislators. This resulted in political instability that persisted until 1979 when Gandhi was elected with an overwhelming majority of the vote. During the decades of the 1970s and 1980s, India's political environment was marked by a distinct trend. Whenever there was a government at the center that was headed by Congress, the regional governments disintegrated because elected members from outside of Congress betrayed their constituents and defected. Virendra Patil, who served as Chief Minister of Karnataka at the time, referred to this tendency as a "goldrush" even though corruption was a problem on a worldwide scale, during the time of Gandhi, the divisive politics of betrayal became widespread in India.³⁵⁶

3.3.1. Allocation of Seats in Lok Sabha

States' seats in the House of People, as well as the number of seats designated for Scheduled Castes and Scheduled Tribes, will be included in the First Schedule. Scheduled Castes and Scheduled Tribes in some Part C States are guaranteed seats in the House of People³⁵⁷.

3.3.1.1. The Indian Parliament and its structure

The Indian Parliament is a supreme legislative body of the Republic of India and a bicameral legislature (which means two houses). The Parliament is responsible for making laws, passing laws, overseeing the executive branch, discussing national issues and representing the Citizens interest. The Indian Parliament has got the same similarity with United Kingdom, Parliament in both countries consist of two houses, in United Kingdom the houses known as The House of Commons and the House of Lords and in India, the house called as Rajya Sabha (Council of States) and Lok Sabha (House of People).

3.3.1.2. The Rajya Sabha (Council of States)

It represents the states and union territories of India and is a permanent body which is not subject to dissolution. The members of Rajya Sabha are elected by the members of the State Legislative Assemblies and Union Territories legislatures using a system of proportional

³⁵⁶ Behuria, R.K., "Gram Panchayat in Orissa", Orissa Review 46 (February, 2011).

³⁵⁷ *The Constitution (87th Amendment) Act*, 2003.

representation with a single vote. The maximum strength of Rajya Sabha is 250 members. 238 are elected by the members of the State Legislative Assemblies and Union Territories legislatures and 12 are nominated by the President of India.

3.3.1.3. The Lok Sabha (House of People)

It represents the people of India, which is subject dissolution and the Members of the Lok Sabha are elected directly by the voters of India using a first past the post system. General elections are conducted every 5 years to elect the members of The Parliament or as soon as the government loses a vote of confidence or when it is dissolved by the cabinet approved by the President of India. Lok Sabha comprises of 545 members. 543 members are elected directly through the voters of India and 2 are nominated by the President of India.

3.3.1.4. Legislative Assemblies and Assembly Constituencies

Legislative Assemblies are the lower houses of the state legislatures in India. The Assembly constituencies are geographical areas within the state the representative to those assemblies legislatures are elected by the people. The number of seats in a legislative assembly varies from state to state and determined based on the population, geographical size and administrative convenience.

The total number of seats in each state's Legislative Assembly elected directly by people from the assembly constituencies, subject to [sub-sections (1A), (1B), and (1C)], shall be as shown in the Second Schedule, while reserving the seat of representation reserved for the state's Scheduled Castes and Tribes are listed in Second Schedule.

➤ North Eastern States

In Nagaland out of Total Fifty-Two seats, Eight had been reserved for Schedule Tribe and Twelve reserved for the Tuensang district of the State. All the seats in Nagaland are filled by the members of the regional council³⁵⁸ in such manner as the Governor after consulting with that Council may notify the same.

The Legislative Assembly of Sikkim will have 32 seats, with six reserved for Sikkimese of Bhutia Lepcha descent, regardless of what subsection (1) says. The number of seats to be filled by people elected by direct election from assembly constituencies will be increased to 32 after the commencement of the Representation of the People (Amendment) Act, 1980 (8 of 1980).

³⁵⁸ referred to in Article 371A of the Nagaland State Constitution,

There will be two seats set aside for the Indian state's Scheduled Castes and one for the Sanghas referred to in Section 25A of the Constitution.³⁵⁹

The Scheduled Tribes shall have a fifty-nine-seat reservation in the Legislative Assembly of Arunachal Pradesh, Meghalaya, Mizoram, and Nagaland, to be constituted at any time after the enactment of the Representation of the People Act, 1987 (40 of 1987), and fifty-five seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Nagaland. The Mizoram Legislative Assembly will have 39 seats designated for Scheduled Tribes, whereas the Nagaland Legislative Assembly will have 59 seats reserved for Scheduled Tribes.³⁶⁰

Twenty seats in the Legislative Assembly of the State of Tripura would be reserved for Scheduled Tribes regardless of when the Representation of the People (Amendment) Act, 1992 (38 of 1992) takes effect. The total number of Sikkim's Legislative Assembly members and the number of Sikkim's legislative districts. In the Legislative Assembly of the State of Sikkim [deemed by the Constitution (Thirty-sixth Amendment) Act, 1975 to be the Legislative Assembly of that State fully constituted], the total number of seats to be filled by direct election from assembly constituencies must be 32. Section (1) specifies that each Assembly constituency must have a single member. The boundaries of each district and the number of reserved seats in the Legislative Assembly will remain the same as they were before the Constitution (Thirty-sixth Amendment) Act, 1975 went into effect.

Under Section 3 of Delimitation Act, all seats in the House of the People allocated to the States must be filled by individuals elected directly from legislative districts within the States. As stated in sub-section (2), each of the parliamentary constituencies mentioned therein shall be a single-member district. Section 3 divides each state into one or more legislative constituencies, one for each seat.

Arunachal Pradesh, Assam, Jharkhand, Manipur, and Nagaland are exempt from this rule because the Delimitation Act, 2002 (33 of 2002) allows the Delimitation Commission to set the boundaries of their respective parliamentary constituencies. However, the Delimitation Act does not specify how these states' parliamentary districts will be defined.³⁶¹

³⁵⁹ Le Quesne JG, Parker's Election Agent and Returning Officer (Charles Knight & Co, London, 1950) 1, 567.

³⁶⁰ SM. Klausen, "Pining for Purity: Interracial Sex, the South African Immorality (Amendment) Act (1950), and 'Petty' Apartheid" in *The Routledge Companion to Sexuality and Colonialism* 219-229 (Routledge, 2021).

³⁶¹ JA. Griffith, "Representation of the People Act, 1949" 13 *The Modern Law Review* 348-350 (1950).

State wise allocation of seats (Current)

SI No.	Legislative Assembly	Legislature House at	House Strength
1.	Andhra Pradesh	Amaravathi	175
2.	Arunachal Pradesh	Itanagar	60
3.	Assam	Dispur	126
4.	Bihar	Patna	243
5.	Chhattisgarh	Raipur	90
6.	Delhi	New Delhi	70
7.	Goa	Panaji	40
8.	Gujarat	Gandhinagar	182
9.	Haryana	Chandigarh	90
10.	Himachal Pradesh	Shimla, Dharamshala	68
11.	Jammu and Kashmir	Srinagar, Jammu	90
12.	Jharkhand	Ranchi	81
13.	Karnataka	Bangalore, Belgaum	224
14.	Kerala	Thiruvananthapuram	140
15.	Madhya Pradesh	Imphal	60
16.	Maharashtra	Mumbai, Nagapur	288
17.	Manipur	Imphal	60
18.	Meghalaya	Shillong	60
19.	Mizoram	Aizawl	40
20.	Nagaland	Kohima	60
21.	Odisha	Bhubaneswar	147

22.	Puducherry	Puducherry	30
23.	Punjab	Chandigarh	117
24.	Rajasthan	Jaipur	200
25.	Sikkim	Gangtok	32
26.	Tamil Nadu	Chennai	234
27.	Telangana	Hyderabad	119
28.	Tripura	Agartala	60
29.	Uttar Pradesh	Lucknow	403
30.	Uttarakhand	Bhararisain, Dehradun	70
31.	West Bengal	Kolkata	294

3.4 Disqualification of individuals from holding public office as State Legislatures or Member of Parliament

The term "Article 191" is often used to refer to a certain article that is contained inside the constitution of a given nation. Articles within a constitution often contain provisions that explain the disqualification of individuals from holding public office, the criteria for eligibility, or the regulations that regulate the conduct of elected officials. In many situations, these provisions are outlined in the constitution³⁶². Nevertheless, the content of Article 191 could involve a wide variety of subjects, including but not limited to qualifications, disqualifications, or the operation of legislative bodies, depending on the constitution of the country in question for whom it is being interpreted.

Article 191- Ineligibility to participate in the group was studied when Unless the state legislature has declared the position to be disqualified by law, anybody standing for or elected to a state legislature or legislative council is ineligible if they hold any office of profit under the government of India or any government of a state specified in the First Schedule. If a court finds him to be mentally incompetent, he will be held in contempt of court. As long as he

³⁶² Agrawal, P. and Vaidya, A., "A Study on Qualification and Disqualification of Members of Parliament and State Legislature," 6 Issue 2 Int'l JL Mgmt. & Human 1175 (2023).

remains an unresolved debtor. It is illegal for him to be in India if he is not an Indian citizen, has gained the citizenship of another country, or has declared loyalty to another country. Any legislation adopted by Parliament that disqualifies him from serving. If a person is a Minister of the Union or a State included in the First Schedule, he or she is not considered to occupy a profit-making post under the Government of India or that State's government. Legislative Assembly and Legislative Council members are prohibited from being elected if they are disqualified under the Tenth Schedule.³⁶³

If people check into the qualifications needed to become a member of the People's House, they will discover that to be elected, people need to be a member of one of the Scheduled Castes and have their voter registration in a constituency that is represented in the Parliament. No matter where the Scheduled Tribe member of Parliament lives, he or she is eligible to vote in any Parliamentary constituency provided that the state in which the constituency is located has a seat designated specifically for a Scheduled Tribe member. Each member of a Scheduled Tribe in Assam has the right to vote in any other constituency that includes that autonomous district in addition to the seat designated specifically for members of Scheduled Tribes in each of the state's autonomous districts.³⁶⁴ For an instance, given that he is a member of a Scheduled Tribe, he is eligible to vote in the parliamentary elections for that seat held in the Lakshadweep Union Territory. This is because those elections are held there. In the proceedings of the Parliament, he is the representative of the Sikkim constituency, which corresponds to the seat that has been designated for the state of Sikkim. As long as he does not currently possess a seat in Parliament, he is eligible to vote in any of the constituencies that make up Parliament.³⁶⁵

According to the findings of an investigation into the qualifications for legislative assembly seats, prospective candidates for state legislative assembly seats need to be qualified electors and members of one of the Scheduled Castes or Scheduled Tribes, if the position is relevant, to be considered for selection. Any member of a Scheduled Tribe who resides in one of the autonomous districts of Assam is eligible to cast a ballot in the assembly constituency that corresponds to that district's reserved seat in the state. If the person is successful in winning another seat, they will be eligible to vote in any of the state's districts for the Assembly.

³⁶³ Dash, A., "Defending or Defeating Democracy: Supreme Court Led Electoral Reform in Jan Chaukidar" 36 Statute Law Review 286 (2015).

³⁶⁴ Sarkar, D. and Mishra, P.C., "An Analytical Study on the Politics of Defection in India" 12 International Journal of Law and Political Sciences 305 (2018).

³⁶⁵ Khan H, "Chosen by the People: Articles 62, 63 and the Issue of Qualification and Disqualification of Public Representatives" 20 Pakistan Perspective 2 (2015).

According to the third clause of Article 371A, a member of the Tuensang regional council must be chosen to replace any vacancy in the Nagaland Legislative Assembly seat that is allotted to the Tuensang district (2).³⁶⁶

Sikkim's Legislative Assembly does not accept candidates from the Bhutia-Lepcha constituency who are registered to vote in any other seat in the state assembly than the one that is assigned for the Bhutia-Lepcha constituency. This is because the Bhutia-Lepcha constituency is the only seat in the state assembly that is specifically reserved for voters from that particular ethnic group. In the state of Sikkim, those who belong to one of the castes that are recognized as "scheduled" are allowed to vote in any of the assembly constituencies that have a seat reserved specifically for their castes. Should a Sangha-assigned seat become empty in the future, he could consider running for it. It does not make a difference where he is sitting in the state legislature at the moment; he is free to vote from any other seat in the state assembly.³⁶⁷

According to a review of the prerequisites for membership, prospective candidates for positions on the State Legislative Council need to be registered to vote in an Assembly constituency in the state at issue before they can be considered for election to the body's council. This is one of the requirements for membership. People need to have been a resident of the state for a significant amount of time for the Governor to take into consideration their candidacy for election to the State Legislative Council. If people are unable to serve in either House of Parliament, the State Government is the greatest alternative for them; on the other hand, serving in the Central Government is the finest option if people are unable to serve in either House of Parliament. If a person does not meet the requirements to be elected to the post they hold in the legislature, they cannot serve as a member of Parliament, the Legislative Assembly, or a state legislature.³⁶⁸

In the course of looking into disqualification on conviction for certain offenses, it was determined that a person who had been convicted under section 153A (offense of inciting religious or racial hatred, or of bribery), section 171E (offense of bribery), sub-section (1), or subsection was ineligible to serve in the House of Representatives on conviction. This was the result of looking into disqualification on conviction for certain offenses. People may be held

³⁶⁶ Singh RK, *Unit-1 Electoral Systems and Political Parties*.

³⁶⁷ Gastil J, and Wright EO, "Legislature by lot: Envisioning sortition within a bicameral system" 46 *Politics & Society* 303-30 (2018).

³⁶⁸ Deva S., "Democracy and elections in India" in *Judicial Review of Elections in Asia* (Apr. 14, 2016).

responsible for a person's acts under the Protection of Civil Rights Act of 1955 if people preach or engage in the practice of "untouchability" (22 of 1955).³⁶⁹ Infractions under Sections 10-12 of the 1967 Unlawful Activities (Prevention) Act include making a public proclamation of an unlawful association, dealing with money belonging to such an organization, or breaking a government order issued respecting the mentioned area (37 of 1967). Act No. 46 of 1973, which regulates foreign currency, and Act No. 46 of 1985, which regulates narcotic narcotics, were both signed into law at the same time (61 of 1985). Congress voted to pass the Terrorist and Disruptive Activities Prevention Act of 1987 as well as the Religious Institutions Prevention of Misuse Act of 1988. (41 out of 19) This year, 2002, the 15th month of the year.³⁷⁰ Those who have been convicted of a crime or sentenced to incarceration risk a ban that lasts for six years, plus an additional six years after they are released if they were only handed penalties. If a person is found guilty of violating any legislation that prohibits stockpiling profiteering or the adulteration of food or drugs, the period of disqualification begins on the date of conviction and continues for six years after the offender has been released from jail. This applies even if the person was found not guilty of the offense.³⁷¹

After serving at least two years in jail for a felony, convicted criminals will be restricted from the employment for six years, and will be ineligible for another six years. regulation of production or manufacture of any essential commodity; price control; rules governing acquisition and possession and transportation, distribution, use, or consumption of essential commodities; prohibitions on withholding essential commodities from SS; or anything else that has the legal force to regulate the production or manufacture of any essential commodity all things that are sanctioned by law The 1940 Drug Law created all three phrases; the Essential Commodity Act of 1955 defined "essential commodity," and the Preventive Food Adulteration Act of 1954 defined "food" (37 of 1954).³⁷²

On the grounds of dishonesty, a disqualification Section 99 of the Code of Criminal Procedure stipulates that any person found guilty of corrupt practice must have his or her case submitted to the President for consideration within three months of the date on which the order goes into

³⁶⁹ Khanna K. and Shah D., "Anti-defection law: a death knell for parliamentary dissent?" 5 NUJS L. Rev. 103 (2012).

³⁷⁰ Adebite K., "The Law and Politics of Tenure Truncation of the Legislature in Nigeria" 1 Journal of International Law and Strategic Studies 1 (Nov. 15, 2016).

³⁷¹ Sastry T., "Towards Decriminalisation of Elections and Politics" Economic and Political Weekly 34-41 (2014).

³⁷² Agrawal C., "Critical Analysis of the Judicial Interpretation of 'Office of Profit' with Reference to the Advocates Act" 4 Supremo Amicus 126 (2018).

effect, by the authority designated by the Central Government, to determine whether or not the person should be disqualified and for what period: Any individual who is disqualified under this subsection must not serve more than six years from the date of his or her order under Section 99 taking effect³⁷³. It is possible for anyone who was previously disqualified from running for office due to a violation of section 8A of this act before it was amended (Act 40 of 1975), and whose term of disqualification has not yet expired, to petition the President to have that disqualification lifted for that portion of their term remaining.³⁷⁴ Preliminary advice from the Election Commission is required before the President makes any decision under paragraph (1) or on any petition filed under subsection (2). The President must then act on such advice.

3.5 Frame work of Anti-defection

Anti-defection law is examined and determined to include disqualification for defection Anti-defection law.³⁷⁵ Any state or territory legislature may be referred to as a "House" unless the context demands otherwise. The term "legislative party" refers to the whole current membership of any House member who is currently a member of a political party paragraphs 2 or 4. Both the political party he represents and the paragraph are addressed in paragraph 2's subparagraph (1).

If a member of Congress goes against the policies advocated by their party, as outlined in paragraphs four and five of this clause, they risk losing their ability to serve in Congress. In the United States of America, it is against the law to not cast a vote or abstain from voting if one's political party does not provide their approval within fifteen days of the day on which they cast their ballot or refrained from voting. According to the definition of "affiliation" provided by this subparagraph when applied to this context, the political parties in which he has been nominated for House and Senate elections are considered to be his "affiliation" If he does not already have membership in that party, he cannot be considered to belong to that party until at least six months have passed since the date he took office to be counted as having satisfied the conditions of either Article 99 or Article 188.³⁷⁶ If he does not already have membership in that party, he cannot be considered to belong to that party until at least six months have passed since

³⁷³ Choudhary R, "Disqualification of Members in the Constitution of India: A Critical Analysis" 29 *Supremo Amicus* 74 (2022).

³⁷⁴ Tillman SB, "Originalism & The Scope of the Constitution's Disqualification Clause" 33 *Quinnipiac L. Rev.* 59 (2014).

³⁷⁵ *The Constitution of India*, art. 102(2), 191.

³⁷⁶ Webb H., "Changing House: The Law Affecting A Move Between Elected Offices", 23 *Canadian Parliamentary Review* (2015).

he took office. If a member of the House of Representatives who has been elected to that body later joins a political party for which they have not been nominated, they will be disqualified from continuing to serve in the House of Representatives. There will be a waiting period of six months for every newly nominated House member who has satisfied the conditions to become eligible to serve in the House. These requirements may be found in Article 99 or 188. Any person who was elected or nominated to serve in the House of Representatives on or after January 1, 1985, by a political party is regarded as a candidate set up by such party for this paragraph and the conditions that came before it (1). Only elected members who were not nominated by a political party are eligible to receive benefits from the subparagraphs of this paragraph that are numbered (2) and (3). These subparagraphs only apply to elected members who were not nominated by a political party for the subparagraphs of this paragraph that are numbered (2) and (3). (2).³⁷⁷

It was discovered that if two-thirds of the legislators participating in the merger agreement the merger as required by Section 1, the member of Congress' political party is not disqualified for defecting under paragraph 2's subparagraph (1) because he has not acceded to the other political party or the new political party formed as a result of the merger. This is because when one political party merges with another or forms a new political party as a result of the merger.³⁷⁸

A person who has been elected to the office of speaker of a state legislature or assembly shall not be disqualified under this Schedule, even though other provisions of this Schedule may declare otherwise. As long as the person who was elected to the position does not later rejoin his former political party or join another one as a result of his election, or if the person has already given up his membership in his former political party as a result of his election to the position; whichever comes first. As long as the person who was elected to the position does not later rejoin his former political party or join another one as a result of his election; or if the person joins another political party as a result of his election.³⁷⁹

Disqualification questions about betrayal were investigated, and it was concluded that if a member of the House became susceptible to disqualification under this schedule, the matter must be decided by the Chairman or, as the case may be, the Speaker of that House, and his or her final judgment will be upheld regardless of the circumstances. If there is a question about

³⁷⁷ Gobbett, H., Speldewinde, S., et al., *First, most and more: facts about the Federal Parliament*.

³⁷⁸ Lo, C., Londenberg, K., et al., *Spending in Judicial Elections: State Trends in the Wake of Citizens United*.

³⁷⁹ Ramesh, R., "Historical Perspectives of the Electoral Reforms in India", in *Proceedings of the Indian History Congress*, Vol. 72, pp. 1325-1336 (Indian History Congress, 2011).

whether or not the Speaker or Chairman of a House has been disqualified, the subject must be brought to the attention of a member of the House that the House may designate in this respect and whose opinion is considered to be final. When it comes to concerns about a member's eligibility for office, the procedures that are detailed in the first subparagraph of this paragraph are regarded to be proceedings in Parliament by the requirements of Art. 122, or legislative proceedings by those provisions, depending on the situation.³⁸⁰

It is the responsibility of the Speaker or Chairman of a House to formulate rules to carry out the provisions of this Schedule. These regulations may include but are not limited to, processes for maintaining records of which political parties the members of that House belong to. According to this paragraph, the political party leaders of House members are required to report on a member's "condonation" The paragraph also specifies the period within which such a report must be delivered and the authority that must receive it. The process for any inquiry that might be carried out to decide such a question is included in the technique for determining any of the issues specified in the sixth subparagraph. At the end of the thirty days, the regulations that are outlined in the first part of this paragraph will go into force unless the House of Representatives votes to either approve or disapprove of them. A violation of the limits outlined in this paragraph has the potential to be handled in the same way as a break of the privileges of the House.³⁸¹

In the lower house of the Indian Parliament, the Lok Sabha, a Member of Parliament (MP) is elected to represent the interests of the people of India. The Lok Sabha's members of parliament are elected directly by the suffrage of the adult population. The Rajya Sabha (higher house, also known as the Council of States) and the Lok Sabha (lower house) comprise India's bicameral parliament (lower house i.e. House of the People). In the Lok Sabha, the maximum number of members of parliament is 550. As many as 530 representatives from the states and up to 20 representatives from federal territories are included in this total (both chosen by direct elections).³⁸² Two seats were been aside for Anglo-Indians from 1952 till 2020. The Lok Sabha has a total of 543 members elected at present. The Prime Minister of India is elected by the party or coalition of parties that have a majority in the Lok Sabha. Constituent Assembly of

³⁸⁰ Sangma PA, Mukherjee P, Singh Nijjar, J, Chelameswar, and Ranjan Gogoi, JJ.

³⁸¹ Sastry S., "*Towards the De-criminalization of elections and politics*" IIM Bangalore Research Paper 27 (Nov, 2013).

³⁸² Arcioni E., "*The core of the Australian constitutional people-'the people'as' the electors*" 39 UNSWLJ 421 (2016).

India was established on December 9, 1946, to write India's constitution, making it the first day of the member of parliament equivalent in India. The Constituent Assembly of India was not elected based on adult suffrage but was instead made up of members who were indirectly chosen. The minority of Sikhs and Muslims were given particular consideration. When India became an independent state in 1947, the Constituent Assembly of India was dissolved. It took 2 years, 11 months, and 18 days to design the constitution. The Indian constitution came into effect on January 26, 1950, and the country's first general elections were conducted in 1951 and 1952. On April 17, 1952, India's first Lok Sabha was sworn in with 489 seats, making it the country's first elected Lok Sabha member.³⁸³

This piece of legislation is known as the Parliament (Prevention of Disqualification) Act, 1959. To reimburse him for any expenditures spent in the performance of his obligations as a member of Parliament under 1 [the Salary... A minister, minister of state, or deputy minister for the Union or a state may hold any of these offices, whether ex officio or by name, and the offices of chief whip, deputy chief whip, or whip in P will not disqualify their holders from being elected to or serving in Parliament. This declaration applies equally to all offices of profit under the government of India or the government of any state.

Legislators who were previously able to occupy positions of profit declared not to disqualify them from sitting in Parliament may continue doing so for six months after the implementation date of this Act, unless this Act prohibits them from doing so. Any law that is contradictory to this act is repealed.³⁸⁴

This piece of legislation is officially known as the Representation of the People Act, 1951. Unless otherwise stated in this Act, any term defined in sections 2 or sub-section (1) of section 27 must have the same meaning as described in the Representation of the People Act 1950. a fair amount of authority "When it comes to elections for state legislative or senate chambers, the term "State Government" is used to refer to the Central Government and the State Government, respectively. Any of the corrupt practices listed in section 123 is considered a "corrupt practice," and the terms "election" and "elector" are used interchangeably. An "election" is an election for a seat or seats in either house of Parliament or a state legislature other than the state of Jammu and Kashmir "is a candidate in a constituency if they are

³⁸³ Gopalan K., "A Performance Paradigm Approach to Electoral Reform in India", SSRN 2542871, available at: SSRN.com (last visited on Dec 19, 2014).

³⁸⁴ Ochieng'Opalo K., "African Elections: Two Divergent Trends", 23 Journal of Democracy 80-93 (2012).

registered to vote in that constituency and have not been disqualified under section 16 (the Representation of People Act, 1950) (43 of 1950).³⁸⁵

Since they are all constituents of a different class under this Act's definition, there will be no difference between the constituencies of a local authority and the constituencies of a graduate or teacher. To the extent that this Act requires the publishing of any order, rule, declaration, notice, or list issued by any authority in the Official Gazette, it is interpreted as requiring publication in the Gazette of India, unless the Act specifies otherwise. Depending on the facts of the case, any of the Act's provisions might be construed in a variety of ways. In the state of Jammu and Kashmir, laws that are not now in effect shall be understood as relating to laws that are currently in effect there.

They must be qualified to represent their state or territory in the Council of States as an elector. One must be either an elector from a Parliamentary constituency or a Scheduled Caste or Tribe qualified member to be eligible for a seat in the House of People (other than those in the autonomous districts of Assam). The candidate must also be a member of a Scheduled Caste in both situations.³⁸⁶

He can't be elected to fill a Legislative Assembly seat unless he belongs to one of the state's Scheduled Castes or Tribes, or unless he is an elector in one of the state's Assembly constituencies; if the seat is reserved for an autonomous district within Assam, he is an elector there.

Legislative Assembly members in Sikkim must meet the following criteria: The Legislative Assembly of Sikkim (considered to be the Legislative Assembly of that State duly constituted under the Constitution) does not allow a person of either Bhutia or Lepcha origin to sit in the Assembly (other than the one reserved for the Sa.) unless he or she is an elector for any Assembly constituency in the State other than the Sa. As long as he or she is an elector in any Assembly constituency in the state of Sikkim, he or she may serve in the Legislative Assembly for Bhutia-Lepcha origins.³⁸⁷

³⁸⁵ Reiser, M. "Contagion Effects by the AfD?: Candidate Selection in Germany", in *The Selection of Politicians in Times of Crisis* 81 (Routledge, 2018).

³⁸⁶ Singh, B.P., "Electoral Reforms in India—Issues and Challenges" 2 *International Journal of Humanities and Social Science Invention* 1 (2013).

³⁸⁷ M.A. Roy, *Criminal Charges and Parliamentarians (Library of Parliament= Bibliothèque du Parlement*, 2017).

Based on corrupt practices, a disqualification is warranted. Anyone who has been found guilty of corrupt practice by an order issued under section 99 must have their case submitted to the President, by the authority that the Central Government specifies in this regard, for determination of whether or not they should be disqualified and for how long. For as long as six years from the effective date of the order issued in respect to him according to Section 99, a person may not be disqualified under this subsection. It is possible for anyone who was previously disqualified from running for office due to a violation of section 8A of this act before it was amended (Act 40 of 1975), and whose term of disqualification has not yet expired, to petition the President to have that disqualification lifted for the time remaining on their term. Before making a final judgment on any matter or petition referred to in sub-section (1), the President must consult the Election Commission and act by its findings.³⁸⁸

Disqualification from being fired because of bribery or corruption. It is illegal to hold public office if people were sacked from a government position due to corruption or disloyalty to their nation. This section requires that an election commission's certificate showing whether or not someone was fired because of corruption or disloyalty to the state is conclusive proof; however, no election commission certificate showing whether or not someone was fired because of corruption or disloyalty to the state should be issued unless the person concerned has been allowed to present their case.³⁸⁹

Disqualification from government contracts, etc. Contracts with the competent government for the provision of products or the performance of any job done by the government will disqualify a person if and while such contracts exist. It is only because the government has not executed its share in whole or in part that a contract is judged to be nonexistent for this section when a person who entered into the contract has completely performed.³⁹⁰

3.6 Removal from public office based on disloyalty and dishonesty

Disloyalty and dishonesty are grounds for firing an employee. Corrupt practices or disloyalty to the state may result in a five-year ban on employment in government or state agencies. Under paragraph (a), the certification of the Election Commission that a person was removed from

³⁸⁸ G.V. Golosov, “*The Regional Roots of Electoral Authoritarianism in Russia*” 63 Europe-Asia Studies 623 (2011).

³⁸⁹ A. Geddis, “*Prisoner Voting and Rights Deliberation: How New Zealand's Parliament Failed*” 2011 New Zealand Law Review 443.

³⁹⁰ G. Kumar, “*Vitiating Role of Money in Electoral Democracy and Supreme Court's Endeavour of Its Purification*” 12 Vidhigya: The Journal of Legal Awareness 20 (2017).

office due to corruption or treason is conclusive proof (1). Only after a hearing will a dismissal certificate be given indicating that a person was fired for corruption or treason against the state. As long as he has a contract with a government to provide or do work for that government, he will be disqualified. Because the government hasn't done its part, the contract doesn't exist for this portion even though the person who signed it has met all of his or her responsibilities. To hold this position of power, an organization or firm must possess at least 25% of its respective capital to be considered non-cooperative. Disqualified voters who fail to provide an account of election costs as required by this Act and who do not have a reasonable explanation or justification for their failure shall not be entitled to vote in any elections for three years following the publication date in the Official Gazette.³⁹¹

For the 1961 Election Rules, Form 26 of the 1961 Election Rules, which includes the candidate's criminal record if any, as well as the status of his or her PAN and income tax return, and the details of the candidate's assets and liabilities, including those of the candidate's spouse and all his or her dependents. The affidavits candidates submit with their nomination papers must include all of the required information, and no area may be left blank. When the nomination is submitted, the Returning Officer must ensure all columns on the accompanying affidavit are filled in. There will be reminders issued if the Returning Officer doesn't hear back from the candidate. Entering 'NIL' in the appropriate area means that there is no relevant information to submit.³⁹² The candidate will be disqualified if any of the fields on the application are left blank. The Returning Officer will reject any candidate nomination documents that are determined to be insufficient, even after repeated requests. The candidate must swear the Affidavit in front of an Oath Commissioner or First Class Magistrate, or in front of a Notary Public. The Affidavit and the Nomination Paper must be submitted simultaneously. There is a deadline of 3 p.m. on the last day for nominations to be submitted if they are not included in the ballot. Affidavits must be typed, according to the law. Handwriting in any column should be readable.³⁹³

Anyone running for political office in a parliamentary constituency is required by law to be registered to vote in that district. Candidates are required to be citizens of the autonomous

³⁹¹ Hobbs H, Pillai S, Williams G, “*The disqualification of dual citizens from Parliament: Three problems and a solution*” 43 *Alternative Law Journal* 73 (2018).

³⁹² Bhaskar A, “*Damage to Democracy: Elitist Judgment of Supreme Court in "Rajbala v State of Haryana"*” *Economic and Political Weekly* 47 (Oct 1, 2016).

³⁹³ Twomey, A., “*The recall of members of parliament and citizens initiated elections*,” 34(1) *University of New South Wales Law Journal* 41-69 (2011).

districts of Assam, Sikkim, and Lakshadweep to comply with the requirements of Section 4 of the Representation of the People Act of 1951. To be eligible to run for office in the state, a candidate must first ensure that they have voter registration in at least one of the state's assembly districts. As long as a candidate intends to run for office in a separate constituency, he or she is required to submit either a certified copy of the current electoral roll in which their name appears or a copy of the relevant electoral roll. This is the case even if the candidate does not intend to run for office in the same constituency.³⁹⁴

By the requirements outlined in the third schedule of the Constitution, the candidate is required to take an oath in front of the Returning Officer, the Assistant Returning Officer, or any other person authorized by the Election Commission to administer the oath. An oath is required to be taken and delivered to the committee at any time following the submission of the nomination document and no later than the day before the examination of the nomination. The deadline for this requirement is the day before the examination of the nomination. To be able to claim sponsorship, the Returning Officer/Chief Electoral Officer has to receive an unfinished Form A and Form B from the Political Party in question by 3:00 p.m. on the last day for submitting nominations. On the last day of nominations, candidates for seats in the Rajya Sabha and the Vidhan Parishad (Legislative Council) have till 3 p.m. to submit Form AA and Form BB to the Election Commission. This deadline applies to both seats. The security deposit may be deposited with the Returning Officer, the Reserve Bank of India, or the Government Treasury, among other possible locations.³⁹⁵

Members of the Indian government or the governments of any of the states specified in the First Schedule of Article 191 are not permitted to serve in state legislatures or councils under the provisions of this article. According to this clause, for the Constitution of India, no one who works for the Indian government or the government of that state has been considered a Minister of the Union or a State included in the First Schedule. This applies to anyone working for either the Indian government or the government of that state.³⁹⁶ If a member of Parliament is found by an authorized court to be mentally incompetent, or if they occupy a position of profit-making authority with the Indian government or a state government that has not been specifically

³⁹⁴ Saumya, A. and Majumder, A., "Anti-Defection Law in India-A Boon or a Bane" 6 *Supremo Amicus* 24 (2018).

³⁹⁵ Bhaskar, A., "Damage to democracy", 51(40) *Economic & Political Weekly* 47 (2016).

³⁹⁶ Afzal, M. "Do barriers to candidacy reduce political competition? Evidence from a bachelor's degree requirement for legislators in Pakistan." *Public Choice* 161, no. 1 (2014): 51-72 .

exempted from disqualification by legislation passed by Parliament, then they will be disqualified from further participation in the legislative process.³⁹⁷

3.7 Legal Framework: Qualification and Disqualification of Members of Houses

The Legal frame work is established through the constitution of India and various legislative acts for qualification and disqualification of individuals from becoming members of Parliament and State Legislatures, primarily the Representation of the People Act, 1951.

3.7.1 Representation of the People Act, 1951

In 1950 and 1951, India passed the landmark "Representation of the People Act" to define the parameters for holding elections and the requirements for state assembly and parliamentarians. Nonetheless, in order to fortify the democratic process, both Acts were subsequently revised to fill in key inadequacies. Voter eligibility, constituency demarcation, and the distribution of seats in the Lok Sabha and state legislatures were all outlined in the Representation of the People Act, 1950. Some issues, like electoral malpractices, candidate behaviour, and the dismissal of MPs for misconduct, were not sufficiently addressed, nevertheless. In 1951, lawmakers passed the Representation of the People Act in an effort to fill these voids. In order to avoid electoral fraud, this legislation laid up specific measures, such as the regulation of petitions, the management of election expenditures, and the disqualification of candidates for corrupt practises. Its goal was to establish strict safeguards to prevent electoral malpractices and guarantee free and fair elections. Political instability and opportunistic shifts in loyalty resulted from the Acts' absence of explicit measures to prohibit elected representatives from defecting.

In 1985, the Anti-Defection Law was introduced through the 52nd Amendment Act of the Constitution, to prevent elected officials from leaving their party or from disobeying party orders without prior approval in order to reduce political defections. The legislation was to make political parties more accountable to one another and to make it harder for people to suddenly change their sides, which might destabilise governments and the democratic process.

The Representation of the People Act, 1950' which defines "Assembly constituency" as a constituency provided by law for elections to the Legislative Assembly of a State. "Council

³⁹⁷ Kumar, V. "Democracy 'Only for the Haves' in Local Self Governance." 5 Journal of National Law University Delhi 99 (2018).

constituency” implies a constituency established for elections to the Legislative Council of a State³⁹⁸.

3.7.2. Ordinarily resident and its applicability for Qualification and Disqualification

Having a home in a constituency does not mean that a person is considered to be a "regular" resident there. A person who is temporarily away from his or her usual place of residence does not lose his or her status as an ordinary resident as a result of that absence. At no point during their term in office can an elected official's residency in the constituency where they were registered as an elector at the time of their election as such a member be forfeited because of the time they are required to spend away from that constituency performing their duties as such a member. People who are in institutions for the treatment and care of people who are suffering from a mental disease or mental deficiency, as well as those who are in jail or other legal custody, are not considered to be typically residents of such places. 3[(3) Any person with a service qualification will be assumed to be usually resident on any day in the constituency in which he would have been ordinarily resident on that date but for his having such a service qualification. On any day on which he would have been habitually resident had he not held any office, he shall be assumed to be ordinarily resident 5 in the constituency in which, but for the holding of any such office 6, he would have been ordinarily resident on that date." A claim by any person who is referred to in subsections (3) or (4), that 8[but for his service qualification] he would have been ordinarily residing in any specified place 10 on any given date, shall, in the absence of any evidence to the contrary, be 8[accepted as correct] if it is made in the prescribed form and verified in the prescribed manner. Under sub-section (3) or sub-section (4), any person's wife who lives with him or her is regarded to be usually resident in the constituency designated by him or her under subsection (1). (5). Whenever the issue of a person's usual residence comes up, the Central Government consults with the Election Commission to establish guidelines that take all relevant facts and circumstances into account before making a decision.³⁹⁹

In sub-sections (3) and (5) “service qualification” means a member of the Union's Armed Forces; an employee of the Indian Government; or a person employed by the Government of India in a position outside India. The Army Act, 1950 (46 of 1950), has been made applicable

³⁹⁸ *The Representation of the People Act, 1950 (Act 43 of 1950)*, s. 3.

³⁹⁹ Duncan JS, and Ley D. *Place/culture/representation* (Routledge, 15 April 2013).

to all of these positions. Regardless of whether the Army Act, 1950 (46 of 1950), has been modified or not.

3.7.3. Special provisions for citizens of India residing outside India

Notwithstanding anything contained in this Act, every citizen of India who does not appear on the electoral register? India's passport-holders who have not been granted citizenship of any other country but who have been temporarily or permanently residing outside the country due to their occupations, educational pursuits, or any other reason are entitled to have their names registered on an electoral roll for the constituency where they reside, even if they have not returned to India. The way and process for registering a person on the electoral roll by subsection (1) should be established, as shall the time limit for registering the names of those referred to in subsection (1). All registered voters in the constituency are entitled to cast their ballots in an election if they are otherwise eligible to do so.⁴⁰⁰

3.7.4. Preparation and revision of electoral rolls

The electoral roll for each constituency must be created by the regulations issued under this Act and shall take effect immediately upon its final publication. The electoral roll shall be revised in the prescribed manner by reference to the qualifying date before each general election to the House of People or the Legislative Assembly of a State, and before each by-election to fill a casual seat allotted to the constituency, and shall be revised in any year in the prescribed manner, unless the Election Commission directs otherwise for reasons to be recorded in writing. The legitimacy or ongoing functioning of the electoral roll will not be compromised if it is not amended in the manner described above. Accordingly, the Election Commission may mandate a special revision of any constituency or portion of a constituency's electoral register at any moment for any reason it deems appropriate: To the extent permitted by law, the electoral roll for a district must remain in effect until the completion of any special revision so instructed, as long as the other requirements of this Act are followed.⁴⁰¹

Legislation to govern the conduct of elections to the Houses of Parliament and each state legislature, the qualifications and disqualifications for membership in those Houses, the corrupt practices and other offenses at or in connection with such elections, and the resolution of doubts and disputes arising from or in connection with those elections.

⁴⁰⁰ McKibbin R. *The Ideologies of Class: Social Relations in Britain 1880-1950* (Clarendon Press, 5 April 1990).

⁴⁰¹ Pearce L.G., "Black students in England 1950-2000: representation, identity" 5(2) *New Vistas* (2019).

This piece of law was first enacted in 1951 and was given the name the Representation of the People Act. Every expression that is stated in section 2 of subsection (1) of section 27 (43 of 1950), but is not defined in this Act, is to be given the same meaning as it is given in that Act unless the context requires something different. A vote for "Appropriate authority," is cast during an election for a seat in the House of People, while a vote for "Appropriate authority." is cast during an election for a seat in the Legislative Assembly or Legislative Council of a state.⁴⁰² This role is referred to as a chief electoral officer under Section 13A of the Representation of the People Act of 1950, which is the governing statute for the country. This refers to any of the activities that are outlined in Section 123, which is titled "corrupt practice." The person who is appointed or nominated by the provisions of Section 13AA of the Representation of the People Act of 1950 is referred to as the "district election officer" An election takes place outside of the state of Jammu and Kashmir to fill a seat in the state's Parliament or House of Representatives in a state other than Jammu and Kashmir. This kind of election is what the researcher refer to when they said: "election" An individual is considered to be an "elector" if their name is presently included on the electoral register of a certain constituency and if they are not prohibited from voting in that constituency by section 16 of the Representation of the People Act of 1950.⁴⁰³

A Parliamentary, Assembly, and Council constituent; an Assembly constituent; a Council constituent; a Local Authority constituent; and a Graduates and Teachers constituent are all to be deemed to be distinct types of constituencies by this Act. Unless otherwise specified in this Act, each notification, order, rule, declaration, notice, or list that is issued or made by any authority shall be published in the Official Gazette. By this Act, separate rules and regulations may be implemented for the many different sorts of situations or categories of cases that may arise.⁴⁰⁴

3.7.5. Qualification for membership of the Council of States

To be eligible to represent a state or territory in the Council of States, an individual must be a registered voter in a Parliamentary constituency.

⁴⁰² Rajeev S., "Thematic analysis on the Indian Representation of People's Act, 1951" 7(3) International Journal of Human Rights and Constitutional Studies 209 (2020).

⁴⁰³ "Representation of the People Act of 1950, Sec 13"

⁴⁰⁴ Jhingta, H. R., "Corrupt Practices under the Representation of the People Act 1951 - A Study of Judicial Interpretation and Social Perception".

3.7.6. Qualifications for membership of the House of the People

No one may be considered for election to the House of Representatives unless-

In the case of a seat reserved for an autonomous district of Assam, he is a member of a 2 [Scheduled Tribe of any autonomous district] and an elector for the Assembly constituency in which such seat or any other seat is reserved for.

3.7.7. Qualifications for membership of the Legislative Assembly of Sikkim

Regardless of section 5, a candidate for a seat in the Legislative Assembly of Sikkim (considered to be the Legislative Assembly of that State duly constituted under the Constitution) must be a Sikkimese of Bhutia or Lepcha ancestry and a registered voter in an Assembly constituency other than the constituency.

If a seat reserved for Sikkimese of Bhutia-Lepcha heritage is to be filled after implementation of the Representation of the People (Amendment) Act, 1980 (8 of 1980), a person must be a Sikkimese who is either of Bhutia or Lepcha ancestry and a registered elector in any assembly in Sikkim. This is even though section 5 says otherwise.⁴⁰⁵

3.8 Conviction for Corrupt Practices

If a person is found guilty of committing an offense that is punishable under section 171E or section 171F of the Indian Penal Code, or under section 125 or section 135 or clause (a) of sub-section (2) of section 136 of this Act, then that person will not be eligible to vote in any election for six years following his conviction. This provision applies to anyone who has been found guilty of committing such an offense after the beginning of this act. 7 In the case that a President decides by paragraph (1) of Section 8A, a person is disqualified from taking part in any elections for the duration of the remaining time in that term. The petition that is filed by a person under sub-section (2) of section 8A regarding any disqualification for being elected to either House of Parliament or of the Legislative Assembly or Legislative Council in a State shall, so far as may be, apply to the disqualification for voting at any election that was incurred by him under clause (b) of sub-section (1) of section 11A of this Act as it stood immediately before the date of the petition.⁴⁰⁶

⁴⁰⁵ Alam, M., *Electoral fairness and courts_ a study of corrupt practices under the representation of the people act 1951*.

⁴⁰⁶ Bradley, A. W., and Ewing, K. D., *Constitutional and Administrative Law* (Pearson Education, United Kingdom, 2007).

3.9 Disqualification for membership: Representation of the People Act, 1951

The eligibility to become a member of the Parliament and State Legislatures in India is regulated by several sections of the Representation of the People Act, 1951. These sections describe various circumstances that disqualify one from voting or from being a candidate in election and or a member of any legislative assembly. Four sections namely, section 8, 9, 10 and 10A are relevant with regard to this issue. The section 8 of the Act focuses on disqualification on conviction for certain offences⁴⁰⁷. It provides that persons convicted of offences like incitement to hatred and antagonism between different groups of the population, bribery and other grave crimes and, in particular, connected with corruption and terrorism, cannot participate in elections for a certain period of time and this period depends upon the severity of the committed offence⁴⁰⁸. This provision is important in purging the political arena and taking care that allies of criminal charges occupy any political office. Section 9 relates to the grounds of disqualification on the basis of corruption and disloyalty. They are; it lays down a provision that anyone convicted of corrupt practices in elections or dismissed from the public service for corruption or antistate activities is barred for a period. This section helps in promoting ethical standards as well as commitment to the nation among the governor's representatives as a way of maintaining the integrity of the democratic system.

Disqualification for failure of the dealings of accounts of election expenses: Section 10. It also requires that a candidates who have not presented his/her election expenses return within the set timelines, automatically barred from standing for the next three years. This provision makes it easy for everyone to see how the voting process is conducted and reduces any chances of the use of 'black money' in elections leading to a level playing field for everybody⁴⁰⁹. Section 10A is specifically on the disqualification of having a subsisting contract with the government⁴¹⁰. Persons who are entered in the lists of contractors for the supply of goods or execution of works undertaken by state bodies and local self-government are deprived of the right to be elected as representatives to the Parliament or State Legislatures. This section is meant to avoid situations when representatives of the public are involved in corruption – when they use their

⁴⁰⁷ Baruah, S., *In the Name of the Nation: India and its Northeast* (Stanford University Press, Stanford, 2020).

⁴⁰⁸ Singh, K.J., Chiero, V., et.al., "Identifying the trend of persistent cluster of stunting, wasting, and underweight among children under five years in northeastern states of India" *Clinical Epidemiology and Global Health* 18 101158 (2022).

⁴⁰⁹ Basu, J. and Majumder, S., "Identification of seven low-resource North-Eastern languages: an experimental study", in *Intelligence Enabled Research: DoSIER 2019* 71-81 (Springer Singapore, 2020).

⁴¹⁰ Davis, C.H., Ho, J., et.al., "Covid-19 is affecting the presentation and treatment of melanoma patients in the Northeastern United States" *Annals of surgical oncology* 1-7 (2022).

positions to make money for themselves. These sections also working together helps to maintain the set standard of ethical levels of elections and aptly places individuals in the legislative bodies of India who are dedicated to the cause of democracy and public service.

3.10 Grounds for Disqualification under the R.P. Act 1951

The Representation of the People Act, 1951 enumerates several grounds due to which a person can be disqualify oneself for being a Member of Parliament or a State Legislature and have impeccable moral character. These grounds are necessary to sustain the democratic principles among the elected representatives as well as public faith⁴¹¹. The conviction for certain offences is one of the mainly recognised reasons for disqualification under the Act. Section 8 also lists crimes whereby a person can be barred from voting including corruption, terrorism, and actions meant to create hostility between two groups of the population. This provision keeps the ex-convicts away from holding any public office and therefore has the best ethics that any legislatively processing country should embrace⁴¹². Corrupt practices and other forms of betrayal to the state are also other core variants of the candidate's disqualification. Section 9 does this disqualifying persons who have corrupted practices during an election, those who have been dismissed from the government service due to corruption or disloyalty.

Another ground in respect of which a candidate might be disqualified is non-filing of accounts of election expenses. Section 10 also lays down the provision that the candidates who fail to submit the election expenses accounts within due time then they are barred for three years. This provision also enhances transparency in the electoral process in the sense that Financial regulation is implemented meaning that any Malpractice is curbed⁴¹³. Applicants found with a subsisting contract with the government feel the heat and might be disqualified from participating in the tender⁴¹⁴. Subsection 10A excludes one who has any contract for the supply of goods or the execution of works supplied or provided by the government. This is done in order to avoid situations where these elected bodies end up waging personal baits against one another as well as check the influence of the holding of other power positions in an attempt to seek more powers for personal gains. The passages of Section 16, 19 & 20 under the

⁴¹¹ Cassim, R., "A Comparative Discussion of the Judicial Disqualification of Directors under the South African Companies Act" 65 Journal of African Law 87 (2021).

⁴¹² Lynch, M. S., "Disloyalty & Disqualification: Reconstructing Section 3 of the Fourteenth Amendment" 30 Wm. & Mary Bill Rts. J. 153 (2021).

⁴¹³ Sharma, V., "Office of Profit as a disqualification in India: A Critical Analysis" 2 Jus Corpus LJ 633 (2021).

⁴¹⁴ Takayanagi, M., "The Sex Disqualification (Removal) Act 1919: Its Origins, Passage, and Significance for Working Women", in The Evolution of the Gender Pay Gap 23 (Routledge, 2024).

Representation of the People Act of 1951 are central to the ethics of the electoral political system of India thereby making sure legislative houses do not comprise of a diversity of crooks and anti-democrats.

3.11 Delimitation Commission and its powers under Delimitation Act

Delimitation Commission orders relating to the delimitation of parliamentary and assembly constituencies in all States and Union Territories, except the States of Arunachal Pradesh, Assam, Jharkhand, Manipur, and Nagaland, were published in the Official Gazette and referred to in sub-section (5) of section 4 and sub-section (3) of section 7 of the Delimitation Act. as required to bring the description of the extent of parliamentary and assembly constituencies as provided in such orders up to date, but without changing the scope of any such constituency. The President's orders under section 10A of the Delimitation Act, 2002 (33 of 2002) relating to the delimitation of parliamentary and assembly constituencies in the States of Arunachal Pradesh, Assam, Manipur, and Nagaland, and the provisions of section 10B of the said Act relating to the delimitation of parliamentary and assembly constituencies were taken into consideration. The House of People or the Legislative Assembly of a State, as the case may be, should be notified of the receipt of the Order as soon as possible by the Central Government or the Government of a State.⁴¹⁵

Sub-section (1) of the orders referred to in sub-section (5) of section 4, or as the case may be, section 7 shall not, 19 [as provided in section (5) of section 10 of the Delimitation Act, 2002 (33 Of 2002)], affect the representation in and the territorial constituencies of, House of the People or Legislative Assembly existing on the date of publication in India of any such order or ordain. Delimitation of Parliamentary and Assembly Constituencies in the States of Arunachal Pradesh, Assam, Manipur, or Nagaland.

The President can revoke the deferment order issued under the provisions of section 10A of the Delimitation Act, 2002 (33 of 2002) about Arunachal Pradesh or Assam or Manipur, or Nagaland, and allow the Election Commission to conduct delimitation exercises in the State by rescinding the deferment order. The Election Commission may, by order, designate the parliamentary seats into which the State to which more than one seat is assigned in the First Schedule shall be split as soon as possible after the deferral order in respect of a State is

⁴¹⁵ Jawahitha S., “*Electronic Contract in the Malaysian Contracts Act 1950: An Analytical Comparison with the EU Directive on E-Commerce and the US Uniform Computer Information Transaction Act 1999*” 24 Business Law Review 121 (2003).

withdrawn under subsection. Allotted seats for the Scheduled Castes and Scheduled Tribes in each constituency, if any are available.⁴¹⁶

Subsection (1) of the Delimitation Act, 2002 (33 of 2002) mandates that the Election Commission determine the parliamentary and assembly constituencies in the states of Arunachal Pradesh, Assam, Manipur, and Nagaland in which seats shall be reserved, if any, for the Scheduled Castes and the Scheduled Tribes by the Constitution.

On or after the date designated by the Election Commission, it shall further evaluate the proposals under sub-sections (2), (3), and (4) about any State, and shall publish the proposals in the Official Gazette and also in such other way as it deems appropriate. For this purpose, if it deems it appropriate, hold one or more public hearings at such a location or locations in such a state.⁴¹⁷

Once all objections and suggestions have been considered, the Commission shall issue an order determining the boundaries of parliamentary constituencies and assembly districts in the State and determining, if necessary, which seats will be reserved for Scheduled Castes and Scheduled Tribes; and, upon publication of this order, it shall have the force of law. Sub-sections (1) and (2), and clause (e) of sub-section (5), must be brought before each House of Parliament for any order issued under these provisions. Whenever an order is issued under sub-section (1), (3), and (5), it must be presented to the Legislative Assembly of the State concerned as soon as possible following publication under that sub-section.⁴¹⁸

3.11.1 Allocation of seats in the Legislative Councils

The Third Schedule shows the distribution of seats in the Legislative Councils of States with Legislative Councils. As stated in Article 17's third sub-clause (a), (b), and (c), the number of seats in the Legislative Council of each state listed in the first column of the Third Schedule must be the number of seats to be filled by the electorates referred to in sub-clauses (a) and (b) of clause (3) of Article 17. People who are not members of the State's Legislative Assembly may fill seats designated for them in the sixth column, and those designated for nomination by

⁴¹⁶ Kesslering RG, *A Case Analysis of Section 8 (a)(2) of the Taft-Hartley Act, 1950 to 1974* (The University of Oklahoma, 1980).

⁴¹⁷ Wade EC., "*The British Constitution in 1950*" 4 Parliamentary Affairs 206 (1950).

⁴¹⁸ Bradley AW and Ewing KD., *Constitutional and Administrative Law* (Pearson Education, 2007).

the State's Governor 1 may fill seats designated for them in the seventh column, as provided for in the provisions of Article 171's clause (5).⁴¹⁹

Delimitation of Council constituencies. As soon as may be after the commencement of this Act, the President shall, by order, determine

Clause (3) of Article 171 provides that each state with a Legislative Council should be split into constituencies for elections to such council. Each constituency's size, as well as the number of seats given to it.

3.11.2. Power to alter or amend orders

Alter or modify any order issued by the President under Section 11 of 2 Section 11 from time to time, after consultation with the Election Commission. There may be provisions in an order under subsection (1) to allocate any member already representing a constituency to any new or amended constituency, as well as any other related items that the President deems essential to be included.

3.11.3. Procedure as to orders delimiting constituencies

Whenever an order under 3 sections 11 or section 12 is made, it must be presented to Parliament as quickly as possible, and Parliament may modify it within twenty days of the day on which it is presented.⁴²⁰

The chief electoral officer for each state must be a government official designated or nominated by the Election Commission in collaboration with that government. The chief electoral officer is responsible for overseeing the preparation, review, and correction of all of the states electoral

3.12 Qualification and Disqualification of the Member of Parliament and State Legislatures

3.12.1 Qualification for becoming member of Legislative Council.

A person cannot be selected to fill a vacancy in a state's Legislative Council by-election unless he is a registered voter in that state's Assembly constituency. No one may be nominated by the

⁴¹⁹ Post, G. A., "A Roman Legal Theory of Consent, *Quod Omnes Tangit, in Medieval Representation*", Wisconsin Law Review 66 (1950).

⁴²⁰ Meisel, J.S., "A magnificent fungus on the political tree: the growth of university representation in the United Kingdom, 1832–1950", 23(1) History of Universities 109 (2008).

Governor to serve in a state's Legislative Council unless he or she is a regular resident of that state.

"Appropriate Government" refers to the Central and State Governments, respectively, when it comes to any disqualification for being elected to either House of Parliament or elected to the Legislative Assembly or Legislative Council of a State. As a member of either House of Parliament, the Legislative Assembly, or the Legislative Council of a State, a "disqualified" person is not eligible to serve.⁴²¹

3.12.2. Disqualification for becoming the Member of Parliament and State Legislatures

Conviction for serious offenses

Offences punishable by the criminal code include—but are not limited to—section 153A (offence of promoting enmity between different groups on the basis of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintaining harmony) or section 171E (offence of bribery), section 171E or section 171F (offence of undue influence or personation at an election), and sub-sections (1) and (2) of section 376 (offences punishable by the criminal code include but are not limited to) 2, 3, or 4 [(k) Section 2 (injury to the Indian National Flag and Constitution) or Section 3 [(injury to the National Anthem)] of the Prevention of Insults to National Honour Act, 1971 (69 of 1971): If the convicted person is sentenced to only fine or imprisonment, he or she will be disqualified from serving in any capacity for six years from the date of conviction; or if the convicted person is sentenced to imprisonment, he or she will continue to be disqualified for a further six years since his or her release from prison.⁴²² (a) any law that prohibits hoarding or profiteering; (b) any law relating to the adulteration of food or drugs; (c) any provisions of the Dowry Prohibition Act, 1961 (28 of 1961); A person who has been convicted and sentenced to imprisonment for not less than two years [other than any offense referred to in sub-section (1) or sub-section (2)] shall be disqualified from the date of conviction for any office under this Act. The disqualification imposed by either subsection will not take effect until three months have passed since the date of the conviction, regardless of whether or not an appeal or application for revision is filed in

⁴²¹ Chandidas R, “*Changing Geography of Representation: Parliamentary Constituencies from 1951 to 1966*” *Economic and Political Weekly* 1581-90 (1968).

⁴²² Sarin HL, *Indian Election Law* (1951).

respect of the conviction or the sentence within that period [as provided for in subsections (1), (2), or (3)].⁴²³

The term "law providing for the prohibition of hoarding or profiteering" refers to anything that has the force of law that regulates the production or manufacturing of a necessary commodity or the control of the price at which a necessary commodity may be purchased or sold. a restriction on the selling of any important product that is normally retained for sale The 1940 Drugs and Cosmetics Act defines the term "drug" (23 of 1940) The definition of "essential commodity" is given by the Essential Commodity Act of 1955. (10 of 1955) The Prevention of Food Adulteration Act of 1954 defines the term "food" (37 of 1954).⁴²⁴

3.12.3. Involvement in Corrupt practices

Anyone found guilty of corrupt practice by an order issued under section 99 must have their case submitted to the President, through the authority that the Central Government specifies in this regard, for determination of whether or not they should be disqualified and for how long: 2 Provided that no person may be disqualified under this sub-section for six years from the date of the order issued in respect to him under section 99. Election Laws (Amendment) Act, 1975 (40 of 1975) Section 8A of this Act, as it existed before the Amendment Act, allows a person to petition the President for the removal of their disqualification for any unexpired part of that term. Preliminary advice from the Election Commission is required before the President makes any decision under paragraph (1) or on any petition filed under subsection (2). The President must then act on such advice.⁴²⁵

3.12.4. Moral Turpitude

Corruption or disloyalty to the state may disqualify a former official from holding public office for five years after their expulsion from their previous position in government. The Election Commission's certificate that an individual has held office under the Government of India or the Government of a State and was or was not dismissed for corruption or disloyalty to the State is conclusive proof of this fact for subsection (1). However, no certificate stating that an individual has been dismissed for corruption or disloyalty to the State shall be issued without the express consent of the Election Commission.

⁴²³ Srinivasan, S. and Shekhawat, S., "*India In-Between: Culture and Nation Representation in Jean Renoir's Film the River (1951)*" 39 Quarterly Review of Film and Video 289-307 (2022).

⁴²⁴ Fliess P.J., "The electoral system in Britain, 1918-1951, by DE Butler" 14 Louisiana Law Review 20 (1954).

⁴²⁵ Jhingta, H.R., *Corrupt Practices in Elections: A Study Under the Representation of the People Act, 1951* (Deep & Deep Publications, 1996).

3.12.5. Personal Interest and Involvement in Government contracts, etc

If, and for as long as, he has a contract with the relevant government for the delivery of products to, or the performance of any work done by, that government, he will be disqualified.

Explanation When a contract is completely completed by the person who entered into it with the proper government, the contract shall be regarded to be void because the government has not fully or partially performed its share of the contract.⁴²⁶

3.12.6. Possessing Office of Profit

Anyone who holds a position of authority in a firm or corporation (other than one organized as a cooperative society) in which the relevant government has a stake of at least twenty-five percent is ineligible to run for office.

3.12.7. Failure in filing election expenditure

A person who fails to provide an account of election expenses within the time and manner required by or under this Act, and who has no good reason or justification for the failure, will be disqualified for three years from the date of publication of the order.⁴²⁷

3.12.8. Returning officers include assistant returning officers performing the functions of the returning officer.

Wherever this Act refers to the returning officer, it is taken to include an assistant returning officer who is authorized to carry out any duty under Section 22 (2) sub-section (2).

3.12.9. General duty of the returning officer

It shall be the general duty of the returning officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and rules or orders made thereunder.

3.12.10. Provision of polling stations for constituencies

There must be a sufficient number of polling stations for every constituency in which the district election officer has jurisdiction, and those polling stations and their respective polling areas or groups of voters must be published in such a manner as is prescribed by the Election Commission by its directives.⁴²⁸

⁴²⁶ Bhalla R.P., “*Electoral Mechanism in India (1951-1971)*” 33 The Indian Journal of Political Science 27 (1972).

⁴²⁷ McKibbin R., *Parties and people: England 1914-1951* (OUP Oxford, 2010).

⁴²⁸ Hogan WN, “*Public and Republic: Political Representation in America*”, 26 Indiana Law Journal 10 (1951).

3.12.11. Appointment of presiding officers for polling stations.

He must designate one presiding officer for each polling station, as well as any additional polling officers he deems necessary, but no one who has worked for or on behalf of any candidate in or around the election may be appointed as a polling officer. Provided, however, that in the event of the absence of a polling officer from the polling station, the appointing officer may appoint any person present at the polling station other than a person who has been employed by or on behalf of, or has otherwise worked for, a candidate in or about the election, to serve as a polling officer, and report this to the [district election officer].⁴²⁹ For this reason, the [district election officer] may designate the same individual to preside over many polling stations in the same location. Polling officers may, at the presiding officer's direction, fulfill all or part of the tasks of a presiding officer under this Act or any regulations or orders established thereunder.) Whenever the presiding officer is unable to attend a polling station due to sickness or other unavoidable circumstances, his duties must be undertaken by a polling officer who has been previously authorized by the [district election officer] to do so. In this Act, the term "presiding officer" refers to any person who is authorized to execute any duty under sub-section (2) or (3), as the case may be unless it is explicitly stated differently.⁴³⁰

3.12.12. The returning officer, presiding officer, etc., deemed to be on deputation to Election Commission

Election officials, including those named in this section, as well as any police officers currently designated by the State Government to conduct elections, shall be deemed to be on deputation to the Election Commission for the period beginning on the date of notification calling the election and concluding on the date of the declaration of the results of that election...

3.12.13. Special provisions in the case of certain elections.

With the prior approval of the Election Commission, the returning officer for an election 4 to fill a seat or seats in the Council of States or for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the State Legislative Council shall, in such manner as the Election Commission may direct, notify the place where the poll is to be taken for such election. During the election, the returning officer will preside over it at the designated location

⁴²⁹ Naylor JF, "The Foreign Policy of the British Labour Governments, 1945–1951" 17 Albion 384 (1985).

⁴³⁰ Sapiro V, "When are interests interesting? The problem of political representation of women" 75 American Political Science Review 701 (1981).

and appoint polling officials as needed, but he cannot select anybody who has worked for or on behalf of a candidate during or in connection with the election.⁴³¹

3.12.14. Registration with the Election Commission of associations and bodies as political parties.

To make use of the provisions of this section, every political party that calls itself a political party and is made up of citizens of India must submit an application to the Election Commission for registration.

Any such application must be filed within sixty days of such commencement or, if the organization or body is founded after that time, within thirty days of the date of its creation, if it was formed before the beginning of the Amendment Act of 1988. When applying subsection (1), all applications must be signed by the association's or body's chief executive officer (whether such chief executive officer is designated as the Secretary or by any other name).⁴³²

Application for membership in an organization must include all relevant information, including the name of the organization, the state in which its headquarters are located, the address to which letters and other communications intended for the organization should be sent the names of its president, secretary, treasurer, and other office-bearers the number of members, and if there are different categories for its members, the number of members in each category.

Applicants must provide a copy of the organization's rules and regulations, as well as a statement attesting to the group's commitment to the Indian Constitution, socialism, secularism, and democracy.⁴³³

The Commission may request more information from the association or organization as it sees proper. Any other relevant and necessary factors, as well as the opportunity for hearing from representatives of the association or body, the Commission shall decide whether or not to register it as a political party for this Part, and it shall communicate its decision in writing to the association or body by this Section: As long as the organization's bylaws or memoranda comply with the requirements of this subsection, it may be registered as a political party under this subsection (5). The Commission's judgment will be binding and conclusive. The

⁴³¹ Bakshi, P.M. and Kashyap, S.C., *The Constitution of India* (Universal Law Publishing, 1982).

⁴³² Coleman, S., "New Mediation and Direct Representation: Reconceptualizing Representation in the Digital Age" 7 *New Media & Society* 177 (2005).

⁴³³ al-Shammari NA, and Dali AM, "The Indian Election of 1951: First Test as a New Independent Democratic State" 27 *SEJARAH: Journal of the Department of History* 25 (2018).

Commission must be informed of any changes in the political party's name, headquarters, office-bearers, address, or any other important item as soon as possible.⁴³⁴

Demands to change the rule banning defections have been heightened by the BJP's ability to secure a majority in Uttar Pradesh. In light of the Bharatiya Janata Party's victory in Uttar Pradesh thanks to the support of defectors from other parties, the Anti-Defection Act, which is included in the Constitution's Tenth Schedule, has come into sharp attention. As long as loopholes in the legislation existed, they had long been known, but the most recent obvious exploitation of them has made the issue much more urgent. I.K. Gujral has scheduled a meeting of party leaders on November 10th. Members of parliament agreed that changes are needed to the statute; a background paper developed by the Lok Sabha Secretariat will be debated in Parliament's winter session.

When Rajiv Gandhi was Prime Minister in 1985, the legislation gave the Speaker or Chairman of the House the authority to determine whether or not a member who deviates from the party line should be disqualified. If a defector refuses to vote by party instructions or willingly renounces his party membership, he or she risks being disqualified. If an independent member joins a political party, they too risk being disqualified from running for office.

Splits and mergers among political parties are both recognized under the law. To declare a split, at least one-third of the legislative party's overall membership must leave the party for another one. As long as more than two-thirds of the members of a party elect to join another party, the remaining members of the parent party will not be disqualified for their positions as lawmakers.⁴³⁵

Recently, a government memo said that the legislation had failed in its goal of stopping large-scale defections. On the other side, the legislation has been criticized for restricting members' freedom of expression and action, including their right to vote, by limiting their powers, privileges, and immunities. Members who willingly renounce their party membership should not be disqualified from voting, according to the 1990 report of the Dinesh Goswami Committee on Electoral Reforms, created by the V.P. Singh government. Disqualification should be applied when a member violates the party whip regarding a vote of confidence or

⁴³⁴ Marshall J, "The 1951 Census of Canada" 42 Canadian Journal of Public Health 317 (1951).

⁴³⁵ Littler J., 'Festering Britain': the 1951 Festival of Britain, decolonisation and the representation of the Commonwealth. In Visual culture and decolonisation in Britain 21-42 (Routledge, 2019).

no-confidence or a money measure or the vote of gratitude to the President's speech, the committee recommended.

According to the committee's recommendation, the President or Governor should have the authority to disqualify a candidate under the Act, and they should follow the opinion of the Election Commission in making their decision.

Ex-Lok Sabha Speaker Shivraj Patil told Frontline that the law's need for the acknowledgment of divisions was included to avoid stifling reasonable disagreement.⁴³⁶

An amendment proposed by the Parliamentary Affairs Minister, Srikant Jena, during a meeting of the U.F. Steering Committee on November 5 would prevent the early dissolution of the Lok Sabha and the State Assemblies. Defections, in his judgment, would be discouraged by such a step. In contrast, the Marxist Communist Party of India (Marxist) argued against this, arguing that the danger of dissolution would no longer be a motivating factor for MPs and MLAs to defect. However many members defect or violate a party whip, and the CPI(M) and CPI advocate for immediate dismissal in all cases of defection.

At this stage, certain members of the Janata Dal are opposed to altering the statute. To pacify the Congress, this faction, headed by former Prime Minister H.D. Deve Gowda (who is said to have an interest in Karnataka politics), urged against altering the Constitution too quickly. Another segment of Congress supported a plan to make it essential for one-half of the legislative party to defect for a split to be recognized by the government. The Left did not like it.

Ramachandran Pillai said his party supported an amendment to guarantee that the decision on accused defectors was done within a fair period. – S. Ramachandran Pillai, CPI(M) Rajya Sabha member and member of the party's Polit Bureau In the event of disqualification due to defection, the Election Commission would be involved in the decision-making process, "The Speaker can be removed by a majority of the members of the House; hence he cannot be impartial." Ramachandran Pillai observed. Defection from any party, regardless of size, should

⁴³⁶ Shani O., "Women and the vote: Registration, representation and participation in the run-up to India's first elections, 1951–52" 44 South Asia: Journal of South Asian Studies 228-46 (2021).

result in the loss of their seats, according to a top BJP official. However pragmatically possible, the party has decided on this course of action.⁴³⁷

Rabi Ray proclaimed 28 Janata Dal members "unattached" in November 1990, after they were expelled by V.P. Singh as the party's leader in Parliament, as a result of their expulsion. However, members who have been expelled from a party are not automatically disqualified under the legislation.

The Janata Dal(S) led by Chandra Shekhar, which had 54 members of the Janata Dal Parliamentary Party, was recognized by Ray thereafter. The 28 "unattached" members were included in this total of 54. V.C. Shukla and four other Janata Dal ministers who had defected to the Janata Dal during the Chandra Shekhar government were all dismissed by Ray, however (S). A breakup was therefore defined as a one-time event, in Ray's view.⁴³⁸

When Shivraj Patil was Speaker of the House, he took his time deciding on the divisions within the Janata Dal. He waited nine months to make his decision in the first break between Ajit Singh and 20 other MPs from the Janata Dal. It took Ajit Singh two years to acknowledge that seven of his supporters had left his party.

As a result of the split in the party's organizational wing, the legislation mandates that the party's legislative wing likewise separate. Speakers may not be able to tell whether there has been a rift in the party's hierarchy, say observers.

If MLAs were dismissed by the Karnataka Speaker after the collapse of the Congress-JD(S) government, the issue arises as to whether they may participate in upcoming by-poll elections. A significant question marks the Speaker's claim that those who have been disqualified from running in elections would not be able to do so for the remainder of the current Assembly's tenure

Articles 102 and 191 of the Constitution refer to the penalties of disqualification. There is nothing in these articles that says a person cannot serve in the Legislature if they are prohibited from doing so under the Tenth Schedule. Floor-crossing disqualification means that he will no longer be able to serve in the House of Representatives.⁴³⁹ Articles 75(1)(B), 164(1)(B), and

⁴³⁷ Khanna K, and Shah D, "Anti-defection law: a death knell for parliamentary dissent?" 5 NUJS L. Rev. 103 (2012).

⁴³⁸ Guruvayurappan D, "Rethinking Defection: An Analysis of Anti-defection Laws in India" Parliamentary Affairs (Oct 25, 2021).

⁴³⁹ Nikolenyi C., "Government Termination and Anti-Defection Laws in Parliamentary Democracies" West European Politics 45, 638 (2022).

361(1)B of the Representation of the People Act do not include an embargo on a disqualified member under the Tenth Schedule in contesting those Articles. Those articles, which are identical in wording, state that a member who has been disqualified from holding office as a minister remains disqualified until the end of his or her term as a member of Parliament or the Legislative Assembly, whichever comes first, or until the date on which he or she is declared elected to either house of Parliament or the Legislative Assembly, whichever comes first. A similar tone may be seen in Art. 361(B). However, the ineligibility alluded to therein pertains to the assumption of any profit-making position.⁴⁴⁰

As a result of these provisions in the Constitution, a defection-related disqualified lawmaker may now run for re-election during his or her vacation from the office. When all of these provisions are taken into consideration, the one disqualification that stands out is that the candidate must have held a ministerial position before being elected. As long as the term of the Assembly is up or until the representative is officially elected, the disqualification might remain. The disqualified MLA may seek re-election in the by-election that follows after an examination of these Constitutional conditions. Instead of smaller "retail" defections, the absence of the split clause spurred political parties to plan large-scale defections (mergers) instead. Legislators began resigning from their positions in the House of Representatives to avoid being disqualified for positions in government.⁴⁴¹

There was an increase in the number of parliamentary secretaries in states due to the Council of Ministers' size limit. Political problems became a focus for the Speakers, who helped construct and dismantle administrations. For Speakers to rule on defection proceedings, the anti-defection statute does not prescribe a time limit. Speakers have either been fast to deliver judgment on defection procedures or have postponed action for years on end when politics dictated it.

Even after three decades, the anti-defection statute has failed to deter political defections in the Karnataka Vidhan Sabha. In the Anti-Defection statute, the Speaker of the House or the Chairman was granted broad and unlimited powers to adjudicate cases involving the disqualification of members due to defection, as per Schedule Rule 6 (the authority to the Speaker). The Speaker is still a member of the party that nominated him or her for speaker.

⁴⁴⁰ Kashyap, S.C., *Anti-Defection Law and Parliamentary Privileges* (1995).

⁴⁴¹ *Supra* Note 440.

As stated in Rule 7 of the Constitution, the courts are not allowed to examine the decisions of the Speaker about the disqualification of a member of a House, including the Supreme Court under Article 136 and the High Courts under Articles 226 and 227 of the Constitution.

The anti-defection legislation restricts the legislator's ability to oppose the incorrect actions of the party, terrible policies, leaders, and laws by putting the members of the party in a bracket of obedience in line with the norms and regulations of the party.

Members of Parliament are barred from serving in their political party if they "voluntarily give up" their membership. This is defined in Rule 2(1)(a) of the Tenth Schedule.⁴⁴²

Even though Rule 4 of the Tenth Schedule seems to give an exemption from disqualification of members in the circumstances of mergers, there appears to be some gap in the legislation. If a political party combines with another, this rule aims to protect its members provided that at least two-thirds of the members of the relevant legislative party have consented to the merger. The fault seems to be that the exception is based on the number of members, rather than the cause for the defection, rather than the number of people. The Representation of People Acts of 1950 and 1951 was passed by Parliament to ensure free and fair elections. In contrast to the first, the second focuses on the conduct of elections, including the qualification and disqualification of candidates, election offenses, and the allotment of seats.⁴⁴³

There are several loopholes, some of which are outlined in the following sections. It does not criminalize excessive or under-reported campaign spending. Candidate-related expenditures are covered under Section 77 of the RPA of 1951, not political party-related expenditures. As

⁴⁴² Sachdeva, P., "Combating political corruption: A critique of anti-defection legislation" 50 The Indian Journal of Political Science 157 (1989).

⁴⁴³ Gehlot, N.S., "The anti-Defection Act, 1985 and the Role of the Speaker" 52 The Indian Journal of Political Science 327 (1991).

a result, campaign expenditures are understated. Non-government companies and non-foreign people are allowed to make unlimited contributions to candidates under Section 29B of the RPA of 1951, and they do not need to be reported.⁴⁴⁴

3.13 Judicial Interpretation and Case Laws

Judicial interpretation is the method through which the courts establish the meaning of the Constitution, legislation, and legal words. In common law nations like the United States, Australia, and Canada, the highest courts may overturn laws established by their legislatures via a process called judicial review.⁴⁴⁵

The United States Supreme Court has given seminal rulings on a broad variety of subjects, including the validity of segregation in public schools (*Brown v. Board of Education*), the right to abortion (*Roe v. Wade*), and the legality of slavery (*Dred Scott v. Sandford*) (*Dred Scott*). Therefore, there is a political dimension to judges' interpretations of the constitution and their approaches to this role. Sometimes it's hard to pin down exactly what's meant by a word like "judicial conservatism" that's meant to describe a certain approach to interpreting the law. Different points of view may be found all over a spectrum extending from judicial restraint to judicial activism when considering the role of the courts in interpreting the law.⁴⁴⁶

The term "interpretation" may be expanded to include not just interpreting between different languages, but also between different legal systems. Depending on who does the interpreting, the law-making and law-enforcing processes may benefit from the interpretation or it can lead to illogical outcomes. The theory of interpretation must describe the possible gradation, build systems so it becomes a common language for all the people of law whether they are law clerks, doctrinaires, or clerks, and illuminate the reasons for these differences. Most of the time, the courts will adhere to a literal reading of the text. Juridical interpretation, legal interpretation, or governmental decree interpretation all mean roughly the same thing: they all refer to the process of attesting to or deciding upon the meaning of a legal or judicial text. Whether or not this process produces a satisfactory outcome is a contentious issue, with competing theories of interpretation providing widely divergent solutions.⁴⁴⁷

⁴⁴⁴ Tesfay, L.M., "Anti-Defection Laws in Ethiopia: Is There Any Constitutional Room?" 1 Indonesian Journal of Social and Environmental Issues (IJSEI) 227 (2020).

⁴⁴⁵ Bohra, A., and Dixit, S., "Revisiting Defamation: Examining the Ambit of 'Person Aggrieved' U/S 199 of Cr. PC" 3 *Supremo Amicus* 43 (2018).

⁴⁴⁶ Mughal J.R. and M. Ahmad, "Joinder of Charges Ch: XIX [Ss. 233-240 Cr. PC 1898]" (2012) SSRN 2111119.

⁴⁴⁷ Ahmad F., "Understanding Islamic Law in India: An Assessment of the Contribution of Justice V.R. Krishna Iyer: A Tribute" 57 *Journal of the Indian Law Institute* 307 (2015).

3.13.1. The interpretation - legal form

Laws, regulations, contracts, wills, sentences, and administrative actions are only a few of the many types of juridical texts that are susceptible to the activity of interpretation, and the resulting differences may be illustratively listed below. First, it's important to note that there are two unique kinds of interpretation: one deals with the law itself, while the other examines the historical context in which the law emerged. How we define "norm" affects how we understand the law and social norms. While the rule may be a normative document, its meaning and substance are revealed via legal interpretations. The norm is the outcome of the interpretive process rather than its subject.

With the restraint idea of interpretation, one assigns meaning to a normative text even if there are questions and debates about what that text means or how it should be applied. Given that "an interpretation which is not argued is not a true interpretation, but an intuitive understanding," the arguments are inseparable from this form of interpretation.⁴⁴⁸

Assigning an uncontroversial meaning to a normative text, or even resolving a small issue by doing so, might be argued to be different from an interpretation. Still, it should be emphasized that additional variables—including the entity that applies the norm—lead to clearer meaning. It's sufficient that the norm's meaning is obvious, but that one particular fact is disallowed from the application because, in the mind of the person enforcing the rule, that information is beyond the scope of the norm's authority, and we already have an interpretation, although a different one.⁴⁴⁹

This view is defended because every interpretation also entails enforcement and vice versa: any action of enforcing the law entails the activity of interpreting it. That which "has as its object the assessment of the significance of the sources of the law or the conferring on the assertions that comprise the sources of the law, the status of norms," is what we mean when we refer to interpretation. Therefore, the norms come from an action performed on normative texts: interpretation. Disposition and norm are distinguished as are normative texts and their accompanying meanings. Normative assertions that are part of the sources of law or the meaning of normative dispositions are characterized by the terms disposition and norm, respectively. Interpretation in the very extended sense, interpretation in the extended sense, and

⁴⁴⁸ Vashist L., *Book Review: Arrest, detention, and criminal justice system: study in the context of the constitution of India*.

⁴⁴⁹ Shukla D., *Law, Religion and State: Constitutional Discourse and Judicial Interpretation*, available at: SSRN 1873113 (2011).

interpretation in the limited sense, with an emphasis on the clear distinction between the dispositions and norms, are conceptual frameworks that can be used to configure and determine the meaning of the theoretical activity of interpretation.⁴⁵⁰

The extremely broad use of the term "interpretation" encompasses a wide range of heterogeneous activities, including interpretation in both its narrow and broad senses, which is synonymous with the concept of textual interpretation and other following processes. Since these actions go beyond the already accepted norms, they are categorized under the term "metatextual interpretation." Establishing that a subject document is a normative document that forms part of the sources of positive law; identifying the dispositions that apply to the case; determining whether the norm being applied is an imperative, suppletive, common, special, exceptional norm, or general principle; and resolving any resulting antinomies are all examples of such procedures.⁴⁵¹

In a broader sense, "interpretation" is the process of assigning meaning to legal provisions. Interpretation, in this narrow definition, is the process of assigning meanings to ambiguous normative dispositions. It also depends on interpretation, which can vary depending on the operator doing the interpreting, and in fact, there shouldn't be a delimitation between the interpretation in the limited sense and the interpretation in the extended sense; rather, the distinction between norms with clear and unclear meanings would be defined through the concept of textual interpretation on the normative dispositions. To sum up, textual interpretation is the intellectual activity of normative documents that is subordinated to the application of a hermeneutic code that consists in allotting the signification to a disposition, signification credited as being correct from the judicial point of view, and thus having an explicit norm.⁴⁵²

The measures are required to specify the meaning since this is how one moves from the abstract to the concrete. The author differentiates between literal and figurative readings of the law, highlighting the importance of both in determining the true intent of a statute. The author uses the same dictum as before to establish the scope of interpretation, but he or she notes that it is difficult to distinguish between a clear phrase and an ambiguous one, particularly since in

⁴⁵⁰ Kumari T.G., "Law of maintenance under the criminal jurisprudence in India: Diminishing Role and a Case for Restructuring", 3 UPES Law Review 8 (2018).

⁴⁵¹ Ayilyath M., "Role of Indian Judiciary in Upholding Gender Justice in the Matter of Right of Maintenance of Muslim Women," available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1953236 (last visited on Nov 10, 2011).

⁴⁵² Vibhute, K.I., "Life sentence after life sentence in a span of life!: A penal measure!" 58 Journal of the Indian Law Institute 447 (2016).

judicial language any idea acquires various connotations, and the judicial norm becomes a flexible one.⁴⁵³ He also discusses how the facts, or lack thereof, are being interpreted. For the contract to take effect, the judge is needed to apply it by providing an interpretation of its terms. In that regard, he or she should look to the parties' intentions, but if that's not enough, he or she may also look to good faith, customary law, and equity.

The goal of "the judicial interpretation" is to "find a solution for the judicial problem, theoretical or practical," and this is accomplished through "several rational operations of abstraction, explanation, and argumentation of the senses and the normative significations bore by the judicial objects" (i.e., judicial acts and means of proof). In this explanation of the idea of interpretation, he also notes that legislative actions, contracts, testamentary clauses, and other forms of evidence all serve as objects. According to corrective interpretation theory, an interpreter cannot stand in for a legislator to modify the meaning of a standard, but "he/she authorized to fill in the lacunae when every other opportunity was exhausted." That's when a judge has to make a call on the principles of law to make a ruling in the absence of a clear, judicial standard. This interpretation fills up the gap in the legislation. The author distinguishes between systems that call for a literal reading that leaves no room for interpretational gray areas and those that are more lenient and allow for such gaps to exist. When "relations, state of fact, a case, or a feature of these" lack judicial regulation or when "the regulation should emerge from the general principle," this is called a judicial gap.⁴⁵⁴

There are point out three types of interpretation Cognitive interpretation, articulated in declarative language and leading to a true/false pronouncement, is a legitimate scientific endeavor. Secondly, Determinative interpretation involves choosing the meaning of a normative statement or the action of selecting one interpretation of the norm among many possible ones. As a matter of course, cognitive interpretation involves decisional interpretation.⁴⁵⁵ The author emphasizes the significance of politics in the broadest sense in explaining the basis for the interpretation of the decision. Lastly "Creative interpretation" refers to the process of giving a normative statement an interpretation that does not appear in the meanings preserved by the cognitive interpretation. However, if it is only accepted in certain circumstances, creative interpretation ceases to be an interpretive activity and becomes the

⁴⁵³ Tyagi, A., "Judicial Perspective on 'Live-in-Relationship' in India and Maintenance Rights of Women", 3(4) Journal of Indian Research 130-43 (2015).

⁴⁵⁴ Ramani, G.S., "Rattiram vs. Union of India – Methodology for the Special Courts", 7 AJIL 1-2 (2012).

⁴⁵⁵ Rahman, M.S. and Sirazi, H.M., *Post-Divorce Maintenance (MAA'TA) For Muslim Women in Bangladesh, Pakistan and India*.

equivalent of inventing new law. Considering the repercussions of interpretation, more research and the presentation of ideas connected to interpretation are required since the opportunities for discovery are almost limitless.

3.13.2. Judicial Interpretation of the Constitution

A wide range of government employees and the general public are addressed by the Constitution's ideas and instructions. Our nation's leaders have traditionally taken their promise to preserve and uphold the Constitution very seriously. Examples of presidential action that resulted in a change in law include Thomas Jefferson's pardoning of those convicted under the Alien and Sedition Acts, Andrew Jackson's veto of legislation reauthorizing the national bank, Harry Truman's use of executive order to desegregate the U.S. military, and Lyndon Johnson's use of administrative enforcement of *Brown v. Board of Education*. Take, for example, the religious freedom provisions granted by Congress in recent decades or the voting rights legislation approved by Congress during Reconstruction and the Civil Rights Era of the 1960s and 1970s. In each case, non-judicial actors upheld individual rights or established the correct range of governmental power and obligations in line with their best understanding of the Constitution's broad principles.⁴⁵⁶

Although the Constitution does not specifically allow for judicial review, the court nonetheless plays a unique role in our system when it comes to interpreting the document. It is not just because defining legal norms falls squarely within the purview of the judiciary. *Marbury v. Madison*'s famous remark that "the courts, together with other departments," are bound by and must interpret the Constitution when a dispute so necessitates was not a declaration of interpretative primacy in the context of 1803. Nonetheless, "a permanent and necessary characteristic of our constitutional system," the judiciary's unique (though not exclusive) competence and power to interpret the Constitution is now largely acknowledged. This is an example of how our system of checks and balances has been adapted to fulfill the goals of "establishing Justice" and "securing the Blessings of Liberty," as stated in the Constitution.⁴⁵⁷

The judge's ability to interpret the law is grounded on a common dualism. The judiciary, on the one hand, is shielded from the whims of the executive and legislature by the protection of life tenure. The court, free from party influences, must make impartial judgments in the best

⁴⁵⁶ Nath, S., "*Secularism in Crisis: The Indian State's Codification of Muslim Personal Law and the Relegation of Muslim Women's Rights*" 45 *Studies in Religion/Sciences Religieuses* 520-41 (2016).

⁴⁵⁷ Chattaraj A., *Justice Delayed-Justice Denied-The Right to Speedy Trial in India*, available at: SSRN 1919493 (last visited on Sep. 6, 2011).

interests of the public. For the protection of individual rights and freedoms, independent courts are "peculiarly vital," as Alexander Hamilton put it. As opposed to the executive and legislative branches, the court "has neither force nor will, but only judgment." The legitimacy of the judiciary's opinion on constitutional issues must rest on the public's acceptance of its institutional function, even if individual judicial rulings are contested.⁴⁵⁸

As a result, constitutional interpretation has features of both counter-majoritarian and majoritarian systems. For its rulings to have democratic legitimacy, the judiciary must avoid being influenced by politics while interpreting and administering the Constitution, and it must also accurately represent the will of the people. In light of these structural characteristics, it is clear that the judicial branch has a special problem when attempting to interpret the Constitution.⁴⁵⁹

3.13.3. Constitutional Fidelity

The method that judges use when interpreting the Constitution has garnered considerable public attention in recent decades due to judicial nominations, confirmation hearings, and constitutional challenges, elevating the topic to a position of political prominence. At its core, the debate over the method has been framed as a clash of worldviews.⁴⁶⁰

Some people argue that the Constitution should be construed by the meanings its framers intended when the constitution was drafted, discussed, and approved. This view holds that the people of the United States, acting in their sovereign capacity, accepted this interpretation of the Constitution as the ultimate law of the country, making it the basis upon which current constitutional concerns should be resolved. It is asserted that judges must adhere to the common understanding of a constitutional clause when providing interpretations and that this common understanding may only be changed via the official process of modifying the Constitution in line with Article V.⁴⁶¹

However, many say that the Constitution should be seen as something that evolves with time. If you take this view, the Constitution isn't static; it changes throughout time as society's

⁴⁵⁸ Pandey A., *Wide Interpretation of the Right to Life: The Question of Enforceability*, available at: SSRN 2403191 (last visited on Mar. 1, 2014).

⁴⁵⁹ Dutta S., "From Accommodation to Substantive Equality: Muslim Personal Law, Secular Law, and the Indian Constitution 1985–2015" 4(1) *Asian Journal of Law and Society* 191 (2017).

⁴⁶⁰ Shrawat A., *Personal Laws and Maintenance Claims*, available at: SSRN 2927942 (last visited on Mar. 6, 2017).

⁴⁶¹ R. Goyal, "Judicial Response on the Problem of Legal Status of Women in Invalid Wed-Locks or Live-in Relationships with Men" 4(2) *Shikshan Anveshika* 105-17 (2014).

situations, needs, and values shift. Supporters of this position argue that the Framers intended the Constitution to be a flexible blueprint for a dynamic society and a rapidly developing globe, hence it is inevitable that the Constitution will need to change over time. Therefore, modern norms and circumstances, rather than only the original meaning, should guide constitutional interpretation.⁴⁶²

There is a common belief in American legal culture that "change reveals infidelity" when it comes to interpreting the Constitution. When dealing with one of the Constitution's specific and detailed mandates, this literal reading may be appropriate. The House of Representatives must introduce all revenue-raising legislation, the length of time funds are allocated for the military cannot exceed two years, the size of the nation's capital must not exceed ten square miles, and no one may serve as President more than twice. However, in the case of the many clauses worded as broad and general concepts, it may be required to adopt a more dynamic rather than a static approach to constitutional interpretation if its meaning is to be preserved throughout time. As the saying goes, "sometimes change is required for faithfulness," while "refusing to adjust in light of altered circumstances would constitute adultery."⁴⁶³

In the landmark case *Olmstead v. the United States*, Justice Brandeis famously dissented on the subject of whether the Fourth and Fifth Amendments protect private telephone conversations captured by law enforcement by eavesdropping. The court ruled that wiretapping did not violate the defendant's rights under the Fourth Amendment since there was no physical contact between the government and the defendant or his property. Contrasting "voluntary discussions discreetly overheard" with "substantial goods," the Court decided that the amendment itself implies that the search is to be of significant things—the person, the dwelling, his papers, or his property.⁴⁶⁴

Insofar as the Framers' age understood "searches" in the Fourth Amendment to apply solely to physical areas and "seizures" to apply only to physical items, this position is historically accurate; yet, Justice Brandeis was correct to reject it. So, he elaborated on what he meant by "constitutional fidelity":

⁴⁶² B.S. Sijapati, "Indian and Nepali Judicial Activism and Environmental Protection: An Appraisal" 4 NJA LJ 209 (2010).

⁴⁶³ R. Singha, "Punished by Surveillance: Policing 'dangerousness' in colonial India, 1872–1918" 49(2) *Modern Asian Studies* 241-69 (2015).

⁴⁶⁴ Jukier R, "The Impact of Legal Traditions on Quebec Procedural Law: Lessons from Quebec's New Code of Civil Procedure" 93 *Can. B. Rev.* 211 (2015).

Justice Brandeis was right to reject this approach, even if it is historically true since the Framing generation understood "searches" in the Fourth Amendment to apply only to physical areas and "seizures" to apply only to tangible items.

Justice Thurgood Marshall, writing for the majority in *McCulloch v. Maryland*, emphasized the need of remembering that "it is a Constitution we are expounding." Since then, this court has frequently upheld Congress' authority to legislate under different provisions of the Constitution to achieve goals that its founders could never have imagined. We have also held that general limitations on the powers of government, such as the due process clauses of the Fifth and Fourteenth Amendments, do not prevent the United States or the states from responding to contemporary conditions through regulations that a century or even half a century ago would have been rejected as arbitrary and oppressive. Protections for individuals against a variety of tyrannies need to be as flexible as the environment around them.⁴⁶⁵

"It is true that legislation, both statutory and constitutional, is passed in response to a perception of a need to address a perceived evil, but the language of such legislation should not be limited to the manifestation of that evil as it existed at the time it was created. There are always fresh circumstances and goals to be achieved as time works its magic. It follows that for a concept to be really important, it must have relevance beyond the realm of the original crime that inspired it.⁴⁶⁶ Constitutions have this unusual quality. They are not one-off performances created for special events. The Chief Justice once said of them, "intended to approach immortality as closely as human institutions may approach it." Their focus is on the future, which includes both positive and negative developments. Thus, in interpreting a Constitution, we must consider not only the past but also the future. In any other context, a Constitution would be as simple to implement as it would be weak and toothless. Its overarching ideas wouldn't amount to anything, and precedent would turn them into formulae that are useless and lifeless. Rights that are only stated have a chance of being forgotten in practice.

Applying these precepts to the issue of wiretapping, Justice Brandeis continued: Because of this, "the shape that evil has theretofore assumed" was unavoidably straightforward when the Fourth and Fifth Amendments were ratified. The only direct tools that governments had for compelling citizens to incriminate themselves at the time were force and violence. This might

⁴⁶⁵ Kostulski K, "*Development of activity through reflection: the case of the public prosecutor's lapsus linguae*" *Journal of Organizational Change Management* (Apr. 5, 2011).

⁴⁶⁶ Mughal, J.R. and Ahmad, M., "*Advocate General*" (SSRN, October 13, 2011), *available at*: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1943654 (last visited on 12/03/2022)

force the person to testify, even if it means resorting to torture to do so. It could be able to get its hands on its documents and other belongings by force if necessary. The Fourth and Fifth Amendments include language that protects individuals against government intrusion into the privacy of their homes and daily lives. Of course, "time works changes, brings into existence new circumstances and purposes." There are now more sophisticated and pervasive ways in which the government may invade citizens' privacy. The government is now able to gain revelation in a court of what is muttered in the closet by tactics considerably more powerful than straining upon the rack, thanks to scientific discovery and inventiveness. Also, "in the application of a Constitution, our consideration cannot be just of what has been, but of what may be," as the saying goes. As technology develops, the government will have more and more ways to conduct espionage, and wiretapping is only the beginning.⁴⁶⁷ Technology may advance to the point where the government will not need to physically remove documents from hidden drawers to recreate them in court, allowing them to reveal even the most private domestic events to a judge and jury. Improvements in the fields of psychiatry and allied disciplines may one day provide tools for delving into latent convictions, feelings, and ideas.

Opponents of this view have attempted to limit constitutional interpretation to something more mechanical or formulaic rather than recognizing the necessity to adapt the language and ideas of the Constitution to changing social realities. Attempts like originalism and "strict construction" are two such schools of thought. To do a judicial review, all you have to do is "place the article of the Constitution which is invoked alongside the legislation which is challenged and decides whether the latter squares with the former," as the first Justice Roberts once put it. When asked what judges do, current Chief Justice Roberts compared them to umpires, saying their only role is "to call balls and strikes" in the confirmation process.⁴⁶⁸

While this and the next chapters make some interesting attempts to condense constitutional interpretation, they ultimately fail to do so. Chief Justice Roberts's baseball analogy has been twisted into the complete reverse of what he meant. The faithful application of constitutional principles to new and specific circumstances requires attention to evolving social context, just as baseball players and many fans are aware that umpires have interpreted the strike zone

⁴⁶⁷ Thejaswi HT, et.al., "Artefacts and its medico legal problems" 22 Journal of Forensic Medicine, Science and Law 1-7 (2013).

⁴⁶⁸ Islam R, "The Power of the Police and Human Rights Situation under Section 54 and 167 of the CrPC: A Critical Evaluation" 1 The Millennium University Journal 56-63 (2016).

differently over time in response to changing aspects and contemporary understandings of the game.⁴⁶⁹

But the argument that ours is a "living Constitution" has been open to challenge from some who point out that it is a written instrument that cannot change or develop until formally amended. The term "living Constitution" gives the false impression that the Constitution is the major site of legal growth in reaction to social change and that it may come to signify whatever a critical mass of people decide it ought to mean. The Constitution of the United States is not a "living" document, a term that tends to downplay the Constitution's set and permanent language and values. The Constitution is seen quite differently by us.⁴⁷⁰ We believe that the Constitution itself does not change unless by lawful amendment of its language and principles, notwithstanding the possibility of shifting interpretations, applications, and understandings. By highlighting how judges, politicians, and ordinary people interpret, implement, and modify the Constitution, our method demonstrates the evolving nature of constitutional law.⁴⁷¹

In addition to the fact that the Constitution does not provide an interpretation procedure, there has never been a single, uniform, and invariant technique to determine constitutional meaning. Even though more than half of the Founders in 1789 were lawyers or had some legal experience, they opted not to lay down any interpretive principles or standards. The text and structure of the Constitution, the history of the document's framing and ratification, the document's broad purposes and principles, the lessons of precedent and historical experience, and our shared and evolving popular understandings of the Con have all been considered in debates over what the Constitution requires, permits, and prohibits. Judges of many political persuasions, from self-proclaimed originalists to strict constructionists, have referred to these works throughout our nation's history. Considering the effects of shifting societal standards on the Constitution is not a novel topic. This is the most extreme position, which holds that the Constitution's meaning cannot change over time. When upholding the words and intentions of

⁴⁶⁹ Mishra MS and Banerji MV, "*Lifting the Veil: Tussle between Freedom of Religion and Fundamental Rights and laying the cornerstone for Uniform Civil Code in India*" 4 *Amity International Journal of Juridical Sciences* 113-119 (2018).

⁴⁷⁰ Shrotria, S., "*Good Governance and Environment Protection: The Role Played by the Judiciary in India*," 6 *Indian Journal of Human Development* 285 (2012).

⁴⁷¹ Goel, A., "*Indian Anti-Beggary Laws and Their Constitutionality through the Prism of Fundamental Rights, with Special Reference to Ram Lakhan V. State*," 11 *Asia-Pacific Journal on Human Rights and the Law* 23 (2010).

the Constitution is impossible, our nation's courts have consistently rejected static interpretation in favor of the approach of constitutional faithfulness.⁴⁷²

Petitioner argues that this Court should determine at the outset of a case whether or not there is a "substantial question of law" about the interpretation of the Constitution. If it is determined at that point that the issue involves a major matter of law regarding the interpretation of the Constitution, the case is forever marked as one of constitutional significance, and a Constitution Bench, consisting of at least five Judges, must convene to provide a decision. It is thus argued that, once the Constitution Bench has taken seisin of the matter and begun hearing it, that Bench and that Bench alone must resolve the whole of such case, including any constitutional issues that may arise. Sri Purshottam Trikumdas, an amicus curiae arguing in favor of the petition, has placed heavy reliance on the wording of Article (3) in his argument that "the case" cannot be divided up and must be decided in its whole by the Constitution Bench. Therefore, he argues, the Division Bench lacked the authority to hear the matter since it involved "substantial questions of law as to the interpretation of the Constitution," and the decision it rendered on March 5th was, therefore, null and invalid. He argued that his client's detention in jail under the judgment of the Division Bench, which is null and void, amounts to a deprivation of his liberty otherwise than by procedure established by law, and is an infringement of his fundamental right under article 21 of the Constitution because the appeal has not been disposed of. The argument seems reasonable at first glance, but after giving it some thought and researching the relevant constitutional articles and basic principles governing the procedural powers of courts, we have concluded that it is not.

In this specific instance, a certificate of fitness under Article 134(1) was issued by the Judicial Commissioner of Vindhya Pradesh (c). So, the appeal may have been heard by a Division Bench of fewer than five Judges, as allowed by the proviso to clause (3) of Article 145. That Division Bench could refer the question for the opinion of a Constitution Bench and, upon receiving the opinion, dispose of the appeal by such opinion if it was satisfied that the appeal involved a substantial question of law as to the interpretation of the Constitution necessary for the disposal of the appeal. However, if we accept Sri Purshottam Trikumdas's argument, we will hold that while a Divisio Article 228 of the Constitution allows the High Court to take over

⁴⁷² Hussain, T., "*Pre-Trial Detention and its Compensation in International and Pakistani Law*," 15 Policy Perspectives 47 (2018).

a case from a lower court if it believes there is a "substantial question of law as to the interpretation of the Constitution, the determination of which is necessary for the disposal of the case." The High Court can then either rule on the case and hand it back to the lower court or decide the question of law and hand the case back to the lower court. In this instance as well, we agree with the learned counsel that a case involving a significant point of law about the interpretation of the Constitution should be heard by the High Court rather than the Constitution Bench of this Court. Other than the Constitution, procedural laws might cause a case to be heard in part by one judge and in part by another. As a few examples, you may look at sections 24 and Order 18, rule 15 of the Code of Civil Procedure, and sections 350, 526, 528, and 556 of the Code of Criminal Procedure. When taken to its logical conclusion, Sri Purshottam Trikumdas's argument amounts to the following: a Constitution Bench of this Court cannot split cases into different stages for hearing and decision if a case involves substantial questions of law as to the interpretation of the Constitution happens to be posted before it in the first instance, even though courts operating under the ordinary procedural code may do so.

3.13.4. Analysis of Landmark Cases

➤ Kanti Prasad Jayshankar Yagnik vs. Purshottamdas Ranchhoddas Patel (1970)

The interpretation of Section 123 of the Representation of People Act, 1951 was addressed by the Supreme Court of India in the 1970 case of Kanti Prasad Jayshankar Yagnik vs. Purshottamdas Ranchhoddas Patel. The focus of this case was on instances of election-related corruption. According to the court's interpretation of Section 123 of the Act, it was corrupt to offer college funding in return for votes.⁴⁷³ By outlawing specific inducements or promises made to sway voters, the ruling helped to preserve the integrity of the political process and set a precedent by categorizing certain conduct as corrupt practices. The integrity and openness of India's political process were bolstered by this ruling, which detailed and limited unethical behaviors throughout campaign periods.

➤ Jyoti Basu vs. Debi Ghosal (1982)

The right to vote was discussed by the Supreme Court of India in the 1982 case of Jyoti Basu vs. Debi Ghosal, which was based on Article 326 of the Indian Constitution. Section 81(3) of the Representation of People Act, 1951 was the central provision at issue in this particular case. As part of the nomination process, candidates were obliged to provide security funds in

⁴⁷³ Hussain, T., "Pre-Trial Detention and its Compensation in International and Pakistani Law," 15 Policy Perspectives 47 (2018).

accordance with Section 81(3). If the candidate did not get a certain proportion of the total legitimate votes voted in the election, the deposit would be lost. Section 81 (3) of the Act was maintained by the Supreme Court in this instance⁴⁷⁴. The court ruled that as a fair limitation on the right to contest elections, the necessity of making a deposit as a prerequisite for doing so did not violate the Constitution. This ruling upheld the provision's legality and its function in preventing insincere candidates, encouraging serious ones, and aiding in the organization of trustworthy elections in India.

➤ **Maneka Gandhi vs. Union of India" (1978)**

Article 21, which ensures the right to life and personal liberty, was interpreted more broadly by the Supreme Court of India in the Maneka Gandhi vs. Union of India case. The government seized Maneka Gandhi's passport in accordance with the Passport Act, of 1967, without providing her with a chance to be heard, claiming that it was necessary due to grounds of public interest. The meaning of the phrase "procedure established by law" as used in Article 21 was the subject of the lawsuit. "Procedure established by law" should not be boiled down to a simple procedural formality, the Supreme Court noted in its seminal decision. The court ruled that the process cannot be capricious, unreasonable, or unfair; it must be rational, fair, and just. A right to life and personal liberty includes not only protection against physical restriction but also a fair process for deprivation of such rights, according to this case's expansive interpretation of Article 21⁴⁷⁵. The importance of procedural fairness as a component of basic rights was highlighted by this landmark ruling in Indian law. Although the government does have the power to limit individual rights, the decision made it clear that this power must be used in a fair and reasonable manner that guarantees the principles of natural justice are preserved. The Maneka Gandhi case highlights the significance of administrative actions affecting fundamental rights being fair and reasonable, and how judicial interpretations can greatly influence the application and interpretation of constitutional rights. It sets a precedent for future cases and legal proceedings. It emphasizes the role of the court in safeguarding individual rights and freedoms by making sure laws are in line with constitutional values.

➤ **Golaknath vs. State of Punjab (1967)**

⁴⁷⁴ Kostulski, K., "Development of activity through reflection: the case of the public prosecutor's lapsus linguae," Journal of Organizational Change Management, 2011 (Apr 5).

⁴⁷⁵ Kostulski, K., "Development of activity through reflection: the case of the public prosecutor's lapsus linguae," Journal of Organizational Change Management, 2011 (Apr 5).

The jurisdiction of Parliament to alter basic rights was considered by India's highest court in this case. Parliament cannot, the court said, alter the basic rights conferred by Part III of the Constitution in a manner that diminishes or eliminates these rights. This case demonstrated how crucial basic rights are because they are unchangeable and cannot be changed by modifications made by Parliament.

3.14 Challenges and Issues

The practical difficulties that arise when the disqualification provisions of section 159 of the Representation of the People Act, India for implementing them often affect democracy and governance in the country. Thus, one of the essential problems of the principles of disqualification remains the identities of the criteria applied. Nevertheless, even independent evaluation of the given legislation reveals that the decision of which persons should be barred from voting or holding office is either stated in the Act with considerable imprecision or left to the decision of the responsible authorities, and therefore may be subject to a great amount of variation in the application of different authorities.⁴⁷⁶ This results in, potentially, differential outcomes for the same or similar situation depending on the amount of autonomy that the judiciary enjoys and party political interference⁴⁷⁷. There are also several problems associated with the enforcement of disqualification provisions. The ECI is autonomous but even in this capacity, it is often exceedingly constrained in terms of its enforcement power. One shortcoming of the status of the ECI is that it can be subjected to political interference; faced with bureaucracy; and most importantly, lack adequate resources that would enable it to monitor and enforce compliance with the disqualification criteria. Also, the process of exclusion may take time and is usually accompanied by legal and administrative actions. This complicates disqualification and may cause a latency in enforcing the disqualification hence giving a green light to people who should be disqualified to participate in the political process.

The effect of these challenges is therefore very significant on the actualization of democratic ideals. Problems with the interpretation and enforcement of the provisions under which candidates are disqualified also contribute to the voters' distrust of the electoral process. In this case, the citizens thinking that the laws are not being enforced equally voids their hope in the

⁴⁷⁶ Park, S., "Perfecting the Judicial Peremptory Challenge: A New Approach Using Preliminary Data on California Judges in 2021" 97 S. Cal. L. Rev. 253 (2024).

⁴⁷⁷ Lynch, M. S., "Disloyalty & Disqualification: Reconstructing Section 3 of the Fourteenth Amendment" 30 Wm. & Mary Bill Rts. J. 153 (2021).

system hence leading to the degeneration of democracy⁴⁷⁸. Moreover, the penetration of suspicious persons in legislative bodies degrades the institutions themselves, reducing the possibility of their proper work and unbiased decision-making. These challenges are even more general in terms of governance⁴⁷⁹. The perpetrators of the mentioned vices are often individuals who have been disqualified from holding such positions and thus, if they are lucky to take advantage of one lapse or another in the enforcement procedures, they are capable of undertaking any malfeasance that may be unhelpful to the public. This not only is a willful sabotage of the proper administration of the country but also contributes to the cyclical nature of political corruption and unethical practices. Also, it takes a long time and goes through many complex procedures in the given method of disqualification, which leads to the fact that the government loses time and may shift its focus to other aspects of governance, thus having a negative impact on efficiency⁴⁸⁰. A negative assessment of the current context points to the need for changes to meet these practical difficulties. Simplification of the disqualification procedure, increase in the authority and capacity of ECI, and provision for better legal interpretation of the provisions are some effective ways to get wholistically vigorous in the disqualification provisions implementation. In other words, public transparency and accountability tools in the enforcement process can also mitigate and rebuild the population's trust in the democratic process⁴⁸¹. It is thus possible for India to enhance its electoral democracy administration and enhance its democracy leadership hence enhancing the justice and integrity that should prevail in India's electoral fraternity.

3.15 Recent Developments

New modifications and new proposals in provisions of disqualification under the Representation of the People Act, 1951 in India denote that it is still a process in evolution to meet new challenges and to strengthen electoral democracy. In the years that followed, several changes were made to the text to enhance the criteria for determining the cases related to disqualification and enhancing the mechanism for the sanction's implementation⁴⁸². For

⁴⁷⁸ Martyn, S.R., Fox, L.J., et al., *Traversing the Ethical Minefield: Problems, Law, and Professional Responsibility* (Aspen Publishing, 2022).

⁴⁷⁹ Borthakur, A.D., "Hardenin' the Soft Law of Bias: A Comparative Review of India's Treatment of the IBA Conflict Guidelines" 2020(37) Iurgium, [previously Spain Arbitration Review].

⁴⁸⁰ Richmond, D.R., "As the revolving door turns: Government lawyers entering or returning to private practice and conflicts of interest" 65 St. Louis U LJ 325 (2020).

⁴⁸¹ Olujobi, O.J., "Combating insolvency and business recovery problems in the oil industry: proposal for improvement in Nigeria's insolvency and bankruptcy legal framework" 7(2) Heliyon (2021).

⁴⁸² Gay, C., "Red Flag' Laws: How Law Enforcement's Controversial New Tool to Reduce Mass Shootings Fits Within Current Second Amendment Jurisprudence" 61 BCL Rev. 1491 (2020).

example, The Representation of the People (Amendment) Act, of 2018, brought considerable modification by following the expansion of the grounds for debarment, the standard to be tougher in case of persons convicted of different offenses. These amendments are designed to enhance the credibility of the electoral process and thus eliminate the propensity of candidates with criminal records to participate in the electoral process. There have been also several measures and recommendations concerning the possible changes in the disqualification provisions, apart from the legislative amendments. For instance, there have been voices for the introduction of an even more efficient and clear procedure for the enforcement of disqualifications⁴⁸³. Other solutions concern establishing special courts for dealing with disqualification cases and also shortening the time limits for the pursuit of legal remedies. This should be done because the existing reforms like the disqualification process are rather slow and ineffective compared to what is needed to ensure the effective working of the electoral system and the protection of the rule of law.

These matters have become even more conspicuous following other older and recent high-profile disqualification cases. Some examples are the banning of the leaders of political parties and politicians trailing in corruption scandals and criminal charges. For example, the dismissal of members of parliament based on their convictions for offenses like money laundering and other serious criminal offenses has been widely discussed⁴⁸⁴. Such cases point to the weaknesses of the current structure, such as the dilatory justice process, and the difficulties in applying disqualification to powerful people⁴⁸⁵. Discussions of disqualification in public and political terms generally involve the efficiency and the legal provisions currently in place. The opponents continue to insist that, even if there are legal bases for disqualification, corrupt officials can work their way out of it by employing certain tricks or dragging the case through the courts for an extensive amount of time. Heating of the public and calls for change tend to occur when disqualified individuals remain in or strive for positions of authority, especially when the stories become a public scandal⁴⁸⁶. The discussions illustrated further why there is a constant need for assessment and reform as to whether the provisions of disqualification are fit

⁴⁸³ Stevenson, D., "In Defense of Felon-in-Possession Laws" 43 Cardozo L. Rev. 1573 (2021).

⁴⁸⁴ Abeyratne, R. and Bui, N. S. (eds.), *The Law and Politics of Unconstitutional Constitutional Amendments in Asia* (Routledge, 2022).

⁴⁸⁵ Zipper, T. and Dahan, R., "To review, or not to review? A comparative perspective of judicial review over the legislative process" 7 Indon. J. Int'l & Comp. L. 329 (2020).

⁴⁸⁶ Blank, C., Flatscher-Thöni, M., et.al., "The Ethics of Authorship- Recommendations for Authors and Researchers" 10 J. of Academics 1 (2021).

for purpose or not. Trends identified in this field in the present day hint towards the realization of this development. Gauging the current state of political leaders has intensified degenerating that led to more conversations regarding the disqualification procedure to be more enhanced by public pressure and legal challenges⁴⁸⁷. The consequences of these processes are rather tangible, as they can determine the trends in legislation activities affecting electoral processes, define common people's trust in the effectiveness of the electoral processes, and influence the effectiveness of governmental actions and policies. To sum up, it is possible to state that advancing from these issues in terms of reforms is capable of bringing improvement to the electoral processes' procedures in India and, as a result, strengthening the foundations of democracy in the country.

3.16 Conclusion

These research findings on the disqualification provisions under the Representation of the People Act, 1951 have brought out some of the major findings that speak about the pros-n-bonus of the present legal framework. The first result is that the provisions on the disqualification are elaborated at length in the existing legislation, however, the practical problems raise doubts about their efficient application. This is evidenced by the fact that where there is inconsistency, particularly on the aspect of disqualification criteria, one will find that the law is applied haphazardly. Also, the enforcement process of the law is slow and complicated; hence those who have been disqualified can continue participating in politics for a long time. Thus, the conclusions made from these findings have serious consequences for policymakers and legislators. This indicates that one of the fears – that inconsistent application of the disqualification provisions affects the general public's confidence in the electoral system and causes the decline in faith in the democratic institutions of the country. It weakens the foundation and the sanity of the elections, and thus the legislative institutions whenever leaders can rig the process through delaying tactics or legalities that delay the electoral process. This not only impacts the quality of governance but continues a riff of corrupt and unethical behavior in the political spectrum.

To this end, the following measures are suggested for bolstering the disqualification processes: First of all, there emerge certain tendencies requiring better clarification and a more strict

⁴⁸⁷ Tang, L., Wang, L., et.al., “*Research Misconduct Investigations in China's Science Funding System*” 29 Science and Engineering Ethics 39 (2023).

definition of the criteria for exclusion. It is suggested that to avoid or minimize the differences and deviations in the application of the law, the relevant sections of the law should be redrafted to remove any ambiguity and to give clear definitions of certain terms. Second, simplification of the enforcement process is very important. For instance, setting up of new specific tribunals or efficient speedy courts to hear and decide the disqualification matters can help in saving time. This would assist in early detection of any abuse of the electoral process and hence check/prevent such incidences. Further, there has to be an upgrade in the prerogatives and means of the Election Commission of India (ECI). Increasing the competence and powers of the ECI in its task of supervision and exercising other powers regarding disqualification can help in enhancing it. This entails ensuring that the Commission is capable of carrying out investigation exercises to the optimal and respond quickly to violations. Furthermore, it is crucial to enhance the openness of the process of disqualification to increase people's trust. The options that can formally be used as regular public reports include the enforcement actions and disposition of the disqualification cases that can heighten accountability and fortify the believability of the electoral system. Although the current disqualification framework may have the positive possibilities of promoting democratic principles, it is imperative to tackle the challenges that have been highlighted above to enable the framework to function properly and fairly. If the recommended reforms are effected, the policymakers and the legislators will be in a position to meet the challenges of improving the electoral integrity, and the quality of human beings who are the Beacon of every election in India besides improving the governance structures in the Country.

CHAPTER-4

JUDICIAL RESPONSE CONCERNING TO THE DISQUALIFICATION FROM BECOMING MEMBERS OF THE PARLIAMENT AND STATE LEGISLATURE

“If the people who are elected are capable and men of character and integrity, then they would be able to make the best even of a defective Constitution. If they are lacking in these, the Constitution cannot help the country. After all, a constitution like a machine is a lifeless thing. It acquires life because of the men who control it and operate it, and India needs today nothing more than a set of honest men who will have the interest of the country before them...”

- Dr. Rajendra Prasad, President, Constituent Assembly of India

4.1 Introduction

All of India's lawmakers serve in one of two houses, the Lok Sabha or Lower House, or the Rajya Sabha, the Upper House. There are both elected and appointed representatives in each chamber. Members of the Rajya Sabha are selected by a more circuitous route, with their selection being ratified by the members of the state legislatures rather than the general electorate. In the Lok Sabha, the President appoints two members of the Anglo-Indian community, while in the Rajya Sabha, he appoints twelve members who have excelled in many sectors, including art, literature, science, social service, etc. A member of the Rajya Sabha serves a 6-year tenure, whereas a member of the Lok Sabha serves a 5-year term (subject to certain exceptions).⁴⁸⁸

In addition to Article 102, the disqualification of members for defection is laid down in the Constitution's Tenth Schedule. A defector is someone who leaves their party to join the other side. A member may be disqualified under the Tenth Schedule if he voluntarily resigns from the political party that sponsored his election. If he casts a vote or abstains from casting a vote in the House that goes against the wishes of the political party to which he belongs without receiving approval from that party within fifteen days, he will be expelled from that party. If a member is elected as an independent and then later joins a political party, he or she will lose their seat. It is important to note that a nominated member is free to join any political party he

⁴⁸⁸ Hobbs H, Pillai S, et al., "The disqualification of dual citizens from Parliament: Three problems and a solution" 43 Alternative Law Journal 73 (2018).

or she chooses, so long as they do so within six months of being nominated. After that time, switching political affiliations would count as a defection, rendering one ineligible for office.⁴⁸⁹

A lawmaker may resign from office for any reason not specifically prohibited by the Constitution, the Representation of the People Act of 1951, or its tenth schedule. Both the Vice President (Chairman of Rajya Sabha) and the Speaker of the Lower House (Speaker of the Lok Sabha) will get a copy of the resignation letter. If a member fails to attend any meeting for 60 days without an excuse, the Chairman or Speaker may declare that person's seat vacant.⁴⁹⁰ A prorogued or adjourned session of Congress is not counted against the 60-day maximum. An individual's position in the House of Representatives will be forfeited if he or she is elected President or Vice President, or appointed Governor of a state. A person may only serve in either the Lok Sabha or the Rajya Sabha, but not both. To avoid serving in both, an elected official must notify his or her preferred chamber of election within 10 days. If he does not provide such notice, however, his membership in the Rajya Sabha will expire. When a member of the Lok Sabha moves to the Rajya Sabha or vice versa, the previous member's seat becomes vacant. If a candidate runs for and wins two seats, but only one is uncontested, he must vacate one of them. If he does not, then both seats will become available. It is impossible to hold both the positions of MLA and MP at the same time. If a person is elected to both the MLA and MP positions, his MP seat will be forfeited.⁴⁹¹

A member of parliament is a lawmaker who has been elected to represent his or her constituents in India's lower house of parliament, the Lok Sabha. A majority of eligible voters cast ballots to elect Lok Sabha representatives. When it comes to the Lok Sabha, 550 is the magic number for how many lawmakers may sit in it. Up to 530 might be elected to represent districts and states, while another 20 could be elected to represent the union's territories (both chosen by direct elections). Between the years 1952 and 2020, two of the four seats were set aside for people of Anglo-Indian descent. The current elected strength of the Lok Sabha is 543. The Prime Minister of India is selected by the majority party or coalition of parties in the Lower House of Parliament (Lok Sabha). Anyone seeking election or nomination to the Lok Sabha or a state legislature must meet the constitutional and legal requirements for membership in either body. The date set for the inspection of nominations, and not the date on which the nomination

⁴⁸⁹ Sharma V. "*Office of Profit as a disqualification in India: A Critical Analysis*" 2 Jus Corpus LJ 633 (2021).

⁴⁹⁰ Bhat M. *The Parliament and State Legislatures of India*. in *Routledge Handbook of Asian Parliaments* (Routledge Forthcoming 2022) 1 (2022).

⁴⁹¹ Ginsburg T, Huq AZ, et.al., "*The Law of Democratic Disqualification*" 111 California Law Review 8 (2023).

document is filed, is the most important date for establishing whether a candidate is eligible or disqualified.⁴⁹²

An individual must be a citizen of India and swear or affirm in the manner specified in the Third Schedule before a person recognized by the Election Commission to be eligible for election to fill a seat in Parliament. To seek a seat in the Council of States, he must be at least thirty years old; to run for a seat in the House of People, he must be at least twenty-five years old, and he must fulfill any other conditions that may be established by law. Any citizen of India who is not an Indian citizen or who has voluntarily acquired foreign citizenship; any person who is of unsound mind and stands so declared by a competent court; any undischarged insolvent; any person who is not an Indian citizen or who has voluntarily acquired foreign citizenship; and any person who has been convicted of an offense punishable by death or life imprisonment.⁴⁹³

A person seeking election to the State Legislature must meet the following requirements: (1) he must be an Indian citizen; (2) he must make and subscribe to an oath or affirmation before a person authorized on that behalf by the Election Commission, in the form set out for the purpose in the Third Schedule; and (3) he must be at least twenty-five years old to run for a seat in the Legislative Assembly and at least thirty years old to run for a seat in the Legislative Council.⁴⁹⁴

A person who is declared to be of unsound mind by a competent court, an undischarged insolvent, a person who has been convicted of an offense punishable by death or imprisonment for more than one year, and any person holding any office of profit under the Government of India or the Government of any State specified in the First Schedule, except for an office declared by the Legislature of the State by law not to disqualify its holder. By Article 126 of the Indian Constitution, only citizens of India who are also registered to vote may run for election as a representative of a state or union territory in the Council of States.⁴⁹⁵

If there is a reserved seat for SCs in any state, he is an SC from that state or any other state and is eligible to vote in that state's parliamentary election; if there is a reserved seat for STs in any

⁴⁹² Karim T., "Criminalization of Politics: A Serious Threat to Indian Democracy" 24 *Supremo Amicus* 77 (2021).

⁴⁹³ George AA, *Constitution of India: List of All Articles (1-395) and Parts (1-22)*.

⁴⁹⁴ Buckland A, and Lenagh-Maguire N, "Disqualification for holding an office of profit under the Crown" *Litigation Notes* 16-9 (2019).

⁴⁹⁵ Zhu H, and Chen AH, "The oath-taking cases and the NPCSC interpretation of 2016: Interface of common law and Chinese law" 49 *Hong Kong LJ* 381 (2019).

state, he is an ST from that state or any other state and is eligible to vote in that state's parliamentary election (other than those in the autonomous districts of Assam). To vote in parliamentary elections for a seat reserved for the Scheduled Tribes in the autonomous districts of Assam, one must be a member of one of the Scheduled Tribes and a resident of either Assam or another state (outside of the tribal territories of Assam). To be eligible to vote in the Parliamentary constituency in which the reserved seat for the Scheduled Tribes in the Union territory of Lakshadweep is located, or in any other Parliamentary constituency encompassing any such autonomous district, he must be a member of any of the Scheduled Tribes. Is a citizen of India who belongs to a Scheduled Tribe; Is a registered voter in the Parliamentary constituency for the Union territory to which he belongs; Is a registered voter in the Parliamentary constituency for the State of Sikkim; Is a registered voter in any other Parliamentary constituency.⁴⁹⁶

A person must be a resident of the state, a registered voter, and a member of a Scheduled Caste or Scheduled Tribe to run for election to that state's Legislative Assembly. He is a member of a Scheduled Tribe and either a resident of the Assam Autonomous District or a registered voter in the Assembly constituency where that seat or another seat assigned for that district is located. No person who is not a member of the regional council specified in clause (2) of Article 371A of the Nagaland Constitution shall be eligible for election to fill any seat allotted to the Tuensang district in the Legislative Assembly of Nagaland for the term specified in clause (2) of Article 371A of the Nagaland Constitution.⁴⁹⁷

No person shall be eligible for election to fill a seat in the Legislative Assembly of the State of Sikkim, to be constituted at any time after the commencement of the Representation of the People (Amendment) Act, 1980 unless the seat is specifically reserved for a member of the Bhutia-Lepcha ethnic group, in which case section 5 shall not apply. He is a Bhutia or Lepcha and a voter in any State assembly constituency other than the one allocated for the Sanghas (the Scheduled Castes). In the event of a seat reserved for Sanghas, he is an elector of the Sangha constituency; in the case of any other seat, he is an elector for any assembly constituency in the State of Sikkim since he belongs to one of the castes listed above.⁴⁹⁸

⁴⁹⁶ Saini SP, “*Politics of defections in India: Lust for power and money*” 9(8) Editorial Board (2020).

⁴⁹⁷ Mishra, S.S., “*The Concept of Criminalization of Politics in India*” Manupatra Articles (Forthcoming, 2019) (Nov 12).

⁴⁹⁸ Sarkar, S., *Electoral Laws in India* (2020), available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3687711 (last visited on May 15, 2020).

A person must be a resident of the State, a registered voter in the State, and a resident of the Assembly constituency in which the seat is to be filled to be eligible for election to the Legislative Council of a State. A resident of the state must be considered for nomination by the Governor to fill a seat in the Legislative Council. Disqualified means ineligible for election to or membership in either House of Parliament or a State's Legislative Assembly or Legislative Council; Appropriate Government means, about any disqualification for election to or membership in either House of Parliament, the Central Government and, about any disqualification for election to or membership in the Legislative Assembly or Legislative Council of a State, the State's government.⁴⁹⁹

Persons convicted of violating Section 153A (offense of promoting enmity between different groups based on religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or Section 171E (offense of bribery) or Section 171F (offense of undue influence or personation at an election) or Section 376 (subsection (1) or subsection (2)) or Section 376 (Infractions of the Election Law) are in (37 of 1967). U.S. Law That Limits How Much You Can Earn From Trading In Foreign Exchange (46 of 1973). Both the Controlled Substances Act and the Narcotic Drugs Act of 1985 (61 of 1985). Section 3 (committal of terrorist acts), Section 4 (committal of disruptive activities), and Section 7 (offense of contravention of the provisions of Sections 3 to 6) of the Terrorist and Disruptive Activities (Prevention) Act, 1987; and Section 7 of the Religious Institutions (Prevention of Misuse) Act, 1988. (offense of contravention of the provisions of Sections 3 to 6). (41 of 1988). Crime of removing ballot papers from polling stations (Section 135) or Booth Capturing (Section 135A) of this Act; Crime of fraudulently defacing or fraudulently destroying any nomination paper (Section 136); Section 6 (Crime of converting a place of worship) of the Places of Worship Act; Section 125 (Crime of promoting enmity between classes in connection with the election) (Special Provisions).

The House of Commons Disqualification Act of 1975 is a compilation of the primary laws controlling Commons disqualification. Nonetheless, a variety of persons, including children and immigrants, are disqualified by other statutes and the common law. The Representation of the People Act of 1983 outlines the offenses that might result in exclusion from voting. All of the potential disqualifiers listed below are beyond the scope of this note. Erskine May's third

⁴⁹⁹ Huat, W.C. and Xi, W.C., "Advancing democratic representation, stability and accountability: *Regulating Change of Party Affiliation in Malaysia*".

chapter serves as an all-encompassing manual. Since the early seventeenth century, some officeholders have been barred from serving in the House of Commons. These had previously been dispersed over many statutory sources, such as public and private Acts and the House Journals. In the 1940s, a Select Committee was formed because of concerns about the impact of extraordinary wartime appointments of Members on parliamentary democracy and uncertainty regarding the intended extent and effect of existing disqualifying rules (the Herbert Committee).⁵⁰⁰ The report from the Herbert Committee included suggestions for new laws to replace outdated ones, and it focused specifically on the law and practice controlling the disqualification of people holding "offices or places of profit under the Crown" In 1949, after World War II and the rebuilding era, work started on writing legislation to implement the recommendations of the Herbert Committee. Some of the notions proposed by the Herbert Committee were difficult to articulate legally, and it was not until 1955 that a bill was introduced in the House.⁵⁰¹

Difficulties arose, prompting the establishment of a second Select Committee to reevaluate the Bill in 1956 (the Spens Committee). As stated by the Committee, "certain offices are incompatible with membership of the House of Commons, some as involving physical impossibilities of simultaneous attendance in two places, some because of possible patronage, and others because of a conflict of duties". After Measure's second reading, the Spens Committee reviewed it and offered several suggestions. The new version of the bill was not adopted until the 1956–1957 session. House of Commons Disqualification Act 1957 was signed into law. In 1975, when positions that disqualify one from serving in the Northern Ireland Assembly were split off into their legislation, the Northern Ireland Assembly Disqualification Act 1975, this law was reenacted with no changes made to its content as a consolidation step.⁵⁰²

Large numbers of current and former public officials are barred from serving in the House of Commons according to the House of Commons (Disqualification) Act of 1975. It is the most consequential law ever passed regarding who may run for office in the House of Representatives. There are six categories of people who are not eligible to hold public office

⁵⁰⁰ Twomey, A. "Section 44 of the Constitution-what have we learnt and what problems do we still face?" 32 *Australasian Parliamentary Review* 6 (2017).

⁵⁰¹ Geiringer C., "Judging the Politicians: A Case for Judicial Determination of Disputes over the Membership of the House of Representatives" 3 *New Zealand Journal of Public and International Law* 131 (2005).

⁵⁰² De Lolme J.L., *The Constitution of England: or, An Account of English Government* (1838).

according to this document: (1) holders of certain judicial offices, such as High Court and Court of Appeal judges (Law Lords are already disqualified as Members of the House of Lords); (2) civil servants, whether established or not, and whether full-time or part-time; (3) regular military personnel; (4) full-time police officers; (5) members of the legislature of any country outside the Commonwealth; and (6) members of the judiciary. The number of ministers who may serve in the House of Commons has also been restricted by the Act.⁵⁰³

The purpose of this study is to examine the legal grounds for disqualification from becoming members of the Parliament and State Legislatures in India and to analyze the judicial trends that shape these disqualifications. By focusing on specific provisions of the Representation of the People Act, 1951, and exploring landmark judicial cases, the study aims to understand how these mechanisms uphold the integrity of the electoral process. Additionally, it seeks to highlight the role of the judiciary in ensuring ethical standards and preventing conflicts of interest among elected representatives. In Chapter 5 this study is focused on collecting data related to disqualification from becoming a member of the Parliament and State legislatures and analysis of the data collected.

4.2 Disqualification on Grounds of Corrupt Practices

Every case involving a person found guilty of corrupt practices by an order made under Section 99 must be presented to the President as soon as practicable, but in no event later than three months from the day, such order becomes effective. This should be handled by whomever the Central Government designates. It is then up to the President to determine whether or not such a person will be disqualified and, if so, for how long: Nonetheless, the length of time a person is barred from serving as a director under this subsection cannot exceed six years, calculated in reverse order from the day on which the order made in his favor under section 99 becomes effective. If the time of disqualification under section 8A of this Act has not elapsed, a person who was disqualified under that section immediately before the Election Laws (Amendment) Act, 1975 (40 of 1975) went into effect may petition the President to have their disqualification lifted for the remainder of the period. Before deciding on any question mentioned in subsection (1) or on any petition submitted under subsection (2), the President is required to obtain the opinion of the Election Commission on such questions or petitions and is required to act by

⁵⁰³ Morris C., *Parliamentary Elections, Representation and the Law* (Bloomsbury Publishing, 2012).

such opinion. This requirement applies whether the question or petition is being considered under subsection (1) or subsection (2).⁵⁰⁴

4.2.1 Disqualification Due to Corrupt Practices

Corrupt practices are a significant ground for disqualification from becoming a member of the Parliament or State Legislature in India. The Representation of the People Act, of 1951, outlines specific corrupt practices that lead to disqualification. These include bribery, undue influence, impersonation, and the promotion of enmity between different groups on grounds of religion, race, caste, community, or language, among others. A candidate found guilty of any of these acts by the appropriate authority is barred from contesting elections for a specified period. The Indian judiciary has played a crucial role in interpreting and enforcing these provisions. Courts have scrutinized allegations of corrupt practices rigorously to uphold the integrity of the electoral process. Notable cases, such as the disqualification of Indira Gandhi in the 1975 case of *Raj Narain vs. Indira Nehru Gandhi*, highlight the judiciary's role in addressing electoral malpractices⁵⁰⁵. This landmark judgment underscored the judiciary's commitment to ensuring free and fair elections by penalizing those who engage in corrupt practices. Disqualification on these grounds serves as a deterrent against malpractices, aiming to maintain the sanctity of the democratic process and uphold public trust in the electoral system. The judiciary's vigilant approach ensures that candidates and elected representatives adhere to the highest standards of electoral conduct.

4.3 Disqualification for Dismissal for Corruption or Disloyalty

A person is ineligible to hold public office for five years beginning on the day that they were fired from a position with the government of India or the government of any state after being found guilty of corruption or showing disloyalty to the state. This period of disqualification begins with the date that they were fired. For subparagraph (1), a certificate issued by the Election Commission as to whether or not an individual who has held office under the Government of India or the Government of a State has been dismissed for corruption or disloyalty to the State shall be conclusive proof of the fact; provided, however, that no certificate to the effect that an individual has been dismissed for corruption or disloyalty to the

⁵⁰⁴ Patil, V.G., “*Judiciary-A Purifier of Indian Politics*”.

⁵⁰⁵ P. Aakash and R. Hariharan, “*Adjudication of Cases of Disqualification by an Independent Quasi-Judicial Authority*,” 18 *Supremo Amicus* 1 (2020).

State shall be issued unless an opposition party has filed a petition with the Election Commission.⁵⁰⁶

4.3.1 Disqualification Due to Dismissal for Corruption or Disloyalty

Disqualification for dismissal due to corruption or disloyalty is a critical measure to maintain the ethical standards and integrity of public office in India. The Representation of the People Act, 1951, specifies that any person dismissed from government service for corruption or disloyalty to the state is disqualified from contesting elections for five years from the date of such dismissal. This provision aims to ensure that individuals who have breached public trust or engaged in activities against the state's interests are barred from holding legislative positions. The rationale behind this disqualification is to prevent individuals with a tainted record from influencing legislative processes and to uphold the integrity of democratic institutions. The judiciary, through various rulings, has emphasized the importance of this provision in safeguarding the sanctity of public offices. For instance, courts have upheld dismissals and subsequent disqualifications when evidence of corruption or disloyalty has been incontrovertible, reinforcing the principle that public servants must adhere to high ethical standards⁵⁰⁷. This disqualification mechanism serves as a deterrent against misconduct among public officials and promotes accountability. Ensuring that those dismissed for serious offenses cannot re-enter public office through electoral means, helps maintain public confidence in the democratic system and its representatives.

4.4 Disqualification for Government contracts

If and for as long as there is a contract between the applicant and the applicable government for the delivery of products to that government or for the execution of any works undertaken by that government, the applicant will not be considered eligible. For this agreement to be valid, it must have been made in the normal course of business. A contract that has been completely completed by the party entering into it with the relevant Government but which has not been fully or partially performed by the Government will be regarded as not existing for this section. Only when the contract is entered into by the same party that performs all of its obligations under the contract will this clause apply?

⁵⁰⁶ A. Alexandropoulou, "European Legislative Proposals on Cross-Border Mobility of Companies and the Use of Digital Tools and Processes in Company Law," 4 Business and Company Law Review 507-16 (2019).

⁵⁰⁷ D. C. Jain, "Judicial Review of Parliamentary Privileges: Functional Relationship of Courts and Legislatures in India" 9 Journal of Indian Law Institute 205-222 (1967).

Disqualification for holding government contracts is a crucial provision to prevent conflicts of interest among elected representatives in India. According to the Representation of the People Act, of 1951, individuals who have entered into contracts with the government for the supply of goods or execution of works are disqualified from being elected to Parliament or State Legislatures. This rule is designed to ensure that public officeholders do not leverage their positions for personal gain or create a perception of impropriety. A notable example of this disqualification is the case of S. Dharmalingam, a Tamil Nadu politician. In 2006, Dharmalingam was disqualified from his position as a Member of the Legislative Assembly (MLA) after it was found that he had secured contracts from the government for his construction business while serving as an MLA. The Election Commission of India, upon investigation, determined that his involvement in government contracts constituted a conflict of interest, leading to his disqualification. This case underscores the importance of maintaining a clear boundary between public duties and private interests. The disqualification provision aims to uphold the integrity of legislative offices and prevent any misuse of power for personal or financial benefits. It serves as a deterrent against unethical practices, ensuring that elected representatives prioritize public welfare over personal profit.

4.5 Affidavit

The candidate must submit an affidavit in Form 26 that is annexed to the Conduct of Elections Rules, 1961, detailing his or her criminal history (including any convictions and any pending cases), PAN information, and the filing status of any income tax returns for the candidate, his or her spouse, and any dependent children. Additionally, the candidate must detail the assets (including any real property) and liabilities/dues owed by himself, his or her spouse, and any dependent children. No column may be left blank in the affidavits that candidates are required to provide with their nomination papers. The Returning Officer must check during the submission of the affidavit to ensure that all essential fields in the affidavit accompanying the nomination form are complete. In such a case, the person in charge of tallying the votes must remind the candidate to fill in the blank columns with the necessary information. If no information has to be provided against any item, the relevant comments, such as "NIL," "Not Applicable," or "Not Known," should be stated in the column that corresponds to that item. The applicant mustn't leave any columns blank. Even after being reminded, if a candidate does not fill in the spaces on their nomination paper, the Returning Officer may reject the candidate's

nomination paper when it is time for the examination of nomination papers.⁵⁰⁸ The candidate has to take an oath on the affidavit in front of an oath commissioner, a magistrate of the first class, or a public notary before submitting it. It is necessary to submit the Affidavit concurrently with the Nomination Paper. If it is not included in the Nomination Paper, then it has to be handed to the Returning Officer by 3 the clock on the last day that nominations may be lodged. The affidavit has to be filled out using a typewriter. If any of the columns are completed by hand, the writing in those columns has to be legible.⁵⁰⁹

4.6. Registration in the Electoral Roll

For a person to be eligible to run for election from a Parliamentary Constituency, they need to be included on the most recent electoral register for one of the constituencies that make up the Parliament. According to Section 4 of the Representation of the People Act from 1951, a candidate running for office in a parliamentary constituency that is part of an autonomous district in the states of Assam, Sikkim, or Lakshadweep must be a registered voter in that territory. An individual must be included on the active electoral register of one of the state's assembly constituencies to be eligible to run for a seat in the state legislature and compete in elections for that body. A copy of the electoral roll of the constituency, or part thereof, or a certified copy of the relevant entries in the electoral roll where the candidate's name is entered in the current electoral roll must be attached to the nomination paper or filed before the Returning Officer as soon as possible if the candidate is registered as an elector in a constituency other than the constituency from which he or she stands as a candidate.⁵¹⁰

4.7. Oath/Affirmation

Before the Returning Officer/Assistant Returning Officer or any person authorized by the Election Commission, each candidate must take an oath in the form stipulated in the Third Schedule of the Constitution. It is incumbent upon the Returning Officer or his or her Deputy Returning Officer to observe this. After a nomination document has been filed, any time up to the day before the day nominations are due to be examined is acceptable for taking and submitting oaths. A candidate who claims to be supported by any political party must submit

⁵⁰⁸ Guruvayurappan D, “*Rethinking Defection: An Analysis of Anti-defection Laws in India*” Parliamentary Affairs (2021).

⁵⁰⁹ Chisaka T., *The Candidate Screening in Iran’s Parliamentary Elections, 1984-2012* (Osaka School of International Public Policy, Osaka University, 2020).

⁵¹⁰ Bhatia U., “*What’s the Party Like? The Status of the Political Party in Anti-Defection Jurisdictions*”, 40 Law and Philosophy 305 (2021).

to the Returning Officer or Chief Electoral Officer, in Form A and Form B, fully completed in all respects, by 3:00 p.m. on the final day for submitting nominations (regardless of whether the party is recognized). Sponsorship in Form AA and Form BB must be filed by 3:00 PM on the last day for filing nominations for elections to the Rajya Sabha (Council of States) by MLAs, graduates'/teachers'/local authorities constituencies. The Returning Officer might ask for further proof of a candidate's status as a member of a Scheduled Caste or Scheduled Tribe if they have any questions.⁵¹¹

In addition to the conditions listed above, the Returning Officer has the authority to request any document that would satisfy him concerning the qualifications and disqualifications of the candidate, if this is required. According to Section 36 of the Representation of the People Act of 1951, the Returning Officer is the competent authority that is responsible for examining the nomination papers that were submitted by the candidates and deciding whether or not they are legal.

4.8. Disqualification from Becoming Members Of The Parliament And State Legislature & Indian Judicial Trends With Respect To Karnataka

Disqualification from becoming members of the Parliament and State Legislature, particularly with a focus on judicial trends in Karnataka, is a crucial aspect of Indian political and legal landscapes. The laws governing disqualification are primarily embedded in the Constitution of India, supplemented by various judicial decisions that interpret these provisions⁵¹². In India, the primary statute governing the disqualification of legislators is found in Article 102 of the Constitution for Parliament members, and Article 191 for members of State Legislatures. These articles outline several grounds for disqualification including holding an office of profit under the government, being of unsound mind, undischarged insolvency, not being an Indian citizen, or having allegiance to a foreign state⁵¹³. More significantly, under the Representation of the People Act, 1951, additional grounds include criminal convictions for certain offenses, corrupt practices, and electoral offenses, with a conviction resulting in a sentence of imprisonment of

⁵¹¹ Leung P.M., "An Oath: Constitutional Dialogue between Chinese Law and Common Law" 13 *Tsinghua China L. Rev.* 59 (2020).

⁵¹² Abhishek, M.Y., "An Analysis on the Limited Disqualification Power of the Speaker with Reference to the Judgement in *Shrimanth Balasaheb Patil v. Hon'ble Speaker, Karnataka Legislative Assembly and Others*" 26 *Supremo Amicus* 1 (2021).

⁵¹³ Aakash, P. and Hariharan, R., "Adjudication of Cases of Disqualification by an Independent Quasi-Judicial Authority" 18 *Supremo Amicus* 1 (2020).

two years or more being a common ground for disqualification⁵¹⁴. Karnataka, as a state, has seen notable judicial interventions concerning disqualification. The state's political volatility often leads to legal battles over the legitimacy of defections and the disqualification of MLAs. A prominent example is the series of events following the 2018 Karnataka Assembly elections, which saw multiple MLAs defecting from their parties. This led to several petitions filed in the Karnataka High Court and subsequently in the Supreme Court of India.

The Supreme Court has periodically reaffirmed the powers of the Speaker of the Legislative Assembly in deciding disqualification pleas, which is also emphasized in the Tenth Schedule of the Indian Constitution, commonly known as the Anti-Defection Law. However, the judiciary has also acted as a check on these powers, ensuring that the decisions are made fairly and without undue delay⁵¹⁵. A landmark judgment by the Karnataka High Court in recent years further defined the scope of judicial review in disqualification cases, emphasizing that while the Speaker's decision is subject to judicial review, the court should restrain itself from interfering in the legislative domain. These judicial trends in Karnataka reflect a broader theme in Indian governance where the balance of power between the legislature and the judiciary is delicately maintained, ensuring that elected representatives maintain the integrity expected of them while also protecting their rights against arbitrary disqualification⁵¹⁶. This dynamic underscores the ongoing evolution of Indian democracy, where legal frameworks adapt to political developments and judicial oversight ensures adherence to constitutional principles.

4.8.1. Grounds for Disqualification Under Indian Law: Focus on Karnataka

The disqualification of legislators in India, particularly with a focus on Karnataka, is governed by the Constitution and various judicial decisions. Articles 102 and 191 of the Constitution lay out grounds for disqualification for Parliament members and State Legislatures, respectively, including holding an office of profit, unsoundness of mind, undischarged insolvency, non-citizenship, or allegiance to a foreign state. The Representation of the People Act, 1951, adds grounds like criminal convictions and electoral offenses. Karnataka has experienced significant judicial interventions in cases of disqualification, especially following the volatile 2018 Assembly elections that involved numerous defections. The Supreme Court has underscored the Speaker's authority in disqualification decisions as per the Tenth Schedule (Anti-Defection Law) while ensuring judicial checks on this power to prevent unfair practices. A landmark

⁵¹⁴ Reddy, C. and Bhargava, S., "*For Laws May Come and Laws May Go, but Defections Go on Forever: A Critical Analysis of the Role of the Speaker in Indian Anti-Defection Laws*" 10 NLIU L. Rev. 328 (2020).

⁵¹⁵ Saroja, B., "Political parties importance in Indian politics - an overview" (2022).

⁵¹⁶ Saggu, M.S., *Dynamics of the Institution of Governor in India* (KK Publications, 2021).

judgment by the Karnataka High Court highlighted the scope of judicial review in such cases, indicating that while the Speaker's decisions can be reviewed, the courts should avoid interfering in legislative processes. This interplay between the legislative functions and judicial oversight is crucial in maintaining the balance of power, ensuring integrity among elected officials, and safeguarding democratic values in India.

4.9. Disqualification from Becoming Members Of The Parliament And State Legislature & Indian Judicial Trends With Respect To Maharashtra

Disqualification from becoming members of the Parliament and State Legislature in India, with a specific look at judicial trends in Maharashtra, showcases a complex interplay between law, politics, and judiciary oversight. The constitutional and legislative framework governing these disqualifications remains consistent across India, yet regional judicial interpretations and applications can vary, reflecting local political dynamics. In Maharashtra, the provisions for disqualification are guided by Article 191 of the Constitution for State Legislature members and Article 102 for members of Parliament⁵¹⁷. These include disqualifications for reasons such as holding an office of profit under the government, unsound mind, undischarged insolvency, not being a citizen of India, or having allegiance to a foreign state. Moreover, the Representation of the People Act, 1951, specifies disqualification for criminal convictions, corruption, and certain electoral malpractices, where a conviction with a prison sentence of two years or more can disqualify a member⁵¹⁸. Judicial trends in Maharashtra often reflect the state's politically charged environment. One of the most notable instances was the political turmoil and subsequent legal battles following the 2019 assembly election results⁵¹⁹. Accusations of illegal defections and the role of the Governor in these matters led to several high-profile cases in the Bombay High Court and appeals in the Supreme Court. The role of the judiciary in these cases was pivotal, as it not only interpreted the constitutional and statutory provisions but also set precedents on the powers and limitations of political figures and institutions within the state.

⁵¹⁷ Aakash, P. and Hariharan, R., “*Adjudication of Cases of Disqualification by an Independent Quasi-Judicial Authority*” 18 *Supremo Amicus* 1 (2020).

⁵¹⁸ Chowdhury, S., Shankar, U., et.al., “*Gender Perspective of Judicial Appointment Process in South Africa and India*” 10(2) *Lentera Hukum* (2023).

⁵¹⁹ Choudhary, K., “*Decriminalisation of Politics in India*” 3 Issue 6 *Int'l JL Mgmt. & Human.* 746 (2020).

4.9.1. Legal Grounds for Disqualification: An Examination of Maharashtra's Legislative Framework

The judiciary in Maharashtra has also been instrumental in clarifying the boundaries of the Anti-Defection Law as outlined in the Tenth Schedule of the Constitution. The Bombay High Court has dealt with numerous petitions regarding the disqualification of MLAs accused of defection. These decisions often emphasize the need for maintaining the purity of democratic processes while also safeguarding the legislators' rights against frivolous disqualification claims⁵²⁰. A significant aspect of the judicial approach in Maharashtra is the scrutiny of the Speaker's decisions regarding disqualification. The courts have occasionally had to intervene to ensure that disqualification processes are not used as political tools against opposition members. This oversight is crucial in maintaining the balance between legislative privileges and judicial review, ensuring that actions taken are legally sound and in accordance with democratic principles⁵²¹. Overall, the judicial trends in Maharashtra reflect a broader commitment to uphold the Constitution while adapting to the evolving political landscape. The state's judiciary plays a critical role in interpreting disqualification laws, ensuring that elected representatives adhere to legal standards and that their rights are protected in the complex world of political maneuvering.

The disqualification of legislators in Maharashtra, like in other parts of India, is governed by both constitutional provisions and judicial interpretations, reflecting the state's unique political dynamics. Articles 191 and 102 of the Indian Constitution specify the grounds for disqualification for State Legislature and Parliament members, respectively, including holding an office of profit, unsoundness of mind, insolvency, non-citizenship, or allegiance to a foreign power. Additionally, the Representation of the People Act, 1951, extends disqualification criteria to include criminal convictions and electoral malpractices leading to prison sentences of two years or more. Judicial trends in Maharashtra, especially post-2019 assembly elections, highlight the critical role of the judiciary in political disputes, including those involving accusations of illegal defections. These instances often escalate to the Bombay High Court and the Supreme Court, where the judiciary's interpretations and rulings not only resolve individual cases but also set broader legal precedents regarding the powers and limitations of political figures and institutions. The application of the Anti-Defection Law, part of the Tenth Schedule

⁵²⁰ Poornima, B., "Explicating the Contemporary Debates on the Anti-Defection Law in India" *Journal of Polity and Society* 60.

⁵²¹ Bhattacharyya, R., "Nexus between Crime and Politics: A Study with Reference to Electoral Candidature", 11 *Indian JL & Just.* 217 (2020).

of the Constitution, is a significant area of judicial activity in Maharashtra. The state's courts frequently address petitions concerning MLA disqualifications due to defection, emphasizing the importance of democratic integrity while protecting legislators from capricious disqualification claims. This judicial scrutiny extends to reviewing the Speaker's decisions on disqualifications, ensuring they are not misused for political vendettas. Maharashtra's judiciary plays an essential role in balancing legislative actions with legal standards, ensuring that political maneuvers remain within the bounds of law and democracy, thus upholding constitutional governance amid a complex political landscape.

4.10. Disqualification from Becoming Members Of The Parliament And State Legislature & Indian Judicial Trends With Respect To Telangana

In Telangana, the disqualification of members from the Parliament and State Legislature is governed by the same constitutional and legislative frameworks that apply across India, but the specific instances and judicial interpretations can highlight regional political nuances and legal challenges. Like other states, disqualification criteria in Telangana are set forth under Article 102 of the Indian Constitution for Parliament members and Article 191 for State Legislature members⁵²². These articles stipulate disqualification grounds such as holding an office of profit under the government, declared unsoundness of mind, undischarged insolvency, not being an Indian citizen, or holding allegiance to a foreign state. Moreover, provisions under the Representation of the People Act, 1951, include disqualification for criminal convictions where the sentence is two years or more, and for electoral malpractices such as bribery, undue influence, and spreading enmity⁵²³. Telangana, since its formation in 2014, has witnessed several politically charged events that required judicial scrutiny regarding the disqualification of MLAs and MPs⁵²⁴. These include issues related to defections, which are particularly sensitive under the Tenth Schedule of the Constitution, known as the Anti-Defection Law. The state has seen instances where legislators switched parties, prompting rival parties to seek their disqualification under this law. The interpretation and enforcement of the Anti-Defection Law have been significant, as the decisions can influence the stability of the governing coalitions and the political landscape in the state.

⁵²² Poornima, B., "Explicating the Contemporary Debates on the Anti-Defection Law in India" *Journal of Polity and Society* 60.

⁵²³ Bhattacharyya, R., "Nexus between Crime and Politics: A Study with Reference to Electoral Candidature", 11 *Indian JL & Just.* 217 (2020).

⁵²⁴ Balyan, C., "An Integrated Approach to Resolve the Crisis of Defection in India" *NLUO Law Journal*, Special Issue on Election Law 7 (2020).

4.10.1. Statutory Grounds for Disqualification: Telangana's Legislative Landscape

The judiciary in Telangana has dealt with these matters sensitively, often navigating complex political contexts to uphold constitutional principles. For example, the Telangana High Court has examined cases where the roles of the Speaker of the Legislative Assembly and the Governor have come under scrutiny in the context of disqualification and the ratification of defections. The court's decisions in such matters not only interpret the law but also set precedents that affect future political and legal dealings in the state ⁵²⁵. Another notable aspect of judicial trends in Telangana involves the timeliness and fairness of the disqualification proceedings. There have been criticisms when these processes appeared politically motivated or unduly delayed, prompting the judiciary to intervene to ensure that legal and constitutional standards are maintained. The courts have reinforced the need for transparency and adherence to procedural justice in disqualification cases, ensuring that such decisions are not used as tools for political gain but are based on substantial legal grounds ⁵²⁶. The judicial trends in Telangana concerning the disqualification of legislators illustrate the dynamic interaction between law and politics. The judiciary's role in interpreting and enforcing disqualification laws ensures the integrity of democratic processes, maintaining a balance between legislative autonomy and the rule of law, crucial for the state's political stability and democratic health.

In Telangana, the disqualification of legislators from both Parliament and State Legislature is governed by the same constitutional and legislative frameworks as in the rest of India, but regional nuances and legal challenges often arise from the state's unique political landscape. Disqualification criteria, as defined under Articles 102 and 191 of the Indian Constitution, include holding an office of profit, unsoundness of mind, insolvency, non-citizenship, or allegiance to a foreign state. Additionally, the Representation of the People Act, 1951, prescribes disqualification for criminal convictions with sentences of two years or more, and for electoral malpractices such as bribery and spreading enmity. Since its establishment in 2014, Telangana has seen its share of politically charged issues that necessitated judicial scrutiny concerning the disqualification of MLAs and MPs, particularly in cases of defection. These are especially sensitive under the Tenth Schedule of the Constitution, also known as the Anti-Defection Law. The state has witnessed several instances where legislators switched parties, leading to legal battles over their disqualification initiated by rival political factions.

⁵²⁵ Kumar, S., "Sketching the Limits of Article 142 of the Constitution of India: A Constitutional Necessity", in Kumar, S., *Sketching the Limits of Article 142* 365-383 (2020).

⁵²⁶ Pandey, S.P., "Constitutional Provision of Judicial Review in India: An Evaluation" 3(1) *Asian Journal of Advances in Research* 291-301 (2020).

The enforcement and interpretation of the Anti-Defection Law are critical, as they can significantly impact the stability of government coalitions and the broader political dynamics within the state.

The judiciary in Telangana has actively navigated these complex political and legal environments. The Telangana High Court, for instance, has scrutinized the roles of both the Speaker of the Legislative Assembly and the Governor in matters of disqualification and the ratification of defections. The court's rulings in these cases not only apply the law but also establish precedents influencing future political and legal proceedings in the state. Another focal point of judicial trends in Telangana has been the timeliness and fairness of disqualification proceedings. There have been instances where these processes were perceived as politically motivated or were delayed, prompting judicial intervention to uphold legal and constitutional standards. The judiciary has emphasized the need for transparency and procedural justice in disqualification cases, ensuring decisions are not leveraged for political advantage but are founded on substantial legal criteria. The judicial landscape in Telangana concerning legislator disqualification reflects a dynamic interplay between law and politics. The judiciary's vigilant role in interpreting and enforcing disqualification laws is essential for maintaining the integrity of democratic processes, ensuring a balance between legislative freedom and adherence to the rule of law, crucial for sustaining political stability and democratic governance in the state.

4.11 Disqualification From Becoming Members Of The Parliament And State Legislature & Indian Judicial Trends With Respect To Andhra Pradesh

In Andhra Pradesh, the criteria and processes for disqualifying members from the Parliament and State Legislature are rooted in the broader framework of the Indian Constitution but are interpreted and applied within the state's own political and judicial contexts. These disqualifications are primarily outlined in Articles 102 and 191 of the Constitution for Parliament and State Legislatures, respectively. They include general disqualifications such as holding an office of profit, unsoundness of mind, undischarged bankruptcy, and allegiance to a foreign state⁵²⁷. The Representation of the People Act, 1951, further defines disqualifications related to electoral malpractices and criminal convictions. The political landscape in Andhra Pradesh, marked by its vigorous party politics and frequent shifts in party allegiances, often

⁵²⁷ Hasan, Z., *Other Backward Classes and the politics of reservations in India* (2022).

brings the application of these disqualification laws into the public eye, especially under the Anti-Defection Law detailed in the Tenth Schedule of the Constitution ⁵²⁸. This law aims to prevent political defections motivated by the lure of office or other similar considerations ⁵²⁹. The state has witnessed several high-profile disqualification cases where legislators have switched parties, leading to legal battles and requiring judicial interpretation of the law. Judicial trends in Andhra Pradesh reflect a responsive approach to these political dynamics. The state judiciary, including the Andhra Pradesh High Court, has played a critical role in adjudicating disputes related to the disqualification of legislators. These courts have not only had to interpret complex legal and constitutional provisions but also consider the political implications of their decisions.

4.11.1. Legal Provisions for Disqualification: Andhra Pradesh's Legislative Framework

One notable aspect of the judiciary's role in Andhra Pradesh is its scrutiny of the procedural aspects of disqualification proceedings. The High Court has often emphasized the need for due process and fairness in the handling of disqualification cases by the Speaker of the Legislative Assembly. This judicial oversight is crucial in ensuring that disqualification processes are not misused for political ends, maintaining the integrity of democratic institutions. Furthermore, the courts in Andhra Pradesh have occasionally had to intervene in instances where there were delays or apparent biases in the disqualification proceedings conducted by legislative authorities ⁵³⁰. Such interventions are indicative of the judiciary's role as a balancer, ensuring that legislative actions align with constitutional mandates and principles of justice. The disqualification of members from legislative bodies in Andhra Pradesh and the associated judicial trends highlight the complex interplay between law and politics in the state ⁵³¹. The judiciary acts as both an interpreter of the law and a guardian of democratic norms, addressing not only the legal but also the ethical and procedural aspects of disqualification. This dual role is essential in sustaining the democratic fabric of the state amidst its vibrant and often contentious political environment.

⁵²⁸ Sharraf, U., "The Politics of Punishment" 9 *The Indian Police Journal* (2020).

⁵²⁹ Chattopadhyay, S., "Whether Private Entities Come under the Purview of Writ Jurisdiction of High Courts? An Insight into the Writ Jurisdiction of High Courts under Article 226." 5(1) *Indian JL & Legal Rsch.* 1 (2023).

⁵³⁰ Kaur, R. and Mathur, N. (Eds.), *The People of India: New Indian Politics in the 21st Century* (Penguin Random House India Private Limited, 2022).

⁵³¹ Kumar, A., "The Role of Money in India's Elections: How Effective Is the Political Finance Regime?" *Millennial Asia*, 09763996241246054 (2024).

4.12. Disqualification from Becoming Members Of The Parliament And State Legislature & Indian Judicial Trends With Respect To Madhya Pradesh

In Madhya Pradesh, the disqualification of members from the Parliament and State Legislature is framed within the national legislative and constitutional guidelines, but it is interpreted through the specific political and judicial lens of the state. As in other Indian states, disqualifications in Madhya Pradesh are governed by Article 102 for members of Parliament and Article 191 for members of State Legislatures⁵³². These cover standard disqualification grounds such as holding an office of profit, unsoundness of mind, undischarged insolvency, not being a citizen of India, or holding allegiance to a foreign state. Added to these are the stipulations of the Representation of the People Act, 1951, which includes disqualifications for criminal convictions, electoral fraud, and corrupt practices, with convictions entailing two years or more of imprisonment being a significant criterion⁵³³. The political environment in Madhya Pradesh, characterized by its historically vibrant and sometimes volatile political rivalries, has often brought the application of these disqualification laws to the fore, particularly under the Anti-Defection Law contained in the Tenth Schedule of the Constitution⁵³⁴. This law is particularly pivotal in handling cases where MLAs or MPs switch parties after elections, which can destabilize governing coalitions or affect the power balance within the legislative assembly. Judicial trends in Madhya Pradesh regarding disqualification have been marked by significant cases that reflect the judiciary's critical role in interpreting the law while considering the state's political nuances. The Madhya Pradesh High Court, and at times the Supreme Court, have been called upon to adjudicate complex disqualification cases, providing clarity and setting precedents that influence future political and legal conduct within the state.

4.12.1. Statutory Criteria for Disqualification: An Overview of Madhya Pradesh

For instance, the judiciary in Madhya Pradesh has often upheld the principle that the Speaker of the Households substantial discretion in disqualification matters. However, it has also emphasized that such discretion needs to be exercised judiciously, transparently, and within the bounds of the law. This dual approach helps ensure that political maneuvering does not

⁵³² Balyan, C., "An Integrated Approach to Resolve the Crisis of Defection in India" NLUO Law Journal, Special Issue on Election Law 7 (2020).

⁵³³ Kumar, A., "Recent Issues in Politics, Preamble and Constitution of India: An Overview" 69 Indian Journal of Public Administration 8 (2023).

⁵³⁴ Raj, S. R., "Article 356 and its Dysfunctions: Analysis of its misuse in the Indian federal system", in New Dimensions in Federal Discourse in India 27 (Routledge India, 2020).

undermine the legislative process or the rule of law. Additionally, the courts in Madhya Pradesh have occasionally had to intervene when there were allegations of delay or bias in the handling of disqualification proceedings by legislative authorities ⁵³⁵. These interventions underscore the judiciary's role in ensuring that legislative actions are conducted fairly and are subject to judicial review, thus maintaining the integrity of democratic processes. Overall, the judicial response to disqualification in Madhya Pradesh showcases the delicate balance between legal mandates and political realities ⁵³⁶. The state's judiciary not only interprets the laws pertaining to disqualification but also plays a crucial role in safeguarding democratic principles against the backdrop of the state's dynamic political landscape. This ensures that the processes leading to disqualification are just, contributing to the stability and credibility of the state's legislative practices.

4.13 Cases

➤ **Mr. Sarad Yadav (JD(U), Bihar):**

Sarad Yadav, a member of the Rajya Sabha from Bihar representing Janata Dal (United), was involved in a legal case that reached the Supreme Court of India. In 2004, the court dismissed a writ petition (civil) numbered 287 against him. This dismissal indicates that the Supreme Court found the arguments or accusations against Yadav insufficient to warrant further legal proceedings. Such cases often involve complex legal and political issues, and a dismissal at this level underlines the robustness of Yadav's legal defense and possibly validates his actions or standing as a legislator. The outcome not only cleared Yadav of the specific accusations but also preserved his political standing and continued service in the Rajya Sabha.⁵³⁷

➤ **Jagjit Singh (Democratic Dal of Haryana):**

Jagjit Singh, a member of the Haryana legislature representing the Democratic Dal of Haryana, faced a Supreme Court challenge wherein a writ petition (civil) numbered 287⁵³⁸ was filed against him in 2004. The Supreme Court's decision to dismiss the petition implies a lack of substantial evidence or legal merit in the accusations. The dismissal is crucial as it prevents potential political destabilization and upholds Singh's legitimacy as a lawmaker, reflecting the

⁵³⁵ Rathee, H., A landmark on the Indian Constitution 224 (2023).

⁵³⁶ Kaur, B.P. and Singh, I., *Politics in Contemporary India: BA/B. ED* (Semester-II) (Pencil, 2024).

⁵³⁷ Kumar S., "Post-mandal politics in Bihar: Changing electoral patterns" (SAGE Publishing India, 2018).

⁵³⁸ *Jagjit Singh v. State of Haryana*, W.P. (C) Nos. 287, 290–294 of 2004, (2006) 9 SCC 829.

judiciary's critical role in safeguarding elected officials from unfounded allegations while ensuring accountability.⁵³⁹

➤ **Karan Singh Dalal (Republican Party of India, Haryana):**

Serving in the Haryana legislature, Karan Singh Dalal of the Republican Party of India was the subject of a writ petition (civil) numbered 292 in 2004, which was also dismissed by the Supreme Court. The dismissal confirmed that the legal challenges against Dalal lacked sufficient basis to continue, which typically involves intricate legal issues possibly pertaining to his electoral conduct or legislative actions. Such a ruling not only impacts the individual's career by clearing them of the allegations but also serves to emphasize the legal protections afforded to legislators, allowing them to perform their duties without undue interference.⁵⁴⁰

➤ **Shrimanth Balasaheb Patil (Congress, Karnataka):**

Shrimanth Balasaheb Patil, a member of the Karnataka Legislature from the Congress party, was involved in a case where the Supreme Court in 2019 partially confirmed disqualification orders passed by the Speaker. The case, under Writ Petition (Civil) No. 992 of 2019⁵⁴¹, reveals a partial upholding of charges against him, suggesting that while some allegations were serious enough to warrant disqualification, others were dismissed. This outcome underscores the complex nature of political and legal battles in legislative contexts, highlighting the nuanced interpretation of law required in cases of political disqualification.⁵⁴²

➤ **Ramesh L. Jarkiholi (Congress):**

Ramesh L. Jarkiholi, another member of the Congress party, faced a similar situation where the Supreme Court partially confirmed disqualification orders against him and another individual. The partial confirmation suggests a split decision where some aspects of the disqualification were upheld based on substantial evidence or violation of norms, while others may have been rejected. This kind of judicial outcome is significant as it reflects the careful

⁵³⁹ Rai J., "Khalistan is Dead! Long Live Khalistan!" 7 Sikh Formations 1-41 (2011).

⁵⁴⁰ Kumari R, "A Critical Analysis on Haryana Vidhan Sabha Election-2019" 22 Think India Journal 12877 (2019).

⁵⁴¹ *Shrimanth Balasaheb Patil v. Hon'ble Speaker, Karnataka Legislative Assembly and Ors.*, W.P. (C) No. 992 of 2019, decided on 13 November 2019 (SC)

⁵⁴² Tripathy RP, "The 'New Normal' of Indian Parliamentary Democracy" 8 Journal of National Law University Delhi 62 (2021).

scrutiny of legal standards against the backdrop of political accountability, affecting Jarkiholi's political career and standing within the legislative assembly.⁵⁴³

➤ **Dr. Sudhakar (JDS, Karnataka):**

Dr. Sudhakar, affiliated with the Janata Dal (Secular) and serving in the Karnataka Legislature, found himself entangled in a legal battle that culminated in a Supreme Court decision in 2019. The apex court partially confirmed the disqualification orders passed by the Speaker under Writ Petition (Civil) No. 1000 of 2019. This case was part of a larger political drama in Karnataka where multiple MLAs were accused of defying party lines, leading to their potential disqualification under the anti-defection laws. The partial confirmation by the Supreme Court suggests that while some aspects of the disqualification were justified based on the evidence and legal provisions, other aspects were not sufficiently substantiated. This nuanced verdict reflects the complex interplay between legislative procedures, party discipline, and individual rights of the legislators, highlighting the judiciary's role in navigating these multifaceted legal and ethical issues. The outcome of such cases significantly impacts the political landscape of the state, affecting party dynamics, legislative strength, and the overall stability of the governing coalitions.

➤ **Ramesh L. Jarkiholi (Congress, Karnataka):**

Ramesh L. Jarkiholi's political career took a significant turn when he, along with another individual, faced disqualification proceedings, which were partly confirmed by the Supreme Court in 2019 under Writ Petition (Civil) No. 997. Jarkiholi, a Congress MLA, was implicated in a controversy that raised questions about loyalty and party discipline, leading to his disqualification by the Speaker of the Karnataka Legislature. The case reached the Supreme Court, which upheld the disqualification on certain grounds while overturning others. This partial confirmation underscores the delicate balance the judiciary maintains in enforcing anti-defection laws while ensuring that the rights of the individual legislators are not unduly compromised. The implications of such a decision are profound, affecting not only the individuals involved but also the operational dynamics within the state assembly and the political equations in Karnataka. This decision also serves as a precedent in interpreting disqualification norms and the extent of the Speaker's authority in such matters.⁵⁴⁴

⁵⁴³ Abhayachandran K, *Anti Defection Law: a bane on Democracy* (Unpublished Dissertation).

⁵⁴⁴ Barman, U., "Are Mid-term Collapses of Coalition Governments the New Norm? A Case Study of India and Israel".

➤ **Pratap Gouda Patil and Others (Congress and JDU, Karnataka):**

In a landmark case involving Pratap Gouda Patil and other legislators from both Congress and Janata Dal (United), the Supreme Court dealt with multiple writ petitions, including Nos. 998, 1000, 1001, 1003, and 1005 of 2019. The court's decision to partially confirm the disqualification orders passed by the Karnataka Speaker reflected a critical judicial review of political conduct and the application of anti-defection laws. This case was part of broader political turbulence in Karnataka, where allegations of defection and the subsequent legal battles tested the resilience and interpretations of legislative norms. The Supreme Court's nuanced approach in this matter—validating some disqualifications while reversing others—demonstrates the intricate considerations involved in such decisions, including the examination of evidence, legislative intent, and constitutional provisions. The ruling had significant repercussions for the state's political stability, potentially influencing government formation, party alignments, and future legislative actions. It also highlighted the essential checks and balances that the judiciary provides in the functioning of democratic institutions, ensuring that legislative actions are bound by legal and ethical standards.⁵⁴⁵

4.14 Conclusion

The disqualification of individuals from becoming members of Parliament and State Legislatures in India serves as a fundamental mechanism to uphold the integrity and ethical standards of public office. The Representation of the People Act, 1951, delineates various grounds for disqualification, including corrupt practices, government contract involvement, and dismissal for corruption or disloyalty. These provisions are vital in preventing conflicts of interest, maintaining public trust, and ensuring that elected representatives adhere to the highest standards of conduct. The Indian judiciary has played a pivotal role in interpreting and enforcing these disqualification criteria, as seen in notable cases such as the disqualification of Indira Gandhi and others. Through rigorous scrutiny and landmark judgments, the courts have reinforced the principle that public office is a position of trust and responsibility. Judicial trends highlight a commitment to curbing electoral malpractices and ensuring free and fair elections. In states like Karnataka, Maharashtra, Telangana, Andhra Pradesh, and Madhya Pradesh, the judiciary's vigilant approach has been instrumental in upholding the sanctity of the electoral process. Overall, the interplay between statutory provisions and judicial oversight ensures that

⁵⁴⁵ Mehta, N., "*The BJP's South Model: The Karnataka Formula*", in *The New BJP* 403-440 (Routledge, 2022).

the democratic foundations of India remain robust and that public offices are occupied by individuals of unimpeachable integrity.

CHAPTER 5:

EMPIRICAL WORK, DATA ANALYSIS & FINDINGS

"Disqualification upon conviction is meant to protect the sanctity of the legislature, ensuring that only individuals with integrity and adherence to the rule of law serve the public. It is necessary to uphold the trust placed by the people in their representatives."

-Justice K.S. Radhakrishnan

5.1 Introduction:

The study on disqualification from becoming members of Parliament and State Legislatures involves a meticulous data collection process to gather comprehensive insights into the legal frameworks and judicial precedents governing this issue. Data was sourced from legislative documents, such as the Representation of the People Act, 1951, which outlines the various grounds for disqualification, including corrupt practices, holding government contracts, and dismissal for corruption or disloyalty. Judicial case studies and verdicts from higher courts, such as the Supreme Court and High Courts, were also analyzed to understand how these laws are interpreted and enforced. Through this data collection, significant findings emerged, highlighting the judiciary's crucial role in maintaining the integrity of the electoral process. For instance, landmark cases like the disqualification of Indira Gandhi and other prominent politicians underscored the judiciary's commitment to curbing electoral malpractices. The analysis also revealed regional trends, with states like Karnataka, Maharashtra, Telangana, Andhra Pradesh, and Madhya Pradesh showcasing various instances where the judiciary upheld disqualification provisions to ensure fair elections. These findings emphasize the importance of robust legal and judicial mechanisms in safeguarding democratic values and preventing conflicts of interest, thereby ensuring that public office is held by individuals of high ethical standards. This study analyzed 300 samples collected from four states, namely Karnataka, Telangana, Andhra Pradesh, and Maharashtra.

Top of Form

Objective 1. To revisit the existing legal provisions relating to the disqualification of members of parliament and find gaps in the existing law.

The objective was analyzed based on questions 7 to 11. Based on the responses, it seems that the majority of respondents agree or strongly agree that the existing legal provisions relating to the disqualification of members of parliament are clear, effective in preventing MPs from indulging in illegal activities, sufficient to ensure accountability and transparency, and stringent enough to act as a deterrent for indulging in unethical practices. However, there is also a small number of respondents who disagree or neither agree nor disagree with these statements, indicating that there may be some room for improvement in the existing legal provisions. It seems like the existing legal provisions relating to the disqualification of members of parliament are clear (51.5% strongly agree, 39.4% agree), effective in preventing members of parliament from indulging in illegal activities (45.5% strongly agree, 42.4% agree), and are sufficient to ensure accountability and transparency of members of parliament (51.5% strongly agree, 39.4% agree). The tables for each question are given below:

Table 5.1: Frequency table representing the responses to revisit the existing legal provisions relating to disqualification of members of parliament and find out gaps in the existing law

Questions	n	%
Do you agree that the existing legal provisions relating to the disqualification of members of parliament are clear?		
Agree	13	39.4 %
Disagree	2	6.1 %
Neither agree nor disagree	1	3.0 %
Strongly agree	17	51.5 %
Do you agree the existing legal provisions are effective in preventing members of parliament from indulging in illegal activities?		
Agree	14	42.4 %
Disagree	3	9.1 %
Neither agree nor disagree	1	3.0 %
Strongly agree	15	45.5 %
Do you think the existing legal provisions are sufficient to ensure accountability and transparency of members of parliament?		
Agree	13	39.4 %
Disagree	2	6.1 %
Neither agree nor disagree	1	3.0 %

Strongly agree	17	51.5 %
Do you think the existing legal provisions are adequate to ensure the integrity and probity of members of parliament?		
Agree	8	24.2 %
Disagree	2	6.1 %
Neither agree nor disagree	3	9.1 %
Strongly agree	19	57.6 %
Strongly disagree	1	3.0 %
Do you think the existing legal provisions are stringent enough to act as a deterrent for indulging in unethical practices by members of parliament?		
Agree	14	42.4 %
Disagree	3	9.1 %
Neither agree nor disagree	1	3.0 %
Strongly agree	15	45.5 %

Objective 2. To study comprehensively the role of The Union Government, Law Commission, Judiciary

System and Election Commission, on the Disqualifications of the Member of Parliament / State Legislatures

The majority of respondents (63.6%) strongly agree that the Union Government plays a major role in determining the disqualifications of Members of Parliament/State Legislatures. The majority of respondents (69.7%) strongly agree that the Law Commission should have an equal say in deciding the disqualifications of Members of Parliament/State Legislatures. The majority of respondents (57.6%) strongly agree that the Judiciary System should have a larger say in deciding the disqualifications of Members of Parliament/State Legislatures. The majority of respondents (48.5%) strongly agree that the Election Commission should be consulted more often to determine the disqualifications of Members of Parliament/State Legislatures. The majority of respondents (57.6%) are very satisfied with the role of the Union Government in determining the disqualifications of Members of Parliament/State Legislatures. The majority of respondents (36.4%) are very satisfied with the role of the Judiciary System in determining the disqualifications of Members of Parliament/State Legislatures. The majority of respondents

(42.4%) are very satisfied with the role of the Judiciary System in determining the disqualifications of Members of Parliament/State Legislatures.

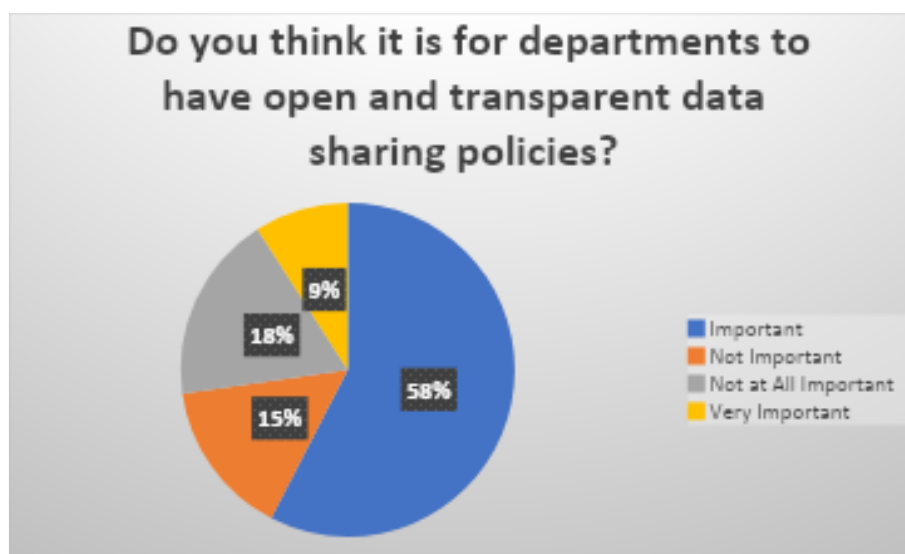
Table 5.2: Frequency table representing the responses to the role of The Union Government, Law Commission, Judiciary System, and Election Commission, on the Disqualifications of the Member of Parliament / State Legislatures

Question	N	%
Do you agree that The Union Government plays a major role in determining the disqualifications of the Member of Parliament / State Legislatures?		
Agree	9	27.3 %
Neither agree nor disagree	2	6.1 %
Strongly agree	21	63.6 %
Strongly disagree	1	3.0 %
Do you think the Law Commission should have an equal say in deciding the disqualifications of the Member of Parliament / State Legislatures?		
Agree	7	21.2 %
Disagree	1	3.0 %
Neither agree nor disagree	2	6.1 %
Strongly agree	23	69.7 %
Are you of the opinion that the Judiciary System should have a larger say in deciding the disqualifications of the Member of Parliament State Legislatures?		
Agree	8	24.2 %
Disagree	2	6.1 %
Neither agree nor disagree	3	9.1 %
Strongly agree	19	57.6 %
Strongly disagree	1	3.0 %
Do you believe that the Election Commission should be consulted more often to determine the disqualifications of the Member of Parliament / State Legislatures?		
Agree	8	24.2 %
Disagree	5	15.2 %
Neither agree nor disagree	3	9.1 %

Strongly agree	16	48.5 %
Strongly disagree	1	3.0 %

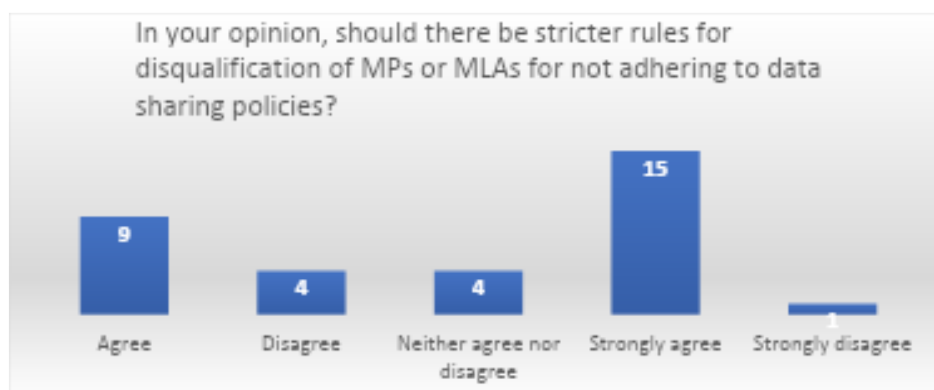
Objective 3. To analyze the intra-department relations regarding data sharing and necessary actions.

Figure 5.1: Pie Chart on Opinions Regarding Open and Transparent Data Sharing Policies for Departments



The majority (57.6%) of respondents believe that it is important for departments to have open and transparent data-sharing policies.

Figure 5.2: Bar Chart representing Opinions on Stricter Disqualification Rules for MPs and MLAs Not Adhering to Data Sharing Policies



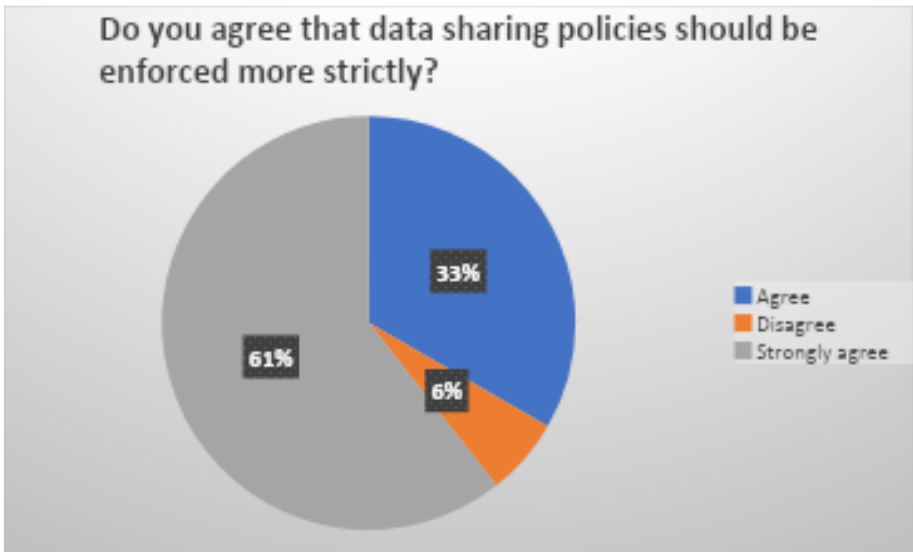
Nearly half (45.5%) of the respondents strongly agree that there should be stricter rules for the disqualification of MPs or MLAs for not adhering to data-sharing policies.

Figure 5.3: Bar Chart representing Confidence in Departments' Actions Against Data Sharing Policy Violations



Only 24.2% of respondents feel confident that departments are taking appropriate action for those who violate data-sharing policies.

Figure 5.4: Pie chart representing agreement on Stricter Enforcement of Data Sharing Policies



A large majority (60.6%) of respondents strongly agree that data-sharing policies should be enforced more strictly.

Objective 4. To study the corrupt practices adopted by the Political parties

Based on the data provided:63.6% of respondents believe that political parties are involved in corrupt practices to a very large extent. 30.3% of respondents strongly agree that political parties are increasingly engaging in corrupt practices. 63.6% of respondents strongly agree that political parties are influential in deciding who gets elected to the government. 57.6% of respondents strongly agree that politicians are using their power and influence to benefit themselves. 27.3% of respondents rate the level of control as high, while 27.3% rate it as very low 51.5% of respondents strongly agree that political parties are exploiting the public by using corrupt practices 30.3% of respondents rate the amount of money spent as high, while 21.2% rate it as very low.36.4% of respondents agree that political parties are using the public's money for their benefit, while 12.1% disagree.

Table 5.3: Examination of Corrupt Practices by Political Parties

Questions	N	%
To what extent do you believe political parties are involved in corrupt practices?		
To a large extent	11	33.3 %
To a very large extent	21	63.6 %
To some extent	1	3.0 %
Do you agree political parties are increasingly engaging in corrupt practices?		
Agree	12	36.4 %
Disagree	4	12.1 %
Neither agree nor disagree	5	15.2 %
Strongly agree	10	30.3 %
Strongly disagree	2	6.1 %
Do you agree that political parties are influential in deciding who gets elected in the government?		
Agree	11	33.3 %
Neither agree nor disagree	1	3.0 %
Strongly agree	21	63.6 %
Do you agree politicians are using their power and influence to benefit themselves?		
Agree	12	36.4 %
Neither agree nor disagree	1	3.0 %
Strongly agree	19	57.6 %

Strongly disagree	1	3.0 %
How do you rate the level of control that the government has over political parties?		
High	9	27.3 %
Low	4	12.1 %
Moderate	9	27.3 %
Very High	2	6.1 %
Very low	9	27.3 %
Do you agree that the political parties exploiting the public by using corrupt practices?		
Agree	14	42.4 %
Disagree	2	6.1 %
Strongly agree	17	51.5 %
How would you rate the amount of money spent by the political parties on corrupt practices?		
High	10	30.3 %
Low	3	9.1 %
Moderate	10	30.3 %
Very High	3	9.1 %
Very low	7	21.2 %
Do you think the political parties are using the public's money for their own benefit?		
Agree	12	36.4 %
Disagree	4	12.1 %
Neither agree nor disagree	5	15.2 %
Strongly agree	10	30.3 %
Strongly disagree	2	6.1 %

Objective 5. To study the impact of malpractices adopted by political parties on the Economy and Society.

Based on the given frequencies, it appears that a majority of respondents agree or strongly agree that malpractices adopted by political parties have a negative impact on the economy, society, and social cohesion. Additionally, a significant proportion of respondents believe that such malpractices negatively affect economic development and poverty alleviation. However, there are also some respondents who neither agree nor disagree, or disagree with these

statements. Based on the frequencies provided, here are the responses to the questions related to the impact of malpractices adopted by political parties on the economy and society:

To what extent do you agree malpractices adopted by political parties have an impact on the economy?: 11 respondents (33.3%) agree, 21 respondents (63.6%) strongly agree and 1 respondent (3.0%) neither agrees nor disagrees

Table 5.4: Impact of Political Parties' Malpractices on the Economy - Agreement Levels

To what extent do you agree malpractices adopted by political parties have an impact on the economy?	Counts	% of Total
Agree	11	33.3 %
Neither agree nor disagree	1	3.0 %
Strongly agree	21	63.6 %

In your opinion, do malpractices adopted by political parties influence the rate of economic growth?

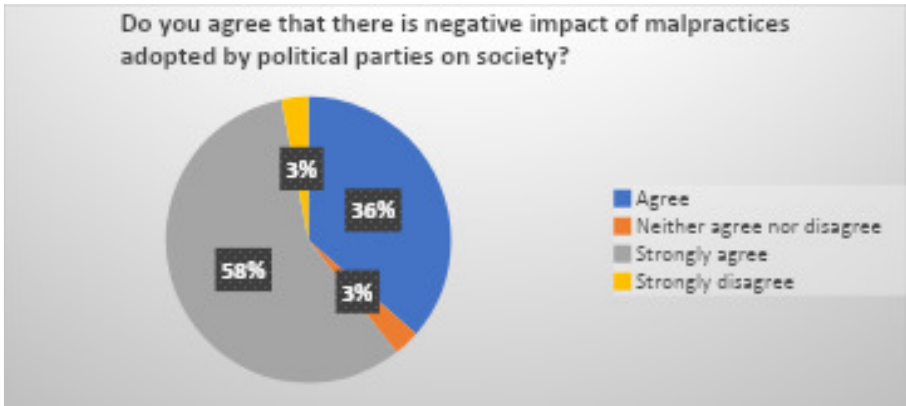
12 respondents (36.4%) agree, 4 respondents (12.1%) disagree, 5 respondents (15.2%) neither agree nor disagree, 10 respondents (30.3%) strongly agree and 2 respondents (6.1%) strongly disagree.

Table 5.5: Opinions on the Influence of Political Parties' Malpractices on Economic Growth Rate

In your opinion, do malpractices adopted by political parties influence the rate of economic growth?	Counts	% of Total
Agree	12	36.4 %
Disagree	4	12.1 %
Neither agree nor disagree	5	15.2 %
Strongly agree	10	30.3 %
Strongly disagree	2	6.1 %

Do you agree that there is negative impact of malpractices adopted by political parties on society?: 12 respondents (36.4%) agree, 19 respondents (57.6%) strongly agree ,1 respondent (3.0%) neither agrees nor disagrees and 1 respondent (3.0%) strongly disagrees

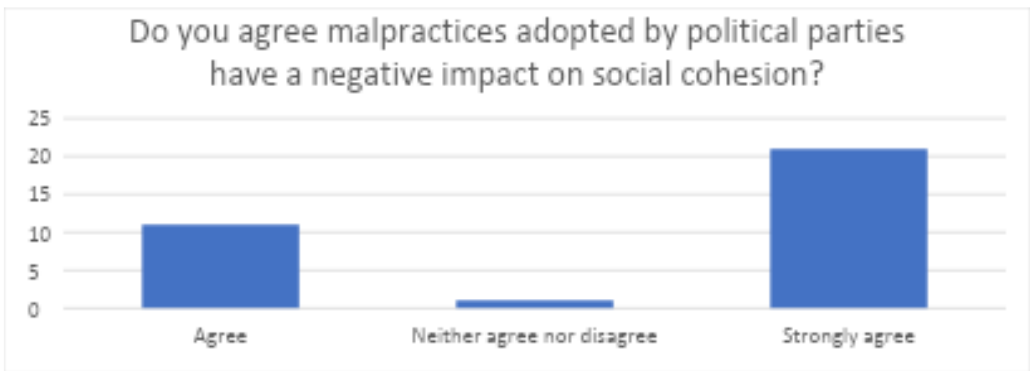
Figure 5.5: Agreement on the Negative Impact of Political Parties' Malpractices on Society



Do you agree malpractices adopted by political parties have a negative impact on social cohesion?

11 respondents (33.3%) agree,21 respondents (63.6%) strongly agree and 1 respondent (3.0%) neither agrees nor disagrees

Figure 5.6: Agreement on the Negative Impact of Political Parties' Malpractices on Social Cohesion



How much do you think malpractices adopted by political parties affect economic development and poverty alleviation?

12 respondents (36.4%) agree, 19 respondents (57.6%) strongly agree, 1 respondent (3.0%) neither agrees nor disagrees and 1 respondent (3.0%) strongly disagrees

Table 5.6: Impact of Political Malpractices on Economic Development and Poverty Alleviation"

How much do you think malpractices adopted by political parties affect economic development and poverty alleviation?	Counts	% of Total
Agree	12	36.4 %
Neither agree nor disagree	1	3.0 %
Strongly agree	19	57.6 %
Strongly disagree	1	3.0 %

Analysis of Age Criteria's Impact on Disqualification for Parliament and State Legislature Membership

A chi square test was used in the analysis of age criteria's impact on disqualification for parliament and state legislature membership.

Table 5.7: Chi-square Test of Goodness of Fit: Age Criteria and Disqualification for Parliament and State Legislature Membership"						
		Counts		% of Total		Test statistics
Agree		12		36.4 %		$\chi^2 = 70.560$; df = 4 ; p < 0.001
Disagree		4		12.1 %		
Neither agree nor disagree		5		15.2 %		
Strongly agree		10		30.3 %		
Strongly disagree		2		6.1 %		

Interpretation :The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 70.560$; df = 4 ; p < 0.001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.8: Chi-square Test of Goodness of Fit: Opinion on Relaxing Age Criteria for Parliamentary and State Legislature Candidates

		Counts		% of Total	Test statistics	
Agree		11		33.3 %	$\chi^2 = 31.52$; df = 2; p < 0.001	
Neither agree nor disagree		1		3.0 %		
Strongly agree		21		63.6 %		

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 31.52$; df = 2; p < 0.001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

Examining the Relationship Between Educational Qualification and Disqualification for Parliamentary and State Legislature Membership

Table 5.8: Chi-square Test of Goodness of Fit: Importance of Educational Qualification for Parliamentary and State Legislature Membership

Do you agree educational qualification is important for a person to become a member of parliament or state legislatures?		Counts		% of Total		Test statistics	
Agree		12		36.4 %		$\chi^2 = 54.28$; df = 3 ; p < 0.001.	
Neither agree nor disagree		1		3.0 %			
Strongly agree		19		57.6 %			
Strongly disagree		1		3.0 %			

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 54.28$; df = 3 ; p < 0.001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.9: Chi-square Test of Goodness of Fit: Perception of the Significance of Educational Qualification for Parliamentary and State Legislature Membership

	Counts		% of Total	Test statistics	
Neutral	5		15.2 %		

Not at all significant	2	6.1 %		
Not very significant	4	12.1 %		$\chi^2 = 70.560$; df = 4; p < 0.001
Somewhat significant	12	36.4 %		
Very significant	10	30.3 %		

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 70.560$; df = 4; p < 0.001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.10: Chi-square Test of Goodness of Fit: Opinion on Considering Educational Qualification for Disqualification from Parliamentary and State Legislature Membership					
	Counts		% of Total	Test statistics	
Agree		11	33.3 %		
Neither agree nor disagree		1	3.0 %	$\chi^2 = 31.520$; df =2 ; p < 0.0001.	
Strongly agree		21	63.6 %		

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 31.520$; df =2 ; p < 0.0001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

"Examining the Relationship Between Religion and Disqualification for Parliamentary and State Legislature Membership"

Table 5.11: Chi-square Test of Goodness of Fit: Opinion on Considering Religious Beliefs for Eligibility in Elections					
	Counts		% of Total	Test statistics	
Agree		11	33.3 %		
Neither agree nor disagree		1	3.0 %		$\chi^2 = 31.520$; df =2 ; p < 0.0001
Strongly agree		21	63.6 %		

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 31.520$; df =2 ; p < 0.0001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.12: Chi-square Test of Goodness of Fit: Importance of Knowledge of Constituency Religion for Members of Parliament and State Legislatures					
	Counts		% of Total	Test statistics	
Important	21		63.6 %		
Not Important	5		15.2 %	$\chi^2 = 53.80$; df =3 ; p < 0.0001.	
Not at All Important	5		15.2 %		
Very Important	2		6.1 %		

Interpretation: .The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 53.80$; df =3 ; p < 0.0001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

5.2 Hypothesis

H01: There is no significance relationship between Understanding Indian electoral law and Disqualification for becoming the member of parliament and state legislatures before and after election.

H11: There is a significance relationship between Understanding Indian electoral law and Disqualification for becoming the member of parliament and state legislatures before and after election.

Table 5.12: Chi-square goodness of fit for the question: In your opinion, how relevant is understanding Indian electoral law to disqualification for becoming the member of parliament and state legislatures before and after elections?					
	Counts		% of Total	Test Statistics	
Extremely relevant	8		24.2 %	$\chi^2 = 61.92$; df = 3 ; p < 0001	
Moderately relevant	8		24.2 %		

Not at all relevant	2	6.1 %	
Slightly relevant	15	45.5 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 61.92$; $df = 3$; $p < 0001$. Since p value is less than the level of significance ($\alpha = 5\%$), we may reject the null hypothesis and accept the alternative hypothesis.

H02: There is no significance relationship between good civil score in banks and

Disqualification for becoming the member of parliament and state legislatures before and after election.

H12: There is a significance relationship between good civil score in banks and Disqualification

for becoming the Member of Parliament and state legislatures before and after election.

Table 5.13: Chi-square goodness of fit for the question :To what extent do you agree that there is a significant relationship between good civil score in banks and disqualification for becoming the Member of Parliament and state legislatures before and after election?

	Counts	% of Total	Test statistics
Agree	12	36.4 %	
Disagree	4	12.1 %	$\chi^2 = 70.560$; $df = 4$; $p < 0.001$.
Neither agree nor disagree	5	15.2 %	
Strongly agree	10	30.3 %	
Strongly disagree	2	6.1 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 70.560$; $df = 4$; $p < 0.001$. Since p value is less than the level of significance ($\alpha = 5\%$), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5:14: Chi-square goodness of fit for the question :Do you think that the disqualification criteria for becoming a Member of Parliament and state legislatures before and after election should be based on the individual's civil score in banks?

	Counts		% of Total	Test statistics	
Agree	11		33.3 %		
Neither agree nor disagree	1		3.0 %	$\chi^2 = 31.520$; df =2 ; p < 0.0001	
Strongly agree	21		63.6 %		

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 31.520$; df =2 ; p < 0.0001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

Disqualification for becoming the member of parliament and state legislatures before and after election: a critical analysis

Objective

1. To revisit the existing legal provisions relating to disqualification of members of parliament and find out gaps in the existing law.

The table provides the frequencies of responses for a survey conducted on the existing legal provisions relating to the disqualification of members of parliament. The first question, Q.12, asks about the level of satisfaction with the existing legal provisions, with 68.2% of respondents indicating they are very satisfied, and 22.7% stating they are satisfied. For Q.13, which asks about how well the existing legal framework protects the rights of MPs, 36.4% of respondents feel it does poorly, while 36.4% say it does very well. Question 14 asks whether current laws are sufficient for a fair review process for disqualification, with 54.5% stating it is sufficient to a large extent. For Q.15, 54.5% of respondents are very satisfied with the existing legal provisions for appeal, and for Q.16, 54.5% agree that the legal provisions relating to disqualification are clear enough to understand. Finally, for Q.17, 50% of respondents answered "Yes" when asked if they are aware of gaps in the existing legal provisions relating to disqualification.

Table 5.15: Frequency table representing the responses to revisit the existing legal provisions relating to disqualification of members of parliament and find out gaps in the existing law

Question	N	%
How satisfied are you with the existing legal provisions relating to disqualification of members of parliament? (Objective 1)		
Dissatisfied	1	4.5 %
Neutral	1	4.5 %
Satisfied	5	22.7 %
Very Satisfied	15	68.2 %
How well do you think the existing legal framework protects the rights of members of parliament against the possibility of arbitrary disqualification? (Objective 1)		
Neutral	4	18.2 %
Poorly	4	18.2 %
Very poorly	3	13.6 %
Very well	8	36.4 %
Well	3	13.6 %
Do you feel that the current laws are sufficient to ensure a fair and impartial review process when it comes to disqualification of members of parliament? (Objective 1)		
No, not to a large extent	4	18.2 %
Yes, completely	6	27.3 %
Yes, to a large extent	12	54.5 %
Are you satisfied with the existing legal provisions for appeal in the event of arbitrary disqualification of members of parliament? (Objective 1)		
Dissatisfied	2	9.1 %
Neutral	1	4.5 %
Satisfied	7	31.8 %
Very Satisfied	12	54.5 %

Are the legal provisions relating to disqualification of members of parliament clear enough to enable people to understand the process and their rights? (Objective 1)		
No, not to a large extent	3	13.6 %
Yes, completely	7	31.8 %
Yes, to a large extent	12	54.5 %
Are you aware of there are gaps in the existing legal provisions relating to disqualification of members of parliament? (Objective 1)		
Can't say	6	18.2 %
No	5	22.7 %
Yes	11	50.0 %
To what extent do you agree that the Union Government's ensures the disqualifications of the Member of Parliament / State Legislatures? (Objective 2)		
Dissatisfied	1	4.5 %
Neutral	1	4.5 %
Satisfied	3	13.6 %
Very Satisfied	17	77.3 %

2. To study comprehensively the role of The Union Government, Law Commission, Judiciary System and Election Commission, on the Disqualifications of the Member of Parliament / State Legislatures

The table shows the frequencies and percentages of responses to three survey questions related to the disqualification of Members of Parliament and State Legislatures in India.

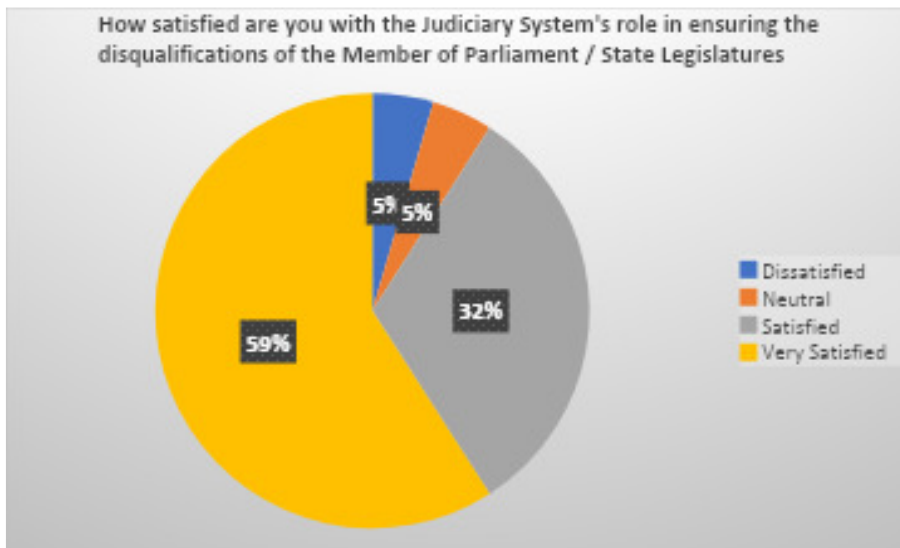
For Q.19, 54.5% of respondents were very satisfied with the Law Commission's role, while 13.6% were dissatisfied.

Table 5.16: How satisfied are you with the Law Commission's role in ensuring the disqualifications of the Member of Parliament / State Legislatures?

	Counts	% of Total	Cumulative %
Dissatisfied	3	13.6 %	13.6 %
Neutral	3	13.6 %	27.3 %
Satisfied	2	9.1 %	36.4 %
Very Dissatisfied	2	9.1 %	45.5 %
Very Satisfied	12	54.5 %	100.0 %

For Q.20, 59.1% were very satisfied with the Judiciary System's role, while only 4.5% were dissatisfied.

Figure 5.7: Pie chart for assessment of Satisfaction with the Judiciary System's Role in Ensuring Disqualifications of Members of Parliament and State Legislatures



For Q.21, 59.1% were very satisfied with the Election Commission's role, and 36.4% were satisfied. Only one respondent was neutral towards the Election Commission's role.

Table 5.17: How satisfied are you with the Election Commission's role in ensuring the disqualifications of the Member of Parliament / State Legislatures? (Objective 2)

	Counts	% of Total	Cumulative %
Neutral	1	4.5 %	4.5 %
Satisfied	8	36.4 %	40.9 %

Very Satisfied		13		59.1 %		100.0 %	
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3. To analyse the Intra department relations regarding data sharing and necessary actions.

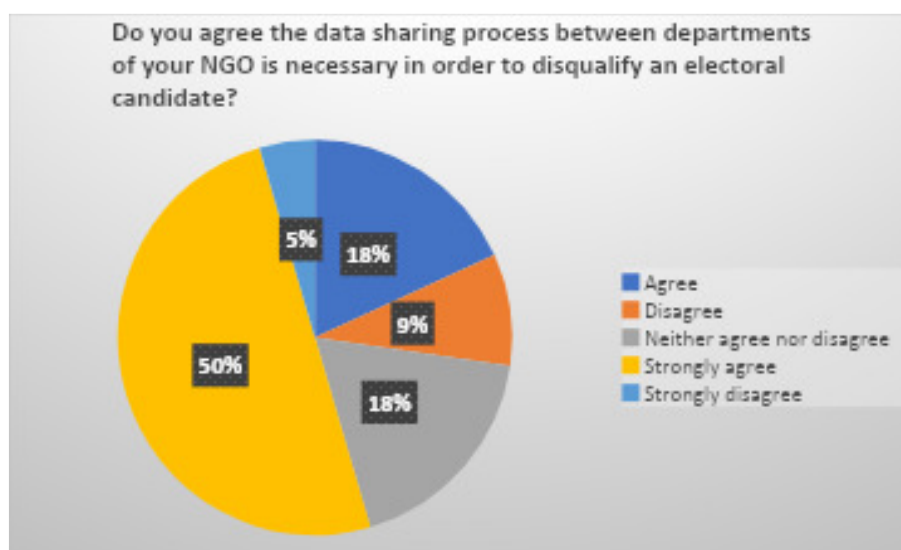
These are the frequency tables for the survey questions related to Objective 3, which is about the data sharing process between departments of the NGO and its use to disqualify an electoral candidate. The tables show the number of responses and the percentage of the total for each response option.

For question 22, "How satisfied are you with the data sharing process between departments of your NGO?", the majority of respondents (63.6%) reported being "Very Satisfied" with the process.

Table 5.18: How satisfied are you with the data sharing process between departments of your NGO?

	Counts	% of Total	Cumulative %
Dissatisfied	1	4.5 %	4.5 %
Neutral	1	4.5 %	9.1 %
Satisfied	5	22.7 %	31.8 %
Very Dissatisfied	1	4.5 %	36.4 %
Very Satisfied	14	63.6 %	100.0 %

Figure 5.8: Opinion on the Necessity of Data Sharing Among Departments of the NGO for Electoral Candidate Disqualification



For question 23, "Do you agree the data sharing process between departments of your NGO is necessary in order to disqualify an electoral candidate?", the highest percentage of respondents (50%) chose "Strongly agree".

For question 24, "Do you feel the data sharing process between departments of your NGO is effective?", the majority of respondents (54.5%) chose "Strongly agree", while 45.5% chose "Agree".

Table 5.19: Do you feel the data sharing process between departments of your NGO is effective? (Objective 3)

	Counts	% of Total	Cumulative %
Agree	10	45.5 %	45.5 %
Strongly agree	12	54.5 %	100.0 %

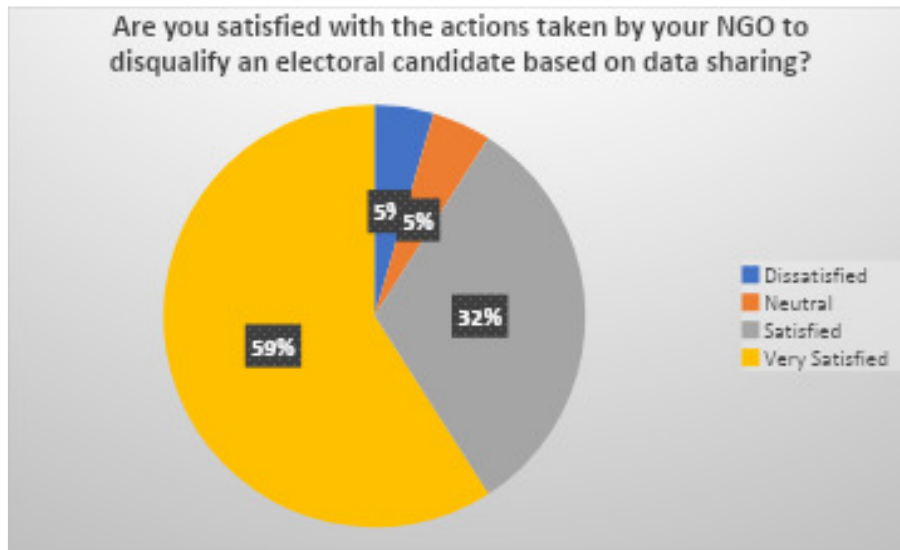
For question 25, "Do you agree that the data collected by departments of your NGO will be used to disqualify an electoral candidate?", the same proportion of respondents (45.5%) chose "Agree", while the majority (54.5%) chose "Strongly agree".

Table 5.20: Do you agree that the data collected by departments of your NGO will be used to disqualify an electoral candidate? (Objective 3)

	Counts	% of Total	Cumulative %
Agree	10	45.5 %	45.5 %
Strongly agree	12	54.5 %	100.0 %

For question 26, "Are you satisfied with the actions taken by your NGO to disqualify an electoral candidate based on data sharing?", the majority of respondents (59.1%) reported being "Very Satisfied" with the actions taken, while 31.8% chose "Satisfied".

Figure 5.9: Pie chart for the assessment of Satisfaction with NGO Actions for Electoral Candidate Disqualification through Data Sharing"



4. To study the corrupt practices adopted by the Political parties

Based on the provided frequencies, it appears that a majority of respondents strongly agree or agree that political parties are indulging in corrupt practices (68.2%), taking advantage of their power to benefit their own interests (90.9%), using their influence to gain illegal financial gains (68.2%), and manipulating elections for their own benefit (68.2%). These responses suggest that there is a perception among the respondents that political parties engage in unethical behavior for personal gain.

Table 5.21: Table showing the corrupt practices adopted by the Political parties

Question	N	%
To what extent do you agree that Political parties are indulging in corrupt practices?		
Agree	4	18.2 %
Disagree	2	9.1 %
Neither agree nor disagree	4	18.2 %
Strongly agree	11	50.0 %
Strongly disagree	1	4.5 %
Do you agree that Political parties are taking advantage of their power to benefit their own interests?		

Agree	9	40.9 %
Disagree	1	4.5 %
Neither agree nor disagree	1	4.5 %
Strongly agree	9	40.9 %
Strongly disagree	2	9.1 %
Do you agree Political parties are using their influence to gain illegal financial gains?		
Agree	6	27.3 %
Neither agree nor disagree	1	4.5 %
Strongly agree	15	68.2 %
Do you agree that the Political parties are manipulating elections for their own benefit?		
Agree	6	27.3 %
Neither agree nor disagree	1	4.5 %
Strongly agree	15	68.2 %

5. To study the impact of malpractices adopted by political parties on the Economy and Society.

Based on the provided frequency tables, it appears that a majority of respondents agree or strongly agree that malpractices adopted by political parties have an impact on the economy (53.0%) and a negative effect on society (59.1%). Additionally, a majority of respondents also agree or strongly agree that political parties should be held accountable for their malpractices (100.0%) and that these malpractices have a long-term effect on the economy (54.5%). Finally, a majority of respondents agree or strongly agree that NGOs should intervene in order to stop political malpractices (59.1%).

Table 5.22: To study the impact of malpractices adopted by political parties on the Economy and Society.

Question	n	%
To what extent do you agree that malpractices adopted by political parties have an impact on the economy? (Objective 5)		
Agree	9	40.9 %
Strongly agree	13	59.1 %

To what extent do you agree that malpractices adopted by political parties have a negative effect on society? (Objective 5)		
Agree	9	40.9 %
Strongly agree	13	59.1 %
Do you agree that political parties should be held accountable for their malpractices? (Objective 5)		
Agree	10	45.5 %
Strongly agree	12	54.5 %
To what extent do you agree that malpractices adopted by political parties have a long-term effect on the economy? (Objective 5)		
Agree	10	45.5 %
Strongly agree	12	54.5 %
Do you agree that NGOs should intervene in order to stop political malpractices? (Objective 5)		
Agree	9	40.9 %
Strongly agree	13	59.1 %

Analysis of Age Criteria's Influence on Disqualification for Parliamentary and State Legislature Membership

Table 5.23: Chi-square test: How strongly do you agree that there should be an age criteria for becoming a Member of Parliament and state legislatures before and after election? (Hypothesis 2)						
		Counts		% of Total		Test statistics
Agree		9		40.9 %		$\chi^2 = 59.62$, df =1 ; p < 0.0001
Strongly agree		13		59.1 %		

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 59.62$, df =1 ; p < 0.0001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.23: Chi-square test: How important is it for the government to have an age criterion for becoming a Member of Parliament and state legislatures before and after election?

	Counts	% of Total	Test statistics
Important	14	63.6 %	$\chi^2 = 110.60$, df =3 ; p < 0.0001
Not Important	5	22.7 %	
Not at All Important	3	13.6 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 110.60$, df =3 ; p < 0.0001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.24: Chi-square test: In your opinion, should the age criteria for becoming a Member of Parliament and state legislatures be lowered or raised? (Hypothesis 2)

	Counts	% of Total	Test statistics
Lowered	3	14.3 %	$\chi^2 = 160.88$, df =2 ; p < 0.0001
Neutral	9	42.9 %	
No opinion	2	9.5 %	
Stay the same	7	33.3 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 160.88$, df =2 ; p < 0.0001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

Exploring the Impact of Educational Qualification on Disqualification for Parliamentary and State Legislature Membership

Table 5.25: Chi-square test: Do you agree that educational qualifications should be a requirement for becoming a member of parliament and state legislatures?

	Counts	% of Total	Test statistics
Agree	9	40.9 %	$\chi^2 = 160.08$, df =3 ; p < 0.0001.
Disagree	1	4.5 %	
Neither agree nor disagree	2	9.1 %	

Strongly agree	10	45.5 %		
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Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 160.08$, $df = 3$; $p < 0.0001$. Since p value is less than the level of significance ($\alpha = 5\%$), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.26: Do you believe there is a significant relationship between educational qualification and disqualification for becoming a member of parliament and state legislatures before and after election?

	Counts	% of Total	Test statistics
Agree	6	27.3 %	$\chi^2 = 61.27$, $df = 2$; $p < 0.0001$.
Neither agree nor disagree	1	4.5 %	
Strongly agree	15	68.2 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 61.27$, $df = 2$; $p < 0.0001$. Since p value is less than the level of significance ($\alpha = 5\%$), we may reject the null hypothesis and accept the alternative hypothesis.

Assessing the Relationship Between Religion and Disqualification for Parliamentary and State Legislature Membership

Table 5.27: Chi-square test: Do you believe the exploitation of religion card affects the election outcome?

	Counts	% of Total	Test statistics
Agree	6	27.3 %	$\chi^2 = 62.30$, $df = 2$; $p < 0.0001$
Neither agree nor disagree	1	4.5 %	
Strongly agree	15	68.2 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 62.30$, $df = 2$; $p < 0.0001$. Since p value is less than the level of significance ($\alpha = 5\%$), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.28: Chi-square test: Do you think that the disqualification of candidates due to exploitation of religion card has any long-term implications on the election process?

	Counts	% of Total	Test statistics
Agree	9	40.9 %	$\chi^2 = 160.39, df = 3 ; p < 0.0001$
Disagree	1	4.5 %	
Neither agree nor disagree	2	9.1 %	
Strongly agree	10	45.5 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 160.39, df = 3 ; p < 0.0001$. Since p value is less than the level of significance ($\alpha = 5\%$), we may reject the null hypothesis and accept the alternative hypothesis.

Hypothesis

H01: There is no significance relationship between Understanding Indian electoral law and Disqualification for becoming the member of parliament and state legislatures before and after election.

H11: There is a significance relationship between Understanding Indian electoral law and Disqualification for becoming the member of parliament and state legislatures before and after election.

Table 5.29: Chi-square test: Do you agree that the understanding Indian electoral law is important for preventing disqualification of members of parliament and state legislatures before and after election?

	Counts	% of Total	Test statistics
Agree	10	45.5 %	$\chi^2 = 60.88, df = 1 ; p < 0.0001$
Strongly agree	12	54.5 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 60.88, df = 1 ; p < 0.0001$. Since p value is less than the level of significance ($\alpha = 5\%$), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.30: Chi-square test: NGOs should take initiatives to raise awareness about Indian electoral law to help reduce disqualification of members of parliament and state legislatures before and after election?

		Counts		% of Total		Test statistics
Agree		10		45.5 %		$\chi^2 = 60.87$, df =1 ; p < 0.0001
Strongly agree		12		54.5 %		

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 60.87$, df =1 ; p < 0.0001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.31: Chi-square test: NGOs should provide resources and training to members of parliament and state legislatures to help them understand Indian electoral law better?

		Counts		% of Total		Test statistics
Agree		10		45.5 %		$\chi^2 = 60.87$, df =1 ; p < 0.0001
Strongly agree		12		54.5 %		

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 60.87$, df =1 ; p < 0.0001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

H02: There is no significance relationship between good civil score in banks and

Disqualification for becoming the member of parliament and state legislatures before and after election.

H12: There is a significance relationship between good civil score in banks and Disqualification for becoming the Member of Parliament and state legislatures before and after election.

Table 5.32: How strongly do you agree that financial stability has a significant relationship to disqualification for becoming the Member of Parliament or state legislatures before or after elections? (Hypothesis 2)

	Counts	% of Total	Test statistics
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Agree	6	27.3 %	$\chi^2 = 60.02, df = 7 ; p < 0.0001$
Neither agree nor disagree	1	4.5	
Strongly agree	15	68.2 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 60.02, df = 7 ; p < 0.0001$. Since p value is less than the level of significance (alpha = 5%), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.33: How important do you think it is to consider civil scores in banks in disqualification process for candidates aspiring to become a Member of Parliament and state legislatures? (Hypothesis 2)					
	Counts		% of Total		Test statistics
Important	12		54.5 %		$\chi^2 = 159.56, df = 3 ; p < 0.0001$
Not Important	5		22.7 %		
Not at All Important	3		13.6 %		
Very Important	2		9.1 %		

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 159.56, df = 3 ; p < 0.0001$. Since p value is less than the level of significance (alpha = 5%), we may reject the null hypothesis and accept the alternative hypothesis.

Disqualification for becoming the member of parliament and state legislatures before and after election: a critical analysis

Objective

1. To revisit the existing legal provisions relating to disqualification of members of parliament and find out gaps in the existing law.

According to the survey results, 46.2% of respondents agreed and 20.5% strongly agreed that learning about Indian electoral laws is important, indicating that a majority of respondents recognize the significance of this issue (Q. 6). When asked about their knowledge of the existing legal provisions concerning disqualification of members of parliament, 38.5% of

respondents claimed to be knowledgeable or very knowledgeable (Q. 7). However, opinions on the sufficiency of existing laws were divided, with only 23.1% of respondents believing that the laws were very sufficient, while 25.6% thought they were not sufficient at all (Q. 8). Furthermore, although 51.3% of respondents found information about the legal provisions to be somewhat or very accessible (Q. 9), only 53.8% believed that the existing laws were somewhat or very sufficient (Q. 8). Finally, while 53.8% of respondents claimed to be either confident or very confident in the enforcement of existing laws (Q. 10), only 28.2% agreed or strongly agreed that there are major gaps in the existing legal provisions (Q. 11).

Table 5.34: Frequency table representing the responses to revisit the existing legal provisions relating to disqualification of members of parliament and find out gaps in the existing law

Question	n	%
Do you agree that learning about the Indian electoral laws is important?		
a. Strongly agree	8	20.5 %
b. Agree	10	25.6 %
c. Strongly disagree	3	7.7 %
d. Disagree	8	20.5 %
e. Neither agree nor disagree	10	25.6 %
How knowledgeable are you about the existing legal provisions concerning disqualification of members of parliament?		
a. Very knowledgeable	9	23.1 %
b. Knowledgeable	6	15.4 %
c. Somewhat knowledgeable	8	20.5 %
d. Not very knowledgeable	6	15.4 %
e. Not knowledgeable at all	10	25.6 %
To what extent do you think the existing laws are sufficient to address issues concerning disqualification of members of parliament?		
a. Very sufficient	9	23.1 %
b. Sufficient	7	17.9 %
c. Somewhat sufficient	5	12.8 %
d. Not very sufficient	8	20.5 %
e. Not sufficient at all	10	25.6 %
How accessible do you think information about the existing legal provisions concerning disqualification of members of parliament is?		
a. Very accessible	9	23.1 %
b. Accessible	1	2.6 %
c. Somewhat accessible	10	25.6 %

d. Not very accessible	9	23.1 %
e. Not accessible at all	10	25.6 %
Do you agree that there are the major gaps in the existing legal provisions concerning disqualification of members of parliament?		
a. Strongly agree	3	7.7 %
b. Agree	8	20.5 %
c. Neither agree nor disagree	9	23.1 %
d. Strongly disagree	5	12.8 %
e. Disagree	14	35.9 %
Overall, how satisfied are you with the existing legal provisions relating to disqualification of members of Parliament?		
a. Very satisfied	6	15.4 %
b. Satisfied	7	17.9 %
c. Neutral	8	20.5 %
d. Unsatisfied	12	30.8 %
e. Very Unsatisfied	6	15.4 %
Do you think that the existing law adequately addresses issues related to disqualification of members of Parliament?		
a. Strongly agree	8	20.5 %
b. Agree	10	25.6 %
c. Neither agree nor disagree	8	20.5 %
d. Strongly disagree	5	12.8 %
e. Disagree	8	20.5 %

2. To study comprehensively the role of The Union Government, Law Commission, Judiciary System and Election Commission, on the Disqualifications of the Member of Parliament / State Legislatures

The table provides frequencies of the responses to five different questions related to political issues. Each question includes the counts and the percentage of total responses for each option, as well as the cumulative percentage.

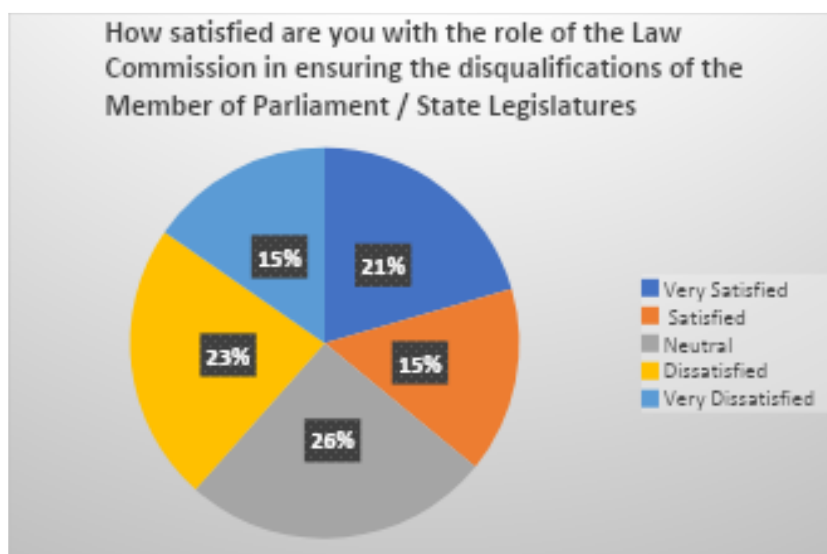
Table 5.35: How satisfied are you with the role of the Union Government in ensuring the disqualifications of the Member of Parliament / State Legislatures? (Objective 2)

	Counts	% of Total	Cumulative %
a. Very Satisfied	11	28.2 %	28.2 %

b. Satisfied		6		15.4 %		43.6 %	
c. Neutral		6		15.4 %		59.0 %	
d. Dissatisfied		6		15.4 %		74.4 %	
e. Very Dissatisfied		10		25.6 %		100.0 %	

For Q. 19, regarding the role of the Union Government in ensuring the disqualifications of the Member of Parliament / State Legislatures, 28.2% of the respondents were very satisfied, 15.4% were satisfied, 15.4% were neutral, 15.4% were dissatisfied, and 25.6% were very dissatisfied. For Q. 20, asking about the role of the Law Commission in ensuring the disqualifications of the Member of Parliament / State Legislatures, 20.5% of the respondents were very satisfied, 15.4% were satisfied, 25.6% were neutral, 23.1% were dissatisfied, and 15.4% were very dissatisfied.

Figure 5.10: Evaluating Satisfaction with the Law Commission's Role in Ensuring Disqualifications of Members of Parliament and State Legislatures



For Q. 21, related to the role of the Judiciary System in ensuring the disqualifications of the Member of Parliament / State Legislatures, 10.3% of the respondents were very satisfied, 28.2% were satisfied, 33.3% were neutral, 7.7% were dissatisfied, and 20.5% were very dissatisfied.

Table 5.36: How satisfied are you with the role of the Judiciary System in ensuring the disqualifications of the Member of Parliament / State Legislatures? (Objective 2)

		Counts		% of Total		Cumulative %	
a. Very Satisfied		4		10.3 %		10.3 %	
b. Satisfied		11		28.2 %		38.5 %	
c. Neutral		13		33.3 %		71.8 %	
d. Dissatisfied		3		7.7 %		79.5 %	
e. Very Dissatisfied		8		20.5 %		100.0 %	

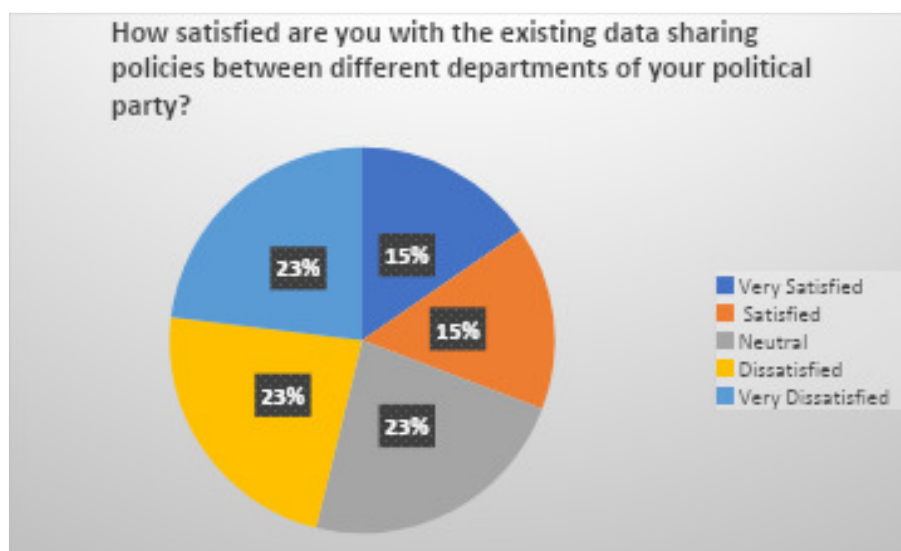
For Q. 22, about the role of the Election Commission in ensuring the disqualifications of the Member of Parliament / State Legislatures, 15.4% of the respondents were very satisfied, 28.2% were satisfied, 10.3% were neutral, 30.8% were dissatisfied, and 15.4% were very dissatisfied.

Table 5.37: How satisfied are you with the role of the Election Commission in ensuring the disqualifications of the Member of Parliament / State Legislatures?

		Counts		% of Total		Cumulative %	
a. Very Satisfied		6		15.4 %		15.4 %	
b. Satisfied		11		28.2 %		43.6 %	
c. Neutral		4		10.3 %		53.8 %	
d. Dissatisfied		12		30.8 %		84.6 %	
e. Very Dissatisfied		6		15.4 %		100.0 %	

Finally, for Q. 23, concerning the existing data sharing policies between different departments of the respondents' political party, 15.4% of the respondents were very satisfied, 15.4% were satisfied, 23.1% were neutral, 23.1% were dissatisfied, and 23.1% were very dissatisfied.

Figure 5.12: Assessment of Satisfaction with Data Sharing Policies Among Departments within the Political Party



3. To analyse the Intra department relations regarding data sharing and necessary actions.

The survey results indicate a general dissatisfaction with the existing data sharing policies and the implementation of disqualification policies of Members of Parliament/State Legislatures. In response to the question about revising data sharing policies, 38.5% of respondents agreed, and only 17.9% strongly agreed, while 30.8% were neutral, and 30.8% disagreed or strongly disagreed. Similarly, when asked about the effectiveness of existing data sharing policies, 46.2% of respondents rated them as ineffective or highly ineffective. As for the disqualification policies, 76.9% of respondents either strongly disagreed or disagreed with the fairness and justice of these policies. Moreover, more than half of the respondents rated the implementation of these policies as neutral or ineffective, with only 20.5% finding them highly effective. These results suggest that there is room for improvement in the existing data sharing and disqualification policies.

Table 5.38: Analysis of Intra-Departmental Relations and Data Sharing Practices: Assessing Necessary Actions

Question	N	%
Do you think the existing data sharing policies should be revised?		
a. Strongly agree	7	17.9 %
b. Agree	8	20.5 %

c. Neither agree nor disagree	12	30.8 %
d. Strongly disagree	7	17.9 %
e. Disagree	5	12.8 %
How would you rate the effectiveness of the existing data sharing policies?		
a. Highly Effective	7	17.9 %
b. Effective	9	23.1 %
c. Neutral	6	15.4 %
d. Ineffective	9	23.1 %
e. Highly Ineffective	8	20.5 %
Frequencies of Q. 26 Do you think the disqualifications of Member of Parliament/ State Legislatures are fair and just? (Objective 3)		
a. Strongly agree	6	15.4 %
b. Agree	8	20.5 %
c. Neither agree nor disagree	8	20.5 %
d. Strongly disagree	8	20.5 %
e. Disagree	9	23.1 %
Frequencies of Q. 27 How would you rate the implementation of the disqualification policies of Member of Parliament/ State Legislatures? (Objective 3)		
a. Highly Effective	8	20.5 %
b. Effective	13	33.3 %
c. Neutral	8	20.5 %
d. Ineffective	6	15.4 %
e. Highly Ineffective	4	10.3 %

4. To study the corrupt practices adopted by the Political parties

According to the survey results, a significant portion of respondents believe that political parties have adopted corrupt practices. Out of the total responses for Q. 28, 20.5% strongly agreed and 15.4% agreed with this statement. However, the majority of respondents disagreed with this notion, with 28.2% strongly disagreeing and another 28.2% disagreeing.

When it comes to rating the approach of political parties towards corrupt practices, the majority of respondents (53.8%) rated them as poor or very poor, as seen in Q. 29. Only 25.6% of respondents considered the approach of political parties to be good or very good.

Furthermore, the majority of respondents (87.2%) disagreed with the statement that political parties have taken sufficient measures to combat corruption, as seen in Q. 30. 23.1% strongly agreed that more stringent measures are necessary to eliminate corruption, and another 30.8% agreed.

Lastly, in Q. 32, 76.9% of respondents were either dissatisfied or very dissatisfied with the current efforts of political parties to tackle corruption. Only 28.2% of respondents were very satisfied or satisfied with their efforts. These figures suggest that political parties need to do more to combat corruption and improve their approach towards this issue.

Table 5.39: Examining Corrupt Practices within Political Parties

Question	N	%
How strongly do you agree that political parties have adopted corrupt practices?		
a. Strongly agree	8	20.5 %
b. Agree	6	15.4 %
c. Neither agree nor disagree	3	7.7 %
d. Strongly disagree	11	28.2 %
e. Disagree	11	28.2 %
How do you rate the political parties when it comes to their approach towards corrupt practices?		
a. Very poor	10	25.6 %
b. Poor	11	28.2 %
c. Average	8	20.5 %
d. Good	8	20.5 %
e. Very Good	2	5.1 %
Do you agree that political parties have taken sufficient measures to combat corruption?		
a. Strongly agree	9	23.1 %
b. Agree	6	15.4 %
c. Neither agree nor disagree	9	23.1 %
d. Strongly disagree	10	25.6 %
e. Disagree	5	12.8 %
Do you think that political parties should take more stringent measures to eliminate corruption?		

a. Strongly agree	6	15.4 %
b. Agree	12	30.8 %
c. Neither agree nor disagree	8	20.5 %
d. Strongly disagree	7	17.9 %
e. Disagree	6	15.4 %
How satisfied are you with the current efforts of political parties to tackle corruption?		
a. Very satisfied	11	28.2 %
b. Satisfied	8	20.5 %
c. Neutral	4	10.3 %
d. Dissatisfied	7	17.9 %
e. Very dissatisfied	9	23.1 %

5. To study the impact of malpractices adopted by political parties on the Economy and Society.

The table shows the frequencies of responses to several questions related to malpractices adopted by political parties and their impact on the economy and society. In response to Q33, "To what extent do you agree malpractices adopted by political parties have a negative impact on the economy?", 12.8% strongly agreed, 20.5% agreed, 17.9% neither agreed nor disagreed, 28.2% strongly disagreed, and 20.5% disagreed. For Q34, "To what extent do you believe malpractices adopted by political parties have a negative impact on society?", 15.4% strongly agreed, 15.4% agreed, 25.6% neither agreed nor disagreed, 23.1% strongly disagreed, and 20.5% disagreed. In response to Q35, "Do you believe that malpractices adopted by political parties have a significant effect on the economy?", 25.6% strongly agreed, 15.4% agreed, 17.9% neither agreed nor disagreed, 20.5% strongly disagreed, and 20.5% disagreed. For Q36, "How do you think the effects of malpractices adopted by political parties on the economy can be mitigated?", 20.5% strongly agreed, 20.5% agreed, 17.9% neither agreed nor disagreed, 25.6% strongly disagreed, and 15.4% disagreed. Finally, for Q37, "How strongly do you agree that understanding Indian elect", 12.8% strongly agreed, 10.3% agreed, 33.3% neither agreed nor disagreed, 33.3% strongly disagreed, and 10.3% disagreed.

Table 5.40: Assessing the Impact of Political Party Malpractices on Economy and Society

Question	N	%
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To what extent do you agree malpractices adopted by political parties have a negative impact on the economy?		
a. Strongly agree	5	12.8 %
b. Agree	8	20.5 %
c. Neither agree nor disagree	7	17.9 %
d. Strongly disagree	11	28.2 %
e. Disagree	8	20.5 %
To what extent do you believe malpractices adopted by political parties have a negative impact on society?		
a. Strongly agree	6	15.4 %
b. Agree	6	15.4 %
c. Neither agree nor disagree	10	25.6 %
d. Strongly disagree	9	23.1 %
e. Disagree	8	20.5 %
Do you believe that malpractices adopted by political parties have a significant effect on the economy?		
a. Strongly agree	10	25.6 %
b. Agree	6	15.4 %
c. Neither agree nor disagree	7	17.9 %
d. Strongly disagree	8	20.5 %
e. Disagree	8	20.5 %
How do you think the effects of malpractices adopted by political parties on the economy can be mitigated?		
a. Strongly agree	8	20.5 %
b. Agree	8	20.5 %
c. Neither agree nor disagree	7	17.9 %
d. Strongly disagree	10	25.6 %
e. Disagree	6	15.4 %
How strongly do you agree that understanding Indian elect		
a. Strongly agree	5	12.8 %
b. Agree	4	10.3 %
c. Neither agree nor disagree	13	33.3 %

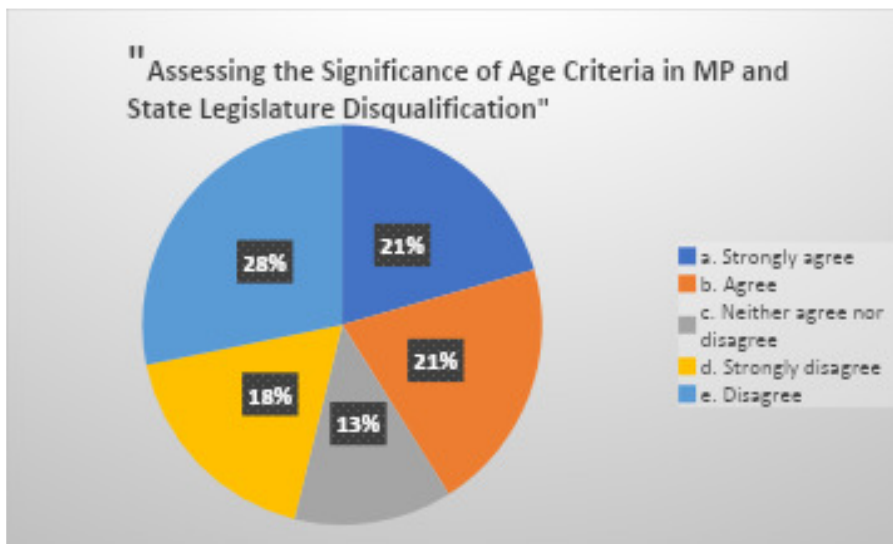
d. Strongly disagree	13	33.3 %
e. Disagree	4	10.3 %

Examining the Relationship Between Age Criteria and Disqualification for Parliamentary and State Legislature Membership

Table 5.41: Chi-square test: Do you agree there is significance relationship between age criteria and Disqualification for becoming the Member of Parliament and state legislatures before and after election?

	Counts	% of Total	Test statistics
a. Strongly agree	8	20.5 %	$\chi^2 = .872$; df = 4 ; p = 0.927
b. Agree	8	20.5 %	
c. Neither agree nor disagree	5	12.8 %	
d. Strongly disagree	7	17.9 %	
e. Disagree	11	28.2 %	

Figure 5:13: "Assessing the Significance of Age Criteria in MP and State Legislature Disqualification: Pre- and Post-Election Perspectives"



Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = .872$; df = 4 ; p = 0.927.

Since p value is greater than the level of significance (alpha =5%), we may not reject the null hypothesis.

Table 5.42: Do you think the age criteria should be made stricter for becoming the Member of Parliament and state legislatures before and after election?

	Counts	% of Total	Test statistics
a. Strongly agree	5	12.8 %	$\chi^2 = 2.410$; df = 4 ; p = 0.756.
b. Agree	9	23.1 %	
c. Neither agree nor disagree	12	30.8 %	
d. Strongly disagree	8	20.5 %	
e. Disagree	5	12.8 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 2.410$; df = 4 ; p = 0.756. Since p value is greater than the level of significance (alpha =5%), we may not reject the null hypothesis.

Evaluating the Relationship Between Educational Qualification and Disqualification for Parliamentary and State Legislature Membership

Figure 5:14: Evaluating the Impact of Educational Qualifications on Eligibility for MP and State Legislature Positions: Pre- and Post-Election Perspectives"

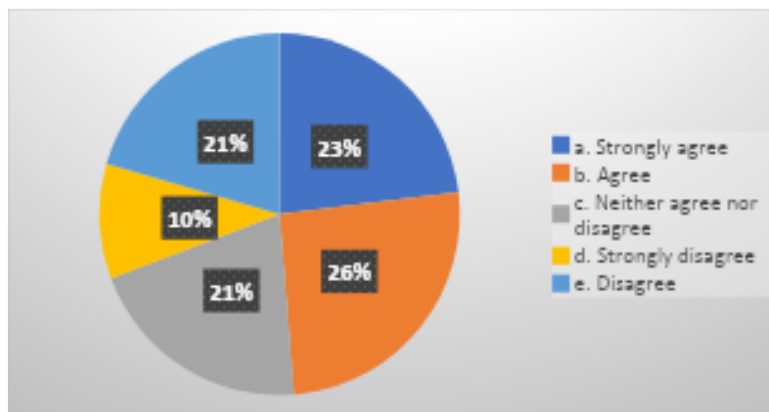


Table 5.43: Chi-square test: Do you agree educational qualification have a significant impact on eligibility for becoming the member of parliament and state legislatures before and after election?

	Counts	% of Total	Test statistics
a. Strongly agree	9	23.1 %	: $\chi^2 = 4.462$; df = 4 ; p = 0.666
b. Agree	10	25.6 %	
c. Neither agree nor disagree	8	20.5 %	
d. Strongly disagree	4	10.3 %	
e. Disagree	8	20.5 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 4.462$; df = 4 ; p = 0.666. Since p value is greater than the level of significance (alpha =5%), we may not reject the null hypothesis.

Table 5.44: Chi-square test: Do you think that educational qualification has an important role in determining who is qualified to become the member of parliament and state legislatures before and after election?

	Counts	% of Total	Test statistics
a. Strongly agree	11	28.2 %	$\chi^2 = 2.410$; df = 4 ; p = 0.667
b. Agree	6	15.4 %	
c. Neither agree nor disagree	9	23.1 %	
d. Strongly disagree	7	17.9 %	
e. Disagree	6	15.4 %	

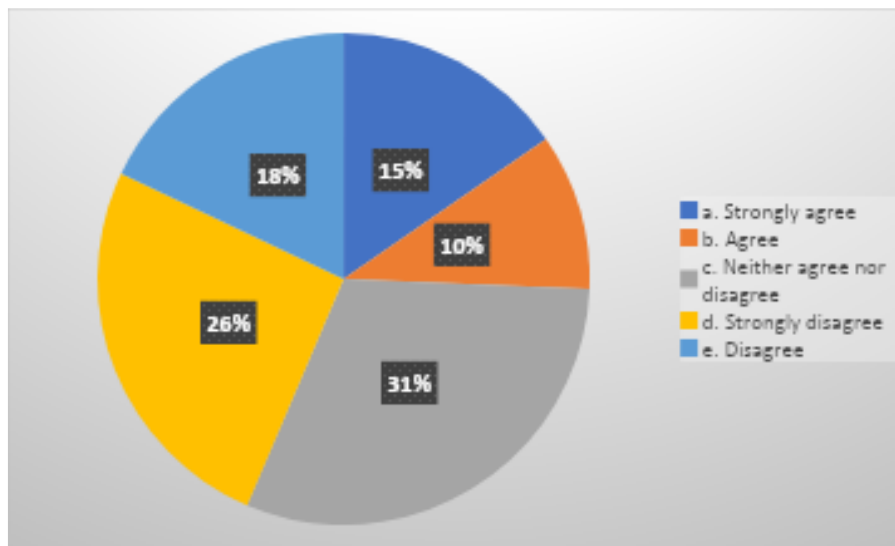
Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 2.410$; df = 4 ; p = 0.667. Since p value is greater than the level of significance (alpha =5%), we may not reject the null hypothesis.

Assessing the Relationship Between Religion and Disqualification for Parliamentary and State Legislature Membership

Table 5.45: Chi-square test: Do you believe that the disqualification process should be fair and independent regardless of the candidate's religion?

	Counts		% of Total	Test statistics	
a. Strongly agree	6		15.4 %	$\chi^2 = 5.231$ df = 4 ; p = 0.264.	
b. Agree	4		10.3 %		
c. Neither agree nor disagree	12		30.8 %		
d. Strongly disagree	10		25.6 %		
e. Disagree	7		17.9 %		

Figure 5:15: Do you believe that the disqualification process should be fair and independent regardless of the candidate's religion?



Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 5.231$ df = 4 ; p = 0.264. Since p value is greater than the level of significance (alpha =5%), we may not reject the null hypothesis.

Hypothesis

H01: There is no significance relationship between Understanding Indian electoral law and

Disqualification for becoming the member of parliament and state legislatures before and after election.

H11: There is a significance relationship between Understanding Indian electoral law and Disqualification for becoming the member of parliament and state legislatures before and after election.

Table 5.46: Chi-square test: Do you think that having a good knowledge of Indian electoral law will enable candidates to avoid disqualification for becoming the member of parliament and state legislatures before and after election?

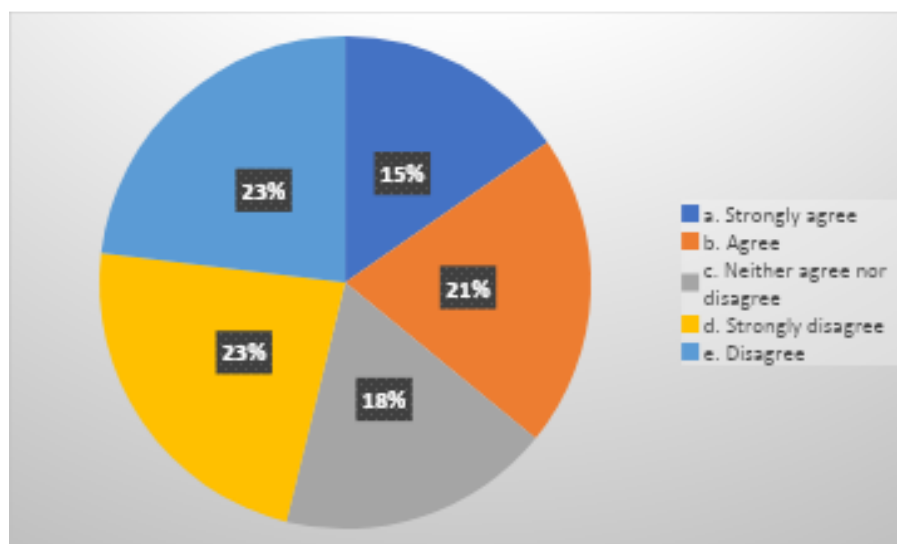
	Counts	% of Total	Test statistics
a. Strongly agree	6	15.4 %	$\chi^2 = 11.641$; df = 4 ; p < 0.001
b. Agree	8	20.5 %	
c. Neither agree nor disagree	7	17.9 %	
d. Strongly disagree	11	28.2 %	
e. Disagree	7	17.9 %	

Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 11.641$; df = 4 ; p < 0.001. Since p value is less than the level of significance (alpha =5%), we may reject the null hypothesis and accept the alternative hypothesis.

Table 5.47: Chi-square test: Do you believe that having a good understanding of Indian electoral law is essential for avoiding disqualification for becoming the member of parliament and state legislatures before and after election?

	Counts	% of Total	Test statistics
a. Strongly agree	6	15.4 %	: $\chi^2 = 1.897$; df = 4 ; p = 0.75
b. Agree	8	20.5 %	
c. Neither agree nor disagree	7	17.9 %	
d. Strongly disagree	9	23.1 %	
e. Disagree	9	23.1 %	

Figure 5:16: Do you believe that having a good understanding of Indian electoral law is essential for avoiding disqualification for becoming the member of parliament and state legislatures before and after election?



Interpretation:

The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 1.897$; $df = 4$; $p = 0.75$. Since p value is greater than the level of significance ($\alpha = 5\%$), we may not reject the null hypothesis.

H02: There is no significance relationship between good civil score in banks and Disqualification for becoming the member of parliament and state legislatures before and after election.

H12: There is a significance relationship between good civil score in banks and Disqualification for becoming the Member of Parliament and state legislatures before and after election.

Table 5.48: Chi-square test: Do you think that the civil score in banks should be taken into consideration when becoming a Member of Parliament or state legislature?

	Counts	% of Total	Test statistics
a. Strongly agree	3	7.7 %	$\chi^2 = 3.949$; $df = 4$; $p = 0.413$
b. Agree	9	23.1 %	
c. Neither agree nor disagree	8	20.5 %	
d. Strongly disagree	9	23.1 %	

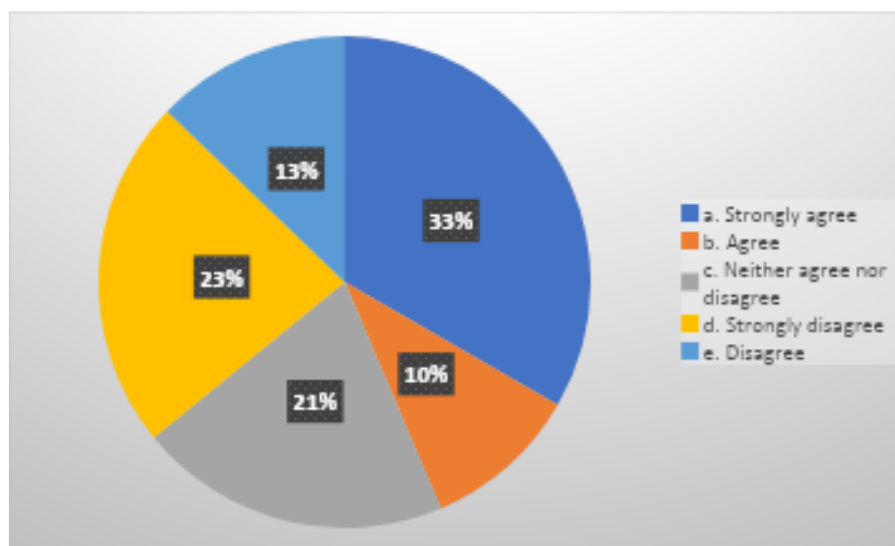
e. Disagree		10		25.6 %		
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Interpretation: The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 3.949$; $df = 4$; $p = 0.413$. Since p value is greater than the level of significance ($\alpha = 5\%$), we may not reject the null hypothesis.

Table 5.49: Chi-square test: Do you think that there should be a legal requirement to check the civil score in banks before and after an election?

	Counts	% of Total	Test statistics
a. Strongly agree	13	33.3 %	$\chi^2 = 6.513$, $df = 4$; $p = 0.164$
b. Agree	4	10.3 %	
c. Neither agree nor disagree	8	20.5 %	
d. Strongly disagree	9	23.1 %	
e. Disagree	5	12.8 %	

Figure 5:17: Do you think that there should be a legal requirement to check the civil score in banks before and after an election?



Interpretation:

The one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 6.513$, $df = 4$; $p = 0.164$. Since p value is greater than the level of significance ($\alpha = 5\%$), we may not reject the null hypothesis.

5.3 Conclusion:

The study reveals both satisfaction and concerns across sectors regarding legal provisions, institutional roles, data sharing, and the impact of political corruption. While respondents across the judiciary, NGOs, political parties, and the general public generally support the existing legal frameworks, there is a clear consensus on the need for improvements in data sharing, enforcement, and addressing corruption. Further this is discussed in detail in the next Chapter.

CHAPTER 6:

CONCLUSION AND SUGGESTIONS

6.1 Introduction

The 1950 and 1951 Representation of the People Acts established the framework for holding elections, specified who may vote, and mapped out how seats would be distributed in India's Lok Sabha and state legislatures.⁵⁴⁶ Although these acts had a major impact on how elections were conducted, they did not fully address democratic practises and needed to be amended later on. Election malpractices, candidate behaviour, and the disqualification of MPs for wrongdoing were not adequately addressed under these Acts. Therefore, in 1951, these shortcomings were addressed by introducing the Representation of the People Act. Disqualifying candidates for unethical practises, regulating election expenditures, and managing election petitions were the main focuses in order to prevent electoral fraud. By instituting strict procedures to curb malpractices, the Act sought to guarantee fair elections and preserve the integrity of the democratic process. But even with these changes, neither Act adequately addressed the problem of political defections in legislatures. Political instability and opportunistic loyalty swings among elected members resulted from the lack of precise provisions. In 1985, the Anti-Defection Law was inserted into the Indian Constitution through the 52nd Amendment Act in order to deal with this matter.⁵⁴⁷ Disqualifying individuals who willingly resigned their party membership or disregarded party directions without prior authorization, the Anti-Defection Law sought to dissuade elected members from leaving or changing parties. Government stability and the democratic process were the goals of this law, which sought to improve party discipline and prohibit arbitrary changes in political affiliation. Lastly, it was necessary to revise the Representation of the People Acts of 1950 and 1951 to fill in the gaps caused by election malpractices and wrongdoing by elected members, even though these acts were crucial in laying the groundwork for the electoral system. To ensure the continued viability of India's democratic system, the Anti-Defection Law was an important step towards addressing the issue of political defections.

⁵⁴⁶ Gowda MR and Santhosh V, “*Election Law in India*”, in *Routledge Handbook of Election Law* 288-305 (Routledge, 2022).

⁵⁴⁷ Gehlot NS, “*The anti-Defection Act, 1985 and the Role of the Speaker*” 52 *The Indian Journal of Political Science* 327 (1991).

The purpose of this study is to examine the legal provisions and judicial trends related to the disqualification of members of Parliament and State Legislatures in India. By analyzing the Representation of the People Act, 1951, and key judicial rulings, the study aims to identify gaps and ambiguities in the existing laws and understand how they are enforced. This investigation seeks to provide insights into how disqualification mechanisms can be strengthened to uphold the integrity of the electoral process and ensure that public office is held by individuals of high ethical standards.

6.2 Key Findings

An individual's ineligibility to run for office prior to an election is defined by the precise requirements and legal provisions laid down in a country's constitution and electoral laws. Age, citizenship, criminal history, financial status, and other credentials needed to run for office are usually part of these prerequisites.⁵⁴⁸ Certain individuals are expressly prohibited from seeking election to legislative or parliamentary offices in several democracies. If a candidate is too young, for example, they may not be able to run for office. Furthermore, some criminal convictions, bankruptcies, and dual citizenships may render an individual unable to run for office. On top of that, there are often regulatory structures in place that make it impossible for people with particular government posts to run for legislative or parliamentary seats at the same time.⁵⁴⁹ The goal is to make sure that different branches of government don't get mixed up and that there are no conflicts of interest. To keep the election process honest and candidates running for public office to a certain level, the disqualification requirements set out in advance of an election are vital. The goal of these regulations is to keep faith in the democratic system alive by making sure that people who want to be legislators are qualified, have good morals, and don't have any legal issues. To summarise, constitutional and legal requirements are put in place to prevent certain individuals from running for office before an election. This is done to maintain the honesty and legitimacy of the voting process, making sure that all candidates meet the minimum requirements set out by the law.

To examine the existing legal provisions relating to the disqualification of members of parliament and find gaps in the existing law it was found that 50% of the respondents are very

⁵⁴⁸ Deswal, A., "India's Anti-Defection Law: Its Shortcomings" 6 Universal Research Reports 78-82 (2019).

⁵⁴⁹ Shree, P., "Anti-Defection Law of India and Its Validity in the 21st Century," 2 Jus Corpus L.J. 1334 (2021).

satisfied with the existing legal provisions relating to the disqualification of members of parliament, while 5% are dissatisfied and 5% are very dissatisfied. Additionally, 25% are satisfied, and 15% are neutral. Respondents were asked a question. It was found that 45% of the respondents agree that the existing legal provisions are sufficient to protect the integrity of the electoral process, while 40% strongly agree. Additionally, 10% neither agree nor disagree, and 5% strongly disagree. In addition, respondents were asked if they agree the existing legal provisions are sufficient to ensure that members of parliament abide by the principles of good governance. It was found that 50% of the respondents strongly agree that the existing legal provisions are sufficient to ensure that members of parliament abide by the principles of good governance. 25% agree, while 15% neither agree nor disagree. Additionally, 5% disagree, and 5% strongly disagree. Respondents were asked whether they agree that there is a need for stronger rules and regulations for the disqualification of the Member of Parliament / State Legislatures. It was found that 45% of the respondents strongly agree that there is a need for stronger rules and regulations for the disqualification of the Member of Parliament / State Legislatures, while 35% agree.

To focus on the role of The Union Government, Law Commission, Judiciary System, and Election Commission, on the Disqualifications of the Member of Parliament / State Legislatures respondents were asked the majority of respondents (75%) strongly agreed that the current disqualification rules for the Member of Parliament/State Legislatures are sufficient. However, 55% of respondents strongly agreed that there are gaps in the existing legal provisions relating to the disqualification of members of parliament, highlighting the need for reforms. The perceived role of different institutions in the disqualification process varied among respondents, with the Judiciary System being rated the highest by 30% of respondents, and the Union Government being rated the lowest by 31.6% of respondents. When it comes to satisfaction levels, 35% of respondents were neutral, 35% were very satisfied, and 20% were satisfied with the role of the Union Government on the disqualifications of the Member of Parliament/State Legislatures. Overall, the frequencies highlight the need for improvements in the legal provisions and the role of different institutions in the disqualification process, according to the opinions of the respondents.

To analyze the intra-department relations regarding data sharing and necessary actions it was found that for Q.18, 60% of respondents strongly agreed that intra-department relations regarding data sharing are effective. In Q.19, 50% of respondents strongly agreed that data sharing should be regulated and monitored. However, in Q.20, there is a more mixed response

regarding whether the intra-department relations regarding data sharing are adequate, with 25% agreeing and 20% strongly disagreeing. The study also examined the impact of malpractices adopted by political parties on the Economy and Society and it was found that a majority of respondents agree or strongly agree that malpractices adopted by political parties hurt both the economy and society (Q. 27 and Q. 28). Additionally, most respondents agree or strongly agree that political parties should be penalized for these malpractices (Q. 29) and that existing laws may not be sufficient to deal with them (Q. 30). Finally, a majority of respondents agree or strongly agree that political parties should be held accountable for their malpractices (Q. 31). Based on the frequencies provided, it seems that a majority of respondents agreed or strongly agreed that malpractices adopted by political parties hurt the economy (96.0%) and on society (65.0%).

To focus on hypothesis 1 which focuses on there is no significant relationship between Understanding Indian electoral law and Disqualification for becoming a member of parliament and state legislatures before and after the Election it was found that the one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 19.28$; $df = 1$; $p = 0.011$. Since the p-value is less than the level of significance ($\alpha = 5\%$), we may reject the null hypothesis and accept the alternative hypothesis. To focus on hypothesis 2 which focuses on whether there is no significant relationship between age criteria and Disqualification for becoming a Member of Parliament and state legislatures before and after the election it was found that the test statistic for the chi-square test is as follows: $\chi^2 = 665.04$; $df = 3$; $p < 0.001$. Since the p-value is less than the level of significance ($\alpha = 5\%$), we may reject the null hypothesis and accept the alternative hypothesis.

To focus on hypothesis 3 which focuses on the relationship between educational qualification and Disqualification for becoming a member of parliament and state legislatures before and after the election it was found that the one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 59.68$, $df = 3$; $p < 0.0001$. Since the p-value is less than the level of significance ($\alpha = 5\%$), the null hypothesis is rejected, and the alternative hypothesis. To examine hypothesis 4 which examines whether there is no significant relationship between religion and Disqualification for becoming a Member of Parliament and state legislatures before and after the election it was found that the one sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 60.52$, $df = 3$; $p < 0.0001$. Since the

p-value is less than the level of significance ($\alpha = 5\%$), the null hypothesis is rejected, and the alternative hypothesis. Lastly, to focus on hypothesis 5 it was found that the one-sample chi-square was used to determine the significance of the hypothesis. The test statistic for the chi-square test is as follows: $\chi^2 = 60.52$, $df = 3$; $p < 0.0001$. Since the p-value is less than the level of significance ($\alpha = 5\%$), the null hypothesis is rejected, and the alternative hypothesis.

To compare it with the literature review it was found that the process of judicial interpretation entails the courts' establishment of the intended significance of the Constitution, legislation, and legal terminology. In jurisdictions following the common law tradition, such as the United States, Australia, and Canada, the supreme courts possess the authority to invalidate legislation enacted by their respective legislatures through a mechanism known as judicial review. The United States Supreme Court has issued significant decisions on a wide range of topics, such as the constitutionality of racial segregation in public schools (*Brown v. Board of Education*), the constitutional right to abortion (*Roe v. Wade*), and the legality of slavery (*Dred Scott v. Sandford*) (*Dred Scott*). Hence, judges' interpretations of the Constitution and their approaches to their role possess a political dimension. The precise definition of "judicial conservatism," which pertains to a specific method of legal interpretation, can often be challenging to ascertain. A range of perspectives can be observed along a continuum spanning from judicial restraint to judicial activism when examining the role of courts in the interpretation of the law.

To focus on NGOs it was found that to revisit the existing legal provisions relating to the disqualification of members of parliament and find gaps in the existing law it was found that 68.2% of the respondents were satisfied with the existing legal provisions relating to disqualification of members of parliament. To focus on the role of The Union Government, Law Commission, Judiciary System, and Election Commission, on the Disqualifications of the Member of Parliament / State Legislatures it was found that 54.5% of respondents were very satisfied with the Law Commission's role, while 13.6% were dissatisfied. 59.1% were very satisfied with the Election Commission's role, and 36.4% were satisfied. Only one respondent was neutral towards the Election Commission's role. To analyze the intra-department relations regarding data sharing and necessary action it was found that 63.6% of the respondents were satisfied with the data-sharing process between departments of NGOs. To focus on whether the data sharing process between departments of NGOs is effective it was found that 54.5 % of the respondents focused on the data sharing process between departments of NGOs is effective. To focus on the corrupt practices adopted by the Political parties it was found that political parties are indulging in corrupt practices (68.2%), taking advantage of their power to benefit

their interests (90.9%), using their influence to gain illegal financial gains (68.2%), and manipulating elections for their benefit (68.2%). To examine the impact of malpractices adopted by political parties on the Economy and Society it was found that 59.1% of respondents agree that malpractices adopted by political parties have an impact on the economy.

To test hypothesis 1 which examines the relationship between Understanding Indian electoral law and Disqualification for becoming a member of parliament and state legislatures before and after the Election it was found that it showed the value of $\chi^2 = 60.88$, $df = 1$; $p < 0.0001$. Since the p-value is less than the level of significance ($\alpha = 5\%$), the null hypothesis was rejected, and the alternative hypothesis. To examine hypothesis 2 which examines the relationship between age criteria and Disqualification for becoming a Member of Parliament and state legislatures before and after the election it was found that $\chi^2 = 110.60$, $df = 3$; $p < 0.0001$. Since the p-value is less than the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and accepted the alternative hypothesis. To examine hypothesis 3 which focuses on the significant relationship between educational qualification and Disqualification for becoming a member of parliament and state legislatures before and after the election it was found that $\chi^2 = 160.08$, $df = 3$; $p < 0.0001$. Since the p-value is less than the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and accepted the alternative hypothesis. To focus on hypothesis 4 it was found that significant relationship between religion and Disqualification for becoming a Member of Parliament and state legislatures before and after the election it was found that $\chi^2 = 62.30$, $df = 2$; $p < 0.0001$. Since the p-value is less than the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and accepted the alternative hypothesis. Lastly, to focus on hypothesis 5 it was found that $\chi^2 = 60.02$, $df = 7$; $p < 0.0001$. Since the p-value is less than the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and the alternative hypothesis.

To compare the interpretation with the literature review it was found that the various manifestations of corruption present a significant societal menace as they erode confidence in crucial institutions and interpersonal relationships. In 2008, Osipian provided a comprehensive analysis of the Russian perspective on corruption as a subject of scholarly inquiry.⁵⁵⁰ According to the survey data, a significant proportion of individuals, specifically 30 percent, expressed that corruption levels were categorized as extremely high. Additionally, an additional 44 percent of respondents indicated that corruption was perceived to be high. Merely 1% of

⁵⁵⁰ Osipian, A.L., "Will bribery and fraud converge? Comparative corruption in higher education in Russia and the USA", 44 Compare: A Journal of Comparative and International Education 252 (2014).

respondents expressed the opinion that the value was insufficient, whereas 19% indicated that it was adequately appropriate. A significant proportion of the general population, specifically three-thirds, holds the belief that traffic police exhibit corrupt behavior. This perception is closely followed by local governments, with 28% of the public expressing a similar sentiment. Furthermore, 26% of individuals harbor suspicions of corruption within the police force, while 16% hold similar concerns regarding hospitals. Lastly, a relatively smaller percentage, specifically 6%, perceive schools to be susceptible to corrupt practices. The given value is 15 percent. According to the survey findings, a majority of respondents, specifically 52 percent, reported providing monetary contributions or presents to medical professionals. Additionally, a significant proportion of participants, amounting to 36 percent, acknowledged engaging in similar practices of offering money or gifts to teachers, albeit in a more informal manner. The potential ramifications of corruption in the realm of sports can extend to various stakeholders, including referees, players, medical and laboratory personnel responsible for anti-doping measures, members of national sports federations, and international committees tasked with determining contract allocations and competition placements. Individuals affiliated with religious organizations, non-governmental organizations (NGOs), and non-profit entities encounter various legal challenges.⁵⁵¹

To focus on the political party and to examine the existing legal provisions relating to the disqualification of members of parliament and find gaps in the existing law it was found that 20.5% of people agree that learning about the Indian electoral laws is important while 25.6% are not knowledgeable about the existing legal provisions concerning disqualification of members of parliament. 7.7% of people agree that there are major gaps in the existing legal provisions concerning the disqualification of members of parliament while 30.8% of people are unsatisfied with the existing legal provisions relating to the disqualification of members of Parliament. To focus on the role of The Union Government, Law Commission, Judiciary System, and Election Commission, on the Disqualifications of the Member of Parliament / State Legislatures it was found that 28.25 people are satisfied with the role of the Union Government in ensuring the disqualifications of the Member of Parliament / State Legislatures whereas 33.3% respondents are neutral about the role of the Judiciary System in ensuring the disqualifications of the Member of Parliament / State Legislatures. Lastly, 15.4% of

⁵⁵¹ Vashishtha S and Reddy B, “A Critical Analysis of Anti-defection Laws in India”.

respondents were satisfied with the role of the Election Commission in ensuring the disqualifications of the Member of Parliament / State Legislatures.⁵⁵²

To focus on the Intra department relations regarding data sharing and necessary actions it was found that 17.9% of people think the existing data-sharing policies should be revised whereas 17.9% of respondents rate the effectiveness of the existing data-sharing policies as highly effective. Whereas 20.5% of respondents rate the implementation of the disqualification policies of Members of Parliament/ State Legislatures. To examine the corrupt practices adopted by the Political parties it was found that 20.5% of respondents agree that political parties have adopted corrupt practices. In addition to this 20.5% of respondents rate the political parties when it comes to their approach towards corrupt practices as good. Additionally, 30.8% of respondents think that political parties should take more stringent measures to eliminate corruption and 20.5% of respondents are satisfied with the current efforts of political parties to tackle corruption. To focus on the impact of malpractices adopted by political parties on the Economy and Society it was found that 12.8% of respondents agree malpractices adopted by political parties hurt the economy. Whereas 25.6% of respondents agree that malpractices adopted by political parties have a significant effect on the economy. 20.5% strongly agree the effects of malpractices adopted by political parties on the economy can be mitigated whereas 12.8% of respondents strongly agree that understanding Indian elect.

To examine the hypothesis 1 significance relationship between Understanding Indian electoral law and Disqualification for becoming a member of parliament and state legislatures before and after the Election which shows $\chi^2 = 11.641$; $df = 4$; $p < 0.001$. Since the p-value is less than the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and accepted the alternative hypothesis. To focus on hypothesis 2 significant relationship between age criteria and Disqualification for becoming a Member of Parliament and state legislatures before and after the election shows $\chi^2 = .872$; $df = 4$; $p = 0.927$. Since the p-value is less than the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and accepted the alternative hypothesis.

To examine hypothesis 3 significant relationship between educational qualification and Disqualification for becoming a member of parliament and state legislatures before and after the election shows $\chi^2 = 4.462$; $df = 4$; $p = 0.666$. Since the p-value is greater than the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and accepted the alternative

⁵⁵² Mitra S, “Anti-Defection Law: Belling the Wrong Cat?” 5 Indian JL & Legal Rsch. 1 (2023).

hypothesis. To focus on hypothesis 4 significant relationship between religion and Disqualification for becoming a Member of Parliament and state legislatures before and after the election which shows $\chi^2 = 5.231$ df = 4 ; p = 0.264. Since the p-value is greater than the level of significance (alpha =5%) the null hypothesis was rejected and accepted the alternative hypothesis. To examine hypothesis 5 significant relationship between good civil scores in banks and Disqualification for becoming a member of parliament and state legislatures before and after the Election which shows $\chi^2 = 3.949$; df = 4 ; p = 0.413. Since the p-value is greater than the level of significance (alpha =5%) the null hypothesis was rejected and accepted the alternative hypothesis.

To compare the interpretation with the literature review it was found that political corruption arises when individuals in positions of authority, such as public servants or those within their personal or professional circles, exploit their power for personal gain. Bribery, lobbying, extortion, cronyism, nepotism, parochialism, patronage, influence peddling, graft, and embezzlement represent a subset of the diverse manifestations of corruption. While corruption is not exclusively confined to these categories of offenses, it frequently functions as a camouflage for them, potentially facilitating the execution of criminal activities. Additional manifestations of governmental abuse of authority, such as the repression of political adversaries and the perpetration of widespread police brutality, can be categorized within the broader scope of political corruption. The concept of "corruption" has undergone various interpretations throughout history.⁵⁵³ Accepting a gift while serving as a government employee or as a representative of the government is considered unethical. The act of offering an unnecessary gift could potentially be interpreted as an endeavor to influence the recipient's convictions or perspectives toward a specific course. When a subordinate employee presents a gift to a superior employee, the latter is inclined to perceive it as an endeavor to gain favor in return for a promotion or a recommendation for a contract, job opportunity, or exemption from specific responsibilities. In contemporary discourse, the concept of institutional corruption has emerged as a distinct form of corruption, characterized by its differentiation from traditional manifestations such as bribery and other overt acts of self-interest. Corruption poses a potential risk to all organizations that receive funding from sources whose personal agendas may conflict with the organization's mission.

⁵⁵³ Manu JG, "An Exigency to Revisit Anti-Defection Law in India" 4 Int'l JL Mgmt. & Human 1212 (2021).

Political corruption can only be attributed to an officeholder when their illicit behavior is directly linked to their official duties, carried out under the guise of legal authority, or involves the exchange of favors or influence. There is significant variation in corruption laws and practices across different jurisdictions.⁵⁵⁴ Certain types of political financing may be deemed permissible in one jurisdiction while being explicitly forbidden in another. The task of discerning the legality of actions becomes challenging in situations where government officials possess broad or ambiguous jurisdiction. It is purported that an annual sum exceeding one trillion dollars is exchanged globally through the facilitation of bribes. A kleptocracy, derived from the Greek term signifying "governance by thieves," refers to a political system wherein the ruling authority engages in unrestrained acts of theft without the presence of any mechanisms for oversight or accountability. The attainment of a precise definition of corruption poses a challenge. A comprehensive examination is imperative to establish a comprehensive understanding of corruption. Machiavelli played a significant role in popularising the concept of corruption, particularly by highlighting the decay of moral character within both public officials and the broader population.

To examine the general people and to examine the existing legal provisions relating to the disqualification of members of parliament and find gaps in the existing law it was found that 39.4% of respondents agree that the existing legal provisions relating to the disqualification of members of parliament are clear. 42.4% of respondents agree the existing legal provisions are effective in preventing members of parliament from indulging in illegal activities. Whereas 39.4% of respondents agree the existing legal provisions are sufficient to ensure accountability and transparency of members of parliament. 42.4% of respondents agree the existing legal provisions are stringent enough to act as a deterrent for indulging in unethical practices by members of parliament.

To examine the role of The Union Government, Law Commission, Judiciary System, and Election Commission, on the Disqualifications of the Member of Parliament / State Legislatures it was found that the majority of respondents (63.6%) strongly agree that the Union Government plays a major role in determining the disqualifications of Members of Parliament/State Legislatures. The majority of respondents (69.7%) strongly agree that the Law Commission should have an equal say in deciding the disqualifications of Members of Parliament/State Legislatures. The majority of respondents (57.6%) strongly agree that the

⁵⁵⁴ Saumya A, and Majumder A, "Anti-Defection Law in India-A Boon or a Bane" 6 *Supremo Amicus* 24 (2018).

Judiciary System should have a larger say in deciding the disqualifications of Members of Parliament/State Legislatures. The majority of respondents (48.5%) strongly agree that the Election Commission should be consulted more often to determine the disqualifications of Members of Parliament/State Legislatures. The majority of respondents (57.6%) are very satisfied with the role of the Union Government in determining the disqualifications of Members of Parliament/State Legislatures.

To analyze the intra-department relations regarding data sharing and necessary actions it was found that the majority (57.6%) of respondents believe that it is important for departments to have open and transparent data sharing policies. Additionally, 45.5% of the respondents strongly agree that there should be stricter rules for the disqualification of MPs or MLAs for not adhering to data-sharing policies. To examine the corrupt practices adopted by the Political parties it was found that 63.6% of respondents believe that political parties are involved in corrupt practices to a very large extent. 30.3% of respondents strongly agree that political parties are increasingly engaging in corrupt practices. 63.6% of respondents strongly agree that political parties are influential in deciding who gets elected to the government. 57.6% of respondents strongly agree that politicians are using their power and influence to benefit themselves. 27.3% of respondents rate the level of control as high, while 27.3% rate it as very low 51.5% of respondents strongly agree that political parties are exploiting the public by using corrupt practices.

To examine the impact of malpractices adopted by political parties on the Economy and Society it was found that 12 respondents (36.4%) agree, 4 respondents (12.1%) disagree, 5 respondents (15.2%) neither agree nor disagree, 10 respondents (30.3%) strongly agree and 2 respondents (6.1%) strongly disagree. 12 respondents (36.4%) agree that there is a negative impact of malpractices adopted by political parties on society.

To focus on hypothesis 1 which examines the significant relationship between Understanding Indian electoral law and Disqualification for becoming a member of parliament and state legislatures before and after the election found that $\chi^2 = 61.92$; $df = 3$; $p < 0.001$. Since the p-value is greater than the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and the alternative hypothesis. To focus on the significant relationship between age criteria and Disqualification for becoming a Member of Parliament and state legislatures before and after the election which examines $\chi^2 = 70.560$; $df = 4$; $p < 0.001$. Since the p-value is greater than

the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and accepted the alternative hypothesis.

To examine hypothesis 3 which examines the significant relationship between educational qualification and Disqualification for becoming a member of parliament and state legislatures before and after the election it was found that $\chi^2 = 54.28$; $df = 3$; $p < 0.001$. Since the p-value is greater than the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and accepted the alternative hypothesis. To examine hypothesis 4 significant relationship between religion and Disqualification for becoming a Member of Parliament and state legislatures before and after the election which examines $\chi^2 = 31.520$; $df = 2$; $p < 0.0001$. Since the p-value is greater than the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and accepted the alternative hypothesis. To focus on hypothesis 5 significant relationship between good civil scores in banks and Disqualification for becoming a member of parliament and state legislatures before and after the Election it was found that $\chi^2 = 70.560$; $df = 4$; $p < 0.001$. Since the p-value is greater than the level of significance ($\alpha = 5\%$) the null hypothesis was rejected and the alternative hypothesis.

The human species plays a crucial role within the natural ecosystem. From a scientific standpoint, it can be asserted that he is comprised of a heterogeneous array of elements, encompassing carbon, water, and cellular material. Therefore, it can be inferred that human beings are composed of natural constituents, establishing an inherent link to the natural world. Within the realm of the natural world, a prevailing interconnectedness is observed, whereby diverse cycles mutually exert their influence on one another. Cultural factors play a significant role in shaping the perception of nature, consequently exerting an impact on the natural environment. The discernible influence of specific cultural components on present-day society is readily evident. Across various historical periods, there has been a consistent and significant association between human beings and bodies of water such as rivers, lakes, and wetlands. This enduring connection can be attributed to the vital functions these water sources serve, including the provision of water, sustenance, natural resources, medicinal plants, and suitable environments for human habitation. Nevertheless, the present problem of overexploitation has caused notable modifications to numerous freshwater bodies on a global scale, resulting in a considerable decrease in the richness and diversity of their ecosystems. The adverse consequences arising from a range of factors, such as urbanization, intensified agriculture, navigation, flood mitigation, and unsuitable aquaculture, encompass a multitude of issues, including pollution, habitat degradation, excessive water extraction, dam infrastructure,

drainage systems, and the introduction of invasive alien species. The alteration of the inherent hydrological cycle within a given river basin exerts a substantial influence on the dynamics, attributes, and ecological systems of rivers, lakes, and wetlands. For individuals to make meaningful contributions to the conservation of the natural environment, they must possess a comprehensive comprehension of the intricate interdependencies that exist between their actions and the subsequent outcomes that ensue. Therefore, it is crucial to thoroughly evaluate each potential course of action. The lack of recognition or understanding of a specific element within the world can lead to a series of negative consequences, including the potential extinction of certain species.

In contemporary society, there has been a discernible increase in the involvement of numerous young scholars in confronting the global environmental crisis through active involvement in the burgeoning discipline of literary ecology. The examination and assessment of the interplay between the natural environment and human society within the realm of ecological research consistently results in the adoption of a critical viewpoint that places ecological factors at the forefront. In light of the prevailing global ecological crisis, a novel ecological theory has surfaced as a means to effectively tackle significant environmental issues. The central emphasis of this theory revolves around the analysis of values portrayed in literary works that demonstrate notable ecological implications. The significance of the global ecological crisis should not be disregarded within the realm of literary studies. Researchers in the field of literature are prompted to contemplate the significant influence that literature and criticism possess in comprehending humanity's position within the ecosphere. Many preservationists have integrated ecological principles into their efforts to protect wilderness areas. The research conducted by William Howarth focuses on the analysis of ethical principles that elicit a conscientious response to the detrimental effects of pesticides on groundwater contamination and biodiversity loss (Endres, 2020). The integration of contextualization is imperative when analyzing the incorporation of ecological themes in literature, encompassing subjects such as environmental pollution, species extinction, water scarcity, climate change, deforestation, toxic waste contamination, and the devastation of tropical rainforests.

The disqualification of individuals from becoming members of Parliament or State Legislatures, either before or after an election, encapsulates a complex and critical aspect of democratic governance. This regulatory process serves as a fundamental check on the qualifications and conduct of those seeking to hold public office, ensuring that only individuals who meet certain ethical and legal standards are eligible to represent the electorate. Before an

election, disqualification can arise from several statutory grounds as outlined in the Constitution of India and various legislative enactments like the Representation of the People Act, 1951. These grounds include unsoundness of mind, undischarged insolvency, non-citizenship, allegiance to a foreign state, and criminal convictions entailing imprisonment of two years or more. Additionally, the existence of corrupt practices and certain electoral offenses also serve as bases for disqualification, aiming to prevent individuals who have engaged in unethical conduct from influencing the democratic processes. The process of disqualification before an election primarily involves scrutiny by election commissions and courts to ensure that all candidates meet the requisite qualifications. This preemptive measure helps maintain the purity of elections and ensures that candidates meet the minimal moral and legal standards required for public office holders.

After an election, the disqualification process does not cease but takes on a critical role in maintaining legislative integrity and accountability. During this period, disqualification can occur due to actions such as defection under the Anti-Defection Law (Tenth Schedule of the Constitution), where legislators may be disqualified for shifting allegiance from the parties on whose ticket they were elected, without proper justification. This aspect of disqualification serves to reinforce loyalty and discipline within political parties, thereby promoting party stability and coherence in policy execution. Moreover, post-election disqualification may arise from subsequent criminal convictions or findings of corrupt practices by a sitting member. Such instances necessitate a legal evaluation and potential disqualification to uphold the rule of law and ensure that individuals who engage in misconduct are not allowed to continue in positions of authority. This reinforces the accountability of elected officials to the laws of the land and their constituents, ensuring they remain fit to serve during their term in office. In jurisdictions like Maharashtra and Telangana, as well as others across India, the courts play a pivotal role in interpreting disqualification rules and ensuring their fair application. The judiciary's involvement is crucial, especially when political pressures and motivations could otherwise influence the disqualification process. Judicial oversight ensures that disqualification procedures are conducted transparently and justly, providing a check on arbitrary or politically motivated disqualifications.

The judiciary also addresses challenges related to the timeliness and fairness of the disqualification proceedings, whether they occur before or after an election. Ensuring that these proceedings are conducted efficiently and impartially is vital for maintaining public trust in the electoral system and the broader democratic framework. The disqualification of candidates and

elected members from Parliament and State Legislatures plays a fundamental role in safeguarding the integrity of political representation in India. It ensures that individuals who aspire to and occupy these roles are held to the highest standards of ethical and legal conduct. By rigorously enforcing disqualification provisions, both before and after elections, the system promotes a clean, accountable, and stable governance structure. Such mechanisms are essential not only for the health of the democratic process but also for fostering public confidence in the political system. As political landscapes evolve, the continued adaptation and rigorous enforcement of these disqualification norms are imperative for sustaining the foundational principles of democracy and the rule of law in India.

6.3 Conclusion

In many countries, including India, disqualification from running for office is an essential part of the democratic process. To protect the trust the public places in their representatives, rules prohibiting those with specific types of conflicts of interest or legal problems from holding public office. Disqualification rules are crucial for protecting the integrity of legislative bodies and upholding democratic ideals. Candidates for the House of Commons or a state legislature must meet several prerequisites and disqualifications before they can even run for office.⁵⁵⁵ Factors like not being a citizen of the country, not being old enough, or having a criminal record for certain offenses could all count against an applicant. These prohibitions are designed to ensure that only qualified and law-abiding individuals are elected to office.

6.3.1. The existing legal provisions relating to the disqualification of members of parliament and finding gaps in the existing law

The existing legal provisions related to the disqualification of members of Parliament are primarily governed by the Representation of the People Act, 1951. This act specifies grounds for disqualification, including corrupt practices, holding government contracts, and dismissal for corruption or disloyalty. While these provisions are essential in maintaining the integrity of the electoral process, gaps still exist. One significant gap is the ambiguity in defining certain corrupt practices, leading to varied interpretations and enforcement challenges. Additionally, the process for disqualification can be lengthy and cumbersome, often delaying the removal of ineligible members. There is also a need for clearer guidelines on the conflict of interest,

⁵⁵⁵ Stubbs, M. and Webster, A., “*Disclosure, not disqualification: A democratic proposal to promote the fidelity of elected representatives to the people*” 30(3) Public Law Review (2019).

particularly regarding business dealings and the financial interests of members.⁵⁵⁶ Furthermore, the lack of stringent measures to address criminal convictions and ongoing cases against members weakens the law's effectiveness. Addressing these gaps through comprehensive reforms would enhance the transparency and accountability of elected representatives.

6.3.2. Role of the Union Government, Law Commission, Judiciary System, and Election Commission, on the Disqualifications of the Member of Parliament / State Legislatures

The disqualification of members of Parliament and State Legislatures involves several key institutions. The Union Government plays a crucial role by enacting and amending relevant legislation, such as the Representation of the People Act, of 1951. The Law Commission of India contributes by reviewing existing laws and recommending reforms to address gaps and ambiguities. The Judiciary System, particularly the Supreme Court and High Courts, interprets and enforces disqualification provisions, ensuring they are applied consistently and fairly. Judicial rulings set important precedents that shape the understanding and implementation of these laws.⁵⁵⁷ The Election Commission of India (ECI) administers the electoral process, ensuring compliance with disqualification criteria and addressing any violations. The ECI investigates allegations, monitors election practices, and can recommend disqualification to the President or Governor. Together, these institutions work to uphold the integrity of the electoral system, prevent conflicts of interest, and ensure that only eligible and ethically sound individuals hold public office.

6.3.3. Intra-department relations regarding data sharing and necessary actions

Intra-department relations concerning data sharing and necessary actions are vital for efficient governance and decision-making. Effective data sharing among various departments—such as the Election Commission, Judiciary, Law Commission, and Union Government—is essential for maintaining the integrity of the electoral process. Collaborative efforts ensure that accurate and up-to-date information on candidates and elected members is available for scrutiny and enforcement of disqualification provisions. Regular inter-departmental meetings and the establishment of centralized databases can facilitate seamless data exchange. This cooperation enables swift action on disqualification cases, ensuring timely removal of ineligible

⁵⁵⁶ Vermeule, A., “*The constitutional law of congressional procedure*” 71(2) The University of Chicago Law Review 361 (2004).

⁵⁵⁷ Williams, R. “*Disqualifying directors: a remedy worse than the disease?*,” Journal of Corporate Law Studies, 7(2), 213-242 (2007).

members⁵⁵⁸. Moreover, transparent communication channels and clear protocols for data sharing can prevent misunderstandings and enhance accountability. By fostering strong intra-departmental relations, these entities can collectively work towards a robust and transparent electoral system, upholding democratic principles and public trust.

6.3.4. The corrupt practices adopted by the Political parties

Political parties in India often resort to various corrupt practices to gain an electoral advantage. These practices include bribery, where voters are offered money or gifts in exchange for their votes. Another common tactic is the misuse of government machinery and resources for campaigning purposes, which provides an unfair advantage. Intimidation and coercion of voters, particularly in rural areas, are also prevalent, undermining free and fair elections. Additionally, political parties sometimes engage in vote-buying through intermediaries, making it difficult to trace the corruption back to the candidates⁵⁵⁹. Manipulating electoral rolls to include fictitious voters or exclude legitimate ones further distorts the democratic process. These corrupt practices erode public trust in the electoral system and compromise the integrity of democratic institutions. Addressing these issues requires stringent enforcement of election laws, increased transparency, and robust mechanisms to hold political parties accountable for their actions.

6.3.5. The impact of malpractices adopted by political parties on the Economy and Society

The malpractices adopted by political parties have far-reaching impacts on both the economy and society. Economically, corruption during elections leads to the misallocation of resources, as funds meant for public welfare are diverted to finance campaigns and bribe voters. This undermines economic development and exacerbates inequality. Politically corrupt leaders often prioritize personal gain over public interest, resulting in inefficient governance and poor policy decisions that stifle economic growth. Socially, electoral malpractices erode public trust in democratic institutions, fostering cynicism and disengagement among citizens. This diminishes civic participation and weakens the social fabric.⁵⁶⁰ Moreover, the normalization of corruption perpetuates a culture of dishonesty and impunity, where unethical behavior is overlooked or even rewarded. Such practices contribute to social instability and hinder the establishment of a just and equitable society. Addressing these issues requires comprehensive

⁵⁵⁸ Oliver, D. and Drewry, G. (Eds.). (1998). *The law and parliament*. Cambridge University Press.

⁵⁵⁹ Della Porta, D. and Della Porta, D., “*Political Parties and Corruption: Ten Hypotheses on Five Vicious Circles*” 42 Crime, Law and Social Change 35 (2004).

⁵⁶⁰ Kessler, D. P., Sage, W. M., et al., “*Impact of Malpractice Reforms on the Supply of Physician Services*” 293 Jama 2618 (2005).

electoral reforms, strict enforcement of laws, and active civic engagement to restore integrity in the political process.

6.3.6 Section 5 of the Representation of the People Act

Minimum Education Qualification Criteria also need to be incorporated for the Membership of Parliament and State Legislatures in Section 5 of Representation of Peoples Act 1950. As there is minimum education qualification criteria is suggested to the Representation of Peoples Act 1950.

“As Section 5 broadly Covers the below;

A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of a State unless— (a) in the case of a seat reserved for the Scheduled Castes or for the Scheduled Tribes of that State, he is a member of any of those castes or of those tribes, as the case may be, and is an elector for any Assembly constituency in that State; (b) in the case of a seat reserved for an autonomous district of Assam, he is a member of a 2[Scheduled Tribe of any autonomous district] and is an elector for the Assembly constituency in which such seat or any other seat is reserved for that district; and (c).in the case of any other seat, he is an elector for any Assembly constituency in that State: 3[Provided that for the period referred to in clause (2) of article 371A, a person shall not be qualified to be chosen to fill any seat allocated to the Tuensang district in the Legislative Assembly of Nagaland unless he is a member of the regional council referred to in that article”

Suggested to amend As Section 5 by adding the below:

“A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of a State unless he is graduated from any recognised university”

6.3.7 Amendment to Section 70 Representation of the People Act

As we are seeing many leaders are contesting more than one seat either House of Parliament or in the House or Either of the Legislature of a State, once they elected to either House of Parliament or in the House or Either of the Legislature of a State, they submit their resignation to the other seat in either House of Parliament or in the House or Either of the Legislature of a State, this increases the burden on Election Commission to conduct a fresh election to that vacant seat within 6 months from the date of such vacancy and the cost involvement for conducting such bye elections for House of Parliament or in the House or Legislature of a State, directly effecting on our economy. None of the Political parties have shown any interest to

amend Section 70 of the People Representation Act 1950. And encouraging their leaders to contest more than one seat either House of Parliament or in the House or Either of the Legislature of a State.

As Section 70 broadly covers the below;

“Election to more than one seat in either House of Parliament or in the House or Either of the Legislature of a State As the Representative who contests in more than one seat in either House of Parliament or in the House or Either of the Legislature of a State and submit his resignation to one of the seat within the prescribed time by writing under his hand addressed to the Speaker or Chairman, as the case may be, or to such other authority or officer as may be prescribed”

Section 70 should be repelled to reduce the socio-economic burden on the Society.

6.3.8 Amendment to Section 68 and 69 of the Representation of the People Act

The same need to amend and the Person who already elected to one house and should not be allowed to contest in the elections for the other house before completion of his term in that particular house, as and when he elects to other house he will resign to one house of his choice before completion of his term and this will increase burden on the Nation and Election Commission to conduct elections again for the vacant seat immediately after the elections.

If the person wish to contest for another house during his term of one house, he should resign first to that house where he is representing and contest in the elections for another house, so that the Election Commission can conduct elections for vacant seats at the same time so that the Constitutional Rights of that particular person is taken care.

As Section 68 and 69 broadly covers the below

“Vacation of seats of when elected to both houses of Parliament, (1) any person who is chosen a member of both the Houses of the People and the Council of States and who has not taken his seat in either House may, by notice in writing signed by him and delivered to the Secretary to the Election Commission within ten days from the date, or the later of the dates, on which he is so chosen, intimate in which of the Houses he wishes to serve, and thereupon, his seat in the House in which he does not wish to serve shall become vacant. (2) In default of such intimation within the aforesaid period, his seat in the Council of States shall, at the expiration of that period, become vacant. Vacation of seats by persons already members of one House on election to other House of Parliament”

Suggested to add the below with an amendment to Section 68 and 69

“Vacation of seats of either houses of Parliament, (1) any person who is chosen to contested to become a member of both the Houses of the People and the Council of States should resign to the present seat and the Election Commission should conduct the election for those Vacation of seats by persons already members of one House with announced elections”

6.3.9 Amendment to Section 75 A of the Representation of the People Act.

The Section 75 A of the Act need to be amended and need to be strictly followed; as we can see in most of the parties and its elected members are filing false statements in respect of their Assets and Liabilities and they are not disclosing their actual assets. The Election Commission should be given suo moto powers to enquire on the Declarations filed by the candidates to enquire on the Actual Assets and Liabilities of the Elected Person and directing the Income Tax Department and Enforcement department to probe in to the actual facts and they should have powers to pass an order for disqualification in case of any misrepresentation and they should be barred to contest again including their family members

As Section 78A broadly covers the below on declaration of Assets and Liabilities

“Every elected candidate for a House of Parliament shall, within ninety days from the date on which he makes and subscribes an oath or affirmation, according to the form set out for the purpose in the Third Schedule to the Constitution, for taking his seat in either House of Parliament, furnish the information, relating to— (i) the movable and immovable property of which he, his spouse and his dependent children are jointly or severally owners or beneficiary; (ii) his liabilities to any public financial institution; and (iii) his liabilities to the Central Government or the State Government, to the Chairman of the Council of States or the Speaker of the House of the People, as the case may be”

Suggested to add the below with an amendment to Section 78A

“If it is found any false information filed by the elected member, the election commissioner shall have the powers to disqualify such legislature immediately and announce the vacancy of such seat or declare the next person who stands in second position for such seat”

6.3.10 Amendment to Section 10(A), Section 77 and 78 of the Representation of People Act

As most of the Political Parties and Candidates who contest in the election’s files false expenses statements vs actual expenses, The Election Commission should be given Suo moto powers to

remove his name from the contestant list and disqualify the candidates who declares false expenses statements during the campaign period and not to permit to contest again for this offence. But we have not seen any major action taken by the Election Commission, as they are fully aware that every candidate files false statements and the in most of the cases defeated candidates won't file their expenses.

Section 10A broadly covers the below.

“Disqualification for failure to lodge account of election expenses—If the Election Commission is satisfied that a person—(a) has failed to lodge an account of election expenses, within the time and in the manner required by or under this Act, and (b) has no good reason or justification for the failure, the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

Suggested to add the below with an amendment to Section 10A

“Disqualification for filing false account of election expenses—If the Election Commission is not satisfied on the filed expenses account of the candidates and they shall not be allowed to contest in the upcoming elections for a period of two complete terms (instead of disqualified for a period of three years from the date of the order)”.

Section 77 broadly covers the below;

“Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between”

Suggested to add the below with an amendment to Section 77

“Every candidate at an election shall, either by himself or by his election agent, shall open one escrow account for all expenditure in connection with the election incurred or authorised by him or by his election agent and all payments shall be made from that escrow account only”

Section 78 broadly covers the below;

“Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates”

Suggested to add the below with an amendment to Section 78

“Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, any false account statements are filed they are disqualified to contest in any elections for complete two full terms”

6.3.11 Amendments to Section 123, 125 of Representation of People Act

Undue influence by the parties and the candidates / contestants in the elections, that is any direct / indirect interference / attempt to interfere on the part of the candidate / his agent / of any other person representing them with that constituency voters / the persons in their respective constituencies, like corrupt practices and Promoting enmity between classes in connection with election, which shall impact on the election process and we can see the influence money distribution by the contestants across all states, regions in the country and the Political Parties are also focusing more on the financially strong candidates as their contestants in all the elections, the same need to be monitored and there is a need to recommend certain criteria in selection of a candidate and the Election Commission should be empowered with powers to initiated suo moto proceedings against such malpractices and their decisions should be recognized by the Hon'ble Courts in India.

Section 123, 125 broadly covers the below;

Corrupt practices;

“Bribery, that is to say Any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing, (a) a person to stand or not to stand as, or from being a candidate at an election, or (b) an elector to vote or refrain from voting at an election, or as a reward to, (i) a person for having so stood or not stood, or for his candidature; or (ii) an elector for having voted or refrained from voting; (B) the receipt of / agreement to receive, any gratification, whether as a motive / a reward”

Section 125 broadly covers the below;

“Promoting enmity between classes in connection with election. Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the

citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both”

Suggested to add the below with an amendment to Section 123, 125

“Bribery, that is to say Any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing, (a) a person to stand or not to stand as, or from being a candidate at an election, or (b) an elector to vote or refrain from voting at an election, or as a reward to, (i) a person for having so stood or not stood, or for his candidature; or (ii) an elector for having voted or refrained from voting; (B) the receipt of / agreement to receive, any gratification, whether as a motive / a reward and Promoting enmity between classes in connection with election. Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be disqualified immediately before the election itself”

6.3.12 Amendments to 139,140 and introduction of new Sections / Sub Sections for Disqualifications to the Representation of People Act.

There is need to Amend and introduce new Sections / Sub Sections for the Disqualification of the for Membership of Parliament and State Legislatures.

Section 139,140 of Representation broadly covers the below;

Section 139:-

“The following offences shall entail disqualification for membership of Parliament and of the Legislature of every State, namely:-- (a) offences punishable with imprisonment under Section 171E or Section 171F of the Indian Penal Code (Act XLV of 1860), and (b) offences punishable under Section 135 or Clause (a) of Sub-section (2) of Section 138 of this Act, (2) the period of such disqualification shall be six years from the date of the conviction for the offence”.

Section 140:-

“The following corrupt or illegal practices relating to elections shall entail disqualification for membership of Parliament and of the Legislature of every State, namely- (a) corrupt practices specified in Section 123 or Section 124 and (b) Illegal practices specified in Section-125.

The period of such disqualification shall be six years in the case of a corrupt practice, and four years in the case of an illegal practice, counting from the date on which the finding of the Election Tribunal as to such practice takes effect under this Act." It follows therefore that, under the Act, a person is disqualified from being a member either of Parliament or of a State Legislature if he has been found guilty by an Election Tribunal of the corrupt practice specified in Section 123".

Suggested to add the below with an amendment to Section 139 and 140

"The period of such disqualification shall be six years in the case of a corrupt practice, and four years shall be replaced with Two full terms"

6.3.13 Amendment to Anti Defection Law:

The X Schedule of the Indian Constitution, is called Anti-Defection act, it was amended in the year 1985 to prevent defections and stop the politicians from changing parties for the lure of office.

"Under Anti-Defection Act, an elected member of a party can be disqualified on two grounds If he voluntarily gives up his membership or... He votes or abstains from voting in the House, contrary to his party's direction and without obtaining prior permission. Another condition is that his abstaining the voting should not be overlooked by his party within 15 days of such incident" According to the anti-defection law, at least two-thirds of the members of a party have to be in favour of a 'merger' for it to possess validity in the eyes of the law"

Suggested amendments to the X Schedule

"at least two-thirds of the members of a party have to be in favour of a 'merger' for it to possess validity in the eyes of the law" should be replaced with any member/members of a party have to be in favour of a 'merger' for it to possess is invalid in the eyes of the law are disqualified immediately"

The Speaker or the chairman of the house is the authority to decide on defection cases. And in most of the recent cases the powers granted to the Speaker or the Chairman of the houses, misused their powers by recognizing one party member to as another party member."

6.4 Recommendations

- Those with a criminal record, especially one involving corruption, should be barred from running for public office. This helps keep the legislative branch honest and keeps

corrupt officials out of power. Most nations have laws that prevent dual citizens from holding public office due to the potential for loyalty conflicts. Any potential candidate for public office should be required to renounce any foreign citizenship.

- If an elected official is convicted of a serious crime during their term in office, they should be removed from office immediately. This helps maintain the rule of law by excluding those with criminal records from holding public office. Members who repeatedly miss legislative duties, such as attending sessions or participating in debates, may be disqualified in some countries. However, an open procedure is required to prevent abuse.
- There is a necessity to revisit the existing Legal Provisions on the Disqualifications of the Member of Parliament / State Legislatures by the Union Government, Law Commission has to consult Judiciary System, and Election Commission and make stringent laws on Disqualifications of Legislatures in India on their corrupt practices and freebies offered to the Voters for voting to them/their parties.
- The judiciary should address a clear timeline, fairness of the disqualification proceedings and decisions, whether they occur before or after an election. Ensuring that these proceedings are conducted efficiently and impartially is vital for maintaining public trust in the electoral system and the broader democratic framework
- It is essential for maintaining the integrity of the electoral process by means of effective data sharing among various departments, such as the Election Commission, Judiciary, Law Commission, and Union Government for speedy disposal of matters related to Disqualification of Legislatures.

6.5 Scope for Future Research

Disqualification criteria and procedures vary from country to country, so a global comparison can be important for future research. The effectiveness of elected officials and the democratic process as a whole can be studied in various legal frameworks. The efficacy of current disqualification criteria should be studied in the future. To prevent people with criminal records, conflicts of interest, or other disqualifying factors from holding public office, it is necessary to examine the efficacy of disqualification measures. Investigation into the development and performance of ethical control systems is possible. Investigating and enforcing disqualification criteria relating to unethical conduct and conflicts of interest includes assessing the efficacy of ethics committees, ombudsmen, and similar bodies.

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Annexure-1

Questionnaires used for data collection from General Public

Disqualification for becoming the member of parliament and state legislatures before and after election: a critical analysis

QUESTIONNAIRE

The participants participating in the research are ensured that they will not be harmed in any way (physically or mentally) and could quit the survey anytime when they do not feel comfortable. It is ensured to the participants that the responses given by them will be kept confidential along with their personal details and contact number. The details of the participants will not be shared with any third party and in case, if it is required to be shared, a permit will be taken from the participant. If consent is provided by them in a written manner, then only the responses will be shared with a third party and if no permit is given by the participant, access to any response will be denied to the third party.

For General Public

Name of Respondents: _____

Nationality: _____

Q. 1 Which area do you belong to?

- a. Urban
- b. Rural

Q. 2 What is your age group?

- a. 18-21 years
- b. 22-30 years
- c. 31-40 years
- d. 41-50 years
- e. Above 51 years

Q.3 What is your education level?

- a. Illiterate

b. Below graduate

c. Graduate

d. Post-graduate

Q. 4 What is your profession or occupation?

a. Student

b. Labour

c. Agriculturist

d. Businessman

e. Professionals

f. Housewife

g. Government servant

Q. 5 What is your monthly income?

a. Less than 5000

b. 5001-10000

c. 11000-20000

d. 21000-30000

e. 31000-40000

f. 410000-50000

g. Above 51000

Q. 6 In the most recent election, did you cast your ballot/vote?

a. Yes

b. No

Q. 7 Do you agree that a candidate must adhere to the minimum age requirement of 25 in order to be eligible to hold a seat in the Lok Sabha or State Legislative Assembly otherwise should be disqualified?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 8 According to you, what should be the minimal education qualification to run for MP or MLA?

- a. Secondary or higher Secondary certificate
- b. Diploma
- c. Bachelor degree
- d. post-graduate degree
- e. Doctorate degree

Q. 9 How often you think a candidate for MP/MLA seat self-declares true information about himself and his healthy mental state?

- a. Very often
- b. Often
- c. Not so often
- d. Sometime
- e. Never

Q. 10 How frequently do you hear about cases when an MP or MLA candidate was disqualified due to his corrupt election-related actions?

- a. Very frequently
- b. Frequently
- c. Not so frequently
- d. Sometimes

e. Never

Q. 11 Do you think that a person should be disqualified if he has ever been convicted of an offence that results in a sentence of two years or longer?

a. Strongly agree

b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 12 How often you come across incidents when failing to submit an account of election expenses on time by MP or MLA candidate were disqualified in election?

a. Very often

b. Often

c. Not so often

d. Sometime

e. Never

Q. 13 Do you agree a candidate shouldn't be qualified if he has a financial stake in government projects, services or a profit-making position in a corporation where the government controls at least 25% of the stock?

a. Strongly agree

b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 14 Do you agree someone who has been fired from government employment due to corruption or betrayal of the State should be disqualified?

a. Strongly agree

- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 15 Do you think a candidate should be disqualified for bribing, stirring hostility between communities, or campaigning for sati, untouchability, or dowry?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 16 Do you agree that bribing a rival candidate to withdraw from an election is widespread and they should be disqualified?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 17 Do you agree that using a religious leader's influence, such as a guru, mullah, a padri, etc. during an election should disqualify someone?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 18 Should someone who isn't an Indian citizen or who intentionally gained foreign citizenship be disqualified from running for MP or MLA?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 19 Do you think that a political party member who voluntarily resigns from their party membership should be disqualified as a MP or MLA?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 20 Do you think a winner who later joins a party for personal benefit and dis-respects the feeling of voter should not have right to continue as MP or MLA?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 21 Do you agree that a person should not be eligible to serve as an MP or MLA if they are bankrupt or insolvent?

- a. Strongly agree
- b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 22 Do you think that a person should be disqualified if an elected member votes in the House against any instructions given by his political party?

a. Yes

b. No

c. May be

d. Can't say

e. Never

Q. 23 Do you think that a nominated member of a House should lose his or her seat if he or she joins a political party after six months have passed since taking his or her seat?

a. Yes

b. No

c. May be

d. Can't say

e. Never

Q. 24 Do you think that a member of a House should also be disqualified where his original political party merges with another political party?

a. Yes

b. No

c. May be

d. Can't say

e. Never

Q. 25 Are you aware that you have a power to recall MPs and MLAs within two years if you are unhappy with their performance if 75% voters signs petition against them?

- a. Yes
- b. No
- c. May be

Q. 26 Do you think the Election Commission/Judicial Systems are able to immediately disqualify Members who file fake Assets and Liabilities statements?

- a. Yes
- b. No
- c. May be
- d. Can't say

Q. 27 Do you think that an anti-defection law ensures that candidates remain faithful to the party and the voters?

- a. Yes
- b. No
- c. May be
- d. Can't say
- e. Never

Q. 28 Do you believe that anti-defection laws allow for sanctions against a member who switches parties?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 29 Do you think law maker should review laws prevailing globally and make necessary amendments in MP/MLA disqualification laws for better democracy?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 30 Do you have any remarks or suggestions? _____

Thanks

Annexure-2

Questionnaires used for data collection from NGO's

Disqualification for becoming the member of parliament and state legislatures before and after election: a critical analysis

QUESTIONNAIRE

The participants participating in the research are ensured that they will not be harmed in any way (physically or mentally) and could quit the survey anytime when they do not feel comfortable. It is ensured to the participants that the responses given by them will be kept confidential along with their personal details and contact number. The details of the participants will not be shared with any third party and in case, if it is required to be shared, a permit will be taken from the participant. If consent is provided by them in a written manner, then only the responses will be shared with a third party and if no permit is given by the participant, access to any response will be denied to the third party.

For NGOs

Name of Representative from NGO: _____

Designation : _____

Nationality: _____

Q. 1 What is your age group?

- a. 18-21 years
- b. 22-30 years
- c. 31-40 years
- d. 41-50 years
- e. Above 51 years

Q.2 What is your highest qualification?

- a. Below graduation
- b. Diploma
- c. Graduation

- d. Post-graduation
- e. Professional degree

Q. 3 How long have you been involved in the current NGO's?

- a. Less than 1 year
- b. 2-5 years
- c. 6-10 years
- d. More than 10 years

Q. 4 What is this NGO's Primary Field of Operations?

- a. Rural development
- b. Agricultural development
- c. Education
- d. Social
- e. Health
- f. Others

Q. 5 What is the status of your NGO?

- a. National
- b. International
- c. Regional
- d. Local

Q. 6 What is your role in the current NGO?

- a. Board of Director
- b. Governing Body Member
- c. Staff
- d. Others

Q. 7 Does your NGO assist citizens learn how their country is run, which strengthens democracy?

- a. Yes
- b. No
- c. May be
- d. Can't say

Q. 8 Does your NGO spreads awareness amongst the masses about the voting in election?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 9 Do you think awareness programme run by your NGO impacts on voting and influences election's results?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree
- e. Neither agree nor disagree

Q. 10 Are you aware of any connections between your NGO and a political party?

- a. Yes
- b. No
- c. May be
- d. Can't say

Q. 11 Does your NGO support the issuance of electoral bonds, notwithstanding the fact that they have no bearing on elections?

- a. Yes
- b. No
- c. May be
- d. Can't say

Q. 12 According to you what should be the minimum age requirement for a person to run a election for MP or MLA?

- a. 18 years
- b. 22 years
- c. 25 years
- d. 30 years
- e. Any age

Q. 13 According to you, what should be the minimal education qualification to run for MP or MLA?

- a. Secondary or higher Secondary certificate
- b. Diploma
- c. Bachelor degree
- d. post-graduate degree
- e. Doctorate degree

Q. 14 How often you think a candidate for MP/MLA seat self-declares true information about himself and his healthy mental state?

- a. Very often
- b. Often
- c. Not so often

d. Sometime

e. Never

Q. 15 How frequently do you hear about cases when an MP or MLA candidate was disqualified due to his corrupt election-related actions?

a. Very frequently

b. Frequently

c. Not so frequently

d. Sometimes

e. Never

Q. 16 Do you think that persons with criminal background having convicted of an offence that results in a sentence of two years or longer is not allowed to be a candidate of MP/or MLA?

a. Strongly agree

b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 17 How often you come across incidents when failing to submit an account of election expenses on time by MP or MLA candidate were disqualified in election?

a. Very often

b. Often

c. Not so often

d. Sometime

e. Never

Q. 18 Do you agree a candidate shouldn't be qualified if he has a financial stake in government projects, services or a profit-making position in a corporation where the government controls at least 25% of the stock?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 18 Do you think a candidate should be disqualified for bribing, stirring hostility between communities, or campaigning for sati, untouchability, dowry or bribing rival candidates?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 19 Do you agree that political parties encash a religious leader to influence voters during an election and they should be disqualified?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 20 Should someone who isn't an Indian citizen or who intentionally gained foreign citizenship be disqualified from running for MP or MLA?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree

e. Neither agree nor disagree

Q. 21 Do you think a winner who later joins a party for personal benefit and dis-respects the feeling of voter should not have right to continue as MP or MLA?

a. Strongly agree

b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 22 Do you agree that a person should not be eligible to serve as an MP or MLA if they are bankrupt or insolvent?

a. Strongly agree

b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 23 Do you think that a person should be disqualified if an elected member votes in the House against any instructions given by his political party?

a. Yes

b. No

c. May be

d. Can't say

e. Never

Q. 24 Do you think that a nominated member of a House should lose his or her seat if he or she joins a political party after six months have passed since taking his or her seat?

a. Yes

- b. No
- c. May be
- d. Can't say
- e. Never

Q. 25 Do you think that a member of a House should also be disqualified where his original political party merges with another political party?

- a. Yes
- b. No
- c. May be
- d. Can't say
- e. Never

Q. 26 Are you aware that voters have a power to recall MPs and MLAs within two years if they are unhappy with their performance if 75% voters signs petition against them?

- a. Yes
- b. No
- c. May be

Q. 27 Do you think that an anti-defection law ensures that candidates remain faithful to the party and the voters?

- a. Yes
- b. No
- c. May be
- d. Can't say
- e. Never

Q. 28 Do you believe the anti-defection law will lessen political corruption?

- a. Strongly agree

- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree
- e. Neither agree nor disagree

Q. 29 Do you think law maker should review laws prevailing globally and make necessary amendments in MP/MLA disqualification laws for better democracy?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 30 Do you have any remarks or suggestions? _____

Thanks

Annexure-3

Questionnaires used for data collection from Political Parties

Disqualification for becoming the member of parliament and state legislatures before and after election: a critical analysis

QUESTIONNAIRE

The participants participating in the research are ensured that they will not be harmed in any way (physically or mentally) and could quit the survey anytime when they do not feel comfortable. It is ensured to the participants that the responses given by them will be kept confidential along with their personal details and contact number. The details of the participants will not be shared with any third party and in case, if it is required to be shared, a permit will be taken from the participant. If consent is provided by them in a written manner, then only the responses will be shared with a third party and if no permit is given by the participant, access to any response will be denied to the third party.

For Political Parties

Name of Respondents: _____

Nationality: _____

Q. 1 What is your age group?

- a. 18-21 years
- b. 22-30 years
- c. 31-40 years
- d. 41-50 years
- e. Above 51 years

Q.2 What is your highest qualification?

- a. Below graduation
- b. Diploma
- c. Graduation

Q. 3 How long have you been associated with the politics?

- a. From the school days
- b. From the College days
- c. After getting job
- d. Recently

Q. 4 Which of the following political party do you support?

- a. National Party
- b. Regional Party
- c. Others

Q. 5 What role do you play in the party that you support?

- a. President
- b. Secretary
- c. Spokesperson
- d. Regional head
- e. Party Member
- f. Party follower

Q. 6 Do you agree that learning about the Indian electoral laws is important?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 7 Do you agree that a candidate must adhere to the minimum age requirement of 25 in order to be eligible to hold a seat in the Lok Sabha or State Legislative Assembly otherwise should be disqualified?

- a. Strongly agree

- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 8 According to you, what should be the minimal education qualification to run for MP or MLA?

- a. Secondary or higher Secondary certificate
- b. Diploma
- c. Bachelor degree
- d. post-graduate degree
- e. Doctorate degree

Q. 9 How often you and your party think a candidate for MP/MLA seat self-declares true information about himself and his healthy mental state?

- a. Very often
- b. Often
- c. Not so often
- d. Sometime
- e. Never
- e. Neither agree nor disagree

Q. 10 How frequently do you hear about cases when an MP or MLA candidate was disqualified due to his corrupt election-related actions?

- a. Very frequently
- b. Frequently
- c. Not so frequently
- d. Sometimes

e. Never

Q. 11 Do you think that a person should be disqualified if he has ever been convicted of an offence that results in a sentence of two years or longer?

a. Strongly agree

b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 12 How often you come across incidents when failing to submit an account of election expenses on time by MP or MLA candidate were disqualified in election?

a. Very often

b. Often

c. Not so often

d. Sometime

e. Never

Q. 13 Do you agree a candidate shouldn't be qualified if he has a financial stake in government projects, services or a profit-making position in a corporation where the government controls at least 25% of the stock?

a. Strongly agree

b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 14 Do you agree that a person who was sacked from a government job due to corruption or betrayal of the State should not be allowed to run for MP or MLA election?

a. Strongly agree

- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 15 How often you feel that your party doesn't support a candidate who is involved in bribing, stirring hostility between communities, or campaigning for sati, untouchability, or dowry?

- a. Very often
- b. Often
- c. Not so often
- d. Sometime
- e. Never

Q. 16 Does your party agree that bribing a rival candidate to withdraw from an election is widespread and they should be disqualified?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 17 Do you agree that using a religious leader's influence, such as a guru, mullah, a padri, etc. during an election should disqualify someone?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 18 Should someone who isn't an Indian citizen or who intentionally gained foreign citizenship be disqualified from running for MP or MLA?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 19 Do you think that a political party member who voluntarily resigns from their party membership should be disqualified as a MP or MLA?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 20 Do you think a winner who later joins a party for personal benefit and dis-respects the feeling of voter should not have right to continue as MP or MLA?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 21 Do you agree that a person should not be eligible to serve as an MP or MLA if they are bankrupt or insolvent?

- a. Strongly agree
- b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 22 Do you think that a person should be disqualified if an elected member votes in the House against any instructions given by his political party?

a. Yes

b. No

c. May be

d. Can't say

e. Never

Q. 23 Do you think that a nominated member of a House should lose his or her seat if he or she joins a political party after six months have passed since taking his or her seat?

a. Yes

b. No

c. May be

d. Can't say

e. Never

Q. 24 Do you think that a member of a House should also be disqualified where his original political party merges with another political party?

a. Yes

b. No

c. May be

d. Can't say

e. Never

Q. 25 Does your party supports voters' power to recall MPs and MLAs if they do not perform their tasks within two years by signing petition against them?

- a. Yes
- b. No
- c. May be

Q. 26 Do you think the Election Commission/Judicial Systems should immediately disqualify Members who file fake Assets and Liabilities statements?

- a. Yes
- b. No
- c. May be
- d. Can't say

Q. 27 Do you think that an anti-defection law ensures that candidates remain faithful to the party and the voters?

- a. Yes
- b. No
- c. May be
- d. Can't say
- e. Never

Q. 28 Do you believe that anti-defection laws allow for sanctions against a member who switches parties?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 29 Do you think law maker should review laws prevailing globally and make necessary amendments in MP/MLA disqualification laws for better democracy?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 30 Do you have any remarks or suggestions? _____

Annexure-4

Questionnaires used for data collection from Judiciary

Disqualification for becoming the member of parliament and state legislatures before and after election: a critical analysis

QUESTIONNAIRE

The participants participating in the research are ensured that they will not be harmed in any way (physically or mentally) and could quit the survey anytime when they do not feel comfortable. It is ensured to the participants that the responses given by them will be kept confidential along with their personal details and contact number. The details of the participants will not be shared with any third party and in case, if it is required to be shared, a permit will be taken from the participant. If consent is provided by them in a written manner, then only the responses will be shared with a third party and if no permit is given by the participant, access to any response will be denied to the third party.

For Judiciaries

Name of Respondents: _____

Nationality: _____

Q. 1 Which area do you belong to?

- a. Urban
- b. Rural

Q. 2 What is your age group?

- a. 18-21 years
- b. 22-30 years
- c. 31-40 years
- d. 41-50 years
- e. Above 51 years

Q.3 What is your highest qualification?

- a. Diploma

- b. Graduation
- c. Post-graduation
- d. Professional degree
- e. Doctorate degree

Q. 4 What is your designation?

- a. Chief Justice
- b. District or Sessions Judge
- c. Chief Judicial Magistrate
- d. Principal Junior Judge
- e. Judicial Magistrate
- f. Advocate or Lawyer
- g. Presiding officer

Q. 5 How long have you been associated with judiciary services?

- a. 0-5 years
- b. 6-10 years
- c. 11-15 years
- d. 16-20 years
- e. more than 20 years

Q. 6 Do you agree that it is mandatory to understand and obey the Indian electoral laws like Representation of the People Act and Anti-defection Law by the political parties?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 7 Do you believe that political parties respect minimum age criterion of 25 years to hold a seat in the State Legislative Assembly or the Lok Sabha?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 8 According to you, what should be the minimal education qualification to run for MP or MLA?

- a. Secondary or higher Secondary certificate
- b. Diploma
- c. Bachelor degree
- d. post-graduate degree
- e. Doctorate degree

Q. 9 How often do you think MP/MLA candidates self-declare honest information about their mental health?

- a. Very often
- b. Often
- c. Not so often
- d. Sometime
- e. Never

Q. 10 How frequently do you hear about cases when an MP or MLA candidate was disqualified due to his corrupt election-related actions?

- a. Very frequently
- b. Frequently

c. Not so frequently

d. Sometimes

e. Never

Q. 11 Do you think political parties prohibit their candidates from running for MP or MLA positions if they have a criminal record and have been convicted of a felony carrying a sentence of two years or more?

a. Strongly agree

b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 12 How often you come across incidents when failing to submit an account of election expenses on time by MP or MLA candidate were disqualified in election?

a. Very often

b. Often

c. Not so often

d. Sometime

e. Never

Q. 13 Do you agree that candidates aren't allowed to participate in elections of MP or MLA if he has a financial stake in government projects, services or a profit-making position in a corporation where the government controls at least 25% of the stock?

a. Strongly agree

b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 14 How many times have you seen a sacked government employee banned from running for MP or MLA?

- a. 0-10
- b. 11-20
- c. 21-30
- d. 31-40
- e. Above 40

Q. 15 Do you think political parties doesn't allow candidates convicted of bribery or encouraging group animosity??

- a. Yes
- b. No
- c. May be
- d. Can't say

Q. 16 Do you think a political party does not endorse a candidate who has been penalised for endorsing or participating in social offences?

- a. Yes
- b. No
- c. May be
- d. Can't say

Q. 17 Do you agree that a candidate's candidacy must be revoked if he pays off a rival candidate to drop out of the race, preventing them from running for an MP or MLA position?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree

e. Neither agree nor disagree

Q. 18 Do you concur that since political parties employ religious leaders to sway voters during elections, candidates must be disqualified?

a. Strongly agree

b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 19 Does electoral commission strictly disqualify a candidate for office who joins a different party voluntarily after leaving a previous one?

a. Yes

b. No

c. May be

d. Can't say

Q. 20 Do you think that political parties prevent candidates who are not an Indian citizen who intentionally gained foreign citizenship to run for MP or MLA election?

a. Strongly agree

b. Agree

c. Strongly disagree

d. Disagree

e. Neither agree nor disagree

Q. 21 Do you believe that political parties allow a candidate who initially ran as an independent but afterwards switched parties should lose their right to hold an MP or MLA position?

a. Strongly agree

b. Agree

- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 22 Have you ever seen a candidate who was bankrupt or insolvent to run for office as an MLA or MP?

- a. Yes
- b. No
- c. Can't say

Q. 23 Do you think lawmakers shouldn't be involved if a candidate votes in the House against party's directives as it's a party's internal matter?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 24 Do you believe that a nominated member of a House should lose his or her seat if he or she joins a political party after six months have passed since taking his or her seat?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 25 Do you think that a member of a House should also be disqualified where his original political party merges with another political party?

- a. Strongly agree

- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 26 Do you believe that by preventing changes in party affiliation, anti-defection laws help to keep the government stable?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 27 Do you believe the anti-defection law will lessen political corruption?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 28 Do you believe that anti-defection laws allow for sanctions against a member who switches parties?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 29 Do you think law maker should review electoral laws prevailing globally and make necessary amendments in MP/MLA disqualification laws of India for better democracy?

- a. Strongly agree
- b. Agree
- c. Strongly disagree
- d. Disagree
- e. Neither agree nor disagree

Q. 30 Do you have any remarks or suggestions? _____

Thanks