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**ELECTION LAW REFORMS AND CONSTITUTIONAL  
MORALITY IN INDIA: STRENGTHENING DEMOCRATIC  
GOVERNANCE**

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**ELECTION LAW REFORMS AND**  
**CONSTITUTIONAL MORALITY IN INDIA:**  
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**ABSTRACT**

India's democratic framework is founded on the principles of free and fair elections, rule of law, and constitutional supremacy. Over time, however, electoral processes have faced challenges such as criminalization of politics, excessive campaign expenditure, opaque political funding, misuse of state machinery, and declining ethical standards in political conduct. In response, election law reforms have emerged as essential instruments to preserve democratic integrity. Simultaneously, the Supreme Court of India has increasingly invoked the doctrine of constitutional morality as a guiding principle to interpret constitutional values beyond mere textual compliance. This paper critically examines the relationship between election law reforms and constitutional morality in India. It analyses key legislative reforms, judicial interventions, and institutional mechanisms aimed at strengthening democratic governance. Through case law analysis, comparative insights, and empirical illustrations, the paper argues that meaningful electoral reform must be grounded in constitutional morality to ensure transparency, accountability, and participatory democracy.

**Keywords:** **Election** Law, Constitutional Morality, Electoral Reforms, Democracy, Supreme Court of India

## **1. INTRODUCTION**

Elections constitute the foundational mechanism of democratic governance, serving as the primary means through which the sovereign will of the people is expressed and translated into political authority. In India—the world’s largest and most diverse democracy—elections are not merely periodic political events but a **constitutionally embedded process** that sustains representative government, accountability, and the rule of law. The Constitution of India envisages an electoral system that is **free, fair, inclusive, and impartial**, ensuring that political power emanates from the informed consent of the electorate rather than coercion, corruption, or manipulation.

Despite this robust constitutional vision, the functioning of India’s electoral democracy has increasingly come under strain. Persistent challenges such as the **criminalization of politics, excessive influence of money power, opaque political funding, misuse of state machinery, identity-based mobilization, and the spread of misinformation** have raised serious concerns about the ethical quality of electoral competition. These developments have not only distorted electoral outcomes but have also weakened public faith in democratic institutions and processes. The growing gap between the constitutional ideal of elections and electoral realities has made reform imperative.

In response to these challenges, **election law reforms** have emerged as crucial instruments for preserving democratic integrity. Legislative measures, regulatory frameworks, and institutional mechanisms seek to curb electoral malpractices, promote transparency, and ensure a level playing field among political actors. The Representation of the People Acts, judicially mandated disclosure requirements, campaign finance regulations, and the enforcement of the Model Code of Conduct reflect sustained efforts to strengthen the legal architecture governing elections. However, the limited effectiveness of purely legal interventions has revealed the inherent constraints of reform efforts that focus exclusively on procedural compliance.

Parallel to these developments, the Indian judiciary—particularly the Supreme Court—has increasingly invoked the doctrine of **constitutional morality** as a guiding principle for constitutional interpretation and governance. Rooted in the vision of **Dr. B.R.**

**Ambedkar**, constitutional morality demands fidelity not only to the text of the Constitution but also to its underlying values of **liberty, equality, fraternity, dignity, secularism, and democratic accountability**. The doctrine emphasizes that constitutional institutions and political actors must act in a manner that upholds the spirit of the Constitution, even when such actions may be politically inconvenient or socially unpopular.

In the electoral context, constitutional morality assumes particular significance. It requires that elections be conducted not merely in accordance with statutory rules but in a manner that respects voter autonomy, electoral equality, institutional neutrality, and ethical political conduct. The Supreme Court's jurisprudence on voters' right to information, political accountability, and electoral transparency demonstrates an evolving judicial commitment to embedding constitutional morality within election law.

## **2. CONCEPT OF CONSTITUTIONAL MORALITY**

The concept of **constitutional morality** occupies a central place in India's constitutional philosophy and democratic governance. Its intellectual origins can be traced to **Dr. B.R. Ambedkar**, the chief architect of the Indian Constitution, who repeatedly cautioned that the success of a constitutional democracy depends not merely on the text of the Constitution but on the conduct and ethical commitment of those entrusted with its operation. In his speeches before the Constituent Assembly, Ambedkar emphasized that even the best constitutional design could fail if constitutional authorities and political actors lacked the moral discipline to adhere to its spirit. Constitutional morality, therefore, signifies the **internalization of constitutional values in the exercise of public power**.

At its core, constitutional morality refers to **faithful adherence to the foundational principles and normative commitments of the Constitution**, including democracy, secularism, equality, liberty, fraternity, dignity of the individual, and the rule of law. It requires that constitutional provisions be interpreted and applied not in a narrow or mechanical manner, but in a way that advances the broader objectives of the constitutional order. Unlike popular morality, which may be influenced by majoritarian impulses, social prejudices, or political expediency, constitutional morality functions as a **counter-majoritarian safeguard**, protecting minority rights and constitutional principles against transient public opinion.

A crucial feature of constitutional morality is its **universal and binding character**. While social morality varies across regions, communities, and cultures, constitutional morality applies uniformly to all institutions of the State—legislature, executive, judiciary, and constitutional authorities. It imposes a moral obligation on public institutions to exercise power with restraint, fairness, transparency, and accountability. In this sense, constitutional morality operates as both a **normative guide and a constitutional limitation**, ensuring that democratic governance remains anchored in constitutional values rather than political convenience.

The Supreme Court of India has progressively elevated constitutional morality into a guiding doctrine of constitutional interpretation. In several landmark judgments, the Court has affirmed that constitutional morality must prevail over social or religious morality where the two are in conflict. This judicial approach underscores the idea that the Constitution is not merely a legal document but a **transformative charter** aimed at reshaping social relations and power structures. By invoking constitutional morality, the judiciary has sought to preserve the ethical foundations of democracy and protect the integrity of constitutional governance.

In the **electoral context**, constitutional morality assumes particular importance due to the central role elections play in legitimizing political authority. Elections conducted in formal compliance with statutory rules may still fall short of constitutional morality if they are characterized by coercion, misinformation, unequal access to resources, or abuse of state power. Constitutional morality demands that elections be conducted as **ethical democratic processes**, where voter autonomy is respected, political competition is fair, and institutional neutrality is preserved. It requires political actors to refrain from practices that undermine the dignity of voters or distort their free choice, even if such practices are not expressly prohibited by law.

### **3. EVOLUTION OF ELECTION LAW IN INDIA**

The evolution of election law in India reflects the country's ongoing effort to reconcile democratic participation with constitutional discipline. At the time of independence, the framers of the Constitution recognized that a diverse and populous nation required a robust legal framework to ensure free, fair, and inclusive elections. Consequently, Articles 324 to 329 of

the Constitution laid down the constitutional architecture for elections, while detailed statutory regulation was entrusted to Parliament.

India's election law framework is primarily governed by three pillars:

- (i) the **Representation of the People Act, 1950**,
- (ii) the **Representation of the People Act, 1951**, and
- (iii) the rules, directions, and instructions issued by the **Election Commission of India (ECI)** under Article 324.

The **Representation of the People Act, 1950** focuses on the structural aspects of elections, such as the delimitation of constituencies, preparation and revision of electoral rolls, and allocation of seats. It seeks to operationalize the constitutional promise of universal adult suffrage by ensuring accurate voter registration and equitable constituency representation. On the other hand, the **Representation of the People Act, 1951** deals with the substantive conduct of elections. It regulates qualifications and disqualifications of candidates, election campaigns, corrupt practices, election expenses, and resolution of election disputes.

During the **early decades of Indian democracy (1950s–1960s)**, electoral practices were relatively orderly, marked by ideological competition and public trust in institutions. However, from the late 1960s onwards, India witnessed growing political fragmentation, the emergence of coalition politics, and increasing electoral competition. This period coincided with the **monetization of elections**, criminal infiltration into politics, and misuse of state machinery by ruling parties.

As elections became more competitive and resource-intensive, the limitations of existing legal mechanisms became evident. Electoral malpractices such as vote-buying, booth capturing, paid news, communal polarization, and intimidation of voters began to erode electoral integrity. In response, the Indian election law framework evolved through a combination of **legislative amendments, judicial activism, and administrative innovations by the ECI**.

#### **4. MAJOR ELECTION LAW REFORMS IN INDIA**

Election law reforms in India have primarily focused on addressing structural distortions that undermine democratic fairness. Among these, criminalization of politics,

lack of transparency in political funding, and abuse of power during election periods have received sustained legal and judicial attention.

#### **4.1 Criminalization of Politics**

One of the gravest threats to Indian democracy is the increasing presence of candidates with criminal backgrounds in legislative bodies. This phenomenon undermines public confidence in democratic institutions and contradicts the constitutional vision of ethical governance. Despite constitutional disqualifications under Articles 102 and 191, many individuals facing serious criminal charges continue to contest elections due to procedural loopholes and political patronage.

Election law reforms have sought to address this issue primarily through **transparency and voter empowerment**, rather than blanket disqualifications, in order to balance democratic participation with constitutional safeguards. Key reform measures include:

- Mandatory disclosure of criminal antecedents by candidates in nomination forms
- Judicial scrutiny of candidate qualifications
- Public dissemination of criminal records through affidavits and media publication
- Voter awareness initiatives led by the ECI

#### **Case Law: Public Interest Foundation v. Union of India (2019)**

In this landmark judgment, the Supreme Court acknowledged that criminalization of politics poses a serious threat to constitutional democracy. While declining to impose a lifetime ban on candidates with criminal charges due to separation of powers concerns, the Court strengthened disclosure norms. It directed political parties to publish details of candidates with criminal antecedents and provide reasons for selecting them over candidates with clean records.

The Court emphasized that voters have a **fundamental right to know** the background of candidates, flowing from Article 19(1)(a). Importantly, the judgment invoked **constitutional morality**, holding that political parties bear a moral and constitutional responsibility to uphold democratic values. This decision reflects a shift from purely legal compliance to ethical accountability in electoral processes.

#### **4.2 Transparency in Political Funding**

The influence of money power has long distorted electoral equality in India. Opaque political funding enables undue corporate and private influence over policy-making, weakening the principle of political equality embedded in the Constitution. Historically, weak disclosure norms and unregulated donations facilitated the flow of unaccounted money into election campaigns.

To address this, election law reforms introduced mechanisms aimed at improving transparency, including:

- Mandatory disclosure of election expenditure by candidates
- Audit requirements for political parties
- Introduction of **Electoral Bonds** as a funding instrument
- Reporting obligations to the Election Commission

#### **4.3 Model Code of Conduct (MCC)**

The **Model Code of Conduct (MCC)** represents one of the most significant non-statutory instruments for ensuring electoral fairness in India. Developed through consensus among political parties and enforced by the Election Commission, the MCC regulates political behavior during election periods. It addresses issues such as misuse of official machinery, announcement of populist schemes, hate speech, and intimidation of voters.

Although the MCC lacks direct statutory backing, its moral authority and consistent enforcement have made it a powerful tool for maintaining a level playing field. The Supreme Court has repeatedly acknowledged the legitimacy of the MCC as an extension of the ECI's constitutional mandate under Article 324.

### **5. ROLE OF THE JUDICIARY IN ENFORCING CONSTITUTIONAL MORALITY**

The judiciary, particularly the Supreme Court of India, has emerged as a central actor in embedding constitutional morality within the electoral framework. Given the limitations of legislative reform in addressing entrenched political interests, judicial interpretation

has often served as the primary mechanism for aligning election laws with constitutional values. Through purposive interpretation, the Court has expanded the meaning of democracy beyond electoral formalism to include ethical governance, transparency, and accountability.

One of the judiciary's most significant contributions has been the recognition of the **voter's right to information** as an integral component of democratic participation. In **Association for Democratic Reforms v. Union of India (2002)**, the Supreme Court held that voters have a fundamental right under Article 19(1)(a) to know the criminal antecedents, financial status, and educational qualifications of candidates. The Court reasoned that democracy cannot be sustained if citizens are kept uninformed, thereby elevating transparency from a statutory obligation to a constitutional mandate grounded in constitutional morality.

Similarly, in **People's Union for Civil Liberties (PUCL) v. Union of India (2013)**, the Court upheld the introduction of the "**None of the Above**" (NOTA) option in electronic voting machines. The judgment recognized that electoral participation includes the right to reject unsuitable candidates. By legitimizing dissent within the electoral process, the Court reinforced the ethical dimension of voter autonomy and political choice. NOTA thus symbolizes constitutional morality by affirming that democratic participation is not confined to affirmative selection but includes principled rejection.

## **6. ELECTION COMMISSION OF INDIA AND CONSTITUTIONAL MORALITY**

The **Election Commission of India (ECI)** occupies a unique constitutional position as the guardian of electoral integrity under **Article 324** of the Constitution. The framers envisioned the ECI as an independent and neutral authority capable of insulating elections from political interference. Its autonomy, security of tenure, and broad supervisory powers embody the principle of constitutional morality in institutional form.

Over the decades, the ECI has evolved from a technical election management body into a normative regulator of democratic conduct. Its interventions against **hate speech, communal polarization, paid news, misuse of official machinery, and violation of campaign norms** reflect a proactive commitment to constitutional values. The enforcement of the

**Model Code of Conduct (MCC)**, though non-statutory, has become a key instrument for maintaining ethical restraint during election periods.

The Supreme Court has consistently upheld the ECI's expansive authority, recognizing that free and fair elections are part of the **basic structure of the Constitution**. In cases such as *Mohinder Singh Gill v. Chief Election Commissioner (1978)*, the Court affirmed that Article 324 confers wide discretionary powers on the ECI to address unforeseen electoral challenges. This judicial endorsement reinforces the Commission's role as an ethical arbiter guided by constitutional morality.

### **7. EMPIRICAL DATA AND INTERPRETATION**

Empirical evidence provides a sobering backdrop to the normative aspirations of election law reforms. Data published by the **Association for Democratic Reforms (ADR)** reveals a steady increase in the number of legislators facing criminal charges, indicating the limited effectiveness of disclosure-based reforms alone.

**Table 1: Candidates with Criminal Cases in Lok Sabha**

<b><u>Election Year</u></b>	<b><u>Percentage of MPs with Criminal Cases</u></b>
2004	24%
2009	30%
2014	34%
2019	43%

(Source: ADR Reports)

The rising trend underscores a structural disconnect between legal transparency and political accountability. While voters are increasingly informed, electoral outcomes continue to reflect the normalization of criminality in politics. This suggests that **constitutional morality must be internalized not only by institutions but also by political actors and the electorate**.

Similarly, the exponential growth in election expenditure highlights the deepening influence of money power. A **bar graph illustrating election expenditure from 2004 to 2019** would visually demonstrate the correlation between rising campaign costs and financial

inequality in political participation. High campaign costs disadvantage smaller parties and independent candidates, thereby undermining the constitutional principle of political equality.

### **8. COMPARATIVE PERSPECTIVE**

A comparative analysis of electoral systems in other democracies offers valuable insights into the relationship between law, institutions, and constitutional morality. In the **United Kingdom**, strict campaign finance regulations, spending limits, and independent oversight by the Electoral Commission ensure financial transparency and fairness. Electoral violations attract swift penalties, reinforcing ethical compliance.

In **Canada**, robust disclosure norms and publicly funded election campaigns reduce dependence on private donations, promoting political equality. Independent oversight bodies exercise strong enforcement powers, reflecting a governance culture that prioritizes constitutional ethics.

By contrast, India's electoral framework, while constitutionally sophisticated, struggles with enforcement deficits and political resistance to reform. The comparative experience suggests that **effective election law reform requires not only statutory regulation but also a culture of constitutional morality shared by institutions, political parties, and citizens**. Without this moral foundation, even the most comprehensive legal frameworks risk erosion.

### **9. CHALLENGES TO EFFECTIVE ELECTION LAW REFORMS**

Despite sustained legislative initiatives and proactive judicial interventions, the effectiveness of election law reforms in India continues to face significant structural and normative challenges. These challenges reveal a persistent gap between constitutional ideals and electoral realities, underscoring the limitations of law when not accompanied by ethical commitment and institutional will.

One of the foremost challenges is the **weakness of enforcement mechanisms**. Many electoral norms, including disclosure requirements and the Model Code of Conduct, rely heavily on voluntary compliance and moral persuasion rather than strict legal sanctions. Enforcement agencies often lack adequate powers, manpower, or independence to act

decisively against violations. As a result, electoral malpractices frequently go unpunished or are addressed only after elections have concluded, reducing their deterrent effect. This enforcement deficit undermines constitutional morality by allowing procedural violations to persist without accountability.

Another critical obstacle is **political resistance to reform**. Electoral reforms often require legislative action, yet lawmakers—who are themselves beneficiaries of the existing system—may be reluctant to introduce changes that threaten entrenched political interests. Proposals such as stricter disqualification norms, caps on campaign expenditure, or transparency in political funding face opposition across party lines. This resistance reflects a deeper moral crisis, where political expediency outweighs constitutional responsibility, eroding public faith in democratic institutions.

The rise of **voter polarization and misinformation** presents a new and complex challenge to electoral integrity. Elections increasingly witness identity-based mobilization, disinformation campaigns, and emotionally charged narratives that distort rational political discourse. Social media platforms amplify misinformation at unprecedented speed, influencing voter behavior and undermining informed choice. While election laws struggle to keep pace with these developments, constitutional morality demands restraint, truthfulness, and respect for voter autonomy—values that are frequently compromised in contemporary campaigns.

## **10. POLICY RECOMMENDATIONS**

To bridge the gap between electoral law and constitutional morality, a multi-dimensional reform strategy is essential. Legal reform must be complemented by institutional strengthening and normative transformation.

First, the **Model Code of Conduct (MCC)** should be given **statutory backing**. While its moral authority has been effective to an extent, statutory recognition would enhance enforceability and provide the Election Commission of India with clearer punitive powers. Codifying the MCC would transform ethical expectations into legally binding obligations without diluting its normative character.

Second, **stronger regulation of political funding** is imperative to curb the influence of money power. This includes stricter disclosure norms, real-time reporting of

donations, caps on anonymous contributions, and enhanced auditing mechanisms. Public funding of elections, at least partially, may also be explored to promote political equality and reduce dependence on private capital.

Third, the introduction of **disqualification upon framing of serious criminal charges**—subject to judicial safeguards—should be considered. While respecting the presumption of innocence, such reform would prevent individuals accused of grave offences from occupying positions of political power, thereby reinforcing ethical governance and public confidence.

## **11. CONCLUSION**

Election law reforms constitute a vital instrument for strengthening democratic governance in India, but their true effectiveness lies beyond statutory design and judicial pronouncements. The Indian constitutional experience demonstrates that democracy thrives not merely on periodic elections, but on the ethical conduct of political actors and the moral vigilance of institutions entrusted with safeguarding the electoral process.

Constitutional morality serves as the **normative soul of electoral democracy**, ensuring that power is exercised responsibly, transparently, and in accordance with constitutional values. Laws without moral commitment risk degenerating into procedural formalities, while constitutional morality without legal enforcement remains aspirational and fragile. The enduring strength of Indian democracy, therefore, depends on the **synergistic interaction between robust election laws and unwavering adherence to constitutional morality**.

In an era marked by political polarization, digital manipulation, and declining public trust, reaffirming constitutional morality is not merely desirable—it is essential. Election law reforms grounded in constitutional ethics offer the most sustainable path toward preserving electoral integrity, democratic legitimacy, and the transformative promise of the Indian Constitution.

## **12. BIBLIOGRAPHY**

- Constitution of India
- Representation of the People Act, 1950
- Representation of the People Act, 1951
- *Association for Democratic Reforms v. Union of India*, (2002)
- *People's Union for Civil Liberties v. Union of India*, (2013)
- *Public Interest Foundation v. Union of India*, (2019)
- *Navtej Singh Johar v. Union of India*, (2018)
- Election Commission of India, Annual Reports
- Association for Democratic Reforms (ADR), Election Analysis Reports
- Law Commission of India, Electoral Reform Reports

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