

**Recommendations on Electoral and Political reforms**  
**National Election Watch (NEW) and Association for Democratic Reforms (ADR)**

**A: Recommendations for Electoral Reforms**

1. **Remove criminals from politics** – For upholding the highest traditions of probity and morality in public life, any person against whom charges have been framed by a Court of Law of offences punishable for two years or more should not be allowed to contest elections. In particular, any candidate charged with serious charges like murder, attempt to murder, rape, kidnapping, extortion, etc. should be banned from contesting any elections.
2. **Declaration of sources of income by candidates** – Along with the declaration of their assets and liabilities candidates should also declare their income and sources of income at the time of nominations.
3. **Implement a multi-party system for appointments of the CEC and SEC** – CEC should be appointed through a multi party system including the Prime Minister, Leader of the Opposition, the Speaker of the Lok Sabha, Deputy Chairperson of the Rajya Sabha and the Chief Justice. A similar process should be implemented for appointments of SEC.
4. **Implement ceiling on expenses of political parties during election period**– To make the current laws on election expenses more effective, ceiling should be imposed on expenses during elections made by political parties as well.
5. **The requirement for winning election should be “50% + 1 of the registered votes cast”**: To stop candidates and parties from asking votes on caste, religion and regional basis and to help stop division in Indian society based on these parameters, a requirements should be made to declare a candidate as winner only if the candidate gets more than 50%+1 vote. In the case when no candidate gets required number of voters, there should be a runoff between the top two candidates getting maximum votes. It is worth noting that 50%+1 of the *votes cast* is an easier requirement for being declared elected, a more stringent requirement, and the ideal to ensure appropriate and proper representation, would be 50%+1 of the *registered votes*.
6. **Provide “None of the Above” (NOTA) option in the EVMs** - The option of “None of the above” should be there on the Electronic Voting Machines (EVMs) under section 49 (0) to protect the identity and right of the voters. The votes cast for NOTA should be

counted and if the highest number of voters are polled for NOTA then the following steps should be taken:

- (a) No candidates should be declared as elected,
- (b) Fresh election should be conducted, in which none of the earlier candidates should be allowed to contest, and
- (c) In the fresh elections, only a candidate who gets at least 50%+1 of the votes cast should be declared elected.

7. **Reduce the time provided for filing election expenses** - A candidate presently can file accounts of elections expenses within 30 days which reduces the time given for filing election petition to 15 days. There is a need for amendments to sections 78, 81 and 84 of the R.P. Act, 1951 to reduce the period of filing accounts of elections expenses by contesting candidates to 20 days so that the time available for filing election petition would increase to 25 days.
8. **Action against candidates who fail to file their election expenses** – Any candidate who fails to file their election expenses within the given time should face penalty, including not being allowed to take oath until they fulfill this obligation.
9. **Legal sanction for the filing election petition against candidates who lose elections** – There is no provision for election petitions or other actions against candidates who lose elections. There needs to be a legal sanction against losing candidates also for filing an election petition who are guilty of corrupt practice in terms of section 123 of the R.P. Act, 1951.
10. **Strict penalties against those involved in electoral malpractices** - The relevant sections of the Representation of People Act (RPA) pertaining to electoral malpractices need to be amended and stricter penalties imposed. Electoral malpractices should be declared criminal offenses carrying a sentence of two years or more.
11. **Law against the use of excessive money in elections by candidates** - The excessive use of money in elections vitiates democracy. Anyone who breaks the law by giving money and gifts to voters, or exceeding the legal spending limits should have his/her election set aside.
12. **Provision for verifying the declarations in the affidavits of the candidates** - The information given in the affidavits of the candidates on criminal charges, assets etc.

should be verified by an independent central authority in a time bound manner. Provision should be made for strong action on finding serious anomalies.

**13. Prohibition of taking other offices after retirement of The Election Commissioners:**

The Election Commissioners should not be eligible for any office after retirement for a period of at least 5 years. They should also not be allowed to join any political party for a further period of 5 years after retirement.

**B: Recommendations for political reforms**

- 1. Introduce provisions for inner-party democracy within political parties:** Although India is a democratic country, our political parties which run this democracy are highly undemocratic in their functioning. Provisions should be made to introduce inner-party democracy within the political parties. This should include mandatory secret ballot voting for all elections for all inner party posts and selection of candidates, as suggested by Law Commission Reforms and practiced in Germany, by the registered members, overseen by Election Commission of India.
- 2. Bring financial transparency in the accounts of political parties –** There is a great need to bring in financial transparency in the accounts of political parties. The Income Tax returns and the contribution reports of political parties should be made open for scrutiny by public. In addition, the maintenance of accounts by political parties and audit thereof by agencies specified by the Comptroller and Auditor General should be made compulsory.
- 3. Regulate the registration and de-registration of political parties -** Amendment of Sec. 29A of the R.P. Act, 1951 empowering the Election Commission to regulate registration and de-registration of political parties.
- 4. Bring in a comprehensive bill to regulate working of political parties -** The draft Bill to regulate Political Parties, as given in the 170<sup>th</sup> Law Commission Report Part III: Chapter I should be passed by Parliament. Strict rules should be enacted through law for all the inner functioning of the parties, including elections of office bearers, selection of candidates for elections, etc.
- 5. Declare Political parties as Public Authorities:** As political parties work for the public in public space and are responsible for making government to run the country and they

also use government facilities, they should be declared as public authorities so that they come under the ambit of RTI.

6. **Affidavit information of candidates to be certified by Political Parties:** Since the candidates are given tickets largely by political parties without any public debate or involvement of their primary members, the information submitted in their affidavits should be certified by Political Parties. It is after all these parties only that know these candidates to be worthy enough to get their tickets. In case the information furnished by the candidates is found incorrect, the political party should also be held accountable.
7. **Annual report by MPs and MLAs** - Elected MPs and MLAs should be required to give an annual report to their constituency giving details of their accomplishments for previous year and the plan for the next year. This report can be made available either at the Lok Sabha/Rajya Sabha website or at Election Commission's website.
8. **Fast tracking of cases for MLAs/MPs-** All pending cases against MPs and MLAs should be fast tracked and brought to conclusion within a specific time(preferably one year). If these cases go to High Court or Supreme Court, they should be treated at a high priority in these courts too. These fast track courts should also have open and transparent hearings and witness protection. Any evidence of intimidation should be taken as evidence of guilt.
9. **A separate body to decide the salaries and perks of elected representatives** - There should be an independent body or commission that takes decisions on salaries and perks of elected representatives. It is a clear conflict of interest now where they fix their own remuneration.

### **C: Recommendations for new rules by Election Commission of India**

1. **Make public the list of polling agents in advance-** The list of polling agents should be made public well in advance of the elections.
2. **Include civil society representatives as observers during elections-** There should be a mix of official and non official observers during elections, selected by the Election Commission. The same facilities and powers should be given to both categories of observers.
3. **Make election expense statements of the candidates/winners available through web:** Election Expense statements of the candidates/winners should be made available on the website of Election Commission as soon as they are filed by the candidates for public

scrutiny. If the statement runs through several pages, at least their summaries should be put on the website.

4. **Appointment of the CEO from cadre of another state** - The Chief Electoral officer of a state is sometimes apprehensive that after his term is over, he will have to work under the same political authorities over which he exercised powers during elections as CEO. To enable a CEO to work fearlessly without these apprehensions, a CEO should be deputed from another state.
5. **Changes required in the affidavits** – Following changes should be incorporated in the existing format of the affidavit filed by the candidates contesting elections:
  - PAN declaration of candidates should be made mandatory in order to keep a continued check on their transactions and dealings. If PAN not given the nomination papers filed by the candidate should be rejected
  - There should be a column in the affidavit wherein the candidates can declare any penalty levied on them with regard to taxes
  - A column asking for the source of income of candidates should be provided in the affidavit
  - In the assets part the candidates should not just disclose his assets but also the assets of all his close relatives as per the Company Law.
  - Candidates should attach their IT returns with the affidavits filed by them.
  - Affidavits should be certified by the Political Parties
  - Candidates standing for elections should be announced 6 months prior to elections and they should submit affidavits stating the expected and approximate amount to be spend in elections by them and of the source thereof.