

YA GOVT DEGREE COLLEGE FOR WOMEN CHIRALA

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Topic :- Electoral Reforms & Major Committees

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Electoral Reforms in India

Introduction

Elections lie at the very heart of democracy. It is through elections that people in a democracy participate in public affairs and express their will. It is again through elections that power changes hands in a peaceful and orderly manner in a democracy and the authority of government gets clothed with legitimacy.

„Elections, thus not only sustain democracy but enliven it as well. Holding of free and fair election is, therefore, a *sine qua non* of democracy.

India is both the largest and one of the most populous democracies in the world. This apart, in comparison to most of the developed democracies of the world, problems of illiteracy, poverty, etc. still continue in India as is the case with most of the developing countries. Its electorate is not only vast but also quite diverse reflecting the plurality of caste, religion, region, language, etc. of its social mosaic. Conducting periodic elections in the country by encouraging large-scale popular participation is a stupendous task.



Going by India's record in this regard, periodic elections as a means of smooth transfer of power have been a regular and successful feature of India's democracy in the past seventy years. Not only this, Indians have time and again reposed faith in elections as the most potent means of non-violent and peaceful protest against all acts of omissions and commissions of Government. Elections have thus become integral to India's democracy as elsewhere in other

successful liberal democracies, the world over.

However, certain aberrations have come to the fore in the very working of the electoral system over the years. The need to address such disturbing factors have generated a debate on electoral reforms in the country. The Election Commission which is under the Constitution is vested with the actual power of superintendence, direction and control of elections in the country, has, from time to time, come up with concrete proposals/suggestions based on objective difficulties encountered in the conduct of elections. Politicians, through the platform of parties and Parliament including its various committees constituted for the purpose, have given vent to their desire for reform. Governments have also undertaken certain redemptive measures based on the recommendations of various committees. The process of reforms as well as the debate in this regard have almost been an on-going process.

Electoral Process: General Elections at a glance

Among all the countries liberated from the colonial yoke, India alone has earned the singular distinction of not only being the world's longest functioning effective democracy but also of setting an example by conducting as many as seventeen free and fair general elections to the National Legislature, Lok Sabha and more than 350 elections to the State Legislatures. Successive elections have both enhanced and deepened the people's commitment to democracy.

The election to the Lok Sabha being direct, the territory of India is divided into territorial constituencies for the election. At present, the allocation of seats in the Lok Sabha is based on 1971 Census and will continue to be so till 2026. The term of the Lok Sabha, unless dissolved sooner is five years from the date appointed for its first meeting.

The total number of seats in the Lok Sabha is 545 at present. The 28 States elect 530 members of Parliament (LS) while the remaining 13 are added from the Union territories and two are nominated by the President as per provisions of Article 331 of the Constitution from the Anglo-Indian Community which was abolished in 2019. Provision also exists for reserved seats for

Scheduled Castes and Scheduled Tribes. Since 1989, the size of the Lok Sabha increased from 544 to 545. The extra seat was the result of Goa becoming a State (on May 30, 1987).

Election Commission of India

The Constitution entrusts the responsibility to supervise, direct and control the entire procedure and machinery for election and also for some other ancillary matters, on the Election Commission of India under Article 324. At present, it constitutes the CEC and two Election Commissioners. The Election Commission has the power of superintendence, direction and control of all elections to Parliament and the State Legislature and to the offices of the President and Vice- President.

First-Past-the-Post-System'

As far as the issue of electoral reforms in India is concerned, the overall focus has been the system that governs representation to the popular chamber in Parliament as well as to the various State Legislative Assemblies in the country. The system of representation here refers to the one commonly known as the „First- Past-the-Post-System“. Of all the candidates contesting, it is the one who wins largest number of votes as compared to all others individually, gets elected.

I. Universal Adult Franchise

One of the central features of the Electoral System in India is that it is based on the Universal Adult Franchise enunciated in Article 326. While the Constitution under article 326 makes it one of the cardinal features of the electoral system, the Representation of People Act, 1950 *vide* its Section 23 effectuates it. There shall be one electoral roll for every territorial constituency for election to either House of Parliament or to the State Legislature and no person shall be excluded from such roll on grounds only of religion, race, caste, sex or any of them”.

II. Multiparty System

Apart from the above, other function which also paved the way for electoral reforms in India include increase in the number of regional parties from time to time as a result of multiparty system that is followed in India in comparison to by- party system in many countries. Alongside, there has been a substantial increase in the number of independent candidates. This has impinged upon the stability of Government in power. Moreover, this has also helped the phenomena of political defections, coalition politics, etc.

Apart from these, increasing electoral expenses over the years has been a cause of concern. As a result, elections seem to have increasingly become an affair of the affluent. This has also, in turn, contributed to the rise of political corruption. In addition to these, electoral malpractices like booth capturing or poll rigging, violence and popular apathy towards participation in the polls are some of the issues which also need to be addressed and resolved in the interest of free and fair election.

Electoral Reforms in India

The need for electoral reforms was increasingly felt towards the late 1960's in India. Till then the electoral system had functioned quite satisfactorily except for few of aberrations in the form of some malpractices like rigging or violence which are rather small in number. There was one party rule at the Centre and in most of the States. But this scenario began to change after the Fourth General elections held in 1967. Regional parties and rule by coalition of parties began to emerge in the States. The emergence of alternative party governments in the State witnessed the accentuation of some of the negative traits and distortions in the political system which manifested themselves in a greater degree in electoral politics.

A parliamentary Committee was constituted for the first time in 1970 to suggest amendments to Election Law from all angles. But with the dissolution of Lok Sabha in December 1970, the life of this Committee also came to an end. Subsequent to the Constitution of a new Lok Sabha in 1971, Parliament formed a Joint Parliamentary Committee on Amendments to Election Law headed by Shri Jagannath Rao.

In subsequent years, a number of Committees *viz.* the Tarkunde Committee (1974), the Dinesh Goswami Committee (1990), V.K. Krishna Iyer Committee (1994) and the Indrajit Gupta Committee (1998) have been constituted to examine issues relating to electoral reforms. Apart from these, the Election Commission has also, from time to time, made proposals for reforms. Starting from 1970, the Election Commission has submitted its recommendations on electoral reforms in 1977, 1982, 1990, 1992 and 2004. This apart, political parties through the platform of all-party meetings have also suggested for electoral reforms. The Law Commission (*i.e.* the 15th Law Commission) was also constituted in November, 1977 for an exhaustive study of the Representation of the People Act, 1951 with a view to finding out and identifying the measures necessary in the direction of electoral reforms. The Law Commission has submitted its 170th report regarding reform of the Election System. In addition, Government has also initiated redemptive measures from time to time.

Proposals for reforms

Recommendations of Law Commission

The Supreme Court of India, in the matter of „Public Interest Foundation & Others V. Union of India & Anr- Writ Petition (Civil) No. 536 of 2011, directed the Law Commission of India to make suggestions on two specific issues, *viz.*, (i) „curbing criminalization of politics and needed law reforms“; and (ii) „impact and

consequences of candidates filing false affidavits and needed law reforms to check such practice". In the light of this judgment, the Commission worked specifically on these two areas and, after series of discussions, followed by a National Consultation held on 1st February 2014, submitted its 244th Report titled „Electoral Disqualification“ on 24th February 2014 to the Government of India.

The law Commission of India submitted its Report No. 255 on “Electoral Reforms” to the Union Law and Justice Ministry. Justice Shri A. P. Shah, Chairman of the Law Commission of India presented the 201 page report after due consideration and deliberations with the stakeholders including of registered national and state political parties and extensive and in-depth analysis of various issues by the commission.

Following is the summary of the report on various issues discussed in the report:

1. **Election Finance**

The Law Commission has proposed wide ranging reforms on the issue of expenses incurred by candidate such as limits; disclosure obligations of individual candidates and political parties; and penalties imposable on political parties; as well as examining the issue of state funding of elections.

The electoral bond scheme introduced in 2018 is a method of political funding. It aimed at ensuring enhanced accountability to defeat the growing menace of black money and to promote transparency in funding and donations received by the political parties. Only a political party registered of the Representation of the People Act, 1951, and which has secured more than one per cent of the votes polled in the last election to the Lok Sabha would be eligible to receive the bonds.

The Commission does not consider a system of complete state funding of elections or matching grants to be feasible, given the current conditions of the country.

2. Regulation of Political Parties and Inner Party Democracy

Democratic theory can be thought of to include accounts of both procedural and substantive democracy. Procedural democracy can be said to refer to the practice of universal adult franchise, periodic elections, secret ballot, while substantive democracy can be said to refer to the internal democratic functioning of the parties, which purportedly represent the people. This section deals with the internal democratic functioning of parties and the question of how parties should function and regulate themselves.

3. Proportional Representation

It is clear that both the electoral systems come with their own merits and demerits – proportional representation theoretically being more representative, while the FPTP system being more stable. It is also clear, from the experience of other countries that any changes in India's electoral system will have to follow a hybrid pattern combining elements of both direct and indirect elections. This, in turn will necessitate an increase in the number of seats in the Lok Sabha, which raises concerns regarding its effective functioning.

4. Anti Defection Law in India

The Law Commission recommends a suitable amendment to the Tenth Schedule of the Constitution, which shall have the effect of vesting the power to decide on questions of disqualification on the ground of defection with the President or the Governor, as the case may be, (instead of the Speaker or the Chairman), who shall act on the advice of the ECI. This would help preserve the integrity of the Speaker's office.

The Supreme Court delivered a verdict recently that could have far-reaching consequences for legislative assemblies.

The Court made two important declarations. First, the Speakers of both the State Assemblies and the Parliament have to decide on disqualification petitions for members within three months except for the existence of an extraordinary circumstance. It also held that courts have the powers to intervene if the proceedings are delayed. Second, the court recommended to Parliament that it strongly considers removing the Speakers' disqualification powers and forming an independent tribunal to take up these petitions. The rationale for this suggestion is that Speakers invariably come from the ruling parties and act in a partisan manner.

5. Strengthening the office of the Election Commission of India

The ECI should be strengthened by *first*, giving equal constitutional protection to all members of the Commission in matters of removability; *second*, making the appointment process of the Election Commissioners and the CEC consultative; and *third*, creating a permanent, independent Secretariat for the ECI.

6. Paid News and Political Advertisements

Amendment in the RP Act 1951, to provide therein that publishing and abetting the publishing of „paid news“ for furthering the prospect of election of any candidate or for prejudicially affecting the prospect of election of any candidate be made an electoral offence under chapter-III of part-VII of RP Act, 1951 with punishment of a minimum of two years imprisonment.

In order to curb the practice of disguised political advertisement, disclosure provisions should be made mandatory for all forms of media.

7. Opinion Polls

Under Section 126 of Representation of the People Act, 1951, which prohibits, apart from holding, convening or attending any public meeting or procession, “display to the public any election matter by means of cinematography, television or other similar apparatus”, during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll. Contravention of the above prohibition is a penal offence punishable with imprisonment upto 2 years or with fine or with both.

8. Compulsory Voting

The Law Commission does not recommend the introduction of compulsory voting in India and in fact, believes it to be highly undesirable for a variety of reasons described above such as being undemocratic, illegitimate, expensive, unable to improve quality political participation and awareness, and difficult to implement.

9. Election Petitions

Wide-ranging reforms have been suggested by the Election Commission to deal with “disputes regarding elections”.

10. NOTA and the Right to Reject

The Law Commission currently rejects the extension of the NOTA principle to introduce a right to reject the candidate and invalidate the election in cases where a majority of the votes have been polled in favour of the NOTA option.

11. The Right to Recall

The Law Commission is not in favour of introducing the right to recall in any form because it can lead to an excess of democracy, undermines the independence of the elected candidates, ignores minority interests, increases instability and chaos, increases chances of misuse and abuse, is difficult and expensive to implement in practice, especially given that India follows the first past the post system.

12. Totaliser for Counting of Votes

The Commission reiterates and endorses the ECI's suggestion for introducing a totaliser for the counting of votes recorded in electronic voting machines to prevent the harassment of voters in areas where voting trends in each polling station can be determined. Prior to the introduction of EVMs, ballot papers could be mixed under Rule 59A of the Election Rules, although this was not permitted for EVMs. Using a totaliser would increase the secrecy of votes during counting, thus preventing the disclosure of voting patterns and countering fears of intimidation and victimisation.

13. Restriction on Government Sponsored Advertisements

The Commission recommends regulating and restricting government sponsored advertisements six months prior to the date of expiry of the House/Assembly to maintain the purity of elections; prevent the use of public money for partisan interests of, *inter alia*, highlighting the government's achievements; and ensure that the ruling party or candidate does not get an undue advantage over another in the spirit of free and fair elections.

MAJOR COMMITTEES ON ELECTORAL REFORMS

Introduction

India being a democracy, voting and elections play a very vital role. But these two very important processes have been facing a lot of issues in a big democracy like India. Some of these issues may include- Communalism and politics, Money Power, Booth Capturing, Violence, and Criminalization of Politics. Therefore, the need for electoral reforms has been ever increasing. This was the view of many committees formed for this matter, some of which are-

- Tarkunde Committee (1974)
- Jaya Prakash Narayan Committee (1974)
- Goswami Committee on Electoral Reforms (1990)
- Vohra Committee Report (1993)
- Indrajit Gupta Committee on State Funding of Elections (1998)
- Law Commission Report on Reform of the Electoral Laws (1999)
- National Commission to Review the Working of the Constitution (2001)
- Election Commission of India - Proposed Electoral Reforms (2004)
- Jeevan Reddy Committee (2004)
- The Second Administrative Reforms Commission (2008)

Venkatachaliah Commission

The commission was formed on 1 February 2000. It was reported that former Chief Justice of India, M. N. Venkatachaliah, would head the commission, and that it would comprise ten other members, which would include one member-secretary, and "nine other members from various walks of life concerning constitutional background". The names had not been finalized at the announcement of the commission being formed. When asked if it would be called a commission or committee, Minister of Law and Justice Ram Jethmalani stated that "it will be called a commission a national commission."^[1]

The terms of reference given to the Commission stated that it shall examine, in the light of the experience of the past fifty years, as to how best the Constitution can respond to the changing needs of efficient, smooth and effective system of governance and socio-economic development of modern India within the framework of parliamentary democracy, and to recommend changes, if any, that are required in the provisions of the Constitution without interfering with its 'basic structure' or 'basic features'.^[2]

Composition of Commission

The 11-member commission was headed by former Chief Justice of India Justice M. N. Venkatachaliah.^[3] The other members of the commission were:^[4]

- B. P. Jeevan Reddy, Chairman of the Law Commission
- Ranjit Singh Sarkaria, Former Judge of the Supreme Court of India
- K. Punnayya, Former Judge of Andhra Pradesh High Court
- Soli Sorabjee, Attorney-General of India
- K. Parasaran, Former Attorney-General of India
- Subhash C. Kashyap, Former Secretary-General of Lok Sabha
- C. R. Irani, Chief Editor & Managing Director of the Statesman
- Abid Hussain, Former Ambassador of India to the USA
- Sumitra Kulkarni, Former Member of Parliament
- P. A. Sangma, Former Speaker of Lok Sabha

The commission was asked to complete its work and make recommendations within one year. However, after three extensions, the Commission submitted its report on 31 March 2002.^[6] The report is bulky one, comprising 1979 pages in two-volumes was received by Law and Justice Minister Arun Jaitley. Volume I contains the recommendations while Volume II (divided in Books 1, 2 & 3) consists of detailed consultation papers, background papers, details of deliberations and the report of its drafting and editorial committee dividing into three books.

T.N. Seshan was an Indian civil servant and the 10th Chief Election Commissioner of India. He is known for his strict enforcement of election laws and for introducing several reforms that transformed the conduct of elections in India. Some of his key recommendations include:

Introducing voter ID cards: T.N. Seshan advocated for the introduction of voter ID cards to ensure that only eligible voters were allowed to vote.

Electoral reforms: He introduced several electoral reforms, including the use of electronic voting machines (EVMs), which helped to make the election process more transparent and efficient.

Strict enforcement of election laws: Seshan believed in strict enforcement of election laws and rules to ensure free and fair elections. He was known for cracking down on corrupt politicians and officials who tried to influence the election process.

Voter awareness campaigns: Seshan emphasized the need for voter awareness campaigns to educate people about the importance of voting and their rights as citizens.

Decentralization of election machinery: He advocated for the decentralization of the election machinery to ensure that the electoral process was conducted in a fair and transparent manner at all levels.

Overall, T.N. Seshan's recommendations were aimed at making the election process more transparent, efficient, and fair, and to ensure that the voices of the people were heard through free and fair elections.

The **Punchhi Commission** on Centre-State Relations was established by the Government of India in April 2007. It was chaired by **Madan Mohan Punchhi**, the former Chief Justice of India. Punchhi Commission was tasked with re-examining Centre-State relations, especially considering the significant transformations in India's political and economic landscape since the Sarkaria Commission had last reviewed these relations in 1988.

After a thorough investigation, the Punchhi Commission submitted its final report on March 30, 2010. Among the Punchhi Commission's noteworthy suggestions was the practice of appointing governors from outside the state, which sought to ensure a more impartial and balanced governance approach.

Punchhi Commission Objectives

The Punchhi Commission was the **second commission** set up to review the functioning of the arrangements between the **Center and States**. It aimed to assess the Centre's roles and

responsibilities in managing large-scale caste-based violence, communal tensions, and social conflicts.

- It also reviewed Centre-State relations, including taxation and river linking, and addressed the need for a **Central law enforcement agency** to initiate *suo motu* investigations into crimes with interstate or international implications.
- It studied the feasibility of legislation under **Article 355** for deploying Central forces, promoted devolution of powers to Panchayati Raj Institutions, and advocated for independent district-level planning.
- The Commission also explored the need for **separate taxes** to unify the domestic market and examined the **role of Governors**, emergency provisions, financial relations, and resource sharing, including **inter-state river water** allocation, etc.

Punchhi Commission & Recommendations

The Punchhi Commission relied on reports from the Sarkaria Commission, the National Commission to Review the Working of the Constitution (NCRWC), and the Second Administrative Reforms Commission, though it differed in some areas from the Sarkaria Commission's recommendations.

- After a thorough examination, the Punchhi Commission concluded that "cooperative federalism" would be essential for sustaining India's unity, integrity, and development.
- The Commission addressed several key areas in Centre-State relations, with its important recommendations outlined below.

Punchhi Commission on National Integration Council

The Punchhi Commission suggested the development of a comprehensive system for addressing issues related to internal security through the **National Integration Council**. It recommended that the National Integration Council hold at least **one annual meeting** and that a delegation of **five members** visit any communally affected area within **two days**.

Punchhi Commission on Communal Violence Bill

The Punchhi Commission recommended amendments to the **Communal Violence Bill**. It proposed that, in cases of communal violence, Central forces should be allowed to temporarily deploy in a state without prior consent. This was to ensure that the prompt resolution of communal conflicts would not be delayed by the need for state approval.

- Accordingly, the Communal Violence (Prevention, Control, and Rehabilitation of Victims) Bill was introduced in 2005 but faced criticism and was never enacted as law.

Punchhi Commission on Finance Commission

The Punchhi Commission recommended that the considerations specified in the **Terms of Reference (ToR)** of the **Finance Commission** be fair and balanced between the Centre and the states. It further suggested establishing an effective mechanism to involve the states in finalizing the ToR.

- Additionally, the Punchhi Commission proposed that the Finance Commission division in the Ministry of Finance be upgraded into a full-fledged department, serving as the **permanent secretariat** for the Finance Commission.

Punchhi Commission on Governor

The Punchhi Commission emphasized that the Central Government should strictly follow the Sarkaria Commission's recommendations when appointing a Governor, upholding both the intent and principles of these guidelines.

- **Key Guidelines:** The Governor should be a distinguished individual, preferably from outside the state, and should maintain a level of detachment from the local political landscape. He should not be deeply involved in politics, especially recently.
- **Fixed Tenure and Independent Removal Process:** The Governor should have a fixed tenure of five years, with their removal based on an impartial process rather than the discretion of the Central Government.
- **Impeachment:** The Punchhi Commission suggested that the procedure established for the President's impeachment, with necessary modifications, could also be applied to the impeachment of the Governor.
- **Limitations on Discretionary Powers:** The Punchhi Commission clarified that **Article 163** does not grant the Governor broad discretionary power to act independently of their Council of Ministers.
 - Any discretionary actions must be limited, guided by reason, exercised in good faith, and approached with caution.
- **Timely Decision on State Bills:** The Punchhi Commission recommended that the Governor should decide within **six months** whether to approve or reserve state legislative bills for Presidential consideration.
- **Restriction of Governors' Non-Constitutional Roles:** The Punchhi Commission proposed that Governors should no longer hold positions such as **Chancellors of Universities or other statutory roles**, with their responsibilities strictly limited to constitutional duties.

With a view to restoring the faith of the public in the democracy of India and its processes, many electoral reforms have been made from time to time.

Jaya Prakash Narayan Committee:

In 1974, Jaya Prakash Narayan headed a committee consisting of EPW. Decosta, A.G. Noorani, R. D. Desai, PH. Mavlankar, M. R. Masani and V. M. Tarkunde to make recommendations on electoral process or electoral reforms. The committee suggested to change some criteria in the electoral processes. They are as follows:

1. To change in the procedure of appointment of the Chief-Election Commissioner;
2. To elect three-member Election Commission;

To reduce the voting age from 21 to 18 years; and

1. The television and radio should be placed under an independent corporation.

Dinesh Goswami Committee:

In 1990, Dinesh Goswami Headed a Committee made the following recommendations;

1. The ordering of re-poll or countermanding should be not only be on the report of the returning officer, but also otherwise and, also to give the Election Commission the requisite powers to appoint investigating agencies, prosecuting agencies and constitution of special courts.
2. There is a need for an amendment to the anti-defection law to restrict disqualification only to those cases, where an elected member voluntarily gives up his membership of the political party, or when he votes or abstain from voting contrary to party whips, directions etc. only in respect of motion of vote of confidence. The question of disqualification of members should not be decided by the speaker or the Chairman of the concerned House.
3. Changes in the voting pattern and shift to proportional representation of the list system, instead of present voting system should be made (However, this matter was to be further discussed amongst exports)
4. There should be fresh delimitation on the basis of 1981 census and there should be a provision for rotation of reserved seats for Scheduled Castes and Scheduled Tribes.
5. No candidates should be allowed to contest an election from more than two constituencies. The age of Candidates for assembly seats should be reduced to 21 and for the Council to 25.
6. To discourage non-serious candidates, the security deposit for Lok Sabha should be increased to Rs. 5000 and for Assembly it should be increased to Rs. 2500. The amount should be forfeited if the candidate fails to secure one fourth of the total votes. The member of proposals to nomination should also be increased.
7. A model code of conduct be framed which would include issues relating to-the use of official machinery, transport, media, funds etc.
8. There should be a ban on transfer of officials and staff concerted with the elections. The Commission and the Central Government should continue the periodic revision of election expenses in consultation with the Election Commission. There should be a six month time limit for holding bye-elections.
9. Army and Para-military personnel, diplomats and others placed outside India should be allowed proxy voting.
10. Extensive restructuring of the accounting of election expenses is needed.
11. Monitoring of expenses should be undertaken by the Election Commission, and a speedy trial of election disputes through the help of adhoc judges should be ensured.
12. There should be provision to punish plying mechanically-propelled vehicles, carrying lethal weapons and fire arms or distributing liquor on, the polling day.
13. Electronic voting machines should be used to put an end to manipulating and tempering.

Jeevan Reddy Committee:

The Justice Jeevan Reddy has proposed far Reaching Electoral Reforms.

The Following are the Highlights:

1. The Commission advocated a total ban on splits and mergers of political parties during the term of the Lok Sabha or Legislative Assembly.
2. Once a member has been elected on a ticket of a particular recognized party, then he should remain in that party till the dissolution of the House or till the end of his membership by resignation or otherwise.
3. The Commission has recommended an adequate representation.

4. To discourage non-serious persons from contesting elections, the Commission has recommended a steep ten-fold hike in the deposits of independent and non-recognized party candidates.
5. To curb criminalisation of politics, the Commission has suggested that a person should be disqualified from contesting elections to the Lok Sabha or an Assembly if a court has ordered framing of charges in respect of offences listed in the Representation of the People Act, 1951.

Tarkunde Committee:

In August 1974, Jaya Prakash Narayan on behalf of the Citizen's for Democracy appointed a committee V.M. Tarkunde, M.R. Masani, P.G. Mavalankar, A.G. Noorani, R.D. Desai and E. PW. Decosta. It is known as Tarkunde Committee. The committee made the following recommendations:

1. The election Commission should be a three member body.
2. The minimum age for voting should be 18 years.