

ELECTIONS, DEMOCRACY AND CONSTITUTIONAL MORALITY IN INDIA



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Kripa Drishti Publications, Pune.

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AND
CONSTITUTIONAL MORALITY
IN INDIA**

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Book Title: **Elections, Democracy and Constitutional
Morality in India**

Editor By: **Prof. (Dr.) Asha Verma**

1st Edition

ISBN: **978-93-94570-72-6**



Published: **Oct 2022**

Publisher:



Kripa-Drishti Publications

A/ 503, Poorva Height, SNO 148/1A/1/1A,

Sus Road, Pashan- 411021, Pune, Maharashtra, India.

Mob: +91-8007068686

Email: editor@kdpublications.in

Web: <https://www.kdpublications.in>

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PREFACE

To attain a complete understanding of India or Democracy in general, or of Indian democracy in particular, a sustained study of its electoral system is an imperative. One must seek to understand the constitutional, political, cultural and social dimensions of the electoral system in order to achieve a total understanding of India.

Elections itself is such a significant and fascinating field of study because it serves as a useful microcosm of our country. Through a study of elections, we can access the core issues and realities of the Indian republic. Within the drama of elections, therefore, our nation's anxieties and aspirations, ideologies and insecurities, perils and promises, triumphs and tribulations are all revealed and engaged with. Not only do elections serve as a shining symbol of a working democracy but they also, time and again, disclose to us the darker, criminal elements that form part of democracy's subterranean reaches. Effectively, and at the very least symbolically, it is in elections that our leaders are both birthed and judged, our public empowered, and the tenets of representative democracy celebrated. It is for these reasons that I believe electoral politics to be the litmus test of a democracy. India is both the largest democracy and the second most populous country in the world. This apart, in comparison to most of the developed democracies of the world, problems of illiteracy, poverty, gender and caste disparities 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, and so on, of its social mosaic. Conducting consistent and 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 in other successful liberal democracies across the globe.

Additionally, it is this tantalising character of elections that makes it such a difficult and challenging subject for a sustained academic treatment. It is, therefore, one of the great accomplishments of this book to make it accessible to the reading public in all its dimensions. That it can be valuable in equal measure to the general reader and the specialist scholar is only an added virtue.

To study a phenomenon that is so pervasive requires a truly cross-cutting, inter-disciplinary effort. The book is both ambitious in its scope and versatile in its approach. One only has to skim through the contents section to realise that the present book offers us a convincing and encompassing vision of electoral politics. From the role of media to political financing, voter rights to electoral laws, constitutional developments to social consequences, the book covers a broad range of issues deftly and dutifully.

India today is a republic of contradictions. It boasts of producing world-domineering billionaires while its poor die of hunger and curable diseases in greater numbers. More women vote now in numbers hitherto unseen in the history of elections while it elects merely one female chief minister. It ranks high globally in the ease of doing businesses while its youth are left unemployed in millions. Its constitution and its shrewd leaders preach secularism and tolerance while the country riots in the name of religion and caste. Media-houses that are driven by the motives of agenda and profit are celebrated and glamourised while critical journalists and activist investigators are arrested in unending detentions or are under constant threat of court cases. Rapists are garlanded while the high rhetoric of women's rights echoes forth from national podiums.

To arrive, therefore, at a sustainable and egalitarian resolution, to fix our historical and contemporary crises, to redeem and reshape our political landscape and social priorities, to uphold the virtues and vitality of our constitution, and to manifest the glorious visions of our founding figures, our first and foremost step is to achieve a proper self-understanding. We must first pause to evaluate our contemporary condition.

With critical intelligence, scholarly rigour and imaginative discernment, this book endeavours to do precisely the same. Through a thorough study of electoral dynamics, it helps us to understand India better. Not only does it provide critical and comparative analyses, but also offers us solutions and emendations. In accounting and appraising the world of elections, which I have elsewhere called the 'undocumented wonder', I am hopeful that it contributes to our collective efforts to achieve our unattained ideals.

My best wishes to Prof. (Dr.) Asha Verma for *The Elections, Democracy and Constitutional Morality in India*.



Dr. SY Quraishi
Former Chief Election Commissioner of India, and
Chancellor IILM University Gurugram.
He has also authored 'An Undocumented Wonder-
The Making of the Great Indian Election'.

Acknowledgment

As an academic professional in the discipline of law I have always believed in the immense transformative quality of education. The ideas discussed by the leaders as well as the beginners in the field of law can directly translate into a social change. My vision and objective regarding my career trajectory has always taken me to unexplored corners of law which have a potential to change our society for the better. Education, for the very same reason, is a collective goal as per my understanding. The intellectual growth of few won't be relevant to the larger picture if those few don't discuss and relay their ideas amongst a larger section of our society.

Democracy is the bedrock of the Indian sovereign structure. The stability and foundational strength of our nation is directly proportionate to the soundness of our democratic structure. A very essential element of democracy is to understand the powers and responsibilities that it bestows upon every legitimate voter who participates in the process of election. The power which a voter enjoys is to decide the location of political authority until the next elections and the responsibility which they discharge is to make an informed and reasoned choice for the country. The collective responsibility of choosing our political representatives can either strengthen or distort the socio-economic and political status of a nation, depending upon how diligently this power has been utilized. Therefore, it is of utmost necessity for legal scholars to constantly question the shortcomings in our electoral exercises as well as suggest reforms for its betterment. The broader concept of election comprises of multiple sub-concepts like funding, campaigning, manifesto, casting and counting of votes, role of election commission, role of election tribunals, defection etc. The idea behind this book is to provide a platform to the various ideas concerning the nodal idea of elections in India so that this discourse can move forth and act as an instrument of reform.

The reality which this book became is founded on the support and strength of multiple people and by no mean it is a singular effort. There are countless people I would like to thank for their help throughout my life, without whom I would not be who I am or doing what I do. For the sake of brevity here, I would like to acknowledge and thank those who have had the greatest impact on the success of this book.

I would like to express my deep and sincere gratitude to Dr. SY Quraishi Sir for his constant guidance and blessings. His contribution in my journey is not limited to merely the coming together of this book and goes far beyond. I have been privileged to receive his guidance and wisdom on professional as well as personal front and he has been a significant pillar of strength throughout. I would further extend my deepest regards, praise and gratitude towards Prof Ila Sharma who has taught me significantly about the overcoming of obstacles. Her intellectual contribution to my journey has never been confined to our shared professional space.

Words won't sufficiently justify the regards I hold for Prof. (Dr.) Ranbir Singh Sir and how he strengthens my fortitude time and again. He is an inspiration to multitude of people and I am proudly one of them. His knowledge, experience and humanity has not only motivated me but also shaped me into the academician that I am today.

I would like to extend my acknowledgment to Prof. (Dr.) Sujata Shahi Ma'am whose vision and discipline are virtues to imbibe for every individual. Going beyond the role of a vice-chancellor she has been a counselor, philosopher and guide to me and I am immensely grateful for the same.

This book wouldn't have been in existence had it not been for the constant support of the IILM University Management. The management supported my ideas without exception and provided me with the functional liberty which was required to actualize my ideas into a consolidated piece of literature. I would extend my gratitude to them for their faith and support.

I am extremely grateful to my parents for instilling in me the values which I carry with myself as a matter of life principles. They taught me the relevance of education in a person's life and how it is an asset that amplifies exponentially if we share it with the world around us. They always taught me that we must stand up for the truth no matter how fearsome the lies around us are. They taught me the value of courage, not just by preaching but by practicing it as well. They are primarily responsible for the person that I am, and I am extremely grateful for these ethics and values. Not to mention the love, blessings and care that they always showered upon me.

I would like to express how blessed I am to have my husband, Mr. Mahinder Singh as the ever supportive pillar of strength and wisdom in my life. I have learnt about the impact and importance of honesty and integrity from him. He has been a life partner in the truest sense and he has equally

participated in my moments of gloom as well as moments of glory. I am thankful to my son Rehaan Verma for the constant source of happiness and support that he has been to me. His love for me has been a driving force for me and shall forever remain to be the same.

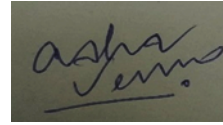
I would further express my gratefulness towards both of my elder brothers for the way their personalities and ideals have founded my socio-legal understandings. Both of them are a Professor of English and naturally they have guided me to the field of academics at every nook and corner of this journey. They are ardent supporters of democratic ideals and the foundation of this book derives substantial inspiration from what I have learnt from them about democracy.

I would also like to put forth my deepest thanks to Dr. Komal, Dr. Anchal Mittal, Mr. Aditya Verma and Ms. Aastha Thakur, who intellectually contributed to the final form of this book and who have constantly been very kind and congenial colleagues of mine.

The book would have remained merely an abstract idea had it not been for the brilliant contributors of and their insightful submissions to the book. I am thankful to all of the authors for contributing towards a greater cause through your intellectual prowess. The same stands true for our esteemed publishers who displayed faith in our cause and took upon themselves the duty to become a bridge between our writers and our readers. It is because of them that honest voices are able to find powerful platforms and multitude of readership.

I hope this book stands the test of time and continue to be a relevant piece of work. I am optimistic that this cumulative effort shall eventually- in portions large or small- shall strengthen the pillars of electoral democracy in India.

JAI HIND!!

A square box containing a handwritten signature in dark ink. The signature appears to read 'Asha Verma' with a horizontal line underneath.

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Teachers' Congress, The Indian Society of Labour Economics, Australian Labour Law Association Melbourne, Asian Association of Law Professors Kathmandu, she has proven her mettle in innumerable fields and areas. Dr. Asha Verma is truly what a real academic is made of!

About the Book:

The efficiency of any Democracy is centrally regulated by the soundness of its electoral process. Any disturbance with elections directly translates into disruption of the democratic process and misrepresentation of the popular mandate. Thus, it is of utmost relevance that the laws regulating elections must remain checked and reviewed for the greater good. This necessity has led to the foundations of this book which intends to serve as a collection of scholarly voices on issues that relate to the electoral laws in India. The book contains analysis, review and opinion pieces which endeavours to push the discourse around democracy further into the direction of enlightenment.



Kripa-Drishti Publications
A-503 Poorva Heights, Pashan-Sus Road, Near Sai Chowk,
Pune - 411021, Maharashtra, India.
Mob: +91 8007068686
Email: editor@kdpublications.in
Web: <https://www.kdpublications.in>

Price: ₹ 625

ISBN: 978-93-94570-72-6

