CHAPTER VII
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It is essential to run the democratic machinery of a nation successfully so that people may keep faith in the Government as well as in the Political Parties which are the component parts of the democratic government. With the passage of time new human and psychological weaknesses come under our observation and in respect of the democratic elections they can be rooted out by constitutional amendments and laws. That is why there was a mild Reform in Britain in 1832 whereby rotten boroughs were abolished and franchise was extended from about 250,000 to 720,000 out of Britain's total adult population of 10 million. It evoked from the Duke of Wellington the following comment:

"The barriers of the constitution are broken down; the waters of destruction have burst the gate of the temple". ¹

In the world democracy England possesses the first place but women could get the right to vote only after the Representation of the People Act 1918, when franchise was conferred on women of the age of 30 and above, while for men the voting age was 21. It was only in 1928 that women of 21 and above were enfranchised. ² Besides, the ballot came to England in 1872 while it came earlier in U.S.A. and in Australia. ³

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³ - L.K.Arvani; Indian Electoral System-A Plea for Reform; (Elections and Electoral Reform in India, Dr. Subhash C. (Kashyep(Ed.)); New Delhi, Institute of Constitutional and Parliamentary Studies, 1971, P.2
After independence in 1947 India constituted rules and regulations for the parliamentary democracy on the very pattern of England and America. It was so because in the preceding decades India had remained in close touch with England and some political affinity had developed between the peoples of the two countries. The Indian Constitution was made and was implemented for the country on 26th Jan, 1950. Later on some amendments were made in the constitution though in comparison to England the changing process was slow. However minor changes were made from time to time but efforts were never made for radical changes.

In elections no party can contest on the basis of honesty and therefore they make use of other resources. This is not true of India alone but also of every country, more or less. There are millionaires and multimillionaires in the country and they keep black money which can not be used without the support of political parties. These political parties assist them only when they co-operate in the election programmes. In this way fair election becomes a question mark. It has been so in parliamentary elections since 1952. Charges for using corrupt practices are levelled against the winning parties by the opposition parties. Sometimes the discrepancy between the percentage of votes polled and the percentage of seats won entirely perverts the results. In England in 1929, the conservatives polled more votes than Labour but secured less seats. In 1951 on the other hand even though labour secured more votes they had less seats.  

1 - Seminar, R. Thapar (Ed); (The Problem of Clear Election No. 159, (New Delhi), Malhotra Building, 1972 P. 10.
Since the Parliamentary elections in 1952 it was always found that Congress secured an over-whelming majority of seats. In 1952, the Congress poll percentage was 44.99, in 1957 it was 47.78, in 1962 it was 44.73 and in 1967, 40.82. Nevertheless, it succeeded in cornering some 70 percent seats in the first three elections and a clear majority even in the fourth. In 1971 mid-term elections of Lok Sabha total number of candidates elected on the tickets of the Indian National Congress led by Shri Jagjivan Ram, nearly 352, 262 obtained more than 50% of the votes, 61 obtained votes between 30.40% 23 candidates obtained votes between 30.40 % and 6 candidates obtained votes between 20.30%. The Congress secured highest percentage of seats and hence opponents doubts began to rise about the number of votes, specially in the fifth Lok Sabha Poll of 1971 of civil committees. As a matter of fact this system is most suitable and accurate yet conceived to ensure that all the important sections of opinion amongst the electorate get their due representation in the body for which the elections are being held. But in the case of India where illiteracy is at a high level and elections are conducted on a massive scales this method is not so befitting for the country.

LIST SYSTEM

In the European countries the list system is also widely known. It had been adopted by Norway, Denmark, Sweden, Finland etc., This system assures fair representation to all parties.

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1 - Fourth General Elections; An Analysis India Govt. Ministry of Information and Broadcasting, 1968, P.2
2 - Report on the Fifth General Election in India 1971-72
    India Election Commission P.117.
removes the chance of gambling and substantially eliminates the risk of a party getting into power on the basis of a minority of votes. It holds the merit that it checks opportunities of fraud crossing.

The main speciality list system holds is that the elector votes not for an individual candidate or candidates but for a party list. The constituencies are generally multi-member and after the poll each party received a share of the seats in the constituency corresponding as nearly as practicable to the percentage of votes polled by it. 1

In a nut-shell this system also has some drawbacks. As regards this system the objection raised about it is that such a system leads to proliferation of parties and thus to unstable politics and unstable governments. This is the reason that countries like Sweden, Norway and Denmark accepted it but later on they had to change the List System and again came to proportional representation. Looking to this condition, in India where there is multi-party system it would not be as befitting for the country but it may be expected that through the list system it may help to promote political education of the electorate. In the rural country like India where caste system was considered the single determinant; it may minimise ills of the same. In such a condition party programmes and policies give no solid result.

1 - Report on the Fifth General Election in India 1971-72, India Election Commission p. 117.
In adopting the system the aim of the small countries as referred to above was that they preferred it to the Government of majority so that the government may be of different political parties. In other words all party government should be formed. In small countries it practically becomes possible to see co-operation of the opposition parties also in the work of the government. It is because there are only a few parties which contest the election. But the main trouble in India in adopting such a system for the purpose of election is that there are many parties. People are illiterate in great numbers. So the allotment of priority, on the basis of party is difficult. Moreover we can presume that in this way the same situation may reach which was in France where it was difficult to establish a powerful, strong and stable government and consequently in both the world was the French were defeated.

ELECTION AND DEMOCRACY

In a developing society like India elections play their own role in democracy. Their importance becomes greater because there is great illiteracy and simultaneously there are more than 27 crores of voters who decide the fate of the country for five years. Parliamentary term Elections serve as a means of communication between the public and their government. It is a process through which leaders are selected by votes for a political office. The event of election provides the public with an opportunity to choose between political alternatives and to a certain limit, in influencing the policies of political parties. It will not be out of place to mention that election

is a policy-making process in a democratic nation. It is so because the opinion of a voter is the deciding factor through crucial, yet it shapes to the kind of government and expresses faith in a particular political ideology. In the context of India it can be mentioned that only a party which is marching towards socialism is gaining favour of the public. However, elections are having great significance and they are governed by a set of laws to remain clear and fair. "Electoral laws are those which govern the process by which electoral preferences are articulated as vote and by which these votes are translated into distribution of governmental authority (typically parliamentary seats) among the competing political parties."1

Democracy and elections are important of the modern age in the developing countries. It may be noted that democracy is still taking different forms in different countries. The basic democracy of Pakistan, the "guided democracy of Indonesia, and the "parliamentary democracy" of India and many other countries are some of the obvious examples suggesting different types of electoral system operating in developing countries.2

**ADULT SUFFRAGE:**

Adult suffrage is a universal pattern for all the people and that is found in India though the age limit had gone under change different times even in U.K. as already expressed. In Ceylon this right has been given to those males and females


2 -
who have completed 21 years and thirty years of age respectively. After 1947 elections this age for females was also reduced by one year. After that a new change took place in the constitution and consequently the age was reduced again upto 18 years. This was done by the Amendments Act of 1959. In U.S.A. the age of 18 years is allowed for the voting right while in Britain it is still 21 and no further change has yet been effected there. From the very beginning of 1952 since General Election started in India the minority castes like scheduled castes which heavily suffered from many disabilities and also the scheduled tribes which are not fully mixed up with the Indian culture; were given protection in matters of elections and representation. Some constituencies are reserved in proportion to their strength in the total population. Moreover, in all the electoral districts and constituencies including the reserved seats, all citizens constitutionally have been given a chance for joint and mixed voting so that their unity can be strengthened. In the Indian Constitution this provision has been made according to the Art. No. 326 which clearly states that elections to the House of People and to the Legislative Assembly of every state shall be on the basis of adult suffrage.

1 - R. Chand: The Electoral System and Political Development, Elections and Electoral Reforms in India, Dr. Subhash C. Kashyap (Ed), PP 112-113.
2 - Sir Charles Jefferies, Ceylon The Path to Independence, London Pall Mall Press, P. 50 and 91.
3 - The Govt. and the People, Colombo, Department of Information 1959, pp 91-92.
4 - Part XVII, The Constitution of India, New Delhi, Ministry of Law, Govt. of India, 1951.
The system which was adopted for the election purpose in India became absolute within two decades. After the parliamentary elections of 1967 the opposition parties began to cry aloud demanding amendment of the election laws. With regard to this Jan Sangh and C.P.I. were the first to come forward. Different proposals were brought forth by different politicians and political scientists within a short period. Acknowledging their significance it would be better first to examine the need for such a reform.

PROPOSAL OF REFORM : NEED FOR REFORM :

In comparison to India the Western countries are politically more awakened and financially sound literacy and education are widespread there. People there have more political and democratic experience. Apart from this India is a wide country. It is a combination of numerous castes and creeds. Religions and regionalism both separately play their important roles in India. Though no nation can be an exception to all these ills spread in our country but relatively in the Western World such problems are not so big and widespread. Moreover, in U.K. and in U.S.A. there are two or three party-systems or multiparty system while in India since the year 1951-52 only one party-Congress Party could remain in power.

CORRUPT EVIL PRACTICES:

The fact can not be denied that in the developed countries corrupt practices have not yet been stopped. The world famous case of Watergate is a burning example before all of us.
PROPORTIONAL REPRESENTATION: REQUIREMENT FOR CHANGE:

From the days of Jan Sangh as well as C.P.I. the demand came that List System should be introduced in India in place of the old one as already explained. As regards the demand for the List System in India it is a political strategy on the international level. In Europe nearly in all countries where there is communist party dominating they manage this system for their own place. They become gainers in two ways. First of all owing to instable governments Parliamentary democracy becomes highly defamed. In this way it becomes easy for them to criticise it and wrong feelings are created in the hearts of the people. The second is that in the democratic countries if there is no solid majority of a political party, they make earnest efforts to influence the government and some how or the other they try to establish their dictatorship by hook or crook. In India the Congress was divided in 1969 and after that they played the same game. A pioneer leader Shri L.K. Advani is also under the impression that electorate should cast their vote not for the members of the party but the parties themselves, hence he is also in favour of List System in the country. The problem of India is not that the representational system has gone through a crisis. Long before independence and certainly after Gandhi appeared on the scene there took place a series of changes which were interlinked with our traditions associated with the electoral system as examined in the first chapter of this dissertation.

1 -
As described earlier at the time of the First General Election there was a dominance of only one party but later on many parties developed in spite of differences of caste people joined hands on political considerations. The caste system itself underwent considerable changes as a result of the impact of the political process.\(^1\) In short, from 1947 to almost 1967 for nearly two decades, one witnessed a rapid trust in the political sense, in developing a whole net work of political through elections by responding to our own social system, by assessing our own situation and devising our own solution.

The Nehruvian consensus developed up to 1964. Meanwhile 'Democratic Decentralisation (Panchayat, Municipal and District Board Election) was started. It was not the demand of the people but it started from the top i.e. from the Government. There were three main elements of this consensus. There was the first federal element, a consensus on how the relationship between the centre and the states was to be conceived and operated and the second was the party-system and the third was the local self-government element.\(^2\)

One important aspect may be noted in the proportionate representation system. After the death of Pt. Nehru it was being presumed that there was no other dominating personality. In the next five years the coherence established between the leaders was broken and the Congress was divided. Simultaneously opposition parties had constantly tried to widen the gap among the members of the Congress. During the fourth General Election in 1967 the Congress could manage a majority but the position was

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1. Dr. Rajnikothari. Crisis of the Representative System in our Times "Focus Trivandrum" The Secretariat of Kerala Legislature Vo. VI; Febr., 15, 1976 No. 4 P. 49.
2. Ibid P. 50.
quite shaky. There were several reasons for it but unfortunately during this period economic crisis spread in the country and the position of the Congress became very odd in the Election. The opposition parties were in search of a chance to blame the ruling party in the country. In the General Elections of 1967 opposition parties failed to form their Government at the centre. They could be successful only at the state level and S.V.D. Governments in various states were formed. But these state governments also could not run for long. When all the efforts ended up in smoke the opposition parties levelled the charge that the ruling party had gone for corruption in the election and therefore the proportional representation should be given up. The voice was specially raised by the Jan Sangh and communist parties of India.

The mid-term election of Lok Sabha were declared and the Old Lok Sabha dissolved in December 1970. The declaration of mid-term election was made by the party leader Smt. Indira Gandhi and she took the decision that by the end of March 1971 the new Lok Sabha will be constituted. In this way between 1st to 10th March 1971 all Lok Sabha elections were completed. Fortunately in the fifth mid-term Lok Sabha Mrs. Indira Gandhi could win the electorate and in the Parliament she established her thumping majority while all opposition parties were badly defeated and they had to cut a sorry figure. However, at this stage Jan Sangh Congress(O), S.S.P. and Swatantra raised hue and cry and propagated that Congress(R) had adopted corrupt practices and had made use of the Government machinery in the election which was unlawful.
USE OF MAGIC INK:

There was a very serious charge imposed upon the Congress(R) that the ballot papers which were used in the election were not fair. Secondly Smt. Indira Gandhi was charged that she had made use of the Government machinery in the election and black money had been used by the party on account of which Congress(R) could become victorious. Mr. Raj Narain Singh filed a suit against Smt. Gandhi who contested election from Raibareli Constituency. Mr. Rajnarain who is a SSP leader won his case from the High Court Allahabad (U.P.) and then lost it in the Supreme Court.

However, in the meantime the parties which formed the "Grand-Alliance" in the mid-term election of Lok Sabha said that the present system of election must be changed. In place of proportional representation they preferred list system, as has been explained. In a nutshell, these were the circumstances in the country on account of which the proposals came from the parties for a change in the election pattern of the country. In this connection CPI and Jan Sangh indulged in a lot of propaganda.

Another significant cause for the criticism of the electoral system in India is that Westminster model was originally developed in a society which had unitary system of government. While the said system has been borrowed by us, we have adopted a federal constitution. Despite our adherence to the principles of federalism and local autonomy, we gave rise to this system in which ministries and departments at the centre became the main kernel. In true sense it is a hierarchical model in the fashion of a pyramidal structure of authority and rules and
directives. This has in practice greatly modified the federal constitution that we gave to ourselves on the one hand and also modified the dispersed party system and the system of local power. ¹

The development of administrative and executive power and the increasing centralization in the country made the people contemplate on this problem. They thought for its modification. Political awakening and consciousness gradually developed in one decade in the country and one party domination also made the people change their mind for the purpose of modification.

The economic crisis also increased in the country. In the election expenses increased, the parties were interested in diverting the attention of the people. Political parties are always financed in the election by the big business centres and interest groups and in this respect mostly black money is used. The Government as well as the political parties all submitted their serious objection about it.

In England there is democratic frame work. Basic centralization and bureaucratization are inherent in the Westminster model. These have become more harmful in India. England is small and has a relatively prosperous society while India is large, extremely poor and conflict ridden. That is why Gandhiji always wanted from the very beginning, decentralization of political as well as economic system. He fully realized the dangers of grafting Westminster model on to the Indian soil.

¹ - Ibid P. 53.
PROPOSALS OF REFORMS

While looking to the need of the country and to make democracy successful by arranging fair election which are the basis of democracy it may be suggested that as in the lokpal and in Lokayuktas Bill, the Chief Election Commissioner should be appointed in the consultation with a representative of the opposition and the Chief Justice of India.¹

At the district level there should be some permanent officers to make the net-work of the election Commission of India. It should be the office which should look after the election of Lok Sabha, Panchayats, Municipalities etc., at the district level. It will be the agency which will assist the election commission in its work.

Sometimes in the election corrupt practices are adopted. One form of corruption stems from the fact that no proper register of births and deaths is maintained. Votes are cast in the name of persons who are no more in the world. It means it is very essential that the said register must be maintained quite up-to-date.

Recently in the Lok Sabha the suggestion has been made that the age of the voters should be reduced from 21st to 18.² This would not serve the purpose because the boys and girls at this age do not feel the required sense of responsibility that is involved in casting votes. Moreover, for this kind of consideration it would be essential that there should be political

¹ - K.S. nthanam, Election and Electoral Reforms in India; Election and Electoral Reforms in India; Institute of Constitutional and Parliamentary studies, New Delhi; P.42.
² - Times of India, New Delhi, dt. 31.1. '76 Shupash Gupta's plea to lower voting Age to 18 P. 47.
awakening and consciousness among the young boys and girls i.e. this may be possible through education after some time but this is not the time.

The most important thing for the purpose of chain elections is that casteism, regionalism, communalism etc., should come to an end. The evils are wide-spread in the country and are found more or less every where in the world. In this respect article number 81 and article number 70 may be suitably amended to provide for fixed constituencies. For this, India should be divided into 250 permanent constituencies for the Lok Sabha, each returning two members and each one of which may be reserved for the minority classes i.e. for Muslims, Scheduled Castes, Scheduled Tribes etc., and the other seat should remain as general. In U.S.A. for election of the Senate members two members are included from every state. India may follow a similar pattern. This will bring two advantages in the country. First, it may minimise caste-interest because from every constituency there will be one member from the minority group. Since periodically with the growth of population constituencies are reshuffled. The suggested method will overcome this trouble also.

There is another big problem of election financing. The Election Commission of India has fixed the maximum limit of expenditure, which may be incurred by a candidate, (before amendment of rules in January 1971) at Rs. 25,000 only for Lok Sabha election in any constituency of a state except Nagaland. In this respect necessary amendment has been made. The maximum amount of election expenditure which may be incurred by a candidate after the amendment of Rule 90-A 1971 is given in the following table. It varies from state to state.
<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Name of Union Territory</th>
<th>State</th>
<th>Maximum Limit of Election expenses in any one Parliamentary Constituency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Andhra Pradesh</td>
<td>...</td>
<td>Rs. 35,000-00</td>
</tr>
<tr>
<td>2</td>
<td>Assam</td>
<td>...</td>
<td>Rs. 35,000-00</td>
</tr>
<tr>
<td>3</td>
<td>Bihar</td>
<td>...</td>
<td>Rs. 35,000-00</td>
</tr>
<tr>
<td>4</td>
<td>Gujrat</td>
<td>...</td>
<td>Rs. 35,000-00</td>
</tr>
<tr>
<td>5</td>
<td>Haryana</td>
<td>...</td>
<td>Rs. 35,000-00</td>
</tr>
<tr>
<td>6</td>
<td>Himachal Pradesh</td>
<td>...</td>
<td>Rs. 35,000-00</td>
</tr>
<tr>
<td>7</td>
<td>Jammu &amp; Kashmir</td>
<td>...</td>
<td>Rs. 25,000-00</td>
</tr>
<tr>
<td>8</td>
<td>Kerala</td>
<td>...</td>
<td>Rs. 35,000-00</td>
</tr>
<tr>
<td>9</td>
<td>Madhya Pradesh</td>
<td>...</td>
<td>Rs. 35,000-00</td>
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<tr>
<td>10</td>
<td>Maharashtra</td>
<td>...</td>
<td>Rs. 35,000-00</td>
</tr>
<tr>
<td>11</td>
<td>Manipur</td>
<td>...</td>
<td>Rs. 17,000-00</td>
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<tr>
<td>12</td>
<td>Meghalaya</td>
<td>...</td>
<td>Rs. 17,500-00</td>
</tr>
<tr>
<td>13</td>
<td>Mysore</td>
<td>...</td>
<td>Rs. 35,000-00</td>
</tr>
<tr>
<td>14</td>
<td>Nagaland</td>
<td>...</td>
<td>Rs. 15,000-00</td>
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<tr>
<td>15</td>
<td>Orissa</td>
<td>...</td>
<td>Rs. 35,000-00</td>
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<tr>
<td>16</td>
<td>Punjab</td>
<td>...</td>
<td>Rs. 35,000-00</td>
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<tr>
<td>17</td>
<td>Rajasthan</td>
<td>...</td>
<td>Rs. 35,000-00</td>
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<tr>
<td>18</td>
<td>Tamil Nadu</td>
<td>...</td>
<td>Rs. 35,000-00</td>
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<tr>
<td>19</td>
<td>Tripura</td>
<td>...</td>
<td>Rs. 17,500-00</td>
</tr>
<tr>
<td>20</td>
<td>Uttar Pradesh</td>
<td>...</td>
<td>Rs. 35,000-00</td>
</tr>
<tr>
<td>21</td>
<td>West Bengal</td>
<td>...</td>
<td>Rs. 35,000-00</td>
</tr>
</tbody>
</table>

**UNION TERRITORIES:**

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Name of Union Territory</th>
<th>State</th>
<th>Maximum Limit of Election expenses in any one Parliamentary Constituency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Andaman &amp; Nicobar Island</td>
<td>...</td>
<td>Rs. 12,500-00</td>
</tr>
<tr>
<td>2</td>
<td>Dadra &amp; Nagar Haveli</td>
<td>...</td>
<td>Rs. 6,000-00</td>
</tr>
<tr>
<td>3</td>
<td>Chandigarh</td>
<td>...</td>
<td>Rs. 10,000-00</td>
</tr>
<tr>
<td>Sr. No.</td>
<td>Name of Union Territory</td>
<td>Maximum Limit of Election expenses in any one Parliamentary Constituency</td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------</td>
<td>-------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Delhi</td>
<td>Rs. 10,000-00</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Goa Daman &amp; Diu</td>
<td>Rs. 12,500-00</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Laccadive, Minicoy &amp; Amindivi Island</td>
<td>Rs. 12,500-00</td>
<td></td>
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<tr>
<td>7.</td>
<td>Mizoram</td>
<td>Rs. 12,500-00</td>
<td></td>
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<tr>
<td>8.</td>
<td>Pondicherry</td>
<td>Rs. 12,500-00</td>
<td></td>
</tr>
</tbody>
</table>

Therefore, in this respect of election expenditure the suggestion may be given that either the entire expenditure of all party candidates should be borne by the Government and to minimize the expenditure compulsory casting of votes should be accepted. In this way there will be no need for the party to make individual arrangement for money which is a tremendous problem before any party.

In the election programme different political parties are financed and black money is used. In this respect there are vested interests and persons try to associate with a political party and later on after their victory in the election take advantage of the same. For this strict laws are to be made and this has all been done by the government hence if it can not be checked absolutely, it can be minimised by the rules and regulations. There should be a ban on companies and big business concerns against financing elections. Shri Lal Krishna Advani the leader of Jana Sangh party also expressed his opinion for such a control.

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1 - Report on the Fifth General Election in India 1971-72 P. 184
The issue of election expenses is ultimately interlinked with the prevailing economics of elections. Perhaps we should work out a model of legitimate costs and then evaluate the existing law on the yard stick of such a model. We should also study the various ways in which the law is or can be circumvented. Perhaps, it would help to define such terms as 'election expenses', 'personal expenses', and 'unauthorised expenses'.

All the reforms which are to be effected in the nation are necessary. The following objectives should be borne in mind while carrying on the same:

(1) The election should be free and fair and there should not be any thing which may affect the democratic spirit of the nation.

(2) There should be a separate existence of election of the Lok Sabha as well as of State Assemblies.

(3) In India many political parties have come out in the political field. They should not be discouraged but they should get a chance to establish themselves.

Just to implement the above other steps many also be taken so that fair election may be conducted, for example, it would be better that all political parties which participate in the election should prepare their accounts and these should be published and should be audited by an autonomous agency.

Except the street corner meetings election meetings should be organised by the civil authorities who should prepare a calendar of such meetings much in advance and publicize it.

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1 - Basic Postulate, L.M. Singhvi, 'Seminar' (Clean Election), Rajthapar (Ed), New Delhi No. 159 Nov. 1972.
Lok Sabha elections and state assembly election should not be held in a particular year at a time and a parliamentary election and a parliamentary constituency should be so delimited as not to include an integral number of assembly constituencies. A kind of List System with multi-member constituencies should be introduced, with a measure of popular involvement in the nomination of candidates by political parties.

The Election Commission should be made a more autonomous body and should be given proper facilities for work. It would not be wrong if a mixed system is adopted as in Germany. The election is a political process and its conduct is a matter of high political significance. No expert Commission or non-political body can provide a practical solution for this. The responsibility should be imposed where it belongs on Parliament on political parties on their leaders. Simultaneously, it would be necessary that political awakening should be developed and people should care more for their political moral.

As regards independent candidates who contest parliamentary election and do not belong to any party it may be mentioned that neither they have any importance in the parliament nor they can pressurise the Government to do any thing for the welfare of the society by which they have been elected. It means the citizens who have exercised their vote in their favour are worthless. Therefore, it is suggested that independent candidates should not be allowed to contest elections, considering the interest of the public. It would be better that the candidates should come through a political party.
ELECTION PETITION:

It has been obviously observed that with the advancement of political awareness in India and political inclination of the people elections have been more complicated. On account of the various nature of contentions national money is wasted, social crimes develop, personal bitterness increases, hence enmity increases. In such a condition the importance of the political offices goes high.

The Indian law on elections is to be found partly in the constitution of India and the rest in the enactments of the Parliament and State Legislatures\(^1\) Rules under the enactments of Parliament,\(^2\) also provide that election contests are exclusively to be determined in accordance with the special law made on the subject. In the Indian Constitution under the Article 329 clearly the provision has been made that notwithstanding anything in the constitution no election to either House of Parliament or to the House of either House of the Legislature of a State be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature. After the First General Elections many petitions, writs were filed before the High Courts of the State to question the decisions given by the returning officers. Keeping in view the Article No. 329 they were all rejected mentioning that the word 'Election' was used in that article in a wide sense and nomination is a part of election

\(^{1}\) - There are enactments relating to removal of disqualifications for election to the State Legislatures.

\(^{2}\) - These are the Registration of Electoral Rules 1960, and conduct of Election Rules, 1961.

\(^{3}\) - G.S. L. Shrivastava; Election Petitions Expediting Disposal, (Electoral Reforms in India, Dr. Subhash C. Kashyap (Ed)P. 66.
There was a case of similar nature of Shri N.P. Ponnu Swami V/S Returning Officer, and it was brought to the notice of the Supreme Court of India. Consequently, the Supreme Court took its decision and declared that the Madras High Court was right in its judgment.¹

Efforts are made to see that the rights which are provided by the Indian Constitution to the citizens and to the citizens residing permanently in a constituency are protected and that injustice is not done to them.

Election has great significance in the eye of law, since it is concerned with the people and their constituency. If a candidate has practiced dishonestly against a party or if a candidate alleges that illegal resources have been used in the election campaign and law has been violated he is authorised to go to court. The provision in the representation of the People's Act 1951 about withdrawal and abatement of election petition bring out this aspect of an election contest and show that if once an election petition has been filed and an election brought under cloud the petition becomes a matter concerning the people and it will not be open to the petitioner and the returned candidate to go for any bargain and get a withdrawal of the petition.² If the petitioner has changed his mind to withdraw the case, then, in such a condition of withdrawal, opportunity is given, by serving a

¹ N.P. Ponnu Swami V/S Returning Officer, Namakkal, 1 C.L.R. 133(Sc)
notice, to the person or persons who could have gone to file a
suit to continue the petition by getting themselves submitted as
petitioners in place of the withdrawing petitioner. In case of
the election petition it is permissible that not only a contestant
or a candidate but any citizen is authorised to go to file a suit
in the court. In case of expiry of the petitioner an eligible
person is authorised to continue the case.

On the grounds on which a petition may be filed against a
candidate have been explained in Section 100 of Representation
of the Peoples Act.

CONDUCT OF ELECTION:

The conduct of election is a most technical work and with
regard to this work including notifications and elections including
notifications for elections, administrative machinery, nomination
of candidates, polling counting of votes and declaration of results
etc. on the various issues petitions are filed. If bribery has
come to the notice during election, petition can be filed in the
court. In this respect it can be illustrated that whoever gives
a gratification to any person including him or any other person to
exercise any electoral right or of rewarding any persons for having
exercised any such right; or

i) accepts either for himself or for any other person
any gratification as a regard for exercising any such rights or for
including or attempting to induce any other person to exercise any
such right;

1 -
Commits the offence of bribery.

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

2. A person who offers or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give gratification.

3. A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done shall be deemed to have accepted the gratification as a reward.¹

In the Indian Penal Code, 1860 as regards Parliamentary and Assembly elections the clarification has been given about the eligibility of a 'Candidate' 'Electoral Right' undue influence at election, 'Personation at Election' Punishment for bribery, punishment for undue influence or personation at an election, False statement in connection with an election 'Illegal payment in connection with an election 'Failure to keep election accounts'.²

Recently the election laws (Amendment) Act 1975 has been passed by the Parliament in the Twenty Sixth Year of the Republic of India. According to the same necessary amendments have been made in the following sections:

1 - Electoral Law 1972 prevailing at the time of 1971-'72 election, Chapter IX A: Indian Penal Code 1860) offences relating to elections, Published in 'Election Archives',
2 - Indian Penal Code (1860), Chapter IX A.
(1) Substitution of New Section 8-A Disqualification on the ground of corrupt practices 1, 2, 3.

(2) Amendment of Section 11.

(3) Amendment of Section 11-A (1, 2, 3)

(4) Amendment of Section 11-B

(5) Amendment of Section 77

(6) Amendment of Section 123

(7) Amendment of Section 171-A of Act 45 of 1860(2)

Amendments to have retrospective effect the amendments made by Section 6, 7 and 8 of this Act in the Principal Act shall also have retrospective operation so as to apply to and in relation to any election held before the commencement of this act to either House of Parliament or to either House of the House of Legislature of a State.

ELECTION PETITION

Although the success of democracy depends upon free and fair elections in practice, it has been observed, in most of the cases it is very difficult to conduct fair elections only by rules and regulations. There is great need for a psychological and ethical change and a high sense of national responsibilities in the citizens. That is why there is a lot of corruption in operations of election machinery and consequently, there have been several cases of petitions in the High Courts and The Supreme Court of India.

1 - The Election Archives (Ed) ; by Shiva Lal, Jan-March 1976, F. P. 297.
A few of them are mentioned below:

(1) Shri S.M. Banerjee Appellant V/S Shri Krishna Agrawal Respondent, Civil Appeal No. 301 of 1959. The appeal was made in the Supreme Court of India after the declaration of result from the Allahabad High Court on 20th Novr. 1959. First of all it was disallowed by the Tribunal and allowed by the High Court Allahabad. The ground taken in the petition was that there was an improper acceptance of the nomination covered by 5100 (i) (d) (i) for the reason that the appellant having been dismissed from the Government service, did not obtain a certificate in the prescribed manner by the Election Commission to the effect that he had not been dismissed for corruption or disloyalty to the State.¹

In the month of March 1957 elections were held to fill up a parliamentary seat from the single member constituency No. 331, Kanpur Shri S.M. Banerjee was one of the candidate for the said election and Shri S.K. Agrawal filed a petition against Shri Banerjee charging him that he was dismissed from the Government Ammunition Factory, Kirkee on Jan., 1956 for a reason other than corruption for disloyalty to the State, and he was duly qualified to stand for the election.

¹ - All India Reporter, 1960, Vol No. 47, New Delhi, Supreme Court.
However, the result was the appeal failed and was dismissed with costs.

There was another petition filed in the court in the name of Bhartendra Singh V/S Ram Sahai Pandey and others. This petition was filed in Jabalpur, High Court E.P.No.1 of 1971 decided on 9.7.1971. In the said case charges were imposed from the side of appealant for the use of corrupt practices in the parliamentary election of Rajgandgaon Constituency.¹

The election was rigged with ingenious devices i.e., the ballot paper was subjected to chemical treatment. It was an important charge upon Shri Ram Sahai Pandey for illegal reservation of the symbol for the Congress(J) and its allotment to him. It was added from the side of the appealant that 'Calf and Cow' is a religious symbol as cow is worshipped in this constituency as 'Gau Mata'. There was a meeting arranged by Shri Pandey at Khairagarh and said that those who will not vote 'Gau Mata' will commit sin and would go to hell and this is a corrupt practice under Section 123. It was also alleged that Shri Bhagwandes Sahu, the election agent of Shri R.S.Pandey of Village Anjora, Talsil Rajnandgaon, Distt., Durg.,(M.P.) had procured a jeep car registration No. ORG 999 for the purpose of conveyance of voters in the prohibited area of the Polling booth No. 25 Kopadih in Kairagarh Talsil on 1.3.1971 on the election date.

However, from the aforesaid discussion the petitioner could not prove the corrupt practices alleged against Shri Ram Sahai Pandey. The result was that the petition was dismissed with costs.

¹ - Section Published by O.V.Chitley on behalf of the AllIndia Reporter Ltd., at Nagpur.
On the ground of withdrawal of name there is an important case which was filed in the Supreme Court vide its Appeal No. 282 of 1972 and the Judgment of the same was given on dated 25.3.74. It was in the names of Mohd. Yunus Saleem -- Appellant V/S Shiv Kumar Shastri and Others -- Respondents. The judgement was given by the honourable Judges P.N. Bhagwati and P.K. Goswami of the Supreme Court. This was an appeal in the Supreme Court against the judgement of Allahabad High Court.

Under the provision of the Representation of the People Act, 1951 the appellant, Mohd. Yunus Saleem, the defeated Congres (R) candidate, is against the judgement of the Allahabad High Court wherein he challenged the election of B.K.D. Candidate, Shiv Kumar Shastri (Respondent No. 1) to the Lok Sabha from the 376 Aligarh Parliamentary constituency in the general election held in March 1971.

WITHDRAWAL AFTER THE DATE BUT BEFORE POLL:

There were seven candidates on the run for the election from this constituency. On 1st March 1971 peaceful election were held in Aligarh and Koil constituencies and the same Mr. Salleem (R) obtained 44,422 votes in Aligarh City and 25,288 in Koil constituency while Mr. Shastri (B.K.D) secured 4,719 and 16,260 from the same constituencies. On the contrary from Khair and Chandausi constituencies Mr. Shastri secured 53,240 and 18,030 votes and Mohd. Yunus Saleem only 19,372 and 18,030 respectively. ¹ On March 2, 1971 a communal riot between Hindus and Muslims took place in Aligarh City. On receipt of the reports

from the local authorities remaining segments from March 3, 1971 to March 9, 1971 were postponed by the Election Commissioner.

The appellant alleges several corrupt practices in his election petition before the high court. The Chief Election Commissioner has been impleaded as a respondent in this appeal.

The Court made 12 important issues and out of the same in the issue No. 8 it was questioned "whether respondent No. 1 (Mr. Shastri) and Kalayan Singh MIA appealed to Hindu voters in Gordha village on 7.3.1971 not to vote for the petitioner because he was a Muslim and whether similar appeals were made to voters by respondent No. 1 and Prakashvish Shastri, Virendra Verma, Raghunath Singh and Ram Prasad Deshmukh in Kheir and Chandaus between 7.3.1971 and 9.3.1971".

With the reference to issue No. 10 it was questioned by the court whether respondent S.K. Shastri's election agent Yogendra Pal Singh, Virendra Verma and Charan Singh appealed to Jat Thakur Community voters at Iglas on 7.3.1971 not to vote for the petitioner as he was a Muslim and not to allow Muslim, Jatav and Brahmin voters to vote.

It was referred whether Yogendra Pal Singh falsely stated that the petitioner was a Razakar of Hyderabad and had instigated the Aligarh Riots.

In addition to this there was a meeting on 6.3.1971 at Aligarh residence of K.N. Agrawal, one of the financiers of BKD and it was attended by Shiv Kumar Shastri, Pooran Singh Malan (Respondent No. 2), Virendra Verma (Home Minister of the U.P. Govt.)

Surendra Kumar, another financier of BKD. Meanwhile, Deo Sharma stood up and requested Shastri and Malan that only one of them should contest election. Surendra Kumar accompanied both of them and he offered to pay Rs. 30,000 to Rs. 35,000/- to Malan if he would withdraw from the contest. Shastri also told Malan that he would also recommend him for a seat in the Legislative Council. On this Malan said that there was no need of money and as regards seat it was for the future to decide, but as they were all asking him to withdraw, he would comply while it comes under corrupt practices to withdraw after the date.

However, allegations could not be established by the appellant. Hence, the High Court’s conclusions remained the same and were not altered by the Supreme Court and consequently the appeal failed and was dismissed.

There was an appeal in the Supreme Court of India by the appellant S. Baldev Singh Verma Vs. Tejasingh (Swatantra) and other respondents and on this the judgment was given by three honourable Judges namely A. Alagiriswami, V. K. Krishna Iyer and R. S. Sarkaria on 24th Jan. 1975.

In the said appeal the request was made by S. Baldev Singh to recount the vote of 12 Sangrur Parliamentary constituency (Punjab) which was held on March 1971. Teja Singh was declared the winning candidate from this constituency. The petition was also dismissed by the High Court and the appellant has repeated both his reliefs in the civil appeal. However, by the time the appeal

1 - The Election Archives, (Ed) Shamlal, Vol. 21 Jan-March 1975 P. 55
came up for hearing, the 1st respondent, the returned candidate, passed away.

The total votes polled were of the order of 3,44,073 of which 7,663 ballots were invalided. There was a very tiny margin of 210 votes, but respondent Teja Singh was declared successful. Apparently the appellant attacked the methodology arithmetic and impartiality of the court and indeed, the High Court went half-way with him on this score. The Election Commission was also approached for ordering the recount of the ballot papers. On March 12, 1971 soon after the announcement of the votes polled by each candidate was made. On this occasion the request was quite timely for the recounting of the ballot papers.

Since there was a problem of secrecy of other polling stations and the question of invalid votes which were sealed under the custody of the District Magistrate was also there. The Supreme Court could not be satisfied that recounting of votes should be made. Hence, petition for recount was rightly rejected and appeal was dismissed.

**QUESTION OF CITIZENSHIP:**

The petition was filed by the appellant Gangadhar Yeshwanti Bhandare in the Supreme Court on 4th, February 1975 against Erasmo De Jesus Sequeira the respondent belonging to Goa, Damand Diu. In this petition the question was raised about the citizenship of the respondent who was declared elected to the Lok Sabha from the Mormugao Parliamentary Constituency in the elections held in March 1971.

1 - A.I.E. 1973 SC 215
2 - Election Archives, Shemal (Ed.) Vol. No. 21 Jan-March 1975, p. 73.
In this case Sequirra had already renounced his Portuguese citizenship. To hold at this stage that the respondent was not an Indian citizen would have the effect of rendering him stateless. On hearing the case judgement was given by the Honourable Judges H.R. Khanna, P.N. Bhagwati and R.S. Sarkaria on Feb. 4, 1975. Since the appeal was not considered by the Judicial Commissioner, Goa, Daman and Diu hence appellant Bhandare moved to the Super Judicial authorities. The appellant had been validly nominated as a candidate of the election for the said constituency but he withdrew his candidature and did not contest the said election. After the declaration of the election result the appellant filed election petition to have the election of the respondent declared void on the ground that on the date of the election the respondent was disqualified under the Representation of the Peoples Act 1951, in true sense the respondent was not the bona fide citizen of India.

Before Dec. 20, 1961 Goa, Daman and Diu was under the Portuguese of domination hence, the respondent was a Portuguese citizen. The said territory was merged with the Union of India after Goa liberation. Government of India in exercise of the powers conferred by Section 7 of the Citizenship Act 1955 issued on March 28, 1962 Goa, Daman, Diu (Citizenship) order.

It is stated by the respondent that he is keen to maintain Portuguese citizenship and in this respect he made a declaration also in writing on April 27, 1962. Further, the respondent thereafter started for foreign travel as an alien on the basis of a Portuguese passport issued to him on or about June 25, 1958 by the Portuguese Administration. The expiry of the said passport was on June 21, 1962 when the respondent was in London in June 1962.
Meanwhile the respondent applied to the Portuguese administration for a new passport which was granted him on June 18, 1962 and this new passport was valid upto June 17, 1964. Sequira the respondent came back to India in Octr. 1962. Later on another order was passed,\(^1\) by the Government of India regarding the citizenship, according to which the respondent surrendered the Portuguese citizenship.

The respondent before his election to the Lok Sabha in 1971 was also a member of the Lok Sabha from 1967 till 1971. When elected as a member of Lok Sabha in 1967 as also when he obtained the Indian passport in 1965 and 1970 the respondent had to sign the declaration that he was an Indian Citizen. To hold at this stage that the respondent is not an Indian Citizen would have the effect of rendering him a stateless.\(^2\) Since the appeal was not carrying merit therefore it was dismissed.

**SUGGESTION FOR ELECTORAL REFORMS**

It has already been mentioned that the petitions are filed in the High Courts and in the Supreme Court of India on the issues like mis-use of powers by the ruling party, withdrawal of name, collection and expenditure of money, problem of Indian citizenship, allotment of symbols for parties, use of vehicles for the voters.

\(^1\) - Where a person who has become an Indian citizen of Goa, Daman & Diu (Citizenship order, 1962 or the Dadra and Nagar Haveli (Citizenship) order 1962, issued under Section 7 of the Citizenship Act, 1955) (578-1955), holds a passport issued by the Govt. of any other country, the fact that he has not surrendered the said passport on or before the 19th Jan. 1963 shall be conclusive proof of his having voluntarily acquired the citizenship of that country before that date.

\(^2\) - Ibid p.85.
at the time of election, misuse of radio services, police and police and other government machinery, demand of votes in the name of religion terrorising voters (as was done by Akalis in Punjab)\(^1\) castism, communalism, breaking of election laws declared by Election Commission of India etc., In short there is no end to problems which are difficult to solve.

Besides, all other things it has been realised that most intractable issue of Indian electoral ecology relates to excessive election expenses for beyond them permissible statutory limits and petitions are filed on account of the same. As the Joint Committee on Amendment to Election Law (Jan. 1972) put it: "It is generally conceded that the statutory ceilings on election expenses are seldom observed in the practice and actual expenditure incurred by a candidate does not bear any relation to the maximum limits laid down. More or less open admission have been made of substantial sums being spent by candidate(s). The law in this regard is clearly inadequate to count the ingenuity of a candidate circumventing its provision successfully.

While studying intricated problems and corruption involved in Lok Sabha Elections it is calculated that they are of various nature and they can be classified in the following categories:

1. Firstly, those which are committed by the use of money such as bribery, excessive expenditure and conveyance of voters.

\(^1\) Seminar, (Clean Elections), Raj Thapar, (Ed.) No. 15?, New Delhi, Malhotra Building, Nov. 1972, p.10.
2. Secondly, those which are committed by the use of force or power by abuse of political official power such as undue influence, intimidation, violence, appeal to national symbols and the obtaining or procuring the assistance of the Government officials or the use of official machinery.

3. Thirdly, those which are committed by misleading propaganda work, false allegations in relation to the personal character or conduct of a candidate and by an appeal to sectional sentiments by spreading ill-feelings and enmity among different classes of citizens of India.

As regards corrupt practices involved in the elections they are enumerated in Section 123 of the Representation of the People Act 1951 fall into the above mentioned three categories and in short they are related to abuse of money, power and force and propaganda.

However, the following suggestions may be given to minimise corrupt practices used in the elections.

More important than a legal check on corruption is the consciousness among voters and contestants alike, regarding ethical values, without which no amendment in electoral law can help.

Election Commission must be totally free in the sphere of its activities in practice. It would be better if Election Commission consist of more than one person. There should be at least three persons in it, because the decision which taken by more than one person will be more correct and there will be least chance for wrong and hasty decisions.
The Election Commission is appointed by the President of India but in this regard he is bound to seek the permission of the Council of Ministers. In respect of this it would be better if a committee is appointed to select the members of the Election Commission. This committee should consist of the president, Chief Justice of the Supreme Court of India, The Prime Minister, the leader of the opposition in the Parliament etc.,

Independent candidate should not allow to contest elections, because after their election in the Lok Sabha they cannot properly represent the public. Neither they can work for public welfare without the support of the either the ruling party or the opposition party, and are ultimately bound to join one or the other group or a party. Such candidates are mostly financed by the big business houses and consequently, in the Lok Sabha they have to see to their interest.

At the state level also the Election Commissioner should be appointed, in order to look after, the election affairs every time. The President of India should be authorised to appoint the State Election Commissioner. In the same way District Election Officers should be appointed and their appointment should be made by the State Governor and State Election Commissioner. The Chief Election Commissioner of India has to face many troubles when he has to attend at the same time many calls and complaints lodged by the police.

By-election also create problems. Some time it happens that the judgement is delivered by the court just a little before next Lok Sabha Election. During this controversial period there is none to represent the constituency. Hence, it is very essential
that legal delays in such cases should be minimised and should not exceed more than six months.

During the election of the Lok Sabha or an Assembly the Government should work as a care-taker. It should not declare new policies, projects, schemes as vote-catching devices, after the dissolution of Lok Sabha. In the same way no new grants, see allowances or increases in the salary should be announced. The ruling party should hold Government office only to carry on the daily routine during the period. In no way the Government machinery should participate in the election programme. Penalty should be imposed on the officers who take part in the propaganda work of the election.

There should be ban on transfer of the police officers and revenue officers after the dissolution of the Lok Sabha excepting the persons who are holding ordinary post.

Government vehicles should not be used for the purpose of electioneering. Under the most pressing circumstances they should be used sparingly and with the permission of the Returning Officer.

The use of radio and television for electioneering should be open to all the political parties.

Election expenses create problems at the time of General Election. Corrupt practices are resorted to, and, therefore it would be better if the old limits are changed. The inflationary tendencies have already pushed up the prices of the material and services, such as printing charges, cost of paper, prices of petrol etc., hence, it is suggested that the limit of the election expenditure should be raised. This will save unnecessary trouble to
contestants regarding concealment of actual expenditure within a realistic limit fixed by the Government. It is already proved that in the General Election of 1962 more money was spent by the different political parties. In the General Election of 1971 owing to inflationary tendencies three times more money was spent in comparison to the General Election of 1967. In short, expenditure limit should be changed and there should be ceiling on it by changing Electoral Law.¹

The political parties should be allowed to spend only that amount of money which is collected through membership. They should not be permitted to go for heavy donation. Besides, this the parties should be directed to maintain their account and it should be audited by the Chartered Accountants approved by the Election Commission. The party accounts should be opened to the public for purpose of inspection. It should be taken as a cognizable offence if party accounts are not properly maintained.

The security deposits of the candidates should be increased from Rs. 500/- to Rs. 2,000/- in the case of Parliamentary election and from Rs. 250/- to Rs. 1000/- in election to an Assembly or a Council. Proportionate increase should be made in the case of scheduled caste and tribe candidates. Moreover, facilities should also be increased in proportion to increase in the deposit. Due consideration should be given to the geographic and economic condition of the region while fixing such limits, for election to State Legislatures. Perhaps the best solution of this problem lies in making the Government itself responsible for providing all the money and arranging the facilities for all the election propaganda.

¹ - Shiv(Ed), Election Archives, Vol 27, July-Sept.1976 pp.41,42
by all the parties and candidates. It can press into service all its mass-media in collecting, processing and discriminating all the data of all the candidates and also provide them and their parties with suitable facilities for electioneering. This would reduce the individual responsibilities for managing the finances and then concealing beyond the limit expenditure. It will also give poor and worthy people an opportunity to contest the election, who are unable to do so at present.

As regards changes in the present system of election it may be mentioned that every system has some drawbacks and no system is perfect. Hence, it may be suggested that this matter should be widely discussed with the various political parties and leaders of the country and after that new system should be introduced.

There is widely supported view that the voter's age should be reduced to 18 years, on the ground that the young men of today are well-aware, educated, realistic and in touch with the problems of the country. This has one risk of mob-thinking. It will no doubt give a greater feeling of participation to the younger generation, but they may be carried away by election propaganda. Therefore, there should not be a hasty decision about it.

Every voter should sign on the ballot paper and the counterfoil of each ballot paper should be maintained. If the voter is not literate his thumb-mark should be taken on the counter-foil of the ballot paper. This procedure is likely to help in preventing impersonation.

Disposal of election petitions and disputes must be decided very soon. If there is any thing wrong in the nomination paper filed
with regard to contest election, the District Magistrate should be authorised to take quick decision so that unnecessary polling work should not be held up.

If corrupt practices are adopted in a constituency by a party candidate and the party is found guilty in such case its candidate should be declared disqualified even after his victory.

There is no doubt that values of life are radically changing and hence, political culture is also changed not only in India but also in the whole of the world. The suggested solutions can help only if there is greater commitment to ethical values among the people of the country.