Appendices
APPENDIX – I

PROPOSALS OF THE ELECTION COMMISSION FOR ELECTORAL REFORMS

Part I

Recommendations with respect to matters relating to the Representation of the People Act, 1950

1. Changing the designation of the Chief Electoral Officer to State Election Commissioner.

2. Appointment of whole time Joint Chief Electoral Officer (to be designated as Joint State Election Commissioner).

3. Embargo on the transfer of Chief Electoral Officer and Joint Chief Electoral Officer when the election is in prospect.

4. Chief Electoral Officer / Joint Chief Electoral Officer to be transferred only with the concurrence of the Election Commission.

5. Chief Electoral Officer or Joint Chief Electoral Officer may be placed in additional charge of any other office or post only with the previous concurrence of the Election Commission.

6. Administrative and full functional control over the Election Department in the State / Union territory to vest in the Election Commission.

7. District Election Officer should invariably be the Collector of the District.

8. Officers of Local Authorities should not be appointed as Electoral
Registration Officers.

9. Electoral Registration Officers and Assistant Electoral Registration Officers not to be transferred at any time between the commencement of the preparation or revision of electoral rolls and their final publication.

10. Definition of ‘qualifying date’ in Section 14 to be changed not only to provide for four qualifying dates but also to make it clear that the preparation or revision of the electoral rolls in any year may be made with reference to only one of the four qualifying dates as the Commission may prescribe.

11. Proposal for having a “deemed qualifying date” in respect of persons replying for inclusion of names in electoral rolls is not necessary in their case also, the same qualifying date adopted for the purpose of the preparation of revision or the roll should apply.

12. The Commission may be empowered to direct special revision of roll even after last date for making nomination. Present provision in Section 21 (3) of the Representation of the People Act, 1950 should be retained.

13. Proposal to have a supplementary list of electoral roll with 1st April/1st July/1st January (of next year) is the qualifying date for the original roll prepared with 1st January/1st April/1st July/1st October as qualifying date.


15. Elections to be held before the preparation or revision of electoral
rolls under the new proposals shall be held on the basis of the electoral rolls in force at the time.

16. No fee to be charged for application for inclusion of names in electoral rolls or for filling appeals under section 24 of the Act.

17. Provision to the effect that (i) teachers engaged in teaching on a part-time basis should also be eligible for inclusion in electoral rolls of the Teachers constituencies; and (ii) a person should be deemed to have become a Graduate from the date next following the day on which the result of the degree examination is declared, be made.

18. Suitable provision should be made in law to (i) permit only elected members of district boards, etc. to vote in election to Legislative Councils (ii) debar the members of Notified Area Committees to vote at such elections (iii) make the elected members of Municipalities automatically eligible to vote at such elections and (iv) empower the Commission not to hold such an election if the majority of the units are not in existence.

19. Legislation may be undertaken to bring the elections to local bodies mentioned in Schedule IV to the Representation of the People Act, 1950 under the jurisdiction of the Commission.

20. Definition of qualifying data in Section 27 (6) should be changed to be in line with the definition of that date in section 14.

21. Officers charged with the duty of registration of deaths to communicate to the Electoral Registration Officers at intervals names of persons who have died.

22. More stringent provisions to be made in section 31 of the
Representation of the People Act, 1950 for making false declarations in regard to preparation, revision or correction of electoral rolls or in applications for inclusion of names in electoral rolls.

23. More stringent provisions for breach of official duty in connection with the preparation, etc. of electoral rolls (Section 32).

24. Insertion of suitable provision in the Representation of the People Act, 1950 casting an obligation on owners of dwelling premises to supply information regarding persons residing, and punishment for contravention thereof.

Part II

Recommendation with respect to matters relating to the
Representation of the People Act, 1951

1. Definition of ‘political party’ should be inserted in section 2.

2. Provision should be made in section 2 instead of in section 26 (5) that any reference to District Election Officer in a Union Territory be construed s reference to Returning Officer.

3. Scope of Sections 8 and 11A should be widened so that conviction for offences of (1) personation at election, (2) illegal hiring or procuring of vehicles at elections, and (3) use of vehicles for conveyance of voters at elections should entail disqualification for being chosen as, ad for being, chosen as and for being, a number of Parliament or State Legislature and for voting.

4. (i) Amendments should be made to Articles 103 ad 192 of the Constitution and section 8A so as to restore the position as it existed before the Constitution (42nd Amendment) Act, 1976 and the
Representation of the People Amendment Act, 1975.

(ii) In section 8A, reference to order under section 99 may be omitted to clarify that for disqualification for conviction for corrupt practice, specific order under section 99 naming the person concerned is not necessary.

(iii) The recommendation of the Joint Committee on Amendments to Election Law to split the ‘corrupt practices’ and ‘illegal practices’ and to provide different periods of disqualifications for such practices under section 8A, should not be accepted.

5. Contract entered into either with the Central Government or Stat Government or with a public undertaking should entail disqualification under section 9A, both for Parliament and State Legislature.

6. (i) Returning Officer should be permanent Government employee.

(ii) Returning Officer and Assistant Returning Officer should not be local authority employees (Section 21 and 22).

7. Without concurrence of the Election Commission, no transfer of District Election Officer, Returning Officer or Assistant Returning Officer should be made after the elections are in prospect.

8. A Scheduled Caste/Tribe candidate should make a declaration to that effect in his nomination paper even for a general seat (Section 33 (2).

9. The amount of security deposit should be doubled (Section 34).
10. The Returning Officer should record a certificate that whenever a candidate has not subscribed oath or affirmation, he has been reminded.

11. Section 36 (2) may be amended to provide that the oath or affirmation may be made even on the date of security but before the hour fixed for the purpose.

12. Relevant information may be supplemented by or gathered from the different nomination papers filed by the same candidate.

13. The arrangement of names of contesting candidates under section 38 should not be in alphabetical order, but may be prescribed under the rules to be in order of time of filing.

14. It may be clarified in section 50 that anything required to be done in the presence of a polling agent or counting agent may be done in the presence of the candidate himself or his election agent.

15. In the event of revocation of appointment of a counting agent, another counting agent may be appointed even after the commencement of counting.

16. Consequent amendment to section 51 so as to say that the non-attendance of candidate/election agent would not invalidate an act.

17. Section 52 may be revised to improve the working of the section which relates to countermanding of poll on the death of a candidate.

18. In case of adjournment of poll, presiding officer should (i) report about adjournment, (ii) send a detailed report and (iii) send copy of complaint received, if any.
19. The Commission may be empowered to order fresh poll in case of destruction, etc, of ballot papers/boxes and prevalence of coercion, intimidation, impersonation at polling station.

20. It may be clarified in section 59 that voting at elections shall be by secret ballot.

21. System of obtaining signature/thumb impression of the elector on the counter-foil of the ballot paper should be re-introduced.

22. Right to vote should be extended to persons in lawful custody of police (Section 62(5).

23. Presiding Officers may be empowered to check voting by persons who are apparently less than 18 years.

24. Provision for recount of votes should be substantively made in the Act. It should also provide for recount to be done sue moto by the Returning Officer or under the directions of the Election Commission.

25. Scope of section 64 A may be widened to cover the cases where destruction etc. of ballot papers, boxes, etc. takes place before they came into the custody of the Returning Officer.

26. Section 64 A should be amended to include within its ambit destruction, etc, of postal ballot papers also.

27. Section 64 A may be amended to empower the Commission to order repoll in an entire assembly constituency or assembly segment of a parliament constituency.

28. Removal of ballot papers by use of violence, force should also be
prohibited under section 135.

29. Sale of liquor, narcotic drugs, etc, should be banned during the day of poll and during 24 hours preceding that day.

30. Voting by persons below 18 years should be made an electoral offence.

31. In order to stop booth capturing, forcibly marking and dropping into ballot boxes a large number of ballot papers, etc, section 136 may be amended to provide for stringent punishment for a term which may extend to two years, with a statutory minimum punishment of six months or fine or both.

32. Power for cancellation of notification on the advice of the Election Commission should be specifically conferred on the President or Governor, in the case of General or biennial election, and on the Election Commission in the case of bye-election, election, in case of emergency such as flood, fire, earthquake, war, external aggression or internal disturbance, etc.

33. Provisions of section 158 relating to return of security deposit should be amended to clarify, *inter-alia*, that the return of deposit shall be ordered only after completion of election.

34. Specific powers may be conferred under the Act on the Election Commission to issue directions and instructions to Chief Electoral Officers, District Election Officers, Returning Officers, Electoral Registration Officers, etc. (New Section 167A).

35. Suitable provision should be inserted in the Act to specify that in discharge of the functions as the Chief Election Officer or Joint
Chief Electoral Officer (State Election Commissioner/Joint State Election Commissioner), they shall not act in subordination to the Government of the State and they shall be under the direct control of the Commission.

36. High Court should be empowered under section 100 to declare an election void if it is satisfied that there has been prevalence of bribery, undue influence, coercion, intimidation of voters on a large scale.

37. (i) The incurring of unauthorised election expenses by clubs societies, associations etc (other than political parties), and (ii) making of false returns of election expenses by candidates and political parties, should be made corrupt practices.

38. The suggestions of the Joint Commission on Amendments to Election Law to make the corrupt practices under section 123 (5) (illegal hiring or procuring or use of vehicles for conveyance of voters) and section 123 (6) (incurring of election expenses over the prescribed limits) as ‘illegal practices’ should no be accepted.

39. Disturbance at public meetings should be made a cognizable offence punishable with imprisonment extending upto 6 months or with fine or with both.

40. Going armed to or near polling stations should be prohibited and offensive weapon should be confiscated.
APPENDIX – II

MODEL CODE OF CONDUCT FOR THE GUIDANCE OF POLITICAL PARTIES AND CANDIDATES

I. General Conduct:

(1) No party or candidate shall indulge in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religions or linguistic.

(2) Criticism of other political parties, when made, shall be confined to their policies and programme, past record and work. Parties and candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or on distortion shall be avoided.

(3) There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda.

(4) All parties and candidates shall avoid scrupulously all activities which are “corrupt practices” and offences under the election law, such as the bribing of voters, intimidation of voters, personation of voters, canvassing within 100 meters of a polling station, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.

(5) The right of every individual for peaceful and undisturbed home life shall be respected, however much the political parties or
candidates may resent his political opinions or activities. Organising
demonstrations or picketing before the houses of individuals by way of
protesting against their opinions or activities shall not be resorted to
under any circumstance.

(6) No political party or candidate shall permit its or his followers
to make use of any individual's land, building, compound wall etc.
without his permission for erecting flag-staff, suspending banners,
pasting notices, writing slogans etc.

(7) Political parties and candidates shall ensure that their
supporters do not create obstructions in or break up meetings and
processions organized by the other parties. Workers or sympathizers of
one political party shall not create disturbances at public meetings
organized by another political party by putting questions orally or in
writing or by distributing leaflets or their own party. Processions shall
not be taken out by one party along places at which meetings are being
held by another party. Posters issued by one party shall not be removed
by workers of another party.

II. Meetings:

(1) The party or candidate shall inform the local police authorities
of the venue and time of any proposed meeting well in time so as to
enable the police to make necessary arrangements for controlling traffic
and maintaining peace and order.

(2) A party or candidate shall ascertain in advance if there are any
restrictive or prohibitory order is force in the place proposed for the
meeting. If such orders exist, they shall be followed strictly. If any
exemption is required from such orders it shall be applied for and obtained well in time.

(3) If permission of licence is to be obtained for the use of loudspeakers or any other facility in connection with any proposed meeting, the party or candidate shall apply to the authority concerned well in advance and obtain such permission or licence.

(4) Organisers of a meeting shall invariably seek the assistance of the police on duty of dealing with persons disturbing a meeting or otherwise attempting to create disorder. Organisers themselves shall not take action against such persons.

III. Processions:

(1) A party or candidate organising a procession shall decide before hand the time and place of the starting of the procession, the route to be followed and the time and place at which the procession will terminate. There shall ordinary be no deviation from the programme.

(2) The organisers shall give advance intimation to the local police authorities of the programme so as to enable the latter to make necessary arrangements.

(3) The organisers shall ascertain if any restrictive orders are in force in the localities through which the procession has to pass, and shall comply with the restrictions unless exempted specially by competent authority. Any traffic regulations or restrictions shall also be carefully adhered to.

(4) The organisers shall take steps in advance to arrange for passage of the procession so that there is no block or hindrance to
traffic. If the procession is very long, it shall be organised in segments of suitable lengths, so that at convenient intervals, especially at points where the procession has to pass road junctions, the passage of held-up traffic could be allowed by stage thus avoiding heavy traffic congestion.

(5) Processions shall be so regulated as to keep as much to the right of the road as possible and the direction and advice of the police on duty shall be strictly complied with.

(6) If two or more political parties or candidates propose to take processions over the same route or parts thereof at about the same time, the organisers shall establish contact well in advance and decide upon the measures to be taken to see that the processions do not clash or cause hindrance to traffic. The assistance of the local police shall be availed of for arriving at a satisfactory arrangement. For this purpose, the parties shall contact the police at the earliest opportunity.

(7) The political parties or candidates shall exercise control to the maximum extent possible in the matter of processionists carrying articles which may be put to misuse by undesirable elements, especially in moments of excitement.

(8) The carrying of effigies purporting to represent members of other political parties or their leaders, burning such effigies in public and such other forms of demonstration shall not be countenanced by any political party or candidate.

IV. Polling Day:

All political parties and candidates shall –
(i) co-operate with the offices on election duty to ensure peaceful and orderly polling and complete freedom to the voters to exercise their franchise without being subjected to any annoyance or obstruction;

(ii) supply to their authorised workers suitable badges or identity cards;

(iii) agree that the identity slips supplied by them to voters shall be on plain (white) papers and shall not contain any symbol, name of the candidate or the name of the party;

(iv) refrain from serving or distributing liquor on polling day and during the twenty-four hours preceding it;

(v) not allow unnecessary crowds to be collected near the camps set up by the political parties and candidates near the polling booths so as to avoid confrontation and tension among workers and sympathizers of the parties and candidates;

(vi) ensure that the candidate's camps shall be simple – They shall not display any posters, flags, symbols or any other propaganda material. No eatables shall be served or crowds allowed at the camps; and

(vii) co-operate with the authorities in complying with the restrictions to be imposed on the plying of vehicles on the polling day and obtain permits for them which should be displayed prominently on those vehicles.

V. Polling Booth:

Excepting the voters, no one without a valid pass from the Election Commission shall enter the polling booths.
VI. Observers:

The Election Commission is appointing observers. If the candidates or their agents have any specific complaint or problem regarding the conduct of the elections they may bring the same to the notice of the observer.

VII. Party in Power:

The Party in power whether at the Centre or in the State or States concerned, shall ensure that no cause is given for any complaint that is has used its official position for the purposes of its election campaign, and in particular –

(i) (a) the Ministers shall not combine their official visit with electioneering work and shall not also make use of official machinery or personnel during electioneering work;

(b) government transport including official aircrafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power;

(ii) public places such as maidans etc for holding election meetings, and use of helipads for airflights in connection with elections, shall not be monopolised by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the party in power;

(iii) rest houses, dak bungalows other Government accommodation shall be allowed to be used by other parties or candidates in a fair manner;
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(iv) issue of advertisement at the cost of public exchequer in the newspapers and other media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the Party in Power shall be scrupulously avoided.

(v) ministers and other authorities shall not sanction grants / payments out of discretionary funds from the time elections are announced by the Commission; and

(vi) from the time the elections are announced by the Commission, Ministers and other authorities shall not –

(a) announce any financial grants in any form or promises thereof; or

(b) lay foundation stones etc. of projects or schemes of any kind; or

(c) make any promise of construction of roads, provision of drinking water facilities etc.;

which may have the effect of influencing the voters in favour of the party in power.

(vii) ministers of Central or State Government shall not enter any polling station or place of counting except in their capacity as a candidate or voter or authorised agent.