

**Transcript of**  
**National Seminar on ‘Electoral Reforms in India:**  
**Dialogue and Alternatives’**  
**(21<sup>st</sup> April, 2012)**

**Speaker Hall**  
**Constitution Club**  
**New Delhi**

## **Inaugural Session**

### **Ms. Rashmini Koparkar:**

Good morning, distinguished guests, delegates and friends. People For Nation warmly welcomes you all to National Seminar on Electoral Reforms. We as an organisation have been working in the field of electoral reforms and this national seminar has been organized for the same. I now invite Mr. Ajeet, Director of PFN to tell you more about the seminar and the organisation.

### **Mr. Ajeet:**

I welcome you all in the Speaker Hall of Constitution Club today. Some of us realized the significance of electoral reforms and decided to work on it. We then deliberated on the manner and strategy as to how to approach towards this issue. For this purpose we had discussions with people from various walks of life like people already working in this field, academicians, media persons and people working in other fields of social relevance. It was decided that we need to form an organisation which would act as a platform from where we would carry forward this mission of electoral reforms. In this process, PFN started with organizing series of fortnightly talks delivered by eminent people working in this field. Shri Subhash Kashyap ji expressed his views on various aspects of electoral reform in first of these talks attended by students mainly from DU, JNU and Law Faculty. After this an interactive session with Professor Jagdeep Chhoker was held at JNU on the issue of need of inner party democracy in political parties. Further in this series a talk was organized in Noida with people from Transparency International and journalists covering election beat in various newspapers as speakers. We are currently engaged in the process of research and documentation with regards to issues, problems and possible solutions in the field of electoral reforms in our country.

We are fortunate as compared to our neighbours who are still deprived of proper democratic set up in their respective countries. Our earlier generation has struggled a lot to establish the political system based on democratic values for us. A fundamental part of this democratic setup is the elections through which after regular intervals we get the right to accept or reject the present political regime. However, we need to bring certain important changes in our electoral system to strengthen it and to overcome all its shortcomings. Our esteemed guests today would discuss in the seminar as to what are the things that can be added, removed or changed to make our electoral process more healthy and vibrant. Even after this conference PFN would undertake all possible efforts in this direction.

We will be having two working sessions after this Inaugural session. Election Commissioner Shri H.S. Brahma would be our chief guest for the Inaugural Session. Other than him Justice V.K. Gupta who was Chief Justice of Jharkhand, Himachal Pradesh and Uttarakhand High Courts is our chief speaker. This session would be chaired by Dr. Subhash Kashyap.

We will be having daylong discussion and deliberation on the issue of electoral reform today with eminent people associated with this field. This is a curtain-raiser on the broad-based subject of electoral reforms. It is just a beginning and it would be a step forward in the direction of electoral reforms.

I now formally declare the seminar open. Thank you.

**Rashmini Koparkar:**

I now welcome on the dais Shri H.S. Brahma, Justice V.K. Gupta and Shri Subhash Kashyap. I would invite Shri Ashish ji to present bouquet and welcome Shri H.S. Brahma. I would like to invite Shri Praveen ji to present bouquet and welcome Justice

V.K. Gupta. I would now invite Shri Jawaharlal Kaul ji to present bouquet and welcome Shri Subhash Kashyap ji. I now request Shri Subhash Kashyap ji to be the chair of this session and carry forward the proceedings of this seminar.

**Subhash Kashyap (Chair):**

Dear respected friends, first of all I would extend the welcome note of Mr. Ajeet Kumar and would like to heartily welcome Shri Bramha, Justice Gupta and all respected people present. It's an honour to have with us today election commissioner Shri H.S. Bramha. First of all I would request him to inaugurate this seminar with his speech.

**H.S. Bramha:**

Thank you. Good morning to all of you, our elder brother Shri Kashyap, the presiding officer of this morning program, our distinguished honorable judge Shri Gupta, Mr Chhoker, Shri Saxena from UP, distinguished guests, professors and various staff from the various media organizations (electronic and press), my dear students, friends and ladies and gentlemen.

First of all I must confess few things and must say that for the year 2012 this is the first meeting that I have attended and that too on a very important subject of electoral reform in our country. We all are very worried and at the same time interested about it. I don't think that there is any other better subject for discussion in our country then this. Because of this I must congratulate the organizers and all the participants who are present here this morning to discuss this most important issue that is before all of us. I am very grateful to the organizers for inviting me to this function and I must ofcourse bluntly mention to all of you that I have not come here to give any lecture to all of you or to suggest few things here and there but more than anything else, I have come here to learn things from all of you, hear from you and take on something which is very important to our country and more important to Election Commission of India. I have been in Election Commission for

only two years and I see very eminent people here like our Kashyap *sahab*, Mr. Saxena and Mr. Chhoker. There are so many distinguished people present in this house and definitely it would be my pleasure to listen to all of you and to learn something for the benefit of our country.

There are few issues that I thought I would share with all of you. There are issues which I experienced as a public servant with a long career of 37 years in various capacities. I think these are issues which have to be seen in our background for the subject we are going to deal today and also in future. One of the very important issues which is relevant to all of us is that today we are passing through a very delicate phase of our nationhood. Today we have the problem of unemployment, poverty, social problems, economic problem, and above all the most important issue of governance and delivery system. I think all of you would agree with me that the delivery system of the state today in some parts of the country definitely requires improvement. Delivery system improvement is needed in the areas of education, food, employment, health, and infrastructure and in various other fields. In my opinion in this area there is a lot of scope for improvement. Its not that we are short of money, infact there is plenty. What we need is improvement in the implementation process.

So, one area of great concern is the delivery system and the quality of governance. As someone who has an administrative experience of 37 years I would like to state here very bluntly to all of you that poor delivery and poor governance creates the problem of instability and insurgency. I have thorough knowledge of Andhra Pradesh government since I have worked there for almost 30 years and I belong to Assam in north east. If you look at the insurgency in the north east in Mizoram, Nagaland, Manipur and Assam, it is directly linked with the poor delivery system. It is the lack of implementation of national programs there and the same thing happened in Naxalite movement 30-40 years back. So there is a clear linkage between poverty and instability with poor governance and delivery system. So today we are facing these and many other issues due to our political culture, instability and nature of our delivery systems.

I must inform all of you that we are the largest democratic country in the world and at the same time we are the youngest democracy in the world. We have become republic hardly

six decades ago. I am only 4 months younger than our republic. We became republic on 26<sup>th</sup> January, 1950 and I was born on 19<sup>th</sup> May, 1950. I am only four months younger. So life of republic of India is equal to H.S. Bramha's life. So we are very young as I don't think of myself as very old. In all these years we have attained high level of development and today we are a proud nation in the world. However, at the same time a lot of improvements need to be done. There is lot of requirement that improvement to be done in a proper manner and shape. Today apart from the government, civil society organizations are coming in a big way and are putting pressure on the government for changes.

There is a need for looking into the functioning of our government in terms of how it functions, how it is being run, how you produce things and how you deliver things. We need to have a very clear and in-depth understanding of this subject. There is a need of very thorough study of what is happening in our nation. Today's subject of 'Electoral Reforms: Dialogue and Alternatives', is a right and apt subject. I must tell you that today we are very proud nation, and our democracy is very young as I have mentioned earlier. We know the statistics of our country. The size of total electors/voters of this country is 78 crores! By 2014 with the same rate of population growth this figure may touch 80 crores which will be more than the total population of Europe and Africa combined together. Today we have got 9 lakh polling stations in 5 lakhs villages but by 2014 we will be having around 11 lakhs polling stations. One polling station needs 5 personnel so we need to deploy atleast 55 lakhs personnel for conducting elections. You can imagine the size and scale of the process of election management. That's why people come from all over the world to Election Commission in India and ask in shock us as to how we are able to manage such large scale process. Everybody knows that this is too big an operation.

Therefore, the issue at hand is very large and I must admit here that we are talking about reforms since 1975 onwards. The first committee appointed to study electoral reforms in this country was one year before I joined the services that is in 1974. Since 1974 onwards we have got Tarkunde Committee Report, Goswami Committee Report, Indrajeet Committee Report and then our Election Commission Report since 1998 and ofcourse all

of you gentlemen from civil society whose persistent pressure has been there asking for electoral reforms. There are hundreds of recommendations but unfortunately till today we have not done much.

Of all these reports and recommendations I will narrow down to only four areas of major concern to all of you and to me also. As our Kashyap sir must know what are the biggest issues of concern in this area are. He is the top most experts on the constitution of India. While we were just boys he was our *guru*. When I joined the academy there used to be an instructor in law who once asked us that do we know who is the expert in constitutional matters. We answered with Subhash Kashyap's name. He also recommended his name and from that onwards we know that we have to read Kashyap sir's book. One more thing needs to be mentioned here that the day one joins any administrative service he/she stops studying. Although all our directors and instructors from the training institutes advised us not to stop our studies, we all know that the day we join service we cease to study anymore. Our brains become dull from that day. So please don't allow that habit to develop.

Coming back to the topic, first most important issue for reform is to debar the criminals. I think that this is the area where there will be no two opinions. All of us see from the young age till today that if someone who is a murderer, dacoit or rapist and he occupies a chair of high esteem how we feel. If we want to address him by terms such as 'honorable sir' or 'respected sir' then he or she should deserve that particular respect. So what is the reform needed in this regard. One of the fundamental issue is we need to debar a criminal. I will go one step forward. Today we have more than 10 lakhs undertrials in India who have been put behind the bars. They are not entitled to vote or get employment. So you put a fellow behind bars for 2, 3 or 4 years even without any charge sheet. He is not able to go out, he is not able to canvass, and he is not able to do his job. In short he is not guaranteed any constitutional right like right to life or right to practice his religion etc. If you can do this to an innocent citizen of India and deny him his fundamental rights, how you have the right to contest elections and become the member of the parliament which is not even a fundamental right. I think this is an area where we

need to discuss. I think a criminal who is a history-sheeter how he can be a member of X, Y or Z.

Second issue is of money power. Till 1985-86 our ministers never expected any *khaana-peena* or reception from government services. I can tell you this from my own personal experience. It is the other way round now. Since 1987-88 things have reversed. I have no idea how this sudden change happened. Today everything happens at the cost of state. This is an area of study for all of us.

Number three is the matter of paid news both in electronic and print media. I can tell you very clearly and frankly that after 1991 onwards most of the print as well as electronic media is being owned by the large business houses. Before that we would hear about papers owned by persons of immense literary reputation, sincere fellows and solid journalists whose only interest was the benefit of the country. But today and I am sorry to say that barring few reputed papers and electronic media, most of them are owned by big industrialists, big business houses, big multinationals who have their own political affiliation and vested interests. You can see this in recent Uttar Pradesh, Punjab or Himachal Pradesh elections. We have received hundreds of petitions against paper and media which are owned by some very important political parties. They write on their behalf and discriminate against others. I think that press freedom which was most important and was supposed to be fair and one of the pillars of our democracy is deviating from its path. Paid news has become the most important election activity today. Nowadays booth capturing and muscle power has been reduced but it has been replaced by this paid news issue and that too at very high intensity. So this is an area of great importance for all of us who believe in democracy, who believe in nation building program and who believe in our country's interest. I would request the organizers of the seminar to take up this issue and work on it.

Finally, since we talk about the black money and large unaccounted money used by political parties, all of us believe that there should be minimum amount of transparency. There should be proper accounting. With the pressure from the civil society and organizations like you, I think we can definitely move forward with regard to reforms to bring financial transparency and accountability.



There are other issues which will come in your discussion, but these are few that I thought I will share with all of you. I am sure this will be part of the discussion and you will come out with solid suggestions and I repeat again that since we are very young democracy and nation, lots of things are required. Today the demand of the country would be that there should be more support, more dissemination and more participation from our civil society and from people of this country. I would like to mention another point here that we talk about these issues of electoral reforms and political reforms only once which is not correct. There should be regular debate on this. I always talk to Professor Chhoker from ADR that please do not be only active during election. Infact our activity should be much before the election because during elections we won't find time for it. So for the supporters of democracy, for electing good people there should be regular activity and it should not be only 'once in a while thing'. I also appeal the same to the People For Nation. I am very proud that they have started with this very interesting subject and there should be regular activities like these. To develop a country it requires tremendous efforts. You have to have regular motivation campaign and regular publicity campaigns. We learned in college that eternal vigilance is the price of liberty. So we have to be always vigilant as Mr. Ajeet mentioned. In our neighborhood they are even struggling to secure their fundamental rights. Such situation is not present in our India. Infact I would say and I don't know whether Kashyap sir would agree with me, that constitution of India is one of the finest documents on social reform in the world. I don't know how many of you would agree with me. I firmly believe on this and would like to say this to all of you and particularly to the students that although it is written, constitution of India is the best document on social reform. We are talking about the issue of affirmative action in 2010-11 but constitution of India mentioned it six and half decades ago that there should be affirmative action under directive principles of state policy and under various fundamental rights. Therefore, I think our constitution of India is most fundamental and best document on social reform. I firmly believe that our country should move along the direction of constitution of India and it should be implemented properly in such a manner that our country becomes great along with its people.

Finally I would like to mention here that in this country though we are the youngest, have a large population and proceeding with high growth rate, I must honestly tell you and this comes from my personal experience also that Indians are the most simple and innocent people. He will be the happiest man with very simple things, be it drinking water, small road, school or dispensary. I want to share with you something which I have never confided to anybody till date because this is relevant to this particular seminar. In 1981-82, I was posted as District Development Officer in Khammam District in Andhra Pradesh. This was the district of the then union minister of steel Mr. Venkata Rao. He was ex-CM of AP. That time we were implementing National Rural Employment Program. At that time Khammam district was quite notorious because of this naxalite movement. In AP, Khammam, Warangal and Karimnagar and other districts were notorious due to naxalite movement and were declared extremists zone. We were number two in the country after Allahabad in UP and as a young man I aspired to number one in the country. Our aim was to do our best to get to number one and get some award from the PM of the country.

One particular Panchayat was Ramachandrapuram. As usual our naxalite brothers and sisters put up a *bandh* and said that there would be no work. I asked every fortnight and every month as to why no work was happening. My PWD engineer Ramakrishna Rao said that Naxalites have put up *bandh* there and we are not able to do any work there for the last fortnight. I said that what will happen to the people there as they would be hungry without any work as it was tribal area. I called my engineer and SP and said that I will go there on Saturday and Sunday and spend there time to find what is the solution to this problem. I went there which was 130 km from district headquarters. I met all people there and had a meeting at a place called Badhrachalam. Then I called the union leaders of the area. To my surprise a very smart young lady and two boys entered my room. I even told them that you have come to wrong place but they told me that they have come to right place. I was very shocked and asked who you are. One boy replied that I am from Andhra medical college. Another boy said that I am from regional engineering college in Warangal and the lady said that I am also from medical college, AP. Then I asked why you have come here. They said that we have come to negotiate as to how to start work again. "We need to bargain with you". I said that you are young boys and girls and you

should do your study at your place and why are you here. They said that, "...no, we are very worried about the stopped work and what can be done regarding it". Then the girl told me Sir we have a complaint from the administration and especially from your service. We want justice for the people of this country. They asked under what provision of constitution we were paying Rs 8 to male labourer and Rs 6 to female labourer. "We are asking you to pay the same rate to both males and females." Then I thought they are asking very serious question and I asked my superintendent that is there any such provision. He said that there is no such provision. I then agreed to their demand. With that the work resumed. Next thing they asked that "you are paying them after a month and how a poor can afford to live his life daily. You must pay on every Monday on the day of bazaar." I also agreed to that. They said they would leave but would like to mention few things. They said that, "Mr. Brahma you are a young man and from Assam and you must know few things. Your parliament introduced land ceiling act. How many surplus acres of land you have taken?" I said we have taken a lot. "How much of it has been disbursed among the weaker section of the society? Why all cases are pending in SC and high courts? Then what is the result of your land reform?" I also cut a sorry figure and said that yes half the matters are pending in courts. "So number one there are no results for the people of India after the land ceiling act. Number two is that no naxalite or extremist group has asked for the abolition of bondage labour. It is your parliament which passed abolition of bonded labour act. But how many bonded labour you have released and rehabilitated? So where is the reform sir?" Then the third point they raised was that your government has passed Minimum Wage Act in the country. But who is implementing that? They said that the day you implement the constitution of India in its true spirit, we have no place to come sir. They said that as a young man and as public servant in government of India please implement the basic things that have been asked from you and we will never come to you. With this they left.

Finally, I must tell you one more thing. This country is very young and we have miles to go. We still have huge distance to travel. I think one area of shortcoming which I have been noticing by comparing with the other countries of the world, especially with the developed countries, that there are so many reforms that are required.

Most important area would be economic development of people living in border areas of India. We have got 15,000 kilometers of border area right from Kutch to West Bengal. What is happening to the development of people living in the border areas? So my submission to all of you in this seminar would be that there is need for developing very solid, very competent, non-political think-tank like this. Hopefully, as Ajeet has mentioned that they are not political affiliated party. Lots of civil society organizations are needed to give suggestions and guidance on various issues. Unfortunately, though we are a large country, still we have to develop proper think-tank in universities and other areas. So I am sure in coming days to come a large number of think-tanks and NGO groups will come up for the benefit of the country. Finally, I must thank all of you and specially the organizers of this seminar, 'People For Nation', for giving me the opportunity to talk to all of you and spend some time with all of you. I would like to learn more from all of you. Whatever recommendations you prepare kindly send it to all of us and we will be too happy to see your suggestions so that we can face our problems together in future. I thank you all and would love to hear points raised by all of you. I am sure this seminar would throw up some very important suggestions and I wish you all the best and thank you all. Jai Hind.

**Subhash Kashyap:**

May I now request Justice Gupta to give his presentation. Justice Gupta is as you know has been Chief Justice of several High Courts.

**Justice V.K. Gupta:**

Shri Brahma, Shri Kashyap, ladies and gentlemen. A few years back I was in Calcutta High Court. Famous Calcutta Club organized a seminar. The subject was 'Are we ready, equipped and prepared for exercising universal franchise?' It was basically a debate. There were speakers in favour of the motion and there were speakers against the motion. The verdict was that despite more than five and a half decades of democracy and 12-13 elections we are not yet ready for universal franchise. The attended issue was whether in

this country the Westminster model of governance has failed or is it holding. Again the verdict was that the indications are at present that the Westminster model has not succeeded. What are the alternatives? Ofcourse it's an entirely different subject. So the edifice of both these hypotheses was the elections. What are elections achieving in this country? Are the elections a pointer towards democracy and good governance? Has the election system failed or not? Now taking cue from that seminar when I was invited for this function some stray thoughts came to my mind.

There are some mundane issues and there are some issues of importance. I have, while sitting here today collated some thoughts and they are absolutely stray thoughts and not in order of any merit. First of all may I join the issue with Mr. Brahma when he calls India as a young democracy? My mathematical calculation says we are 65 years. 65 years is a senior citizen and more than five years in that case. We have already undergone 15 Lok Sabha elections and hundreds of assembly elections in the country. When I was a child I knew that Election Commission of India works once in 5 years. Nowadays it works the year around because every month or so there is some election in this country. So I think to call India a young democracy after having 65 years and after so many elections is perhaps a misnomer and we should now start calling ourselves as a mature, old and experienced democracy. The stray thoughts which came to my mind are just thoughts and they are not my opinions. But in those stray thoughts I am echoing the general feelings of the ordinary citizen of this country.

First and foremost is can we have a true party system in this country? Have we thought enough about it? Can an exercise be undertaken to amend our laws to make India a two party democracy on the models of UK and USA? If that happens, if that is permissible, if that is feasible, can't we see the end of this coalition era? How are the coalition partners troubling each others, how are they fragmenting the democracy, how are they damaging the collective wisdom process, how the consensus is brought about: all these ailments perhaps can be eliminated if this country adopts two-party system. I am again repeating these are not my thoughts and not my opinions. I am only echoing what people keep talking in various corners of the country.

Second point is can we do away with blemished candidates? Can we ensure that only those persons are allowed to contest elections that have absolutely clean image from all ends?

Has the issue of the state funding of elections been discussed in its earnestness and sincerity? There are two issues attendant to state funding: whether there should be any limit to election expenditure at all or the state should fund the election expenditure as much as it is possible.

Compulsory voting: Should laws be amended to make voting compulsory? This in the light of a very glaring fact. In this country the so called elite class, the opinion makers, the people who really know how to cast their vote, who can make up their minds on the merits of candidates and the parties, majority of them don't cast their votes. Majority of them take it as stigma to go to a polling booth to stand in a queue and cast votes. For them polling date is a holiday to be enjoyed rather than going to the polling booth. Should polling be made compulsory or not?

Should a law be made debarring a candidate from contesting from more than one constituency? Why in this country candidates permitted to contest from multi constituencies? If they win it necessitates polling in those constituencies which they vacate. Why should a sitting legislator be permitted to contest? An MP is permitted to contest in assembly elections and vice-versa. If an MP is interested to contest election for another electoral office, let him resign and go to the polls. Should that provision in constitution be now deleted permitting a non-legislator to occupy the office of minister? I remember one instance in Tamil Nadu where a non-legislator became minister or chief minister of the state. I know of some instances where there was repeated misuse of this provision when after 5 months and 29 days he would resign and on the 3<sup>rd</sup> or 4<sup>th</sup> day again would be the chief minister and add infinitum. I don't think there is any criminal Congress man here. I have not yet been able to understand why Mamta Banerjee not contested the assembly election in West Bengal along with the general election. As I told you, I worked in Calcutta High Court also for 5 years so I know Bengal very well. The whole world knew and Ms. Mamta Banerjee herself also knew that after this election if TMC gets majority she alone is going to the Chief Minister and nobody else and yet she

did not contest the election. She went on to become a chief minister as a non-legislator and then got elected from a seat vacated by one of its members and then resigned her Lok Sabha seat.

Rajya Sabha elections: I think the constitution has now been amended. Earlier for being elected to Rajya Sabha the candidate has to be the domicile of that state. I think now it has been done away with. A prospective Rajya Sabha member would start with a false address. I knew of hundreds of instances where people from farthest northern state would go to a farthest southern state and enroll themselves as electoral members, file nomination paper on that false registration and get elected to the Rajya Sabha. With all humble apologies to everybody, I read today's paper that our PM telling Assamese people that I was a homeless man and you gave me a home. So our PM went from Delhi or Punjab or wherever to Assam, got an address and got elected to Rajya Sabha.

Right to recall: This is not a world wide phenomenon. I don't know how many countries have this provision. But once you get elected for 5 years in the security of your tenure you not only forget your constituency, you not only forget your oath, you totally become oblivious to ground realities. You feel that you are not accountable to anybody either as a legislator or as a member of council of ministers or one at the head of council of ministers. You become totally immune like High Court or Supreme Court judges who think that the security of tenure is so strong in their favour that only impeachment process can remove them. So like them you say that no judiciary should interfere, no press should interfere and let us work for 5 years because the mandate is for 5 years. If this right to recall provision is introduced perhaps some sanity can prevail in these people that under so and so circumstances we can be recalled also.

Can we not prescribe some basic eligibility criteria based on deliverance prerequisites? I am not talking of other eligibility criteria. For example, first and foremost, upper age limit. Why can't you fix an upper age limit for contesting elections? If you have a lower age limit why can't we fix the upper age limit? Why not health? You should be healthy person when you are going to join a deliberative body which makes laws for this country, which decides the fate and destiny of this country. If for any government service a medical checkup is required and if for many government services annual medical

checkups are required, why don't you prescribe that this man before filing his nomination papers should get a health certificate? What about some basic educational qualifications? I don't say that you should be a law graduate or medical graduate or engineering graduate or agricultural graduate. Minimum matriculation or 10+2 should be there. Mr. Brahma said overnight you become a legislator and next morning you become a minister and 1975 batch IAS officer goes and report to him saying '*sahab kya hukum hai*' (Sir, what can I do for you?). There are hundreds of them who have not gone to high schools. When I was Chief Justice in Jharkhand, I knew that in this assembly of 80 odd MLAs not more than 20 are above matriculates.

I think the last one is the issue of election petitions. There was a time when there were election tribunals besides Election Commission. Mr. Kashyap will inform us, where was the need to substitute the election tribunals with courts and why was it done. Take any High Court and lakhs of cases are pending. Ordinary matters are not decided for 10, 20, 30 years. Election petitions require a full fledged trial like a suit and much more than suit at times. Evidence has to be led by the petitioners and by the respondents. When the turn of respondent comes to lead the evidence he files a list of 200 witnesses and all of them from different parts of the country. It takes years to serve summons to the witnesses. So why go to courts? Take back the election petitions from the courts and constitute tribunals at state and national level for that. Make sure that provision is implemented that enjoins upon the election tribunals to decide on election petitions within 6 months. Mr. Subhash Kashyap has written so much. He will inform us that in this country out of 10,000 election petitions so far filed if any have been disposed of in 6 months. I think 99 percent of them are not disposed of before the tenure of house is over. Atleast that is the endeavour of every such candidate and at 99 percent times he succeeds and the democracy is casualty.

So these are some stray thoughts. I thought you will deliberate upon some issues, record some findings, and send recommendations to atleast Election Commission. Since Election Commissioner is here we request him to bestow Election Commission's consideration to these opinions and recommendations so that it is send to the concerned corners. Thank you very much.



**Subhash Kashyap:**

Thank you Justice Gupta. We are running a bit behind time but I would allow a few questions. I think a total of 5 questions.

**Question 1:** I would like to ask to Shri V.K. Gupta that is it right on the part of our PM to deprive a local Assamese candidate by getting himself elected from Assam?

**Reply by Justice V.K. Gupta:** There is no question here. You just added to what I said.

**Question 2:** When we constituted the election tribunal it is the judiciary which said that you are taking the power of judicial review because you cannot equate the power of tribunal with that of high court. So my question is whether we need judicial reform first or the electoral reform?

**Reply by Justice V.K. Gupta:** We need judicial reforms as much as electoral reforms. Please conduct another seminar on judicial reforms and invite me. I will be more scathing in my comments on judicial reform requirements.

**Question 3:** I had filed an RTI with EC to know how much funding Congress party received from foreign sources and how much from Indian sources. Second attached question was how much it received funding from corporate houses specially mentioning the names of Tata, Birla and Ambani. EC just replied that whatever statement filed by Chartered Accountant of that political party is on our website and please see that. However after studying that we realized that none of our questions were answered and they still remain as a question.

**Reply by H.S. Brahma:** I will definitely tell you more about this. Please give me your card and address for the same. But I can tell you that information on funding of political parties is all with us and I can't understand as to why we would not give it to you. I will just checkup.

**Question 4:** Can we not follow the system of proportional representation in our general elections?

**Reply by H.S. Brahma:** This is not our position and we are still continuing with FPTP system.

**Question 5:** In recent elections we have seen that there is no concept of media regulation in our country. We very well know that even if a dispute comes up during the elections we can only file petition when election process is over. Is Election Commission planning for some kind of media regulation?

**Reply by H.S. Brahma:** We have definitely got provisions for regulation of media also. We have teams at all district levels for this. But I fully agree with you that we need to make it more aggressive and effective.

**Shri Subhash Kashyap:**

Justice Gupta, Shri Brahma, President of PFN Mr. Manoj Agrawal and other distinguished friends present here. In parliamentary tradition the chair does not speak. It is said that 'speaker does not speak'. When I agreed to be present here I did so because I thought that I would not be required to speak and only preside over the proceedings. However, Shri Manoj Agrawal would not agree with me. I also agreed to be here for two other reasons. One is that Shri Manoj Agrawal is my next door neighbour and we have to live together (all laughing). The other reason for being here was that this is a topic which is very close to my heart and in my small way I have been seized of this question of electoral reforms for many years in various capacities. For last three years we have been having under the auspices of 'Campaign for Good Governance' several small group meetings behind closed doors without any glare of publicity consisting of some of the most eminent thinkers, distinguished persons, former chief justices, judges of the Supreme Court, top intellectuals, professors and ambassadors.

Everybody says that we are passing through critical times which Justice Gupta also mentioned as 'delicate times'. So we have been having these small group meetings of maximum 20 people and the composition of the group changes every time so that more and more people can be involved. After this three years exercise and about ten such meetings we reached the conclusion that at the root and the source of most of the

problems that trouble the nation today is the electoral system. Many reforms are necessary: political reforms are necessary, judicial reforms are necessary, administrative reforms are necessary and so on. But if a prioritization has to be done and if it is to be decided as which should be only one reform that needs to be done and which should be that reform, rightly or wrongly, we reached on the conclusion that it should be electoral reform. It is because elections are the foundation of democracy. We call our system representative parliamentary democracy. We the people of India govern ourselves through the representatives elected by us. Since the representatives who constitute the government they need to be elected, elections become most fundamental to democratic polity. Since elections are most fundamental and foundational, I would like to reply to Shri Brahma's question, Election Commission is bound to be considered as foundational pillar of democracy. Now our distinguished speakers and also those who intervened gave several very valuable points. Shri Brahma put his fingers on some of the very basic points. He said about debarring criminals, role of money power, paid news, party reforms, need of transparency. He also made a comment with which I entirely agree that the Constitution of India is basically a charter of socio-economic reforms and is definitely one of the very best constitutions of the world irrespective of the fact that it is the lengthiest constitution and very few people have read it although the fundamental duties chapter provides that every citizen must respect the constitution, its institutions and its ideals. But I think that it would be very very small fraction of the citizenry even of the educated citizens of this country who have read the text of the constitution. There is tremendous amount of constitutional illiteracy in the country even among the educated.

Now to put it very briefly, the problems that Shri Brahma and also Justice Gupta have mentioned, I believe the question of governance deficit, the question of poor delivery system both of administrative services as also in judiciary, they can all be related to the fundamental question of elections. If you can elect the right kind of people then you get the right kind of government and when you get the right kind of government you get right kind of governance. You get better ministers, you get better judges and you get better administrators. Shri Brahma talked about debarring criminals. How do you debar criminals if the criminal happens to be the most popular person in his constituency? If their winnability is the highest how do political parties avoid giving tickets to them

because political party looks at the winnability of a candidate. Second thing you mentioned is the money power. Any political activity, running any political party, conducting election campaigns all this costs tons of money. Where is that money to come from? I think this is a question we have to answer before we talk of either debarring a criminals or talk about the money power. Where is that money to come from? Either you have to show it from the electoral system that this tons of money is not required or you have to find an answer to the question where is this money to come from. No citizen of the country, there may be some exceptions, is going to pay his hard earned tax paid white money to the politicians or to the political parties. With the result that most of the money with which elections are fought, political activity conducted and election campaigns and movements organised most of that money comes from tainted sources. Earlier it was the business houses and the industrialists who used to finance the political parties and election campaigns but that source to a very large extent gradually dried out. Now the present structure is payment on short basis. The industrialist or businessman goes to the minister and says what he wants and finds out the price for it and pays on the job basis. Very largely, no more political parties and political campaigns are funded in advance by industrialist and businessman. The main source of funding today it seems to be the world of crime. Most of the money with which elections are funded comes from the crime world either outright person involved in crime like smuggling, dacoity, abduction, kidnapping or any of it. Most of the money comes from the crime world. Earlier till 15 years ago the criminals paid to the politicians this money as protection money, i.e., when they were or were in trouble they would go to the honorable member of the parliament and seek his protection in return for the protection money they had paid earlier. Later these people realized that it was their money power and their muscle power, their private armies which were getting these people elected. So they thought that why should we help them and not ourselves and the result is that, Mr. Solanki would know, a large number of Lok Sabha members today, figures are mentioned from 153 to 175, they are persons with criminal background. So that is the background of criminalisation of politics and politicization of crime. They are the most winnable, they are the ones who finance elections, they are the ones who have the money power and who are in a position to buy tickets. It is said that some party tickets for Lok Sabha and even more for Rajya Sabha

are purchased by paying outright cash. A person first hand confided that he paid 5 crores for getting the party ticket. Now if you pay 5 crores for getting the party ticket and spend another 5-10 crores for winning the elections and investment is 15 crores you naturally expect a good return of investment. You have to get these 15 crores back and you also have to get another 15 crores for the next election. Not only that you have to earn a few crores for sending it to the big house to the party boss. The source of corruption is not only the lack of bill like Jan Lokpal bill, but it is in the elections. No Lokpal would be able to solve the problem of corruption unless you strike at the very root and the root is the electoral system.

Now not to take too much of your time I would like to mention just a few points. One is that the electoral system that we have (and it is not laid down in the constitution as it only provides for universal franchise and for Election Commission to supervise the elections), adopted the First Past The Post (FPTP) system which is very divisive of society. It is this system which necessitates that if you wish to contest and win elections you need to divide society in parts. If you approach people and say that I am an Indian you would not get any vote on this basis. You go and say that I am a *Kurmi* or *Jaat* or *Vokalinga* or *Tyagi* or *Kayasth* or *Brahman* and on this basis I establish a contact with people of my cast and get attached to them and thus the society get divided. Mr. Brahma would know better and as far as I have seen and statistics tell, if I have a vote bank of 15 percent whether on the basis of caste or acquired by money or if people are afraid of me as I belong to mafia, then my victory is guaranteed by 90 percent. Now if I can win by having a vote bank of 15 percent why should I care for the sake of *aam aadmi* or for the rest of 85 percent? Therefore, all my effort is to build a vote bank of 15 percent. That is a problem that cannot be solved by Election Commission because it is systemic. That problem cannot be solved by us by coming out in larger numbers to vote. So that systemic problem has to be handled. My submission in this regard has been that we should change this FPTP system. We took it from Britain but we did not take the two party system. FPTP can work somewhat reasonably if you have the two party system. If there are two major parties and two candidates one will get the majority of votes. So we took the FPTP system but did not allow the two-party system to develop in India. So there is a disconnect between the electoral system and the party system. My suggestion for a long time has been and the

Constitution Commission also referred to it that if you want really representatives to be elected you should ensure that the winner gets atleast 50 percent of the votes cast. Only if a person gets 50 percent plus one vote, he should be declared elected. If no one gets 50 percent plus one vote then there should be a runoff election the next morning. Now that we have electronic voting machines it should be technologically possible to get the results in every constituency the same evening. Then the arguments that runoff elections would require fresh security arrangements or would be expensive, all these become meaningless. Just like we have re-polls in some constituencies we can have re-poll the next morning and the re-polls should be confined to the first two candidates who get the largest number of votes. If that happens one will get more than 50 percent votes and atleast you have a more representative system. Right now in the Lok Sabha 78 percent of all members were elected on minority of votes cast. That is more votes were cast against each one of them who have won. Can we call them representatives of the people? Can we say we elected them? We did not elect them, we voted against them but still because of their 15 percent vote bank they won. So the representative credentials of the representatives, they are in doubt. Our government is not a representative government and our representatives are not representative of people. So this fundamental problem has to be tackled. I thought I would mention this as this was not raised earlier.

Paid news was mentioned but another problem that we have is that of paid voters. According to the Media Centre study, in one state it was found that currency notes of 500 and 1000 were distributed. The electorate was divided into three categories. 20 percent were paid outright cash Rs.500 each, another 20 percent were paid Rs.1000 each and the third 20 percent were paid Rs.1500 each. So we not only have paid media but we have also paid voters. Therefore, all of us as citizens of India are as guilty as the candidates or as anyone else because we sell our votes.

Compulsory voting: Much can be said 'for' compulsory voting and also 'against' compulsory voting. The question is whether it will be constitutionally feasible because right to vote also includes right not to vote. Can we compel a person under the democratic constitution that we have for this? My submission has been that instead of making voting compulsory (it is compulsory in Australia, in some of the states in US and

in some smaller countries) we should make voting a fundamental constitutional duty of every citizen. It should be included under the chapter of fundamental duties. It should be provided that every voter would be given a certificate of voting. Showing of voting certificate would be necessary for getting a passport, for getting a driving license, for getting a BPL certificate, for getting a ration card etc. All those people who do not go to vote, a large section of them are the ones who need a passport to travel abroad. Now if it is made essential for them to show a certificate of voting before asking for a passport that section will be drawn. If you do that my own hunch is that you will have easily 80 to 90 percent voting.

The other thing is right to recall. If 78 percent of members of Lok Sabha are elected by minority of votes, the very date when results are declared they all should be recalled. Devil lies in details. For recalling there are broadly two systems. One is that more than 50 percent should vote for recall. Now in a Lok Sabha constituency where there are 15, 20 or 30 lakhs are the voters, how do you get 50 percent of them to sign a petition? Even if this number is 10 percent, how do you collect these 10 percent of signatures out of 15-20 lakhs of population? Then even if you collect signatures, how do you verify them that they are genuine? So it is not practical. Secondly, if you provide for 10 percent then you have a poll to decide whether the member should be recalled and if in the poll it is decided that he should be recalled then you have to have another election for electing a new candidate. So if you go into these details you will find that this fresh suggestion of recall is very phony and it does not make sense in our situation. You can perhaps apply it at the level of Panchayats but not at the level of parliament.

Second very fresh suggestion is about negative voting or having the option of none of the above (NOTA). That also I submit is a very phony suggestion because after all those who do not go to the polling booth they are saying NOTA. They do not want to vote for anyone so did not go to the polling booth. Why should they be required to go to the polling booth to say that we do not want to vote? Even if some people do that, can you imagine the majority or the largest number saying that they do not want to vote for anyone? That also I think is not a practical suggestion. After all elections are held to elect somebody not to say that I do not want to elect anyone. If the argument of NOTA is

accepted by all of us what will be the result? Sheer anarchy because nobody will be elected and we will not have a government. So that also is not a very worthwhile suggestion.

Justice Gupta referred about the issue as to why election petitions which were earlier filed in election tribunals shifted to the courts. Election tribunals took lot of time and after election tribunals had given their verdict the matter went to the High Court and then the High Courts took another 5 years. So the objective was that this time should be reduced.

Most important reform is political party reform. Right now political parties are one such institution in the country which are, if I may say so, 'outlaws'. There is no particular law governing political party. The Election Commission registers and recognises them and election symbols are allotted to them. That is all. There are no laws for political parties. You have law for companies; you have law for societies but no law for parties. Therefore, there is no transparency. If a law for political party is made then it should provide for inner party democracy. It should provide for audit of political parties, its source of funds and expenditure. So I think that political party reforms and electoral reforms have to go together. Election Commission is also to be blamed for some of this as they have with the support of Supreme Court acquired the power to register political parties but do not have power to derecognize them. As a student of law it seems to me that power to register includes the power to deregister and power to recognise includes the power to derecognize. Even of the 1348 parties registered, less than 100 contest elections (H.S. Brahma concurring with this fact). So the Election Commission knows that this registration of political parties is fraud and for nefarious purposes like making black money white.

I think with these words I will thank the distinguished speakers and interveners and request Mr. Manoj Agrawal to give vote of thanks for this session.

**Shree Manoj Agrawal:**

Respected Justice V.K. Gupta, Shri Brahma, Shri Subhash Kashyap and honorable guests. There are few things to mention. Our core team is committed to stay non-divisive



and non-partisan. As Justice Gupta said that there can be only two ways to bring electoral reforms. First is by extra constitutional way. That will lead us to dictatorship and is not feasible therefore. Constitutionally politicians would not agree to bring about such reforms. Third way that is left with us is of public pressure. We don't need many people for reforms. We just need may be hundred people who have worked extensively in this field and are committed to it. It is my humble request to all those individuals and organizations working in the field of electoral reforms to come on one platform. You people are such big names and you are highly esteemed and if you come together many things are possible. At PFN we believe that we are not in the process of making an institution of its own, we just want that all like minded people who believe that through electoral reforms all other reforms can be done to come together for this cause. Public pressure is strengthened when intellectuals and youth come together. So it is my humble request to all of you to come on one platform and lets us work in the interest of nation. We are prepared to help you in whatever manner you wish.

Thank you to all of you.

## **Working Session I**

### **Professor M.P.Singh (Chair)**

I am very pleased that a seminar has been organised on such an important question. Many distinguished people are present in this panel and it is an honour for me that I am also a part of it.

This panel has Shri K.J.Rao who had been bestowed with many important responsibilities due to his competence in electoral administration. He has an important role in elections held in Bihar in 2005. For this people of Bihar are grateful to him. His dexterity in electoral administration has been honoured in our country as well as outside it and he got many important responsibilities accordingly. You have also worked in Afghanistan, Norway and United Nations. It is an honour for Indians that other countries seek assistance from people of India and Election Commission in conducting elections for their state. Whereas in other democracies Election Commissions have been established through a law made in parliament, Indian Election Commission is the only commission of its kind in the whole world that has been established under the constitution. This is a mark of wisdom of our constitution makers.

We have Pankaj Sharma with us in this panel who has been associated with Navbharat Times and has covered elections for many years. He has also been associated with All India Radio and Doordarshan. Presently he is National Secretary of Indian National Congress.

We have with us Shri R.Ramakrishna who is a retired bureaucrat and at present he is Convener of the election cell of BJP.

Shri Vinay Sahastrabudhe is running an institution which also works in the field of electoral reforms. He has been regularly writing posts on this topic.

I think this is the most suitable panel for a discussion on this topic. I would not take time for myself, but in the end if there is time, I would put across my views. I request Mr. K.J. Rao to please put across his views on this subject.

**Shri K. J. Rao**

It is very important for electoral reforms that we work together. We all are working individually and that's why our vision is getting off beam day by day. The idea for which we are working should have been attained by now and that's why it is important that all institutions work together. We all are making so much effort but what is the result of all that. We speak, everybody listens and after going from here we forget everything. After that in elections we say that it has all been done by the political parties. What is the benefit of all this?

As you know that India is the biggest democracy in the world and the elections held in India are the best. However, Election Commission cannot cross its boundaries. Everyone feels that under Article 24 Election Commission has got many powers. It is believed by everyone but it is wrong to believe so. In this context, the ruling of Supreme Court in the matter of M.S.Gill Commission is very important that in any matter Election Commission is not bound to seek suggestion from anyone with folded hands. Election Commission can itself take decision after giving due consideration on that matter. However, later in another case Supreme Court said that there are certain rules of Election Commission Act and we cannot do things by trespassing it.

It is the duty of Election Commission to conduct free and fair elections. It is a very big question and we need to think over it that if parliament is not doing anything to strengthen this Act or for electoral reforms, then what can be done. There are so many matters pending in courts that they do not agree to listen to these matters. If Supreme Court wishes to do something, something may happen. Otherwise we all have to go to the field to do something and it is necessary now. But what can be done? It is confirmed that nothing can be achieved here by merely talking.

We organised two seminars in 2009 and 2010 and it was attended by big politicians from BJP and Congress, Chief Election Commissioner and other Election Commissioners. We had put our views in front of them and all things were reviewed nationally and finalized. Unfortunately Ram Mishra was changed and its consequences are known to you. You also know what Ram Mishra said in Uttar Pradesh elections. Where are we going? That direction itself gets diverted wherever we are trying to go. Where do we go?

What kind of politicians we had earlier? People used to visit them. They didn't have too many people around them. But today's politicians need bodyguards in all corners and then only they would come in front of people. I say that first of all this security should be taken away from the politicians. If politician is afraid of people, what can he do for them? What can he tell them?

In our electoral process the biggest thing that has happened is criminalisation of politics. Earlier when people used to contest, few of them came forward and took the help of criminals. Then after criminals thought that why should we help them win, why not contest ourselves. Thereafter they started contesting themselves. Now the ones who broke law became law makers. Tell me which party is not pitching such candidates?

Therefore, there is a need to enter into field to work. There is corruption in all the states and nothing is being done. They will hand over all these matters to committees and there are already many matters with them.

Time and again the question is what to do? How to do? The maximum that can be done is that we can approach Supreme Court. From 1997 onwards so many letters were sent to Law Minister and Prime Minister but there was no outcome from them.

It was presently being raised by Anna Hazare movement. Before this in 2001, I wrote letters on it for 10 times that 'none of the above' option should also be included. There is no reply on this. There was also movement for it. But was there any result? Supreme Court has been failure in this regard. We have to do something together.

Supreme Court says that political parties should decide on this but they do not take interest on this issue. Criminalisation is a very important reason for this. Secondly, political parties know very well the problems that occur during elections and we have written many a time to them. But there was no result. Therefore, we have come to organisations like you to do something in this direction.

Even it is not possible to have a discussion in the parliament as it is failed by disruption by them.

We do not have any answer when we are asked that for whom we should vote, these are criminals and people with money who are destroying elections. Money power and muscle

power: If there is reform in these two all other things would be reformed on their own slowly. We need to fight with these as they are big issues.

Political parties collect crores of rupees. If they are asked they say that it has been received by the way of donations. We need to have transparency in this. Who can donate such big sums to political parties without any interest? Therefore, it is very important to have accounts of all political parties online for all times and not only for the elections. This has to be done on full term basis and only then things would improve.

It was being discussed that a political party from which no candidate has won should also be allowed to register. Election Commission has the right that it can or cannot allow parties to register. We have cancelled registration of many political parties based on this. Many parties were sent letters on their addresses. Many letters came back undelivered. We argued that when there is no one on that address to receive letters why we should register them. We cancelled their registration. There were approximately 200 parties whose membership was cancelled. This task should have been carried upon properly so that many more parties like this could have been deregistered. Commission can get its powers only by using them.

In the end I would like to say that to strengthen the electoral process of this country and to make India better lets contribute together.

Thank you.

### **Shri Vinay Sahasrabuddhe**

Respected Chair, all people of this panel and present audience. I would like to thank the organizers for inviting me to this event. I would like to hear out every speaker and would only like to focus on 2-3 points.

First of all, I would like to clearly state that for the last 2-3 years the thing which has reached a nadir is the apathy and scorn of the people towards political class. I want to elaborate on this issue of upsurge of anger towards the political class which is increasing day by day. I would also like to discuss various concerns related to this.

Secondly, I would also like to discuss the productivity of our elected representatives (from Panchayats to Parliament) who have come through this electoral process and are the biggest part of this democratic process.

Today's topic is electoral reform. First of all, I feel that democracy is not dead, but to say that it would continue to live would be a naivety. Democracy can be living but at the same time it can also be bereft of life. This is against our hope and it is very crucial that we instill element of life in our democracy which is lying dormant to reestablish it. This begins with collaborated effort and synergy between political representatives chosen by people and the political parties which act as a bridge between them. This hatred and disdain towards the political party or political worker is an issue of big concern in a democracy. This anger towards political parties and politicians is not a good sign of a healthy democracy. There is a story in Maharashtra that one day God created a human being and forgot to put mind in it. One of his associates asked God that where this human would be placed. God answered that lets put him in politics which would be a suitable place for him. Anybody can work there without mind. (Audience laughing)

I am worried about this feeling which I see and if at all this prevails in the minds of people then I feel that atleast those who flame it should think on it. Along with them, the political parties must also ponder over it.

What is the reason for this? There are many reasons. We had discussed on this and on the political parties also. One of the reasons for this is that political parties are not functioning institutionally. In our democracy all kinds of institutions have been systematically deinstitutionalized. Media- It is facing many questions. Courts- not functioning satisfactorily. Military- this is also now coming under questions. Parliament and elected representatives- atleast for last one decade people are not seeing them with respect. Therefore, I think that it is high time that we need to enhance the productivity of all democratic institutions, of all representatives elected by people, of all the political parties and of the larger system of democracy right from local governments till parliament.

Many a times as a student of political studies I get disturbed by the fact that whether we are going to run our parliament in the same moribund way. It's time now that we start

shifting our focus on new issues. Recently we had Delhi municipal elections. Before that we had the same elections in Mumbai and it would be followed by Uttar Pradesh also. I can claim this with surety that there was no change in the issues and discussions in media and among the intellectual class of our society during the elections of 2012, 2007, 2002 and 1997.

The question of slums is still the same. The question of basic services for citizens is still the same and so is the question of transportation. If the problems and issues are not resolved and democracy keeps on going, it is not an ideal situation to have affinity towards this democratic system. We are all responsible for it in terms of the kind of representatives we choose or the process in which we participate to do so or distancing ourselves from this process. Therefore, we are all responsible for it and there is a need to reconsider these questions and this system.

If the questions remain unanswered then we should convene parliament not only for three times in a year, but if needed may be for 10 times. If the questions are unanswered, I see no reason for not doing so. For this we must pay the representatives more salary. But at the same time in return of this we need to extract commensurate work from them.

We also need to take monthly report from them mentioning what works have been done and what is left. There were some political parties which used to follow this practice. However, we are seeing declining trend in this. I believe that this practice should be reestablished.

We are short of time but I feel that without reflecting on these issues we cannot take the task of reforming our electoral process any further. Yes, electoral process is very fundamental. But I don't accept that total reform of our political process would be achieved merely by reforming our electoral process. Therefore, I would reiterate that it is essential to bring reforms in electoral process but at the same time we also need to reform our political system.

We don't have any relationship with the people we elect. We don't feel that they are our representatives. This situation is a matter of concern.

About 250 years ago, in 1774, Edmund Burke had said this in his speech in Bristol and I quote: “Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.” These thoughts would be very helpful to us in these difficult times.

Thank you.

### **Pankaj Sharma**

Respected Chair, friends seated on the dais and people in the audience. I had come here actually to listen to all of you. But I would like to speak on two or three issues.

I have been a journalist in Navbharat Times for 27 years and covered electoral politics vastly. I have also written extensively on both elections and politics. After this I joined Congress party and I am presently its National Secretary. Earlier I have observed this as an outsider and now I am a part of it. It is said that nobody comes in politics for nothing and I am also following the lead and doing some preparations for me.

Politics is a tough field. It is very easy to abuse politicians or to ridicule them. But I just know that the manner in which a politician is concerned for societal issues (whatever may be the reason), there is no other class in the society to match it. I have never seen a reporter sitting on *dharna* for issue that is not related to him. I have never seen a doctor sitting on *dharna* for issue that is not related to him. I have only seen a politician, for whatever interest, expressing his concern on issues of society which may not be directly related to him. The level of his concern is unparalleled when it comes to comparing it with any other segment of society. In my lifelong experience I have never seen that level of concern in any segment of the society other than the political class.

Mr. Rao has raised two-three issues. He was earlier in the Election Commission and presently also working in it. First of all, I would like to make it clear that whatever I am saying, it is all my individual thought and they have no relation whatsoever with Congress party. As the saying goes: *roti ka chakkar hai na baba...varna kiska ghar hai kaaba!* (All laughing)



I will be saying many things here and it is not necessary that they would also be my party's political views. They can be my individual viewpoints. You should understand the compulsions of a politician. We have an Election Commission in our country which before the elections decides the limit of electoral expenditure. But Mr. Rao also knows very well that most of the contestants submit fudged statement of accounts. Nobody is worried or bothered about that. So this is the kind of hypocrisy that exists in our system wherein we know that this account is wrong but we cannot do anything about it. Therefore, when the process is itself corrupted at its root, we should not create hue and cry over those who have got elected from the same process.

For the last 20 to 25 years I have argued on the issues of electoral reform and have been a part of such discussions both as a speaker and as audience.

There is a small story in Haryana. There was a father who had four sons. They used to have their food everyday in their kitchen. The mother used to make chapattis for them and they used to eat simultaneously. The father was a poor farmer. He used to say this every day that he would visit cattle market and would purchase a buffalo there which would yield 20 litres of milk both in morning and evening. So he said that we will drink milk everyday as much as we like, would use *ghee* for the chapattis and can also distribute the left over *mathha* in village. He used to go to the cattle market everyday for the same. But whatever money he had in his pocket that was not sufficient to buy a buffalo. This happened many times. He used to tell the same story repeatedly but when he went to the market he could not procure a buffalo. For the fifth time when he came back and was eating dinner with everybody, there was no mention of anything. After 3-4 days his sons realized that there is something missing. After a few days they realized that their father was not talking about the buffalo for last many days. One of the sons asked him what happened to the buffalo that he was supposed to bring. The father replied that why are you embarrassing me. You people understand that there was no money and so no buffalo can be purchased. To this his sons replied that whether he is able to get buffalo or not he should keep on talking about it as it keeps their hope alive and entertains them. (Audience laughing)

So it is very pleasing we have these discussion sessions often to get this buffalo of this democracy released which at the moment is stuck in the hands of wrong people.

Today I was reading in this literature offered by PFN and it mentioned the issue of paid news. Fifteen years ago when I used to work for a newspaper then the son of its owner came back from America after his studies. People who return from America they get trained in one or the other strategy and follows it too in practice. When he came he employed a new experiment in the field of media.

Our whole generation was inspired by the stories and anecdotes of Gandhi ji and Nehru ji. Our icons or role models used to be politicians, authors, musicians or journalists. In our times Dirubhai Ambani was not an icon. It may be possible that he could also have been icon for many other people.

So we were asked as to why news related to politics was being printed on the front page. We were instructed that there would be news from politics, but it should be in a very limited number. For the rest, it should carry lighter news regarding any celebrity, sports or film. By following this practice we started to push politics out from the frontiers of our fundamental concerns.

Whatever you people see in today's media, whether in print or in electronic, it carries a depressing message that politics would destroy everything. It projects a concept of market culture that 'politicians and restrictions, they destroy the nation'. Then we started raising questions on Parliament and further on the pillars of democracy.

As Mr. Rao has rightly pointed out, we have made politicians a symbol of hatred. Electoral reform is a very small part of systemic change. Actually we want reform in our system, in our politics and in our elections. If there is democracy, there will be political parties and if there are political parties, there will be politicians. My question is why we can't have good people in forefront to change this society. Today we are living in a choiceless democracy. Even if my party wants me to contest where will that hefty sum (of 5-10 crores and I have heard that in south India even 25 crores were spent) needed for electoral expense come from? This means that a good person can never contest elections.

Since our electoral process is such that a good person may not be able to contest elections, we essentially need to reform it.

### **R. Ramakrishna**

I have been an active electoral reforms practitioner for last 15 years. I have been an interface between my party and the election commission. If we talk about electoral reforms, first thing that we notice is that the elections in a country are the true face of the political structure that you have. I am not saying that what we have here is not democracy but in my view feudalism is harming the democratic structure. In every walk of life there is feudalism. Ultimately the political structure is that which people in current socio economic scenario would like to have. Many of you sitting here are from post 1947 generation. I have seen the democratic structure functioning in the country when British raj was there.

I basically belong to Tamilnadu. I saw a village which used to have village panchayats where *panchs* or elders of the village were controllers. They were the unanimous choice of the villagers. British saw this pattern and developed institutions like *tehsils* and districts. I have seen district boards with nomination without any election. Some lawyers, doctors, teachers, people who had excelled in their fields were nominated. And the hospitals, schools, were entirely managed by them.

Then came independence and we thought of a democratic structure which should not run from bottom but should be a thrust from top. I want to ask that in such a big subcontinent, why we need people directly electing the members?

What we need to have is a system of panchayats with lot of power and lot of financial autonomy in hand. Then they should elect people from *tehsils*, from districts and then finally for legislatures.

When I joined service in Rajasthan we started for the first time the concept of democratic decentralization. Panchayats were given tremendous powers and not only financial powers. All subjects including health, education, road construction etc and all the department funds were to be passed through the panchayats. But then who killed

panchayats? It was the elected members, MLAs who thought that their sovereignty has gone. Manishankar Aiyer talks a lot about democratic decentralization. But when we have MLAs and MPs who don't want democratic decentralization how can we have that?

In 1970, I was collector in Alwar. State trading of food grains was launched and I got a dictate from the government to make it a success. So I went to the *kshetra* or a big *mandi*. No one was there on the shop of food corporations. I called one old man and asked him why don't you take grains from them on better price? Then, I still remember that he took out his '*bahikhata*' and threw it. He told me that the local shopkeeper will also visit his place at times of marriages, functions etc. He said, "You do it, I will take it from you. You may be giving it on better prices but you will run away then."

We were doing Indira Awas Yojna allotment. I was shocked to see that the SC groups were given a land that was far away from market. There was no water no power available for them.

A village was full of fishermen and there was an elected panchayat. When I went to this village, it was getting converted from an odd type of village to a very well planned village and built town. Village elders formed a society and they said that every fisherman had to deposit some share from his earning to the panchayat for the development purposes. So in locality and street if there was any plan of road building sewage etc. the cash was given from the collected fund. So do we want this kind of structure or the so called democracy?

We have the democratic system where the elected representative gets 30 percent of the total vote in his constituency. That means that 70 percent of the voters had voted against him. So the actual system or the ideal system should be in such a way that all the voters should elect number 1 and number 2 out of many candidates . And again there will be an election in which one of them will get more than 50 percent of the total votes. That is the only ideal electoral process. Otherwise in the present system we are sending people who don't get majority of the votes. If we make this electoral reform possible then only we can say that something has been done.

Today what happens is that we have a very apolitical and constitutional Election Commission. I have been watching them for last 15 years. It is a wonderful organization and with all the constraints placed by them they are making democratic election possible. But then the real elections are conducted in the field by the chief electoral officers of the states who are complete government servants of a particular state. The returning officers or the RO are the agents of the state governments. The ruling party during the elections creates a kind of havoc. People in the commission cannot interfere in this.

When Mr. Krishnamurthy was Chief Election Commissioner I brought to his notice about the election strategy of CPM leaders. Even the police force was biased. All the policemen were comrades. I told him that you have to conduct election with these people. Krishnamurthy was bold enough and he said that I will bring Bengali speaking people from outside to manage the elections. It was a very good step.

Today in elections various observers are sent to observe the election process. Today can't you bring returning officers also from outside the state? But we don't have this practice. In the recent elections in UP, at five places, returning officers did not even count the posting ballots. I tried to disclose this but nothing happened. So what is the solution to this? This is a very important institution. Why election commission is not competent enough to decide in such matters? Why should we go to court and wait for next ten years and even then nothing comes out? What reform today we need is that the cases related to elections or the electoral disputes should also be brought under the Election Commission. You can extend the Commission if you want. Let it not go to various courts at various levels.

Thanks.

### **Question Answer Session**

**Question:** Swiss Bank has said that if Government of India asks for any details then only proper information about black money would be provided. Why no such move was taken by the government?

**Answer by Pankaj Sharma:** To be convinced that government is doing nothing in relation to bringing back money stacked in foreign countries is wrong. Government has written for it and it had got reply also. Some names have also come up. Regarding Jan Lokpal I want to say that fight against corruption is not an exclusive privilege of few. It would be a big injustice for democracy to think that everyone is corrupt in the profession of politics.

**Question:** MP fund has 5 crores and to get ticket one has to spend 25 crores. Which person would try to get ticket on the basis of MP fund?

**Answer by K.J.Rao:** It is suggested that issues of anti-defection can be referred to Election Commission of India by the Speaker. Political parties should mention the issues of infrastructure in their manifestos rather than offering colour TVs as was done in Andhra Pradesh elections. Election Commission should be able to stop this.

**Question:** There is no political party in India which is fully democratic. Is it not ironic?

**Answer by K.J.Rao:** I agree to this that there have been efforts for inner party democracy but we have not succeeded in that till date. Senior leaders of the party are responsible for this. Elections in UP are an example in this case.

**Question:** For election campaign no restrictions were placed on Facebook and mobile SMS. However, restrictions were placed on the campaigning methods involving performing artists from poorer section of society. Is this justified?

**Answer by K.J.Rao:** I don't agree to this view. Today mobile is owned by every class of society as it has become an object of necessity. But the other methods employed for campaigning are very money consuming.

## **Working Session II**

**Chair: Professor Jagdeep Chhoker**

**Raveesh Kumar**

We all sincerely hope that Media will remain anchored towards neutrality throughout the elections, and thus a healthy mandate will emerge out of it. However, I can very well state my unpleasant experiences concerning the neutrality of media. Earlier IB Ministry used to control the media, however today it has got no role whatsoever. Today, it's the media cell of every political party in India that truly influences and controls media to such an extent that their purposes are served from well within their chambers. Previously it was an expertise of only top level National parties; today all political parties have got a media cell.

I have always believed that fine tuning neutrality on the scale of ideology brings disastrous results. Interestingly, during the times of elections our media becomes multifaceted. There is a ruling party media, a social media, a main stream media, a regional media, a national media, and last but not the least a personalized media for each and every political party. And ironically each of these different kinds of media are committed towards a common cause; how to eliminate the sacramental neutrality of media itself. These days' political parties are more like a customer for our media, who bring in their party ads and at times end up getting an entire dedicated news campaign for themselves.

Let me tell you how they work:

In recent times opinions have replaced issues. If you have got no opinion about something it simply doesn't exist, no matter even if it is daylight. So all you need to garner enough viewership is to bring to the table a bout of contrast opinions and hence all our "Talk Shows" do is arrange and serve such chutzpah in the name of clashing opinions. Their job is thus well done and ends here. They don't realize that display of such mundane opinion wars is averse to formation of a healthy mandate based on relevant socio political issues that require higher levels of intellectual maturity. And it is with great disgust that I have to accept this truth that the Indian media is completely ignorant

of its professional duties towards the institution of Indian democracy and as a result it lays today in great disorder.

Come every election period, and all what remains to be served to the viewers is the same old news and previous results in novel patterns and formats. How can one in their right mind compare electoral results of 1970 with those of 2012? Going further downhill, in the election times, importance of a common man and his issues become inversely proportional to the front page stories of corrupt political leaders and their rankings. However, this too is managed in such a subtle manner that one cannot form a firm opinion on any one of them. Result? Healthy mandate remains a rare elusive dream for our democracy.

Role of media in electoral reforms is clearly outlined. Corruption is no more a simplified business. It has transformed itself as a formal and organized institution, a business that penetrates each and every strata of our social layer. Just like his respective political party splurging huge amounts of money, its candidate is also seen “gifting” money to the local journalists. This makes me recall an incident involving this journalist I happen to know. Not only did he bluntly refuse a big shot political leader a print in his newspaper but also went a step ahead and conveyed his sour objections regarding the gift money in that leader’s face. Later, to his utter dismay his daring defiance had earned him a transfer to a most desolate and remote corner of the country. It took him quite some time to realize that he was already a part of this vicious system. He had reacted so in order to impress his editor with his show of professionalism and honesty, however his editor was least amused to say and immediately affected his transfer. Later I heard him confess him that had he known the repercussions he would have happily obliged the hon’ble leader and awarded him the space he wanted. This, my friends, is the real picture of our times.

Today it hardly matters whether a political party is in power or in opposition; none of them want an independent (read autonomous) media around them. In fact even Media doesn’t want to be autonomous and equally yearns for a relationship at one level or the other. This disturbing fact owes to the obvious reason that media has over a period of time become business centric in its very spirit, and it is this ‘business’ oriented need that mandates its out-of-line betrothal to either the ruling party or its opposing factions.



Speaking for myself, I still believe with all determination that things can be reformed to a great extent and negativities pushed back. A local magazine recently took it upon itself to criticize censure of media in the State of Bihar. “Nitish Kumar : Editor in Chief of Bihar” was its recent cover story which also included observations made by Press Council Chief, Justice Katju who strongly condemned the state government as to how they have suppressed the media in Bihar.

Thus, going by this example, I strongly believe that media should be made aware of the critical as well as pivotal role it can play in bringing about the electoral reforms; given this concept of “electoral reforms” is still considered a part of the process in the formation of a healthy mandate. It was only yesterday I was browsing quite a popular website of United States of America. I came across this article related to the current affairs where there are talks of a proposal to be made mandatory for all the news channels. Under this proposal each news channel would publicly display on its website as to how many advertisements did each political party pay for as well as the entire details related to it i.e., duration of those ads, timeslots bought, payment amount etc.

This has got Managers / Directors of each of these big channels scrambling before some commission, pleading their case that this would go against the rule of maintaining competitive rates. I say, you are 12-15 players alone in the market; it would so be naïve to assume that you are unaware of each other’s rates.

Initiatives like these nevertheless would be quite instrumental in bringing about electoral reforms as well. Are we committed to make our channels free of political ads? What if there are no political ads on any channel and even if one channel broadcasts them it should be scrutinized if its neutral in its on air conduct or inclined.

Besides, all parties have their own media cells and they should be able to give their ads elsewhere. Or else it should be checked that if there is an increasing trend in allotment of ads by a party to a particular channel then is media being benefactor of that particular party only? Or did its reports and stories favoured that party in one way or the other? There should be proper investigations for the same. Appealing to our refined political thoughts and being a party worker are we ready for an arrangement of this sort?

We are tampering the mandate in another way. We are crafting it entirely in an artificial environment, and then we manufacture it. Today there is hardly any space left for factual reporting. However, the film stars continue to get ample coverage. Film Actress Mahima Chaudhary is covered well in the media. However, Mayawati's rally doesn't find the same coverage. Advani's conference gets covered on air for 10 seconds only, however still Mahima Chaudhary manages to find a decent coverage. Although it's still a matter of debate whether the presence of Mahima Chaudhary has effected into victory for whom she canvasses. This has become a regular trend of our elections. The way these people kill the space, or rather fill it with such junk, let me sternly warn that this trend is completely averse to the building of a healthy and aware mandate. And if there happens to be a healthy and aware mandate present, trust me, it will forever be liberated of the kind of leadership these political parties are fielding. And all these political parties would feel the same sting which they feel now thanks to the hyper-activity of the social media.

Everyone, right from the individuals to the people at party levels is an equal stakeholder in this system. The ones whose turn has not come yet are left out of this. However, they would be tested when their turn comes as to how they are able to support this kind of freedom and questions related to it to bring about necessary change in the system. Currently it's a free for all, whoever manages to pin the other by any means is declared winner. This is how it is working now and this is how even media wants it to work.

Where are we fighting for our space? Media's space? What about it? Have you seen anyone in conflict with the system these days? A journalist hardly worth a penny of integrity and professionalism has got himself self fashioned as the mouthpiece of millions. How come the controllers of this vicious system are never exploited? Have we ever heard that someone has tried to take over their space? Why is it that you cannot work freely in Bihar? Why is that we are not able to cover the complete rally of Mayawati? Why did Akash or Prakash channel whichever it was folded its operations and fled the very night when Ajit Jogi lost in Chhattisgarh? Thus dawned the revelation that media has also become a medium of conning people.

Who will question all these practices? Common man does, social media does, however the very stakeholders don't and neither do the political parties.

In this neo-liberal system as we love to call it, networking is the only way out. And indeed every hand is well connected with the other. Everyone is getting advertisements, monitored by the Central Govt. and thus bearing zero transparency. It has ceased to matter if one regards Dr. Ambedkar or not. Those in charge of media are hardly introduced to Dr Ambedkar and what he stood for yet they would brazenly continue to earn their profits by publishing his ads. Why Dr Ambedkar should be published at a space, the owner of which doesn't even recognize the grandeur of his personality. To add insult to injury I haven't seen even so called Dalit champions questioning this disregard for Baba Saheb. It is the moral responsibility of the Govt. to check these trends.

Media today, broadcasts only what serves its own interests instead of what will truly benefit the society. Thus, if we are even one bit committed towards electoral reforms we will have to make media as much as accountable as popular representatives for their activities. Only then I believe this process would truly be relevant. This is owing to the fact that no matter how good is a candidate all his contributions towards development of a healthy mandate would go unnoticed if media does not cover them and bring it to the people. Today so many well deserved candidates are not covered at all. What is covered is just a Congress candidate, a BJP candidate and sometimes a Samajwadi party representative. Rest of the political parties and democratic ideologies are either mocked by the media as being amateur or gets labeled as a power broker. No talks absolutely of any power broking by the established parties though.

Now that political reporting is my current forte, I feel highly disillusioned by what I see. I neither experience increase in my intellectual faculties neither do I feel I am learning or discovering anything new. There is hardly ever a description of a candidate's profile. No focus absolutely on which candidate, based on his intellect and background could be the face of future leadership ... No. Only a set pattern is recycled same way over and over and over again. This is the reason why even we start feeling bored and numb as we turn pages of the newspaper or listen to a televised discussion. Same pattern recycled, and served. Don't you feel that discussions should produce such energies that absorb you instead; however what you get in reality is the commitment to develop a society made up of intellectually dead or paralysed individuals. And if this is what our political parties aim

at, if this is what is agreeable to our system, our Media then we are no doubt helpless. But in seminars like these you will continue to hear our voices asking for a change.

**S.N. Shukla**

Respected chair, ladies and gentlemen, I would like to put across views of my organisation regarding efforts needed to stop criminalisation in politics.

In this context Dr. Rajendra Prasad had said in his last speech in Constituent Assembly that two things are needed in our people's representative, one is character and the other is honesty. But today there are many representatives who lack both of these. There is system in our constitution to ensure that in future only those people get elected who have character and honesty. The reason for this was that our constitution makers were experienced people who had come after sacrificing things and were inspired by the feeling of national interest and therefore they didn't think even that after them, people could do such things and therefore they did not create any system for this.

When India was getting its independence Churchill had said, "Power will go to the hands of the rascals, rogues and freebooters." Today the number of such people is increasing. We can see that even after the provision of additional affidavit, today the number of people with criminal background in parliament and state assemblies is on increase. Therefore it seems that what Churchill said was true and the situation is such that the people who broke law are the ones who are doing the work of law making. The makers of our constitution and the makers of 'Representation of People Act' would not have imagined this.

If the present trend continues unchecked soon persons with criminal background may have majority in the Legislatures and the day may not far when a Don may become CM or even PM and our democracy may get a new definition of "government of the criminals, by the criminals and for the criminals".

In his article captioned, "Need for systemic changes in Governing structures" published in the PIONEER in November, 1996 the then Leader of Opposition AB VAJPAYEE wrote "Criminalisation of politics is having a direct bearing on the composition of and

functioning of the legislature as well as the executive”. The resolution adopted by the Parliament in 1997 at the time of Golden Jubilee of Independence began by saying, “That meaningful electoral reforms be carried out so that our Parliament and other Legislative bodies be balanced and effective instruments of democracy; and further that political life and process be free of the *adverse impact on governance of undesirable extraneous factors including criminalization.*” However, nothing has been done by the successive governments in the last 15 years to restore and maintain the purity of the highest democratic institutions of Parliament and State Legislatures by preventing entry/continuance of persons with criminal background in these August Bodies.

The present day undesirable alarming situation of persons with criminal background adorning the Parliament and State Legislatures is partly the result of the deficiencies in the existing electoral laws and partly the result of their non-compliance. The three main causes are-

1. The obnoxious provision in Section 8(4) of the Representation of People Act 1951 whereby even murder convicts continue as law makers and “Hon’ble” members of Parliament/State Legislature.
2. Names of prisoners continuing in the Electoral Roll due to which they can contest election from Jail though not entitled to vote.
3. ‘First Past the post’ system whereby instead of having real democracy we have the farce of democracy in which our so called “public representatives” do not represent even 80 to 85% of total voters in the constituency and not even majority of voters who cast their vote.

While the Executive and the Parliament have made no effort to tackle these root causes for increasing criminalisation of politics, the efforts of our organisation for judicial intervention have also not met with much success so far due to negative response of the Election Commission and the Courts.

As far as Section 8 (4) is concerned our organisation had filed a PIL Writ Petition (No. 231 of 2005) in the Apex Court challenging its constitutional validity. In 2005 overruling earlier decisions, it was held by Supreme Court that those who break the law should not

make the law and that the disqualification under sub Section (1), (2) and (3) of Section 8 is attracted despite pendency of appeal/revision against the conviction. Apparently, if a convict cannot contest, he has no right to continue as a Legislator. Finding a prima facie case, the Hon'ble Court was pleased to issue Rule on 13.5.2005. While the Union of India filed their counter affidavit in August 2005 the Election Commission, instead of filing a counter affidavit to the WP on the notice issued by the court, simply informed the Registry vide their letter dated 18.8.2005 that they have no role in the matter. This response of the Commission was evidently not inconsonance with their present thinking and desire to check criminalization of legislatures. The writ petition has been ripe for hearing for the last 5 years but has not been taken up despite our applications for early hearing. If the Election Commission also files a counter affidavit supporting our writ petition and the plea for early hearing the Hon'ble Court may decide this issue early which will at least rid the legislatures of the convicts and put an end to the highly incongruous situation of law breakers continuing as law makers.

Section 62(5) of the RP Act 1951 provides that a person detained in prison shall not be entitled to vote. Section 22 of the RP Act 1950 and Rule 21-A of the Registration of Electoral Rules, 1960 provide that the names of persons who have ceased to be 'ordinarily resident' in the constituency or are otherwise not entitled to vote, be deleted. However, due to the names of prisoners remaining in the Electoral Rolls they are able to contest and become "Hon'ble" legislators and even Minister. Moreover, this is also against the statement of Dr. Ambedkar, while moving Article 84 in the Constituent Assembly, that "being a voter is an essential qualification for being a candidate".

Our organisation sent a representation dated 31.7.2007 to the Election Commission of India requesting the Commission to issue necessary order under Article 324 for deletion of names of prisoners at the time of revision of Electoral Rolls. When there was no response from the Commission, we filed a PIL WP No. 593 of 2007 in the Apex Court for enforcement of the aforesaid provisions to save the democracy in the country from the clutches of persons with criminal background. The aforesaid Writ Petition was heard on 12.11.2007. However, the WP was dismissed by a one line order "Heard. The Writ Petition is dismissed", without giving any reason. Thereupon, a review petition was filed

by us. . The petitioner also moved an application for modification/clarification of the order dated 12.11.2007 to the effect that it will not come in the way of the Election Commission deciding the petitioner's representation dated 31.7.2007 by a speaking order. While the review petition was dismissed the said application was disposed of vide order dated 16.4.2008 making it clear that the representation filed before the Commission can be considered and disposed of in accordance with law. However, the decision of Commission is still awaited.

Now let us talk about our third point where anybody getting 10 or 15 percent votes can be elected. This anomalous situation is the result of the flawed electoral system of 'first past the post'. the existing system needs to be replaced by the one which requires the winning candidate to get more than 50 percent + 1 of at least the votes polled, if not of the total voters in the constituency since voting is not compulsory. This can be achieved through the system of proportional representation/single transferable vote or having a second round of polling between the first two contestants if none secures the requisite votes in the first round. The need for replacing the existing system by a truly representative system suggested above was highlighted way back in 1992 in the book 'Reforming the Constitution' edited by Shri Subhash C. Kashyap. Apart from Shri Kashyap several other contributors in that book had advocated the change.

Dinesh Goswami Committee report in May 1990 had recommended constitution of an expert Committee to examine the subject of changing the present electoral system. However, nothing has come out of it in the last 22 years. The indifference of the politicians in this regard is natural for the obvious reason that they are beneficiaries of the existing system.

Pinning hope on the Apex Court for intervention in this issue of great importance for the future of the democracy and the Nation itself Lok Prahari filed a PIL Writ Petition in 2005 challenging the validity of Section 66 of the Representation of the People Act 1951 and Rule 64 of the Conduct of Election Rules 1961. While agreeing with the petitioner that there should be a debate whether a candidate was required to get more than 50% of the votes cast for being declared as the winner, the Hon'ble Court dismissed the PIL in

limine saying “We may be with you on the question of desirability of a debate but the debate is to be held at a forum other than the Court.”

In view of the inaction of all the Governments of various hues and the Election Commission on the recommendation of Dinesh Goswami Committee report, and the refusal of the Apex Court to even direct them to act on the said recommendation, the moot question is as to how the much needed overdue debate on this matter will be initiated. Perhaps ‘People for Nation’ may like to take up this again with the Supreme Court in the context of inaction on a part of the Executive and the Legislature in the last 7 years despite observations of the Apex Court.

The three main measures suggested above concern the Apex Court, Election Commission, and Parliament respectively. In the absence of positive response from them, no improvement in the present depressing scenario is possible which will ensure that only persons of character and integrity become/remain MPs/MLAs/MLCs. As Mr. Palkhiwala rightly observed: “Dharma lives in the hearts of public men; when it dies there, no Constitution, no law, no amendment can save it”. Is anybody listening?

**Question:** According to your organisation those who are criminals or have been to any jail should not get any right to contest. Should not those people be allowed to contest who became criminals due to some reason and who later surrender and want to join the mainstream and want to do something for society, like Phoolan Devi? Infact this should be applicable to those people who commit crime for their interests and benefit.

**Answer:** Those who are prisoners and their name in voter list case is pending in Supreme Court. As far as this question is concerned we are not talking about any blanket ban. Our organisation has many suggestions on criminals. First is that if crime is proved and if sentenced for more than 2 years, then their membership should be terminated. Secondly, whenever voter list is prepared, those who are in jail, their names should be deleted from that because when they don’t have the right to vote, how can they have a bigger right of contesting election. In no country there is a system wherein the one who cannot vote can contest election.



## **Madhu Kishwar**

As far as the question of health of democracy is concerned, there are many shortcomings and maladies. However, I think that it is not that big situation of despair as expressed by the speaker before me. The main reason for this belief of mine is the impatience of people in India to change this system. Efforts are being done from all the corners, be it small NGOs, be it Professors or be it corporate sector. I can see impatience even on the issues as how to run Panchayats in villages and many other like it. I totally believe that by these we will accomplish many things.

I think that the main reason behind this system is that what was inflicted on us 200 years ago, instead of changing it, it has been enhanced. The thing which took 200 years to get dysfunctional will take some time to change. I think that it is very easy to abuse and criticize politicians. Saying that does not mean that they don't deserve it. As much as we criticize them, they deserve many of it. However, I get very concerned when I see that we mostly criticize politicians and do not pay attention to the other part, people who form the foundation of this corrupt system.

In democracy good politicians are coming up only in those countries where system and administration have the capacity to run themselves in a systematic manner, where courts work properly, where police is accountable and transparent in its working. However in a country like India, (where Europe established its colonies and which fell to colonialism), why democracy is not working properly? Because after they went, we prepared our electoral process but we didn't change our administrative structure.

Police Act of 1861 is still working. Doesn't our democracy have enough capacity to change this? Whenever reforms are talked about or commissions are constituted (whether it is police commission or Soli Sorabjee commission of recent time), they observe the system of England and Ireland and by the method of cut-paste make laws and submit them. We don't think about the needs of our country and the diversity of our society. Until we bring about honesty in our administrative structure and their accountability towards people, whatsoever electoral reforms are done, we will only get corrupt and rowdy politicians.

Many people believe that if people who are elected according to merit, who are educated and can speak good English can enter politics, it will reform our politics. Especially people living in so called elite places sincerely believe on this. But my question is that administration is merit based. An IAS and all officers come through merit by clearing exams. These all are well educated. Then how do they become devil from human after getting posts. Today which officer can become police commissioner of Delhi without bribing Home Minister? Specially in the areas where crime rate is high, appointments are done in this manner only. There is no question of merit.

I believe that there is no dearth of honest people in society. However, the number of corrupt and rowdy people that we find in government offices, near administrative officer, in courts and in police station are far higher than compared to any other place. Even in underworld we cannot find them in this magnitude.

We didn't change a bit the administrative structure that was left with us by the British.

A politician or a minister can be corrupt only when it is supported by bureaucracy because the paper work and official process is in the hands of bureaucracy. Even if you get a honest politician, he won't be able to stop anyone because there is a whole lot of people under him like that. They also know that what amount of punishment a corrupt politician can get. He can at best be transferred meaning that you have plundered here and now do it somewhere else. At most he would be suspended for 2-3 months. After that he may get a better position and he will continue getting his salary.

You can atleast remove a politician after 5 years. But you can't do anything about a government officer. How many people can dare to criticize a police commissioner in his office or tell him of what he deserves? Therefore first we need to talk about administrative reform, judicial reform and police reform. This does not mean that electoral reform should get less importance. However, it is true that there have been many electoral reforms of which many are even legally enforceable. But in the name of administrative reform there have not been many changes apart from RTI. UPA government has promised in 2004 that they would bring reforms in administration, judiciary etc., but they have put it totally on the back burner. In place of this they have

started corruption friendly programmes like NREGA. Administrative reform should have been on their priority.

Even if there is no free and fair election in a society, common people should atleast get basic things of their need. For example, they should get clean roads, better water and other civic facilities without struggling for it. Therefore, we need our administration to be accountable so that we don't have to bother unnecessarily about small but important things as collection of garbage or cleaning of drains.

Secondly, I want to say that apart from political independence, economic independence is equally important. Corporate sector gives employment to only 3 percent of people. Rest of about 93 percent people themselves arrange for their living in the unorganized sector. All people engaged in small occupations like small traders, vendors, rickshaw pullers etc. are on the mercy of bureaucrats. They also pay them. Apart from getting abused they also fear that they might loose their occupation. Is there not a need to make provisions so that these people also get a right to employment?

If bureaucrats and police stop working on the directions of politicians and start doing their works properly, many problems can be solved. Therefore, alongwith electoral reforms, reforms in administration, police and judiciary are equally important.

Thank you.

### **Question Answer Session**

**Question:** Ravish ji you discussed the problems related to media but you gave no solutions for it?

**Answer by Ravish Kumar:** What solution can be there? Whenever we talk of solutions nobody is interested in it.

**Question:** What do think about the contribution of media in bringing about bankruptcy in India?

**Answer by Ravish Kumar:** A very positive contribution. (People laughing loudly)

**Question:** Madhu ji listening to your views disheartens us that even if we want to do something for the society we would not be able to do so.

**Answer by Madhu Kishwar:** See you don't need to be disheartened. Just keep this in mind that if you want to contribute something for the society, your stomach should be already taken care of. Apart from your stomach, your eyes and heart should be filled with emotions and then only you should do something for the society. Then you will feel happy even if you have to give something out of your pocket. Today it is very common to earn money in the name of doing something for the society and it is very unfortunate.

**Prof. Jagdeep Chhoker**

I would like to start with what Madhu ji's said that it has been 10 years since in case of Prakash Singh Supreme Court's decision came for police reforms. It has not been implemented in any state. Administrative reform: Second Administrative Reform Commission was constituted by Veerappa Moily but nothing happened. Judicial Reform: Is ongoing. But I believe that if someone does not want to do something, then the conditions will never be right for him. That person will always find an excuse to not do what is required. It is the politicians only who will do these reforms. Madhu ji presented a defense of politicians that was even better than that of Pankaj ji. At first she said poor politicians and then she said that they should not be called 'poor'.

I want to say few things on this topic. We say that we choose our representatives. However, the truth is that before we choose our representatives, it is the political parties which decide as to who will get the ticket. In other words, the people which we would elect by our votes are decided by the political parties. Consider a scenario wherein I get ticket by spending crores and reach state assembly. Now if a bill comes up, who will decide that whether I should vote in favour of it or against it? For that also political parties issue whip. So this is also decided by the political parties. Therefore, in decision-making neither voter is independent nor the representative. We have an interesting saying that "we have a choice-less democracy". Neither the voter has a choice nor so called elected representatives. Who controls all this? It is the political parties.

All political parties call themselves as a pillar of democracy. It's fine, but is democracy not meant for them? I demand to know if they have internal democracy. One gentleman was air dropped from Hyderabad to Muradabad to contest elections. Local workers do not like this who have been working there for years. Internal elections do not mean that only the head of party would be elected. There has to be elections for the contestants also. After this level people should also be able to choose as to who will contest from their area.

Recently municipal elections were concluded. The wife of our councilor got ticket. So we can see feudalism growing from the very base and going upwards.

Subhash Kashyap mentioned that there should be law for political parties also. Supreme Court has said this in no less than 10 judgments. It has been reiterated in Law Commission's 1999 report. Subhash Kashyap was himself member of this commission. It is also mentioned in Veerappa Moily's ARC. Indrajeet Gupta Committee has also written this in their report of which Manmohan Singh and Atal Bihari Vajpayee were members. However, no political party is prepared to implement internal democracy. Hitler's regime in Germany also came through elections. After that people there understood that politics without any check is dangerous. Thereafter laws for internal democracy in parties were made there. On the same lines Election Commission in India also suggested a law regarding this. However, its report is lying with Law Ministry from 1999. Should we struggle incessantly for internal democracy which is very important for political parties?

There is no clarity with regard to financial transparency of the political parties. Through a RTI we tried to ensure that all political parties should file a receipt of their tax return with Election Commission. For this there was a struggle for two and a half years. Our appeal was rejected everywhere and finally we reached CIC. There political parties came with their top lawyers. One political party arranged for two senior lawyers who came from Chennai. Their arguments are mentioned in the judgement. One of them was that giving copy of their return would hamper their financial interests! On the contrary, I always thought that there was only political competition between the political parties.

When it is a question of money, politicians complain publicly that no one is prepared to donate them through cheque. One should ask them as to why don't they accept donations only in form of cheque which is visible in their accounts. In Delhi, two three years ago there was a theft of crores of rupees from the office of a political party. They didn't bother even to lodge a FIR for it. It has been said that political parties have to give details of their donations to Election Commission. But leaving 2-3 political parties no one has ever submitted this detail. This issue also reached Supreme Court but things could not move further there. Therefore, the most important issue is that of financial transparency as regards to how much money is received, where this money comes from and where it is spent. This is necessary not only in the time of election, but for all the times.

I think that all other things are necessary but main issues are of internal democracy and financial transparency. If these are taken care of, there is a hope that things would get better to a large extent. Unless something is cured at its roots nothing is possible.

Thank you.

**Vote of Thanks – Praveen Kumar**