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**THE MEENAKSHI NATARAJAN CONTROVERSY: TRANSPARENCY
VS TECHNICAL EXCLUSION IN INDIAN ELECTORAL LAW**- Simran Raj¹**ABSTRACT**

Criminalization of politics is one of the most enduring problems that the Indian democracy is faced with. Responding to this, the judiciary and the Election Commission of India have been rolling out several disclosure initiatives to improve transparency in elections. In the election contesting cases, the candidates have to provide details of their criminal antecedents, assets, liabilities and academic qualification. Such measures are in place to enable voters to exercise their electoral options. But the current controversy over why Meenakshi Natarajan got rejected as a Rajya Sabha nominee has brought the debate on how candidate disclosure laws work into the limelight again. There has been a growing discussion and concern about the nature of transparency as a democratic value and how procedural requirements can be abused as tools of exclusion instead of accountability. This article reviews the constitutional underpinnings of candidate disclosure laws, unpacks the legal and democratic problems in the Meenakshi Natarajan controversy, and assesses the current system's ability to strike a balance between transparency and electoral engagement. Despite its crucial importance, it claims that disclosure laws have not truly succeeded in fulfilling their goals and must be improved to promote transparency to empower the people, not to exclude them from the process.

Keywords- Electoral Transparency, Candidate Disclosure, Criminalization of Politics, Democratic Governance, Electoral Reforms, Election Law.

INTRODUCTION

The basis of a democratic system is free and fair elections. Democracy works well only when there is enough information for voters to make informed decisions at the ballot box.

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Transparency has thus become an essential component of electoral governance in contemporary constitutional democracies.

The issue of criminalization of politics has been a sore spot in India for years. There is growing concern about accountability, governance, and confidence in democratic institutions in relation to the growing involvement of those who are charged with a crime in the electoral process. To address these apprehensions, the Supreme Court of India has made it a rule to emphasize that the voter has a right to know, and has ordered disclosure of information about criminal cases, assets and liabilities, and educational qualifications of candidates.

The rationale behind these disclosure requirements is simple. Transparency grants voters the ability to review candidates' offers and plans beyond the political rhetoric and campaign promises. Disclosure laws aim to increase democratic accountability and deter unqualified candidates to seek public office by making relevant information public.

But the use of disclosure laws has not gone smoothly. The application of the disclosure law as a tool of transparency versus as a tool to exclude people from the electoral process was brought back into the focus of the law in 2026, when Meenakshi Natarajan's nomination to the Rajya Sabha was rejected in view of the law. The controversy reflects a clash between two democratic ideals: transparency and inclusion in the electoral process.

The article aims to explore this conflict and assess if the current disclosure regime in India strikes a balance between these goals.

EVOLUTION OF CANDIDATE DISCLOSURE LAWS IN INDIA

The concept of candidate disclosure laws in India is a result of judicial intervention. Before the early 2000s citizens' access to information about candidates running in elections was very restricted. There were concerns about corruption and criminalisation that resulted in calls for transparency.

This was one of the significant changes that came in *Association for Democratic Reforms v. Union of India*² when the Supreme Court ruled that citizens to receive information about candidates who are seeking public office is a part of the freedom of speech and expression. The Court noted that the exercise of the democratic choice is possible only when citizens have enough information about the backgrounds of the candidates they are voting for. This

²*Union of India v. Association for Democratic Reforms*, (2002) 5 SCC 294.

meant that the right to know was accorded to the electorate as a part of participatory democracy.

In further emphasis, this principle was reiterated in *People's Union for Civil Liberties (PUCL) v. Union of India (2003)*³ where the Supreme Court upheld again that the access to information about the candidates is part of the fundamental right guaranteed under Article 19(1)(a).⁴ The Court stressed that it is the duty of the citizens to be able to make informed decisions during their voting process and for democracy to function well.

Later judicial rulings increased the scope of disclosure and enhanced transparency in elections. Candidates had to provide affidavits of pending cases, conviction, assets and liabilities, and educational qualifications. Political parties were also mandated to publicize the background of criminality of candidates who are chosen for election. The emergence of such changes brought transparency as a core goal of the electoral system in India to the fore.

CONSTITUTIONAL BASIS OF DISCLOSURE REQUIREMENTS

The constitutionality of the candidate disclosure requirement in India has been taken from the fundamental principles of democracy, transparency and citizen right to information. While the Constitution does not explicitly require candidates contesting elections to reveal their criminal background, assets, liabilities, or educations, the Supreme Court has interpreted several constitutional provisions to give the voter the "right to know" as an integral part of democratic government.

The basis of disclosure conditions is Article 19(1)(a) of the Constitution of India which guarantees freedom of speech and expression. In *Union of India v. Association for Democratic Reforms (2002)*, the Supreme Court ruled that

Articles 324, 102 and 191 of the Constitution also give constitutional validity to the necessity of disclosure. The Election Commission of India has the power of superintendence, direction and control of elections by virtue of Article 324.⁵ This provision has enabled the Election Commission to take steps to promote free and fair elections, such as provisions for increased transparency and voter awareness.

³*People's Union for Civil Liberties (PUCL) v. Union of India*, (2003) 4 S.C.C. 399.

⁴INDIA CONST. art. 19, cl. 1(a).

⁵INDIA CONST. art. 324.

The constitutional provision for disqualification of MPs is in Article 102 of the Indian Constitution⁶ and STLs in Article 191 of the Indian Constitution.⁷ These include the ability of Parliament to establish qualifications and disqualifications through legislation, e.g. the Representation of the People Act, 1951. Such disclosure of criminal antecedents is not required by these Articles, but is part of the constitutional framework for maintaining the purity of representative institutions.

The basic tenets of the constitutional doctrine concerning disclosure are thus a concern for transparency, accountability and informed electoral engagement. Disclosure laws aim to provide voters with information about candidates, thus improving the quality of democratic governance and empowering voters to make informed decisions. Transparency has been a constant part of free and fair elections and an essential protection against the criminalization of politics which has constantly been seen as a prerequisite for the judiciary.

Hence, the disclosure regulations in India are constitutional in nature as a result of the interplay of Article 19(1)(a), Article 324, Articles 102 and 191, and the judicial recognition of the voter's right to know. Together, these provisions lay the groundwork for transparency as a key tenet of India's electoral democracy.

STATUTORY FRAMEWORK

The laws that regulate transparency in elections in India are mainly contained in the Representation of the People Act, 1951 (RPA) and the Conduct of Elections Rules, 1961. The Constitution provides the general rules of elections and disqualification while the RPA details the legal rules that govern regulations for the disqualification, nomination and qualification of candidates.

The disqualification of persons convicted of certain offences is provided in Section 8 of the Representation of the People Act, 1951.⁸ Importantly, it is not just about accusations or pending criminal investigations, but conviction. This is in line with the constitutional dictum of the presumption of innocence which is one of the foundations of crime jurisprudence in India. Accordingly, when a candidate is charged with a crime, he or she is normally allowed to run for office unless barred by law.

⁶INDIA CONST. art. 102.

⁷INDIA CONST. art. 191.

⁸Representation of the People Act, No. 43 of 1951, INDIA CODE (1951).

Particularly important in the context of candidate nominations are Sections 33 and 36 of the Act. Section 33 sets out the rules governing nomination papers and Section 36 gives power to the Returning Officer to consider and validate nomination papers. This review usually gives rise to the controversy over disclosure.

The Conduct of Elections Rules, 1961 introduced Form 26,⁹ which was required to be submitted by the candidates to provide information about their criminal antecedents, assets, liabilities and educational qualifications. The purpose of Form 26 is to give the voters enough information about the candidates prior to deciding on their election. There is a clear judicial trend that such disclosures are essential to protect the voter's right to know.

But, as the importance of Form 26 increases, so have the legal controversies. The initial intention behind the form was to be a tool for transparency; however, questions have come up about whether a nominee should be automatically disqualified if they make an error, omission, or if the disclosures are disputed. The Meenakshi Natarajan controversy has been a reflection of this conflict and underscored the importance of maintaining transparency in the electoral process while ensuring the participation of democracy.

VOHRA COMMITTEE REPORT & LAW COMMISSION'S RECOMMENDATIONS

The Vohra Committee Report, 1993

After the Vohra Committee Report was presented in 1993, the issue of criminalization of politics came into national limelight. The Committee, chaired by N.N. Vohra, was established in the wake of the increasing infiltration of criminal activities by criminal organizations, politicians and bureaucrats, and the police officials.¹⁰

The Committee noted the criminal networks' high levels of corruption and their ties with political players and the growing influence they had over public institutions. It cautioned against the organised criminal groups not only promoting political candidates, but themselves becoming enmeshed in politics for the purpose of gaining protection and legitimacy. The report pointed to the worrying infiltration of governance structures by criminal gangs, and called for joint institutional responses.

⁹Conduct of Elections Rules, 1961, G.S.R. 859, Gazette of India, June 15, 1961.

¹⁰MINISTRY OF HOME AFFAIRS, GOV'T OF INDIA, VOHRA COMMITTEE REPORT (1993).

While the Vohra Committee did not call for disclosure of candidates per se, the recommendations it made had a definite impact on the future debates on electoral reform and transparency. The report concluded that there was a serious risk of criminalization of politics undermining democratic governance and the importance of greater accountability in the electoral process.

Law Commission of India: 244th Report

The issue was also discussed by the Law Commission of India in their 244th Report on Electoral Disqualifications of 2014.¹¹ The Commission voiced its concerns on the growing involvement of persons with serious criminal records in electoral politics and explored the shortcomings of the current legal system.

The Commission pointed out that the slow pace of the criminal trials often allowed candidates charged with serious crimes to continue running for elections for long periods. It said that in case of serious offenses punishable by five years or more, a competent court had filed charges against such a candidate, he or she should not be allowed to contest elections, with certain safeguards to prevent politically motivated prosecution.

The Law Commission's recommendations aimed to balance two conflicting concerns. One side was the desire to maintain the presumption of innocence and to avoid the abuse of criminal proceedings for political ends. One side was the need to uphold the rule of the presumption of innocence and to stop criminal proceedings being used for political purposes. At the same time, however, there was a justifiable need to ensure that democratic institutions are not compromised by those who are being seriously charged with serious crime.

Though most of the recommendations of the Commission have not been put into effect, the report is undoubtedly one of the most crucial reports in the discourse of electoral reforms and criminalization of politics in India.

THE MEENAKSHI NATARAJAN CONTROVERSY

When Meenakshi Natarajan was rejected for the Rajya Sabha, it drew attention in the country, both legally and politically. The issue was raised when the Returning Officer determined that

¹¹LAW COMM'N OF INDIA, REPORT NO. 244, ELECTORAL DISQUALIFICATIONS (2014).

details about an upcoming issue have not been adequately made available at the nomination stage.

The dispute started over whether the disclosures were kept up to date, but soon turned into a debate about the scope and intent of electoral transparency laws.

Those who supported the rejection said it was imperative to have full and thorough disclosure to maintain public confidence in democratic institutions. This view holds that disclosure requirements become futile if candidates are allowed to leave out relevant information without facing any repercussions. Consequently, the strict enforcement is a good deterrent against concealment and encourages electoral accountability.

Others, however, claimed that the controversy serves as a cautionary tale about the potential harms of formalism. They believe that the primary purpose of an election should be to resolve the conflict, as opposed to having technical questions and objections raised during nomination review. But, as applied too strictly, disclosure laws can become obstacles to democratic participation.

The controversy is thus a broader constitutional issue. Transparency is indisputably key, but there is a need for fairness, proportionality and effective electoral engagement as well. Democracy cannot be achieved solely through transparency, however, it must also be fair, proportional and include meaningful electoral engagement.

TRANSPARENCY VERSUS TECHNICAL EXCLUSION.

The biggest takeaway from the Natarajan controversy is that there is a difference between transparency and exclusion.

Transparency is about giving information to voters. Exclusion means that voters are not allowed to vote in an election.

These goals can sometimes be the same, but they are not always. If the system of disclosure is primarily aimed at voters and the procedural steps are strictly observed, the system could turn problematic as no action is taken if some of the steps are not adhered to.

The difficulty is discerning between intentional hiding and unintentional mistakes. Not all omissions are evidence of wrongful intent or something done to deceive voters. Electoral authorities therefore have to take a balanced view which is based on the nature, significance, and consequences of the alleged non-disclosure.

A too strict stance risks to reduce democratic engagement, and a too lax one reduces transparency.

RECOMMENDATIONS FOR REFORM

The disclosure system in India needs to be improved to meet its objectives.

First, candidate information must be simplified and be easily understandable for ordinary voters.

Second, the Election Commission should establish consistent rules on the penalties for the various types of non-disclosure.

Third, digital platforms should be enhanced to enable voters to have greater access to information about candidates.

Fourth, voter awareness-building activities should be scaled up and help to facilitate engagement with information revealed.

Fifth, there should be a clear demarcation between intentional and unintentional or technical omissions. This would be a fair way to distinguish while maintaining transparency.

Lastly, there should be a greater accountability for political parties in the selection of candidates. Parties' emphasis on electoral success over integrity and accountability will ensure electoral reforms cannot succeed.

CONCLUSION

The Meenakshi Natarajan controversy is a far from isolated nomination row. It underscores a larger issue that India's electoral system faces – the issue of transparency versus democratic inclusion. Judicial developments and electoral changes have greatly strengthened the transparency of candidate disclosures in the last 20 years with the intent of mitigating the

criminalisation of politics and enhancing the power of voters. Without doubt these reforms have contributed to transparency in the electoral process.

But there are underlying structural issues that need to be tackled that cannot be fixed with disclosure alone, as criminal candidates keep making it into public office. Transparency is good but not enough. The controversy is a reminder that electoral reforms that emphasize procedural compliance can end up excluding transparency mechanisms.

The focus for electoral reform in the future should not simply be on disclosure, but on the quality, accessibility, and usefulness of disclosure information available to voters. This must be done in a balanced manner to ensure the voter's right to information and the candidate's right to be involved in the democratic process. The only way forward is to balance these conflicting values, if India is to enhance electoral integrity whilst maintaining the democratic inclusiveness.

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